

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(APPLICATION COMMENCED IN MILTON)**

B E T W E E N:

MICHAEL LESAGE

Applicant

– and –

THE ATTORNEY GENERAL OF CANADA, THE ATTORNEY GENERAL OF  
ONTARIO

Respondents

**APPLICANT’S REQUESTS TO ADMIT TO THE ATTORNEY GENERAL OF  
ONTARIO**

YOU ARE REQUESTED TO ADMIT, for the purposes of this proceeding only, the truth of the following facts:

1. Admit that the ATTORNEY GENERAL OF ONTARIO is not itself taking any position as to the propriety of releasing civil case numbers to Applicant, for cases that have gone to trial (i.e. CV-09-00379106-0000 for instance). For clarity, this specific request is asking whether the ATTORNEY GENERAL OF ONTARIO itself objects to the release of this information, independent of the objection by the Superior Court of Justice to the release of this information.
2. Admit that the ATTORNEY GENERAL OF ONTARIO is not itself asserting that civil case numbers (i.e. CV-09-00379106-0000 for instance) contain ‘personal identifiers’ or other private information that would preclude their release.

3. Admit that the ATTORNEY GENERAL OF ONTARIO is not itself asserting any justification in opposition to the production of civil case numbers (i.e. CV-09-00379106-0000 for instance) beyond the fact that such request was opposed by the Superior Court of Justice.

4. Admit that the ATTORNEY GENERAL OF ONTARIO is not asserting that the first six characters of civil case numbers (i.e. CV-09-00) contain any ‘personal identifiers’ whatsoever.

5. Admit that the ATTORNEY GENERAL OF ONTARIO is not itself otherwise asserting that there is any basis to oppose the production of the first six characters of civil case numbers (i.e. CV-09-00).

6. Admit that civil case numbers, for cases that have gone to trial, are court records.

7. Admit that for civil cases that have gone to trial, there are court records indicating same (i.e. trial lists, lists of courtroom use, verdict forms, decisions), that are producible to the public upon request, and that same contain civil case numbers (i.e. the information sought by Applicant).

8. Admit that the ATTORNEY GENERAL OF ONTARIO has access to, and could produce civil case numbers, for cases that have gone to trial (both jury and non-jury), at each of the Toronto, Newmarket, Durham, Hamilton, Brampton and Milton courthouses, for each of the following the years (please answer separately for i to vii):

i) 2015

ii) 2016

- iii) 2017
- iv) 2018
- v) 2019
- vi) 2020
- vii) 2021
- viii) 2022

9. Admit that the Ontario Superior Court of Justice is a public body.
10. Admit that members of the public such as Applicant have a legitimate interest in ‘keeping a watchful eye’ upon the workings of the Ontario Superior Court of Justice.
11. Admit that that the ATTORNEY GENERAL OF ONTARIO is not itself asserting that there are superordinate interests that would justify the refusal to provide civil case numbers, for cases that have gone to trial (excepting of course the objection of the Superior Court of Justice to the release of this information).
12. Admit that the provision of civil case numbers, for cases that have gone to trial, would not in any way adversely impact upon the administration of justice.
13. Admit that the refusal to produce civil case numbers, for cases that have gone to trial, is a curtailment of public access to court records.
14. Admit that there is an expectation that the Ontario Superior Court will operate in an open and transparent way. *See i.e. [R. v. C.B.C. et al. 2013 ONCJ 164 \(CanLII\)](#) at para. 12.*

15. Admit that the Ontario Superior Court operates under the ‘open courts’ principal.

16. Admit that:

“Openness permits public access to information about the courts, which in turn permits the public to discuss and put forward opinions and criticisms of court practices and proceedings. While the freedom to express ideas and opinions about the operation of the courts is clearly within the ambit of the freedom guaranteed by s. 2 (b), so too is the right of members of the public to obtain information about the courts in the first place.”

See *i.e.* [Nisga'a Lisims Government v Cardinal, 2019 BCSC 1570 \(CanLII\)](#) at para. 9.

17. Admit that characters 3 and 4 in civil case numbers (i.e. 09 in the following case number CV-~~09~~-00379106-0000) identify the year when the case was commenced.

18. Admit that by identifying the case numbers for matters that have gone to trial in a given year, it is possible to determine how long, on average, it is taking cases to make it to trial, both at individual courthouses and across the Province as a whole (i.e. the case numbers identify the year filed, while the year of the trial is known, making it then a simple matter of math to figure out duration, i.e.  $2023 - 2020 = 3$  for example).

