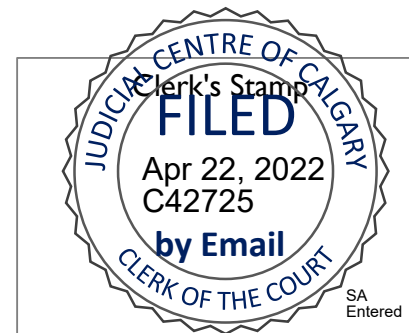


COURT FILE NUMBER: 2201-03347  
COURT: COURT OF QUEEN'S BENCH OF ALBERTA  
JUDICIAL CENTRE: CALGARY  
APPLICANT: THE CITY OF CALGARY  
RESPONDENTS: JANE DOE I-50, JOHN DOE I-50 and PERSONS UNKNOWN  
DOCUMENT: **APPLICATION**  
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT: Chad Williamson & Martin Rejman  
Williamson Law  
638 11 Avenue SW, Suite 200  
Calgary, Alberta | T2R 0E2  
Phone & Fax: 587-355-3321  
FILE NO.: 01030C-CW



#### **NOTICE TO RESPONDENTS**

**This application is made against you. You are a respondent.**

**You have the right to state your side of this matter before the master/judge.**

**To do so, you must be in Court when the application is heard as shown below:**

Date: TBD ~~or May 4, 2022~~  
Time: TBD  
Where: Calgary Courts Centre  
601 - 5 Street SW, Calgary, AB  
Before Whom: Justice R.P. Belzil

#### **Remedy claimed or sought:**

1. An Order that the time for service of this Application be abridged.
2. An Order that this Application be heard on an urgent basis.
3. On Order amending or adding Tim Davis, Samantha James, Jon Sheely, and Pastor Derek Reimer

as Respondents.

4. An Order directing the Clerk of the Court to amend the style of cause of the within Action.
5. An Order granting the Respondents Public Interest Standing.
6. An Order to set aside, vacate, or vary the Order of Justice R.P. Belzil pronounced in this matter on March 18, 2022.
7. In the alternative, an Order to stay or vary the March 18, 2022 Order of Justice R.P. Belzil pending the final adjudication of this Action.
8. An Order that this matter be re-heard on an expedited, *de novo* basis.
9. A Procedural Order outlining a litigation schedule for the adjudication of this matter, including cross-examination on affidavits.
10. An Order granting leave to the Respondents to cross-examine the affiants as such cross-examinations relate to matters in this Action, both in respect of the facts, evidence, merits, and constitutional elements of this Action.
11. A Declaration pursuant to section 24(1) of the *Charter of Rights and Freedoms* (the “**Charter**”) or section 52(1) of the *Constitution Act, 1982*, or both, and/or Rules 3.15(1) of the *Alberta Rules of Court*, that the Injunction is unreasonable because it disproportionately limits or violates the Respondents' constitutionally protected rights and freedoms guaranteed under sections 2(a), 2(b), 2(c), and 2(d) of the *Charter of Right and Freedoms*.
12. A Declaration pursuant to section 24(1) of the *Charter of Rights and Freedoms* or section 52(1) of the *Constitution Act, 1982*, or both, and/or Rules 3.15(1) of the *Alberta Rules of Court*, that the Respondents' sections 2(a), 2(b), 2(c), and 2(d) rights were infringed and the infringements are not saved by section 1 of the *Charter of Rights and Freedoms*.
13. A Declaration that the Respondent Pastor Reimer was arbitrarily detained.
14. A Declaration pursuant to section 24(1) of the *Charter of Rights and Freedoms* or section 52(1) of the *Constitution Act, 1982*, or both, and/or Rules 3.15(1) of the *Alberta Rules of*

*Court*, that the Respondent Pastor Reimer's section 9 right was infringed and that the infringement is not saved by section 1 of the *Charter of Rights and Freedom*.

15. Such further and other relief as this Honourable Court may deem just and appropriate having regard to all the circumstances.
16. Costs for this application in favour of the named Respondents.

