

S 268005

No. _____
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN THE MATTER OF THE JUDICIAL REVIEW PROCEDURE ACT, R.S.B.C.,1996, C.241 (as amended) and the FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT, R.S.B.C., 1996, C.165 (as amended) and in the matter of *Order F26-84* of the Delegate of the Office of the Information & Privacy Commissioner for British Columbia

BETWEEN:

NEVIO CIMOLAI

PETITIONER

AND:

AMY O'CONNOR and the OFFICE OF THE INFORMATION & PRIVACY COMMISSIONER FOR BRITISH COLUMBIA

RESPONDENTS

PETITION TO THE COURT

ON NOTICE TO:

Amy O'Connor
P.O. Box 9038, Stn. Prov. Govnt.
Victoria, B.C.
V8W 9A4
Phone (250) 387-5629

Office of the Information & Privacy Commissioner for BC
P.O. Box 9038, Stn, Prov. Govnt.
Victoria, B.C.
V8W 9A4
Phone (250) 387-5629

The address of the Registry is:

Law Courts
800 Smithe Street
Vancouver, British Columbia
V6Z2E1

The petitioner estimates that the hearing of the petition will take: 2.5 – 3 days

This matter is an application for Judicial Review.

This proceeding is brought for the relief set out in Part 1 below, by the person named as Petitioner in the style of proceedings above.

If you intend to respond to this Petition, you or your lawyer must:

(a) file a response to the Petition in Form 67 in the above-named registry of this court within the time for response to Petition described below, and,

(b) serve on the Petitioner,

(i) 2 copies of the filed response to the petition, and,

(ii) 2 copies of each filed affidavit on which you intend to rely at the hearing.

Orders, including Orders granting the relief claimed, may be made against you, without any further notice to you, if you fail to file the Response to the Petition within the time for response.

TIME FOR RESPONSE TO THE PETITION

A response to the Petition must be filed and served on the Petitioner,

(a) if you were served with the Petition anywhere in Canada, within 21 days after that service,

(b) if you were served with the Petition anywhere in the United States of America, within 35 days after that service,

(c) if you were served with the Petition anywhere else, within 49 days after that service, or

(d) if the time for response has been set by Order of the Court, within that time.

The ADDRESS FOR SERVICE of the Petitioner is:

5246 Turquoise Drive
Richmond, British Columbia
V7C4Z7

e-mail: neviocimolai24@gmail.com

CLAIM OF THE PETITIONER

Part 1: ORDERS SOUGHT

1. The Petitioner seeks the following orders against the Respondents Amy O'Connor and the Office of the Information & Privacy Commissioner for British Columbia (OIPCBC):

(a) That the orders set out in paragraph [145] 1.-3. of *Order F26-84* issued by Amy O'Connor, Adjudicator, Office the Information & Privacy Commissioner for British Columbia and dated October 5, 2026, be set aside,

(b) That this Court direct the Office of the Information & Privacy Commissioner for British Columbia to continue and complete the Inquiries previously planned and scheduled as open files which were cancelled by the Adjudicator Amy O'Connor,

(c) That this Court direct the Office of the Information & Privacy Commissioner for British Columbia to continue and complete the files for investigation and mediation previously planned and scheduled as open files which were cancelled by the Adjudicator Amy O'Connor,

(d) That this Court direct the Office of the Information & Privacy Commissioner for British Columbia to fully open, investigate, and thereafter mediate if necessary the open file in which the Petitioner requested correction for personal information held by the Ministry of Health as identified,

(e) That this Court rule that Amy O'Connor, Ethan Plato, Alexander Lonergan, and Michael Harvey are ineligible to act as a Delegates, conveners, or participants otherwise in any matters concerning the Petitioner's information access and correction files or Inquiries for the above or any future files,

(f) That this Court direct that an independent authority, given the conflict herein of the Ministry of Attorney General, be given the mandate to consider *section 65* (formerly *section 74*) of the *Freedom of Information and Protection of Privacy Act* (*FIPPA*) as it is applicable to an offence to wilfully mislead, obstruct, or fail to comply with information access, and,

(g) That this Court direct the Office of the Information & Privacy Commissioner for British Columbia to remove the *Order F26-84* of Adjudicator Amy O'Connor from its public postings, or in the least anonymize the Petitioner's name.

2. The Petitioner seeks an order granting him costs of this Petition as against the Respondents.

3. The Petitioner seeks special costs against the Respondents given the egregious nature of its proceedings, publication, and breaches of personal information.

4. Any other order that this Court deems just.

Part 2: FACTUAL BASIS

A. Procedural History of the Initial Information Requests and Information Correction

13. The Petitioner says that Amy O'Connor failed to observe the mandate for the application of *s.65* to those who inappropriately blocked information access or information correction.

14. The Petitioner says that Amy O'Connor failed to cite, acknowledge, and determine the impact of the Government's Ministries' and public bodies' considerable and egregious public citations for abuse of information access and information correction.

