

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

SUPERIOR COURT

No.: 500-17-129903-244

MCGILL UNIVERSITY, a not-for-profit legal person having its domicile at 845 Sherbrooke West Street, Suite 313, in the City and District of Montréal, Province of Québec, H3A 0G4

and

THE ROYAL INSTITUTION FOR THE ADVANCEMENT OF LEARNING, a not-for-profit legal person having its domicile at 845 Sherbrooke West Street, Suite 313, in the City and District of Montréal, Province of Québec, H3A 0G4

Plaintiffs

v.

JOHN DOE

and

JANE DOE

Defendants

**JUDICIAL APPLICATION ORIGINATING A PROCEEDING FOR THE
ISSUANCE OF PROVISIONAL, INTERLOCUTORY AND PERMANENT
INJUNCTION ORDERS**
(Art. 141 and 509 *et seq.* C.C.P.)

IN SUPPORT OF THEIR APPLICATION, PLAINTIFFS MCGILL UNIVERSITY AND THE ROYAL INSTITUTION FOR THE ADVANCEMENT OF LEARNING RESPECTFULLY SUBMIT AS FOLLOWS:

I. OVERVIEW

1. Plaintiffs McGill University and The Royal Institution for the Advancement of Learning (hereinafter “**McGill**” or “**Plaintiffs**”) respect and provide broad protection for freedom of expression and peaceful assembly on their campus grounds, insofar as such freedoms are exercised within the bounds protected by law and McGill’s policies and operating procedures.
2. McGill cannot, however, stand for or tolerate the unauthorized continuous occupation of its private property, particularly where this occupation interferes with Plaintiffs’ (including their students, faculty, employees and other members of their community) peaceful enjoyment of their property, and poses a safety, security and public health risk.
3. By way of the present *Judicial Application Originating a Proceeding for the Issuance of Provisional, Interlocutory and Permanent Injunction Orders* (hereinafter the “**Application**”), McGill is seeking this Honorable Court’s intervention with a view to dismantling and preventing any further unauthorized and continuous occupation of its private property, restoring its peaceful enjoyment to the benefit of all members of the McGill community, and ensuring that any further protest is conducted in a manner which does not pose a safety, security and public health risk, and which remains within the bounds protected by the law and McGill’s policies and operating procedures.
4. More specifically, McGill is notably asking this Honorable Court to intervene on an urgent basis and render provisional, interlocutory and permanent injunction orders enjoining Defendants, and any other person having knowledge or having received service of the judgment to be rendered to:
 - a. Dismantle the unauthorized and unlawful Encampment (as defined hereinbelow);
 - b. Cease, desist and refrain from any other unauthorized occupation or obstruction of its private property; and
 - c. Cease, desist and refrain from conducting any protest which is in violation of Plaintiffs’ policies and operating procedures.
5. McGill is diligently seeking this Honorable Court’s intervention in order to avoid serious and/or irreparable harm following the escalation of tensions, the deterioration of the conditions on campus grounds, and the confirmation by the *Service de police de la Ville de Montréal* (hereinafter the “**SPVM**”) that it would not intervene in order to resolve the situation, the whole as more fully detailed below.

II. THE PARTIES

6. McGill is a university under the *Act respecting educational institutions at the university level*, CQLR c E-14.1, and a not-for-profit legal person, as appears from

extracts of the Québec Enterprise Register, a copy of which is communicated in support hereof *en liasse* as **Exhibit P-1**.

7. McGill's mission is "*the advancement of learning and the creation and dissemination of knowledge, by offering the best possible education, by carrying out research and scholarly activities judged to be excellent by the highest international standards, and by providing service to society*", as appears from McGill's website, a screenshot of which is communicated in support hereof as **Exhibit P-2**.
8. McGill's stated principles are "*academic freedom, integrity, responsibility, equity, and inclusiveness*", as appears from the McGill website screenshot communicated as Exhibit P-2.
9. Defendants John Doe and Jane Doe are the individuals involved in the Encampment (as defined hereinbelow), which Plaintiffs are currently unable to identify.