19. Admit that the most recent annual report published by the Ontario Superior Court is from the 2017-2018 year. See *i.e.* <https://www.ontariocourts.ca/scj/news/annual-reports/>

20. Admit that the Ontario Superior Court’s most recent annual report did not contain any data as to how long it was taking civil cases to progress through the Ontario Superior Court.

21. Admit that the Ontario Superior Court is not currently publishing any data as to how long it is taking for civil cases to reach trial. *See i.e.* [Red Block, Yellow Block, Orange Block, Blue: With So Much Competition, What Do We Do? Justice David Brown, 14<sup>th</sup> Annual Straight From the Bench Conference at pg. 2.](#)
22. Admit that other than in extremely limited circumstances, secrecy is anathema to the operation of the courts in a democracy. *See i.e.* [R. v. C.B.C. et al. 2013 ONCJ 164 \(CanLII\)](#) at para. 12.
23. Admit that there is more legal justification to keep an issued search warrant and supporting information confidential (*see i.e.* [A.G. \(Nova Scotia\) v. MacIntyre, 1982 CanLII 14 \(SCC\), \[1982\] 1 SCR 175](#)), than civil case numbers that have gone to trial.
24. Admit that for any civil case that has gone to jury or non-jury trial, absent a sealing order or publication ban, same has happened in open court.
25. Admit that as a general rule, all court documents are a matter of public record unless a legislative provision or court order restricts public access. *See i.e.* [Supreme Court of Canada, Access to Court Documents, Photographs and Recordings.](#)
26. Admit that there is no legislative provision or court order that restricts public access to civil case numbers that have gone to trial.
27. Admit that if a member of the public asked an employee of the ATTORNEY GENERAL OF ONTARIO for a civil case number of a matter (i.e. “What is the case

number of a certain matter being heard in courtroom 11”), there is no policy prohibiting same from being provided.

28. Admit that civil cases numbers, for cases that have gone to trial, are matters of public record.

29. Admit that members of the public (i.e. Applicant), including members of the media, have a common law right to inspect court records, upon reasonable request.

30. Admit that Applicant has authored a number of articles regarding the workings of the Ontario Superior Court, that have appeared in publications such as [Canadian Lawyer](#) and [Lawyer’s Daily](#) (note hyperlinks are to specific articles by Applicant about the SJC, not the homepage of each publication).

31. Admit that

“It is incumbent on the courts to be open to the media, as public trust is built when the courts are well-understood. This has been an important area of focus for us in the past two years. We have advanced the public’s understanding of, and confidence in the Court, by engaging with the media and the public on social media. We have done this by providing accurate and timely responses to media inquiries and by proactively offering information about matters of high public interest. In this way, we are ensuring that the window remains open.”

Taken from [The Superior Court of Justice, Enhancing Public Trust, Report for 2017 and 2018, Message from the Chief Justice \(pg. 4\)](#).

32. Admit that Applicant had requested production of civil case numbers, for cases that had gone to trial, for the stated purpose “to better determine how long it is taking civil cases to progress within the SCJ.” *See* Application record pg. 29, email of February 7, 2022 and also letter of February 10, 2023 at pg. 31.

33. Admit that the Ontario Court of Appeals has stated that:

“It is an unfortunate state of affairs that neither the Superior Court of Justice in Ontario nor the Court of Appeal for Ontario publishes information about how they manage and dispose of their caseload. The lack of detailed, consistent operational data from those courts and the resulting lack of transparency, impedes the ability to understand and then improve the performance of those courts.”

[Moffitt v. TD Canada Trust, 2023 ONCA 349 \(CanLII\).](#)

34. Admit that the Ontario Court of Appeal has stated that:

“As noted in fn. 2 above, it is unfortunate that judges (and the public) lack access to published data about how the Superior Court of Justice manages its caseload. This lack of data makes it very difficult to determine with any accuracy the average time it takes for a civil jury action to proceed from its commencement to a verdict, a piece of information important to any proportionality analysis conducted under the *Hryniak* summary judgment test.”

[Moffitt v. TD Canada Trust, 2023 ONCA 349 \(CanLII\).](#)

35. Admit that civil case numbers, for cases that have gone to trial, have previously been produced to Applicant, and appear on his website on a page titled “How Long Does it Take For Civil Cases to Get to Trial In Ontario” at <https://www.michaelsfirm.ca/how-long-does-it-take-civil-cases-to-get-to-trial-ontario/>.