Part 4: MATERIAL TO BE RELIED ON

Affidavit of Nevio Cimolai dated October 27, 2026

Freedom of Information and Protection of Privacy Act, RSBC 1996, C.165 (as amended)

Privacy Act, RSC 1985, C. P-21 (as amended)

Personal Information Protection Act, SBC 2003 (as amended)

Canadian Charter of Rights and Freedoms, Constitution Act, 1982

Criminal Code of Canada RSC 1985 c. C-46

Judicial Review Procedure Act, RSBC 1996, C.241 (as amended)

Administrative Tribunals Act, SBC 2004, C.45 (as amended)

Medicare Protection Act, RSBC 1996, C.286 (as amended)

Medical and Health Care Services Act, SBC 1992, C.76 (former; now inactive)

Physician Master Agreement between the Doctors of British Columbia (formerly British Columbia Medical Association) and the Government of British Columbia (including the Medical Services Commission) – all such agreements of past and present.

Code of Professional Conduct for British Columbia, Law Society of British Columbia

All *Orders* and *Decisions* of the Office of the Information & Privacy Commissioner for British Columbia as may be deemed necessary in argument and as cited in this Petition.

All case law as may be deemed necessary in argument.

Any Affidavits tendered by the Respondent parties.

The Petitioner estimates that the hearing of this Petition will require 2.5-3 days minimum but reserves a more precise timing given the inability to predict whether cross-examination on the Respondent's Affidavit(s), if any, will be required.

Dated: October 27, 2026

Signature of Petitioner
Nevio Cimolai

No. 268005
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN THE MATTER OF THE JUDICIAL REVIEW PROCEDURE ACT, R.S.B.C.,1996, C.241 (as amended) and the FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT, R.S.B.C., 1996, C.165 (as amended) and in the matter of *Order F26-84* of the Delegate of the Office of the Information & Privacy Commissioner for British Columbia

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RESPONDENTS

NOTICE

under section 8(2)(a) and (b) of the *Constitutional Question Act*, R.S.B.C. 1996, c.68

Name of applicant: Nevio Cimolai

TO: Deputy Attorney General and Minister of Attorney General
Ministry of Attorney General
PO Box 9290 Stn. Prov. Govnt.
Victoria, British Columbia
V8W9J7

1001 Douglas Street
Victoria, British Columbia
V8W9J7

AND TO: Attorney General of Canada
Department of Justice, British Columbia Regional Office
900, 840 Howe Street
Vancouver, British Columbia
V6Z2S9

TAKE NOTICE, pursuant to *Section 8(2)(a)* and *(b)* of the *Constitutional Question Act*, an application will be made by the Petitioner to the presiding judge at the Court house of 800 Smithe Street, City of Vancouver, in the Province of British Columbia, V6Z2E1 on a date to be

set, questioning the validity of *Order F26-84* of Amy O'Connor and the Office of the Information and Privacy Commissioner for BC (OIPCBC).

The Petitioner has filed a Petition for Judicial Review concurrently herewith to set aside the *Order F26-84* of Amy O'Connor and the OIPCBC.

1. The Adjudicator Amy O'Connor and the Office of the Information and Privacy Commissioner for BC wrongly concluded that a *Charter* argument was inapplicable or previously rejected. She wrongly concluded that the *Charter* did not apply to the administrative scheme or the Petitioner's circumstances.

2. The Adjudicator Amy O'Connor and the OIPCBC breached the Petitioner's *Charter* rights by denying access to his personal information so held by the public bodies and by failing to follow statute-driven processes which allow for the Petitioner to correct wrongful information in the public bodies' possessions.

3. The Adjudicator Amy O'Connor wrongly applied or largely dismissed appropriate case law that is well-established in the application of *Charter* rights to these circumstances.

4. The Petitioner says that by creating, launching, and adjudicating its own 'process' and on its own accord de novo despite the existence of statute which clearly defines proceedings, Amy O'Connor and the OIPCBC violated cardinal rules of natural justice and administrative propriety.

5. As open access to one's personal information adheres to *The Canadian Charter of Rights and Freedoms* in that it is justifiable in a free and democratic society, *Section 7* of the *Charter* mandates a broad and liberal interpretation. Consistent with the onus for life, liberty, and security of the person, open access within the principles of fundamental justice is essential. Amy O'Connor and the OIPCBC breached the Petitioner's *Charter* rights without justification and in a context with a lack of evidence to the contrary.

6. The Petitioner says that Amy O'Connor and the OIPCBC created restrictions on the Petitioner's future rights to information access and information correction which are in conflict with *Charter* rights.

AND FURTHER TAKE NOTICE THAT the material facts giving rise to this Petition and its application calling the constitutional question and consideration are as set out in the Petition and associated Affidavit.

AND FURTHER TAKE NOTICE THAT at the hearing the Petitioner will make full argument on the legal basis as set out in the Petition.

Dated: October 28, 2026

Signature of the Petitioner
Nevio Cimolai