

Court File No.

FEDERAL COURT

B E T W E E N:

(Court Seal)

REBEL NEWS NETWORK LTD.

Applicant

-and-

**CANADA (LEADERS' DEBATES COMMISSION/COMMISSION DES DEBATS DES
CHEFS) and THE ATTORNEY GENERAL OF CANADA**

Respondents

NOTICE OF APPLICATION

TO THE RESPONDENTS:

A PROCEEDING HAS BEEN COMMENCED by the Applicant. The relief claimed by the Applicant appear on the following page.

THIS APPLICATION will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court orders otherwise, the place of hearing will be as requested by the Applicant. The Applicant requests that this application be heard at Toronto, Ontario.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or a solicitor acting for you must file a notice of appearance in Form 305 prescribed by the *Federal Courts Rules* and serve it on the Applicant's solicitor or, if the Applicant is self-represented, on the Applicant, WITHIN 10 DAYS after being served with this notice of application.

Copies of the *Federal Courts Rules*, information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO OPPOSE THIS APPLICATION, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

Date _____

Issued by _____
(Registry Officer)

Address of
local office: 180 Queen Street West
Suite 200
Toronto, Ontario
M5V 3L6

TO: THE ADMINISTRATOR
Federal Court
180 Queen Street West
Suite 200
Toronto, Ontario M5V 3L6

AND TO: BORDEN LADNER GERVAIS LLP
Bay Adelaide Centre, East Tower
22 Adelaide Street West
Suite 3400
Toronto, ON M5H 4E3

Nadia Effendi
Tel: 416.367.6728
Fax: 416.367.6749
NEffendi@blg.com

Ewa Krajewska
Tel: 416.367.6244
Fax: 416.367.6749
EKrajewska@blg.com

Lawyers for the Respondent, Canada
(Leaders' Debates Commission/Commission Des Debats Des Chefs)

AND TO: ATTORNEY GENERAL OF CANADA
Department of Justice Canada
120 Adelaide Street West, Suite 400
Toronto, Ontario M5H 1T1

Respondent

APPLICATION

This is an Application for judicial review of the decision of the Leaders' Debates Commission (the "**Commission**"), refusing the Applicant, Rebel News Network Ltd. ("**Rebel News**") the media representative accreditation ("**Accreditation**") required to cover the only official English Language Federal Leaders' Debate taking place on Monday, October 7, 2019, and the French Language Federal Leaders' Debate taking place on Thursday, October 10, 2019 (collectively, the "**Debates**"). The entirety of the denial of Accreditation was outlined in email correspondence sent from Mr. Collin Lafrance, the Chief of the Canadian Press Gallery, who did not form part of the Commission, to Rebel News at 9:08 a.m. EDT on Friday, October 4, 2019, stating as follows:

"Your request for media accreditation for the 2019 Federal Leaders' Debates has been denied. It is our view that your organization is actively involved in advocacy."

(the "**Decision**").

THE APPLICANT MAKES APPLICATION FOR:

1. leave to hear this judicial review Application on an urgent basis;
2. an Order quashing the Decision of the Commission, and replacing it with an Order granting the Applicant Accreditation to attend and cover the Debates;
3. in the alternative, an Order quashing the Decision and remitting the matter back to the Commission with a direction that it provide the Applicant with Accreditation to attend and cover the Debates;
4. a Declaration that the Commission acted unfairly, unreasonably, and unlawfully in making the Decision without a sufficient record, and for failing to provide sufficient reasons for the Decision;
5. a Declaration that the Commission acted unfairly, unreasonably, and / or unlawfully in refusing to grant Rebel News Accreditation for allegedly being involved in

advocacy, while granting other media outlets and representatives Accreditation who are involved in advocacy;

6. a Declaration that the Commission breached Rebel News' legitimate expectations that the Commission would review and consider its application in a fair and transparent manner unencumbered by political bias;
7. a Declaration that the Commission breached the vested rights of Rebel News to have its application considered in a fair and transparent manner unencumbered by political bias;
8. a Declaration that the Commission acted unfairly, unreasonably, and unlawfully in having an individual — Mr. Collin Lafrance — participate in and / or take the lead in making the Decision when he was not part of the Commission tasked with doing so;
9. a Declaration that the Commission did not follow its own processes, procedures, protocols, or the Order in Council (defined below) which created the Commission;
10. an Order directing the Commission to provide a copy of the complete record of the decision-making process leading up to, and including, the Decision, including but not limited to:
 - (i) the criteria used in making decisions on which media representatives should receive Accreditation;
 - (ii) the materials relied upon in making the Decision;
 - (iii) the emails or other forms of correspondence between members of the Commission regarding the Decision;
 - (iv) a tally of the vote of the members of the Commission;
 - (v) the involvement, title, and role of Mr. Collin Lafrance in the decision-making process and the Decision; and
 - (vi) any other documents relied upon or referenced in the decision-making process or in arriving at the Decision itself;
11. an Order directing the Commission to provide a complete list of the selection criteria used by the Commission in determining the granting of Accreditation;
12. an Order directing the Commission to advise when the Decision was made, given

that it was conveyed on the last business day before the English Language Debate, thereby preventing any meaningful opportunity to appeal, or seek judicial review, of the Decision;

13. an Order directing the Commission — whose objectives are increased transparency — to release a list of those that received Accreditation, and confirm that none are involved in any type of advocacy;
14. an Order directing the Commission to provide detailed information regarding the relationship between Mr. Collin Lafrance — the Chief of the Canadian Press Gallery — and the Commission, including a description of what capacity and under what authority Mr. Lafrance was working when he considered and denied the Applicant's requests for Accreditation;
15. costs of this Application; and
16. such other relief as counsel may advise and this Honourable Court deems just.