36. Admit that the Ontario Superior Court publishes hundreds or more civil case numbers daily, on its Daily Court Lists (<https://www.ontariocourtdates.ca/daily-docket.aspx>), along with additional data such as party name, short title of proceedings, time, location (room), event type and appearance type.

37. Admit that the Ontario Superior Court maintains lists, or from its FRANK database can generate lists, of civil cases that have gone to trial.

38. Admit that for each civil case that has gone to trial, jury or non-jury, certain documents are generated (i.e. trial lists, lists of courtroom use, daily dockets, verdict forms, decisions), and that Applicant is de facto entitled to same under section [137 of the Courts of Justice Act, R.S.O. 1990, c. C. 43](#).

39. Admit that were Applicant to request copies of all civil verdict forms for cases that had gone to trial, in a specific courthouse in a specific year, that Applicant would be de facto entitled to production of same.

40. Admit that were Applicant to request copies of all civil decisions for cases that had gone to trial, in a specific courthouse in a specific year, that Applicant would be de facto entitled to production of same.

41. Admit that with possession of the verdict forms and decisions, Applicant would be in possession of, or able to obtain, the associated civil case number for each.

42. Admit that on the Government of Ontario website, there is a page titled '[Section 3: Public access to civil court files and documents](#)' which provides:

“[M]embers of the public are entitled to see any current list maintained by the court of civil proceedings commenced, any documents filed in a civil proceeding, or any judgments entered, unless a statutory provision, common law rule or court order restricts access.”

43. Admit that the provision of civil case numbers, for cases that have gone to trial, would help to hold the Superior Court of Justice accountable, for instance, by demonstrating how long it was taking cases to move through the civil system.



44. Admit that there is nothing in the Court Services Division's policy on 'Access to court files, documents and exhibits' that would bar Respondent from providing Applicant with a list of civil case numbers that have gone to trial, at various courthouses, for specified years.

45. Admit that there is no statutory provision, common law rule or court order that would restrict access to case numbers for civil cases that have gone to trial.

46. Admit that a member of the public has the right to observe any civil case at trial, absent an order closing the proceedings.

47. Admit that at the time of trial for civil cases, case numbers are published by Respondent (i.e. on dockets in court listing the party names, case number, courtroom location, and also on the daily court lists, Trial Scheduling Lists etc).

48. Admit that the only reason civil case numbers, for cases that went to jury or non-jury trial was not produced to Applicant is because such request was refused by the Superior Court of Justice. *See* Application Record pg. 28).

49. Admit that the stated reason by the Superior Court of Justice for the refusal was because civil case numbers (i.e. CV-09-00379106-0000) 'could lead to personal identifiers.' *See* Application Record pg. 26-27.

50. Admit that the stated reason ('could lead to personal identifiers') by the Superior Court of Justice for the refusal even pertained where the request was limited to the first six characters of civil case numbers (i.e. CV-09-00). *See* Application Record pg. 26-27.

51. Admit that the ATTORNEY GENERAL OF ONTARIO asserts that Applicant has no legal recourse to challenge such decision by the Superior Court of Justice.

52. Admit that the ATTORNEY GENERAL OF ONTARIO asserts that the propriety of the refusal to produce the records by the Superior Court of Justice is a non-justiciable issue.

53. Admit that the production of civil case numbers, for cases that have gone to trial, could further the following purposes from the [Memorandum of Understanding between the Chief Justice and the Attorney General of Ontario](#) (please answer separately for each of i, ii, iii and iv):

- i) encourage public access to the courts and public confidence in the administration of justice;
- ii) further the provision of high-quality services to the public;
- iii) promote the efficient use of public resources; and
- iv) promote judicial accountability

54. Admit that absent the production of civil case numbers to Applicant, members of the public will continue to have no means to determine how long, on average, it takes for civil cases to progress through the Ontario Superior Court of Justice.

55. Admit that having some data as to the average duration of cases to move through the Ontario Superior Court of Justice is in the public interest.


Dated: June 16, 2023

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**MICHAEL LESAGE**

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**THE ATTORNEY GENERAL OF  
CANADA et al.**

Applicant

Respondents

Court File No. : CV-23-00000832-0000

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*ONTARIO*  
**SUPERIOR COURT OF JUSTICE**  
Application Commenced at Milton

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**REQUESTS TO ADMIT**

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