**Grounds for making this application:**

17. On or about March 18, 2022, the City of Calgary ("**Calgary**"), applied for and appeared *ex parte* before this Honourable Court seeking an Order prohibiting (the "*Ex Parte* Application"), among other things, planned peaceful assembly for the purpose of political protest (the "**Peaceful Protest**") challenging and demanding that all COVID-19 related mandates and restrictions be removed.
18. Upon the *ex parte* Application by Calgary's counsel, Justice R. P. Belzil granted an order on Friday, March 18, 2022 (the "**Injunction**").
19. Principles of fundamental justice require that the court hear from all parties before making decisions. The *Ex Parte* Application was heard without notice and in-camera.
20. Contrary to established doctrines and statutory instruments, during the *Ex Parte* Application, Counsel for Calgary did not provide full disclosure. "Counsel has a duty to disclose not only the part of the fruit they find sweet, but also the part they find sour." There was no attempt by Counsel for Calgary to provide any counter-arguments to their submissions, any weaknesses of Calgary's arguments or evidence, or arguments contrary to Calgary's interests.
21. The Injunction severely limits the manner in which rallies, gatherings, marches, or protests can be conducted within Calgary. It prohibits, among other things:
  - a) the blocking of traffic on roads and on side-walks, waling in the middle of the roadways, and preventing vehicles and pedestrians from lawfully passing by or

accessing amenities in the area without authorization or a permit;

- b) conduct an activity in a park which unreasonably disturbs the use or enjoyment of the park for other users of the park, or hosting an event or using an amplification system in a park without a permit;
- c) commercial activity in a park, including but not limited to the operation of vendor stands within Central Memorial Park or other areas without a permit;
- d) the unnecessary sounding of horns or other audible warning devices of motor vehicles or of other noise making devices, including but not limited to air horns and megaphones, with the boundaries of the City contrary to the Community Standards Bylaw 5M2004.

- 22. The Injunction defines the “unnecessary sounding of horns” in the context of motor vehicle horns if the use is contrary to section 83 of the *Use of Highway and Rules of the Roadway Regulation*, AR 304/2002.
- 23. The Injunction cannot breach or extinguish the Respondents rights and freedoms as guaranteed by the *Charter*.
- 24. The Injunction as has been granted is arbitrary, over-broad, used for improper purposes, applied in a manner contrary to its intents and purpose, applied in an arbitrary manner, applied in an over-broad manner, and restricts, breaches or infringes on the *Charter* rights of the Respondents.
- 25. The Injunction is unreasonable as it is arbitrary, vague, has been used beyond its intent and purpose, has been used for improper purposes, constitutes an abuse of process, lacks oversight, and creates a chilling effect as against the rights of Calgarians to peacefully protest and peacefully assemble.
- 26. The Injunction lacks a valid term-period or expiry date, and therefore it is a permanent injunction. As this permanent injunction was granted *ex parte*, the doctrines of natural

justice, procedural fairness, and rule of law have been breached.

27. The Injunction provides CPS with extra-ordinary powers to arrest at their discretion, provides CPS with broad powers that are not well defined in the Injunction, and the Injunction provides CPS the discretion to interpret the meaning of what is prohibited and make a judgment call.
28. The Respondents', Tim Davis, Samantha James, and Jon Sheely's, section 2(b) and 2(c) *Charter* rights were breached, violated, and/or infringed.
29. Respondents Tim Davis, Samantha James, and Jon Sheely cannot protest in the manner they want or could prior to the Order being granted.
30. Under the guise of the Injunction, Pastor Reimer was arrested and detained. His section 2(a), 2(b), 2(c), and 9 *Charter* rights were breached, violated, and infringed. Calgary Police Services (“CPS”) infringed upon Pastor Reimer's right to manifest his religious belief by worship and practice, and by teaching and dissemination the Biblical word.
31. The Applicant is culpable for actions of CPS, vicariously and otherwise.
32. The Applicant should have foreseen that the Injunction would be used improperly and beyond its intent and purpose.
33. That this matter was heard *ex parte* constitutes a denial of natural justice, and is an infringement of the principles of fundamental justice and procedural fairness which are owed to some or all of the Respondents in a just and democratic society. The Applicant has breached its duties of fairness, good faith, and other such duties as may be advised by the Respondents by engaging in actions/omissions which include, but are not limited to the following:
  - a) Bringing the administration of justice into disrepute;
  - b) Failing to make full and frank disclosure to the Court by, among other things, failing to advise the Court that the Injunction infringes upon the rights and

freedoms of the Respondents as guaranteed by the *Charter*;

