



June 9, 2023

TO: Mariana Rilko Alvarenga and Chantal Baumberger, Federal Court Registry Officers at Mariana.Rilko-Alvarenga@cas-satj.gc.ca, Chantal.Baumberger@cas-satj.gc.ca and CMT@cas-satj.gc.ca

AND TO: Counsel for the Applicant safe Food Matters, Jason Gratl at jason@gratlandcompany.com

AND TO: Counsel for the Respondent, Attorney General of Canada, Kathryn Hucal, Walter Kravchuk, and Adrian Zita-Bennett at kathryn.hucal@justice.gc.ca, Walter.Kravchuk@justice.gc.ca and Adrian.Zita-Bennett@justice.gc.ca

AND TO: Counsel for the Intervenors Friends of the Earth and Environmental Defence Canada Inc. Randy Christensen and Sean Montague at rchristensen@ecojustice.ca, smontague@ecojustice.ca, grondeau@ecojustice.ca,

Re: Deferring the application by Centre for Health Science and Law to intervene in Safe Food Matters v. AG Canada (Pest Management Regulatory Agency) (concerning the appointment of an independent scientific review panel related to the human health and environmental safety of glyphosate), Court File No. T-2292-22

Dear Registry Officers Rilko Alvarenga and Baumberger:

In consideration of Case Management Associate Judge Benoit M. Duchesne's May 30, 2023 Order for the Centre for Health Science and Law (CHSL) to perfect its Motion Record by June 9, 2023 to seek leave to intervene in the *Safe Food Matters v. Attorney General of Canada*, CHSL wishes to defer its decision on whether to seek leave to intervene until the Certified Tribunal Record has been supplemented or the Motion to that effect has been denied by Judge Duchesne.

1. Judge's Order Predated Applicant's Motion Record Seeking to Supplement the Record

Since last Friday—three days after Judge Duchesne's order was issued—CHSL has been reviewing the Applicant's 724-page Motion Record seeking an Order from this Court to direct the Minister of Health to disclose a variety of records allegedly relevant to regulatory capture by the Pest Management Regulatory Authority.

While the Centre for Health Science and Law makes no comment on the merits of the Applicant's Rule 318 Motion,

- (a) whether and to what extent that Order is granted and
- (b) the content of the records that are disclosed if it is granted

will have an important bearing on the contribution of the Centre for Health Science to this litigation and the manner in which it can assist the Court in arriving at a just decision in the main judicial review. Also, it is still early in the litigation process; to my knowledge, neither the Applicant nor Intervenors have filed their memoranda of fact and law in the main motion.

2. CHSL's continuing interest in the Safe Food Matters application

I am in-house-counsel for the Centre for Health Science and Law which organization has been interested in the main action since it learned about the original judicial review in this Court two weeks prior to the January 2020 hearing which I travelled to from Ottawa to Toronto to observe. I have been a public health lawyer focusing on food issues for 26 years, the last seven as Executive Director and General Counsel for CHSL, with extensive experience with Health Canada's regulatory activities. In 2020-2021, CHSL unsuccessfully sought leave to intervene at the Federal Court of Appeal where it signaled its intention, within its 562-page Motion Record, for leave to intervene, to also seek leave to:

- introduce fresh evidence on appeal and
- offer perspectives on issues raised by the Appellant Safe Food Matters about:
 - bias,
 - the co-mingling of confidential business information with safety data in the reportedly 89,000-page scientific re-evaluation docket, and
 - oppressive non-disclosure agreements in the Pest Management Regulatory Agency's glyphosate docket.

CHSL's has observed an apparent narrowing of the receptiveness to public interest interveners by the Federal Court and Federal Court of Appeal in recent years, so does not wish to speculate about the use-value of CHSL's contribution at least until the record is supplemented or the Motion to do so is denied, and ideally until the Appellant's arguments are filed.

CHSL is not in the habit of intervening in food-related court cases, and it does not have the time or disposition to repeat arguments made by others. Also, there is generally very little health-related food litigation (either private or federal prosecution) with national implications in Canada. CHSL intends to continue to examine the written materials and attend oral hearings as an observer (schedule-permitting) until a more fulsome evidentiary record has been disclosed or denied by this Court. I intend to remotely observe the hearing on June 13, 2023 concerning the Rule 318 application.

In the meantime, in the interests of transparency, access to justice, and efficiency, CHSL would like to continue to be automatically notified of documents at litigation@HealthScienceAndLaw.ca that are filed in this matter by the parties, government-approved Interveners, and the Registry.

All of which is respectfully submitted,



Bill Jeffery, LLB, Executive Director and General Counsel
Counsel for the prospective Intervener
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