III. THE FACTS

A. The Unauthorized, Continuous and Unlawful Encampment

10. On Saturday, April 27, 2024, various individuals began setting up tents on the lower field of McGill's downtown Montréal campus (hereinafter the "**Encampment**").
11. The Encampment was formed without any authorization from McGill, nor any advance notice.
12. The Encampment is located on McGill's private property, as appears from extracts of the *Rôle d'évaluation municipale*, a copy of which is communicated in support hereof as **Exhibit P-3**.
13. For historic reasons, the land is owned by The Royal Institution for the Advancement of Learning, a corporate entity which is an integral part of McGill University.
14. As appears from Exhibit P-3, McGill's downtown Montréal campus grounds are bordered by Sherbrooke Street West, University Street, des Pins Avenue, and McTavish Street, and are essentially composed of lots No. 1,339,464, 1,515,590, 1,339,465 and 1,514,343 of the Québec cadastre.
15. The Encampment is more fully described or shown by the following exhibits:
 - a. Plans of the lots composing McGill's downtown Montréal campus grounds, *en liasse*, a copy of which is communicated in support hereof as **Exhibit P-4**;
 - b. Pictures of the Encampment, *en liasse*, a copy of which is communicated in support hereof as **Exhibit P-5**;
 - c. Newspaper articles describing the situation as it unfolded since April 27, 2024, *en liasse*, a copy of which is communicated in support hereof as **Exhibit P-6**.

16. As mentioned from the outset, McGill respects and provides broad protection for freedom of expression and peaceful assembly, and protests are held regularly on McGill's Montreal downtown campus. Even when these protests raise uncomfortable, controversial and/or critical speech, they are permitted and McGill will not stop or limit them, provided that these activities remain within the bounds protected by law and McGill's policies and operating procedures.
17. The Encampment is an unauthorized activity that differs significantly from the typical protest experienced at McGill. It is now a fortified and entrenched space with fences covered by tarps and banners, impeding anyone outside the Encampment, including representatives of the Plaintiffs, from seeing what activities are being conducted inside the Encampment at ground level. Ingress and egress are guarded and controlled, through specific access points, the whole as shown on Exhibits P-4 to P-6.
18. The Encampment is not a protest activity that involves periodic demonstrations of finite duration. Rather, it is a continuous monopolization of space at McGill for an indefinite duration, to the exclusion of any other use of this space by the members of the McGill community.
19. Many participants in the Encampment do not leave McGill's premises at night. With their tents, they maintain an uninterrupted presence on campus, essentially appropriating McGill's grounds as their living space.
20. The size of the Encampment has grown significantly since April 27, 2024. At its inception, the Encampment was estimated to comprise some 15-20 tents and approximately 50-60 individuals.
21. As of Monday, April 29, 2024, the Encampment appeared to comprise some 65 tents and approximately 150 individuals.
22. By the morning of Tuesday, April 30, 2024, the size of the Encampment had grown further. As of the present Application, there appeared to be approximately 115 tents at the Encampment and approximately 150 individuals.
23. As of the present Application, the Encampment is tantamount to a small village, and notably includes designated areas such as laundry, toilets, cafeteria, clothing store, first aid, a library, and press room, in addition to walkways composed of wooden pallets. It also had a designated area identified as 'defence gear', although that indication has now been removed.
24. Moreover, the composition of the Encampment has changed. At its beginning, the Encampment appeared to be mostly composed of members of the McGill community. By Monday April 29, 2024 (if not earlier), many or most individuals at the Encampment now appeared to be from outside the McGill community.
25. Considering McGill has been denied access to determine the condition and the number of individuals living in the Encampment, it has become impossible for McGill

to effectively monitor what is occurring on its property inside the Encampment, and assess the safety, security, and public health risk on this portion of its downtown Montréal campus.

