

C A N A D A

PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

S U P E R I O R C O U R T

N° 500-17-

ICHRAK NOUREL HAK

- and -

NATIONAL COUNCIL OF CANADIAN
MUSLIMS (NCCM)

- and -

CORPORATION OF THE CANADIAN
CIVIL LIBERTIES ASSOCIATION

Plaintiffs

v.

THE ATTORNEY GENERAL OF QUÉBEC

Defendant

AFFIDAVIT OF GREGORY BORDAN

I, GREGORY BRIAN BORDAN, attorney, having a place of business at _____, do solemnly affirm as follows:

1. I was born in 1954 and grew up in Montreal. I was educated in both English and French schools in the province.
2. I obtained a Bachelor's degree in Geography from Concordia University in 1975. I then obtained an M.Sc. in Urban and Regional Planning from the London School of Economics in 1976.
3. After working for a period in the private sector, I returned to university to study law. I obtained LL.B. and B.C.L. degrees from the McGill Faculty of Law in 1987 and became a member of the Quebec bar in 1988. I became a member of the Ontario bar in 1998.
4. I have spent my legal career at Norton Rose Fulbright Canada, previously known as Ogilvy Renault. My practice has focused on product liability, constitutional law and regulatory law.

5. I was married in 1980. I have two children and four grandchildren.
6. As an Orthodox Jew, I keep my head covered during the day. There is no religious requirement as to the specific type of head covering that must be worn. I generally wear a *kippa* indoors as it is more comfortable than a hat or other head covering. However, it can equally be a different kind of hat; it can even be a baseball cap – which, if worn by a non-religious individual, would most likely have no religious significance at all.
7. I have worn a *kippa* or other head covering for close to 50 years, throughout my employment as a lawyer as well as during my university studies. I wear it in court, when I visit clients and everywhere else.
8. My *kippa* is an integral part of my identity. It connects me to a history and a people with roots going back over three millennia. It is a continuous reminder to me that, because I will be identified as an Orthodox Jew, I have a particular duty to behave ethically and to ensure that my interactions reflect a respect for others. I consider that a religious duty.
9. I have read the *Act respecting the laicity of the State* (the “Act”). Under it, I am barred from work in provincial Ministries and other parts of the Quebec civil service. I am also barred as outside counsel from government work where the work involves a third party.
10. To provide one example, I served for a period on the federal commission of inquiry generally known as the Gomery Commission, involved in the collection of documents. Under the Act, I would be barred from playing the same role on a provincial commission of inquiry merely because of a religious practice which is unrelated to my competence or my ability to fully and faithfully fulfill the mandate.
11. Norton Rose Fulbright is a large firm which over the years has had mandates from the Government of Quebec. In the future, every mandate from a Quebec government Ministry will be *deemed* to include a provision prohibiting me or anyone else who wears a religious symbol from working on the mandate if that requires appearing in court or even meeting with a colleague from another firm. In short, colleagues, who have always treated me with complete respect, are being told that I must be excluded from mandates even if I am fully competent for the job. I consider it an attack on my dignity that such a discriminatory and exclusionary clause will be deemed to be included in contracts for legal services.
12. I fear that this will affect future private sector hiring decisions as well. When a firm seeks a lawyer for a position that may include government mandates, it may be forced to reject candidates simply because of a religious practice that is irrelevant to their competence or ability to professionally fulfil the mandates. I also fear that this exclusion of people based only on religion will gradually permeate the wider society by making it easier for others, of less good will than my colleagues, to discriminate. This is likely to be a nefarious yet largely invisible effect of the law.

13. I read the transcript of Minister Jolin-Barrette's March 28, 2019 press conference during which he declared that Bill 21, now the Act, applies to hidden as well as visible symbols, a view which is in accordance with a plain reading of the Act.
14. Under the Act, even if I were to remove my head-covering, I would still be excluded from most of the Quebec civil service and government mandates because I wear fringes on a garment under my shirt in fulfilment of a Biblical injunction (Numbers 15:38).
15. The thought that the state considers it has an interest in my undergarment is a particularly offensive and intrusive attack on my freedom of religion and conscience and magnifies the offence of being excluded professionally based on my choice of dress.
16. I would not remove a head covering or my fringed undergarment in order to meet the requirements of the Act. Doing so would be a betrayal of identity and my sincerely held religious beliefs.
17. Having said that, I think it is important to state that I can say with certainty that I have never attempted to impose my beliefs or practices on anyone nor do I judge others for having other religious beliefs or no religious beliefs. I ask only that people act respectfully of my practices as I do of theirs.
18. Historically, Jews often had to hide their affiliation, and still do in parts of the world, failing which their livelihood, physical security and even lives were, and in some places still are, at serious risk. I have always taken pride living in a society in which hiding my Jewish identity has not been necessary or expected.
19. My great-grandparents and grandparents came from Europe where it never would have occurred to them that they could "fit in" or become integrated into the broader society. They felt fortunate if they happened to live at a time and in a place where they were not threatened physically by the state or by their neighbours.
20. My parents, born and growing up here, related very differently to their society than did their parents. Particularly after the Quiet Revolution, they saw themselves as full members of society and felt they were participating in its growth and development while proud of their distinct Jewish identity. They saw their children as having the same opportunities as every other citizen.
21. Their decision to move their children into a French school (which I attended for part of elementary school) reflected a belief that this was both the right thing to do and a way to ensure that we would be able to participate and contribute fully to this new Quebec society. I grew up believing that to be true.
22. The enactment of the Act with the support of a large percentage of the population has made it clear to me that to a significant extent, this belief was illusory. The use of the notwithstanding clause in the Act is a further, clear signal to me that

society is now willing to set aside even the protections of basic freedoms that the Quiet Revolution and the enactment of Quebec's Charter of Human Rights and Freedoms had held out as protecting minorities.

23. I have also painfully come to the realization that it is probably best that my children, who are also religiously observant, not bring up their children in Quebec. How could I encourage them to live where they and their children could not aspire to be teachers or make certain other career choices merely because of a religious practice, and where their religious choices will brand them as unsuitable for certain jobs regardless of their competence and professionalism?
24. I am close to retirement, so there is unlikely to be a significant practical impact of the Act on my current career, although it does preclude certain post-retirement options. But most stinging, the fact of the law declaring that many career opportunities are categorically closed to me simply because I am a practicing Jew is a clear message that this society cannot accept me as I am. I cannot deny that this has had an emotional impact, I would even say an existential impact, forcing me to reassess my understanding of my place in Quebec society.
25. I never imagined that in Quebec in 2019 the law would force people to choose between their profession and their faith. It is a concept I previously considered foreign to the kind of open society that I believed was being created in Quebec. I consider that the demand to make that choice is fundamentally wrong and unworthy of Quebec.

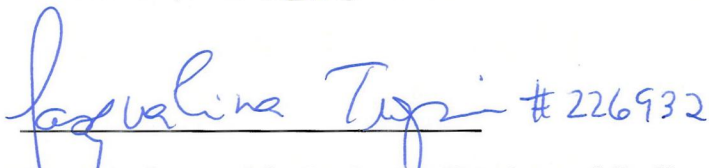
AND I HAVE SIGNED : Gregory Bordan

MONTRÉAL, June 13, 2019



Solemnly declared before me

In Montréal, June 13, 2019

 #226932

Commissioner of Oaths for the Province of Québec

Pasqualina Tropicano