

Court File No. A-74-24

**FEDERAL COURT OF APPEAL**

BETWEEN:

**ATTORNEY GENERAL OF CANADA**

Appellant

-and-

**CANADIAN CONSTITUTION FOUNDATION**

Respondent

---

**NOTICE OF CROSS-APPEAL**

---

THE RESPONDENT CROSS-APPEALS in this appeal and asks that the order of Justice Mosley, dated January 23, 2024, be varied as follows:

1. Paragraph 4 be varied to read as follows:

“It is declared that the *Regulations* infringed sections 2 (b) and 2 (c) of the *Charter* and declared that the *Order* infringed section 8 of the *Charter* and that none of the infringements were justified under section 1.”

THE GROUNDS FOR THIS CROSS-APPEAL are as follows:

The Federal Court erred in fact and law in finding that the *Emergency Measures Regulations*, PC 2022-107, SOR/2022-21 did not breach section 2 (c) of the *Canadian Charter of Rights and Freedoms* (Part 1 of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11) (*Charter*), including by:

1. Failing to apprehend that a statutory instrument may violate the *Charter* even if it falls within the scope of the authorizing legislation;
2. Considering only part of the definition of “a breach of peace” contained in section 2(1) of the *Emergency Measures Regulations*;
3. Such further and other grounds as the Respondent may advise and this Court may permit.

The Respondent agrees with the Appellant’s proposal to have this appeal heard in Ottawa, Ontario.

March 4, 2024



**Sujit Choudhry** LSO#: 45011E  
**Haki Chambers Global**  
319 Sunnyside Avenue Toronto  
ON M6R 2R3  
Tel: (416) 436-3679  
[sujit.choudhry@hakichambers.com](mailto:sujit.choudhry@hakichambers.com)

**Janani Shanmuganathan** LSO#: 62369I  
**Shanmuganathan LLP**  
439 University Avenue, Suite 1900  
Toronto, ON  
M5G 1Y8  
Tel: (416) 649-5061  
Email: [janani@shanlaw.ca](mailto:janani@shanlaw.ca)

Counsel for the Respondent/Cross-Appellant