THE GROUNDS OF THE APPLICATION ARE:

The Parties

1. Rebel News is a federally incorporated company, carrying on business as a popular online news and media company operating across Canada. Rebel News' editorialists and commentators often take strong editorial positions on important public issues affecting Canadians, and convey those positions through different media, including on websites (<http://www.RebelNews.com>), podcasts, YouTube videos and ads, print media, paperback books, e-books, radio ads, and billboards.

2. Rebel News has been granted media accreditation by governments around the world, including the United States, the United Kingdom, the European Union, Sweden, the Netherlands, and India. Rebel News has also been granted accreditation in partly-free countries such as Iraq and Morocco.

3. The Commission is a body created by an Order in Council (PC Number: 2018-1322) dated

October 29, 2018 (the “**Order in Council**”). According to paragraph 1 of the Order in Council, the Commission consists of the Debates Commissioner, the Advisory Board and the Secretariat. Mr. Collin Lafrance is not part of the Commission.

4. According to paragraph 2 of the Order in Council, the mandate of the Commission is to:

- (a) Organize one leaders’ debate in each official language during each general election period;
- (b) Ensure that the leader of each political party meet two enumerated criteria listed in paragraph 2 to be invited to participate in the Debates;
- (c) Ensure that the Debates are broadcast and otherwise made available in an accessible way to persons with disabilities;
- (d) Ensure that the Debates reach as many Canadians as possible, including those living in remote areas and those living in official language minority communities through a variety of media and other fora;
- (e) Ensure that the Debates are broadcast free of charge, whether or not the broadcast is live;
- (f) Ensure that any reproduction of the Debates is subject to only the terms and conditions that are necessary to preserve the integrity of the debates;
- (g) Ensure that high journalistic standards are maintained for the Debates;
- (h) Undertake an awareness raising campaign and outreach activities to ensure that Canadians know when, where and how to access the Debates; and,
- (i) Provide advice and support in respect of other political debates related to the general election, including candidates’ debates, as the Debates Commissioner considers appropriate.

5. Significantly, the Order in Council provides at paragraph 4 that in fulfilling its mandate, the Commission is to be guided by the “*pursuit of the public interest* and by the principles of *independence, impartiality, credibility, democratic citizenship, civic education, inclusion* and *cost-effectiveness*.” Critically, the Order in Council makes no mention at all of “advocacy” or involvement therein by media organizations or representatives, and certainly does not reference

“advocacy” as a bar to media participation.

The Application Process

6. On or about September 23, 2019, the Commission published a press release providing details of the Debates, including the parties that were invited to participate. The press release also provided instructions to media representatives who wished to cover the debates, noting that they must apply for accreditation using the Government of Canada accreditation portal. The press release noted that the portal was open, and would close on October 4, 2019 at 11:59pm EDT.

7. Rebel News applied for Accreditation through the Government of Canada Accreditation portal.

8. At 9:08 a.m. on Friday, October 4, 2019, Rebel News received email correspondence from Mr. Collin Lafrance, the Chief of the Canadian Press Gallery, advising that its request for Accreditation was denied.

9. The entirety of the Decision was conveyed to Rebel News as follows:

Hello,

Your request for media accreditation for the 2019 Federal Leaders’ Debates has been denied. It is our view that your organization is actively involved in advocacy.

Regards.

Collin Lafrance

Chief | Chef

Press Gallery Secretariat

Secrétariat de la Tribune de la presse

T. 613-992-4511

M. 613-290-8891

collin.lafrance@parl.gc.ca

www.press-presse.ca

10. By waiting until the last business day before the English Language Debate, the Commission acted unfairly and in bad faith in conveying to the Applicant that its application for Accreditation was denied. Similarly, the Decision was made and/or conveyed by an individual who was not part of the Commission.

11. The Commission breached the Applicant's procedural and substantive rights and acted in an unfair, unreasonable, unlawful, and arbitrary manner by:

- (a) failing to provide adequate reasons;
- (b) failing to provide criteria for Accreditation;
- (c) failing to properly assess the credentials of the Applicant;
- (d) allowing partisan politics to infiltrate and taint the Commission's review process; and
- (e) granting other media representatives that are clearly "actively involved in advocacy".

12. Section 18.1 of the *Federal Courts Act* RSC 1985, c F-7.

13. As more specifically set out in the affidavit(s) filed in support of the within Application;

14. Such other grounds as counsel may advise and this Honourable Court deems just.

THIS APPLICATION WILL BE SUPPORTED BY THE FOLLOWING MATERIAL:

15. The affidavit of Ezra Levant, to be sworn on October 6, 2019 and the exhibits thereto; and

16. Such other materials that counsel may advise and this Court deems just.

October 5, 2019



RE-LAW LLP

Barristers and Solicitors
4949 Bathurst St., Suite 206
Toronto, ON M2R 1Y1

David Elmaleh LSO# 621711

Tel: 416-398-9839
delmaleh@relawllp.ca

Aaron Rosenberg LSO# 71043B

Tel: 416-789-4984 / Fax: 416-429-2016
arosenberg@relawllp.ca

Lawyers for the Applicant

**REBEL NEWS NETWORK LTD. - and- CANADA (LEADERS' DEBATES
COMMISSION/COMMISSION DES DEBATS DES
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Barristers and Solicitors
4949 Bathurst St., Suite 206
Toronto, ON M2R 1Y1

David Elmaleh LSO# 62171I

Tel: 416-398-9839
delmaleh@relawllp.ca

Aaron Rosenberg LSO# 71043B

Tel: 416-789-4984 / Fax: 416-429-2016
arosenberg@relawllp.ca

Lawyers for the Applicant