

**IN THE MATTER OF AN APPLICATION FOR CERTIFICATION UNDER S. 18 OF  
THE *LABOUR RELATIONS CODE*, R.S.B.C. 1996 c. 244**

BETWEEN:

**BC GOVERNMENT LAWYERS ASSOCIATION**

APPLICANT

AND:

**HIS MAJESTY THE KING IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA**

RESPONDENT

**NOTICE OF CONSTITUTIONAL QUESTION**

TO: Harris & Company LLP  
Barristers & Solicitors  
Suite 1400, Bentall 5  
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Vancouver, BC V6C 2B5  
ATTENTION: Donald J. Jordan, K.C. (for the Province and AGBC)

The Attorney General of Canada  
British Columbia Regional Office  
Department of Justice Canada  
900 - 840 Howe Street  
Vancouver, British Columbia V6Z 2S9

**TAKE NOTICE** that the British Columbia Government Lawyers Association (“BCLGA”) has brought an application to the British Columbia Labour Relations Board (“the Board”) to be certified as bargaining agent for a bargaining unit consisting of all persons employed by His Majesty the King, in right of the Province of British Columbia (the “Province” or “Employer”), as Legal Counsel, other than Crown Counsel and employees otherwise excluded under s. 1(1)(a) and (b) of the BC *Labour Relations Code* (“Legal Counsel”), in which the BCGLA does, in the

alternative to the BCGLA’s primary argument, challenge the constitutional applicability or validity of provincial laws, as set out below.

If necessary, the BCGLA will challenge the constitutional validity and applicability of the following enactments:

- a. If, contrary to the BCGLA’s primary submissions in its certification application, section 23 of the *Public Service Labour Relations Act*, RSBC 1996, c 388 [*PSLRA*] has the effect of meaning that individuals who are otherwise “employees” within the definition set out in section 1(1) of the *Labour Relations Code*, RSBC 1996, c 244, cease to be “employees” under the *Code* if they are excluded from the definition of “employee” set out section 1 of the *PSLRA*, the BCGLA asserts that section 23 of the *PSLRA* infringes the freedom of association of Legal Counsel as guaranteed by section 2(d) of the *Charter* and is not a reasonable limit prescribed by law under section 1 of the *Charter*.
- b. If any other provisions of the *PSLRA* (including section 1 or section 4), or any other enactments of the province of British Columbia, are alleged by the Employer to have this same effect, the BCGLA also asserts such enactments infringe the freedom of association of Legal Counsel as guaranteed by section 2(d) of the *Charter* and are not reasonable limits prescribed by law under section 1 of the *Charter*

The question is to be argued by written submissions, on the following schedule:

- **January 6, 2023:** Applicant’s submissions
- **February 6, 2023:** Respondent’s response, including any defence under s. 1 of the *Charter*
- **February 17, 2023:** Applicant’s reply
- **February 24, 2023:** Respondent’s reply on s. 1 of the *Charter*

The question may be argued orally at the discretion of the British Columbia Labour Relations Board (the “Board”) at Vancouver on a date to be determined.

The constitutional remedy that is sought is the certification of the BCGLA as the bargaining agent for the Legal Counsel (as defined) under section 24 (1) of the *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B of the *Canada Act 1982* (UK), 1982, c 11, or under section 52 of the *Constitution Act, 1982*.

The underlying facts and particulars of the BCGLA’s legal arguments are contained in the BCGLA’s written submissions filed with the Board on January 6, 2023, and appended to this Notice, including specifically with respect to the constitutional issues the submissions at paragraphs 218 to 252.

DATED January 6, 2023.



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Solicitor of Applicant

**Steven M. Barrett**  
Goldblatt Partners LLP

This notice is served on behalf of Steven Barrett, solicitor for the Applicant, whose contact and service information is as follows:

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