26. At present, McGill is not able to identify any individual, or even designated groups of individuals, who exercise control over the Encampment. Indeed, it is Plaintiffs' understanding that the Encampment participants hold themselves out as a "flat" or "non-hierarchical" group and that no single person or group represents or speaks for them collectively, hence the present Application being directed at John Doe and Jane Doe.
27. Moreover, many of the individuals involved in the Encampment continuously have their faces covered with masks or scarfs, with the apparent objective of avoiding identification.
28. As mentioned above, and supported by Exhibit P-3, McGill's campus is private property.
29. The Encampment is not, and has never been, authorized by McGill.
30. Shortly after the Encampment began on Saturday, April 27, 2024, McGill representatives learned that the members of the McGill community who had initiated the Encampment were represented by experienced legal counsel. These lawyers communicated to McGill that they were authorized to engage with McGill to discuss terms regarding the Encampment.
31. Throughout the afternoon and evening on Saturday, April 27, 2024, and throughout the day on Sunday, April 28, 2024, McGill discussed terms with these legal representatives regarding participation, location, intensity, behaviours, and duration of the Encampment.
32. As part of these discussions, McGill attempted to secure agreement on various terms that, if respected by all individuals present at the Encampment, could allow McGill to tolerate its continuation for a limited period to be agreed upon. These terms included restricting the size of the Encampment; ensuring that the individuals who joined the encampment were McGill community members; ensuring that the Encampment was safe and sanitary; ensuring that the Encampment was free and clear of any antisemitic or otherwise hateful speech; and setting a specific timeline and plan for an orderly termination of the Encampment. McGill was led to believe by legal counsel representing the members of the McGill community who had initiated the Encampment that the terms proposed by McGill were reasonable, save for duration. Therefore, McGill requested from legal counsel that they consult with their clients and come back with a proposal regarding duration.
33. As the size of the Encampment kept growing over the weekend and the proportion of members of the McGill community at the Encampment became smaller, the possibility of reaching an agreement became increasingly less likely.

34. In the early evening of Sunday, April 28, 2024, legal counsel representing the members of the McGill community who had initiated the Encampment informed McGill that a proposal on duration would not be forthcoming. When asked by McGill if this meant the Encampment would be of an indefinite term, legal counsel responded that its occupants would stay until they believed all their demands had been met.
35. On April 29, 2024, McGill issued a communication to all students and staff regarding the Encampment, confirming that the individuals involved in the Encampment who were represented by legal counsel signalled that they intended to remain on campus indefinitely, as appears from McGill's email to all students and staff dated April 29, 2024, a copy of which is communicated in support hereof as **Exhibit P-7**.
36. Peacefully and respectfully, on Monday, April 29, 2024, McGill asserted its position that the Encampment could not be tolerated and proceeded to issue clear and formal warnings to participants through its Campus Safety personnel on-site.
37. Accordingly, shortly before 4:00 pm, a warning was given to individuals at the Encampment stating that it was not authorized; that they had no right to be present at the Encampment; and that they should disperse immediately, taking with them their tents and other personal belongings.
38. With no apprehensible dispersal occurring, a second warning was given approximately 30 minutes later. This second warning again called upon individuals at the Encampment to disperse and raised the possibility of McGill seeking assistance from the police.
39. Again, there was no apprehensible dispersal that occurred.
40. Later that day, Radio-Canada reported that "Ali", a declared spokesperson for the Encampment, stated: « *Nous nous attendions à ce que les policiers viennent nous évacuer dès le premier jour du campement. [...] Nous sommes prêts à faire face à un tel scénario.* » and « *nous avons vu comment aux États-Unis les gens ont résisté en se tenant côte à côte, de façon solidaire, pour empêcher les policiers d'accéder au campement... C'est ce qu'on compte faire ici.* », as appears from an article by Radio-Canada, a copy of which is communicated in support hereof as **Exhibit P-8**.
41. Indeed, it would appear that when faced with the risk of being forcibly removed from McGill's property, the individuals involved in the Encampment proceeded to reinforce the Encampment, adding wooden pallets, fences and other structures aimed at preventing any access by police, McGill security personnel, or officers of the Court. As previously stated, these wooden pallets, fences and other structures were removed and relocated from various construction sites on McGill's campus grounds.
42. As alluded to above, the individuals involved in the Encampment even erected tents labelled "defence gear", the content of which is unknown to McGill. A picture of these tents is communicated in support hereof as **Exhibit P-9**.