- c) Purposefully keeping its application a secret from the Respondents or potential Respondents;
- d) Failing to identify or making best efforts to identify the identity of Jane Doe 1-50, John Doe 1-50, or Persons Unknown;
- e) Purposefully excluding the Respondents from these proceedings without any just or due cause; and
- f) Such other and further acts/omissions as the Court may find given the circumstances.

34. The Respondents plead that civil disobedience is fundamental to democracy.

35. The Applicant has allowed other rallies or protests and even informal or unplanned civic celebrations, like the “Red Mile” hockey celebrations, to be conducted in a manner that would breach the Injunction. The Injunction arbitrarily and unfairly targets the Respondents.

36. The Injunction was sought based on political ideology, bias or rhetoric.

37. The Respondents have been prevented from:

- a) Making submissions on whether the Respondent is entitled to injunctive relief as was granted, or even determining whether the Applicant had met the legal test for obtaining such a remedy;
- b) Testing, challenging, evaluating, and examining evidence put before the Court, if any;
- c) Making a determination as to whether the Respondent's application was deficient;
- d) Making submissions of a constitutional nature as they relate to the *Charter of Rights and Freedoms* and/or any other legislation which confers rights upon the Applicants which have been infringed by the Respondent by, among other things, disproportionality, capriciousness, arbitrariness, lack of evidence or legal

foundation;

- e) Such other acts / omissions as are known to the parties and shall be proved at the adjudication of this action.

38. The Order itself should be set aside, varied, or vacated for reasons including, but not limited to:

- a) The underlying legislation upon which the application was brought *ex parte* is unconstitutional and breaches the principles of fundamental justice and procedural fairness;
- b) The injunctive relief provided by the Order is permanent and of a nature that should only have been granted after adjudication of the substantive issues in this action;
- c) The Order is over-broad in that it applies province-wide, applies indiscriminately to everyone in Alberta, and for an indefinite period of time;
- d) The prohibition of public gatherings for public protest is an infringement of the Charter and cannot be justified in a free and democratic society; and
- e) Such other reasons as Counsel may advise and this Honourable Court permit given the circumstances.

39. The Respondents plead that Public Interest Standing should be granted to them as there is no other party or entity that would be willing or able to bring a challenge to the Injunction.

**Material or evidence to be relied on:**

- 40. The pleadings, materials, and evidence of the within action;
- 41. Affidavits of Tim Davis, Samantha James, Jon Sheely, and Pastor Derek Reimer;
- 42. Additional materials as will be prepared by the Applicant and filed with the Court; and
- 43. Such other and further materials and evidence as this Honourable Court will permit.

**Applicable rules:**

- 44. Rules 1.2, 1.3, 9.14, and such other and further Rules as may be advised by Counsel and

permitted by this Honourable Court.

**Applicable Acts and regulations:**

- 45. *Constitution Act*, 1867, 30 & 31 Vict, c 3;
- 46. *Canada Act 1982 (UK)*, 1982, c-11, including the *Canadian Charter of Rights and Freedoms*;
- 47. *Alberta Bill of Rights*, RSA 2000, c A-14;
- 48. Such other and further legislative instruments and enactments as Counsel may advise and this Honourable Court permit.

**Any irregularity complained of or objection relied on:**

- 49. None.

**How the application is proposed to be heard or considered:**

- 50. In Chambers before a Justice; or
- 51. In any manner this Honourable Court deems appropriate given the circumstances.

**WARNING**

If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of the form. If you intend to rely on an affidavit or other evidence when the application is heard or considered, you must reply by giving reasonable notice of the material to the applicant.