43. While McGill cannot ascertain the exact nature of the “defence gear” gathered by the participants in the Encampment, it is reasonable to assume that this gear is meant to provide means of resistance.
44. Since the beginning of the Encampment, McGill has been in contact with representatives of the SPVM. After giving the second warning, McGill further updated the SPVM on the situation.
45. Specifically, McGill made clear to the SPVM that the Encampment was unauthorized, that an initial attempt to negotiate terms for the Encampment had not been successful, that multiple warnings had been given, that it was concerned with the safety, security, and public health risks at the Encampment and, as such, its continuation could not be tolerated.
46. At all times, McGill has communicated and collaborated with the SPVM, relying on the SPVM’s expertise to accomplish the dismantlement of the Encampment fully, peacefully, expeditiously and with a view to avoiding violence and harm to any participant in the Encampment or any other person.
47. On Tuesday, April 30, 2024, Deep Saini, the President and Vice-Chancellor of McGill, updated the McGill community on the developments at the Encampment, noting:

As we have failed to reach a resolution, yesterday late afternoon we took the final step in our protocol, and requested police assistance. Police representatives, who have expertise in skillfully resolving situations such as these, are beginning their own process. We continue to work with them to resolve the matter.

We have been communicating with police since the outset of the encampment last Saturday. Throughout, our goal has been to ensure the security of all, including encampment participants. The police understand our values as an institution and that the safety and wellbeing of all our students and staff is our paramount concern.

I reiterate the University’s firm commitment to protecting free expression and assembly within the bounds protected by the law and our policies. Encampments on campus property are outside of protected parameters, especially when they’re presented as indefinite in term, and when many participants are not members of our university community.

Having to resort to police authority is a gut-wrenching decision for any university president. It is, by no means, a decision that I take lightly or quickly. In the present circumstances, however, I judged it necessary.

I recognize that this situation could be difficult for some in our community. Please do reach out for support as required. Resources are listed below.

And to all members of the McGill community, thank you for your forbearance as we work through this difficult and complex situation.

as appears from an email dated April 30, 2024, a copy of which is communicated in support hereof as **Exhibit P-10**.

48. As of May 1st, 2024, two McGill students had filed an application for an injunction aimed at removing the participants in the Encampment from McGill's campus grounds. Contrary to some media reports, this was not a proceeding initiated by McGill nor was McGill a defendant, and there were no conclusions sought against McGill, the whole as appears from the proceedings filed in Superior Court file No. 500-17-129763-242, a copy of which is communicated in support hereof as **Exhibit P-11**.
49. On May 1st, 2024, the Court dismissed this application, as appears from a judgment rendered by the Honorable justice Chantal Masse, J.S.C., a copy of which is communicated in support hereof as **Exhibit P-12**.
50. As appears from the Court's reasons, as of May 1st, 2024, the Court specified that the participants in the Encampment were illegally occupying the premises by camping, and underlined McGill's proactive approach in dealing with the situation. The Court further stated that it remained hopeful that the situation would be resolved by way of a progressive police intervention and that McGill retained its right to address the Court if the situation did not evolve in the right direction or deteriorated:

[31] **Ce faisant, il est vrai qu'ils occupent illégalement les lieux en y campant. Toutefois, il faut souligner que l'Université McGill, contrairement aux prétentions des demandeurs, a été proactive, a appliqué le processus qu'elle a prévu, a tenté de négocier une entente pour un démantèlement progressif avec le respect de certaines conditions, donné des avertissements faute d'entente et, enfin, fait appel aux policiers en dernier recours, afin de mettre fin à cette situation.**

[32] Tout cela a été fait depuis le 27 avril. Nous sommes le 1er mai, soit 5 jours plus tard seulement.

[33] **Il est pour l'instant prématuré de conclure que la situation ne se résoudra pas adéquatement et de façon non violente avec une intervention policière progressive, ce qu'une ordonnance du Tribunal ne favoriserait pas nécessairement.**

(...)

[48] Au stade provisoire et dans l'état actuel de la preuve, la demande en injonction est rejetée faute de démonstration d'une urgence. **Il vaut la peine en terminant de rappeler à tous que, si les circonstances n'évoluaient pas dans le bon sens ou se détérioraient, il demeure**

possible à l'Université McGill et aux demandeurs de s'adresser aux tribunaux.

(emphasis added)

B. The SPVM's Involvement

51. On May 2, 2024, Québec Premier Francois Legault called on the police to dismantle the Encampment, as appears notably from an article from the Canadian Press, a copy of which is communicated in support hereof as **Exhibit P-13**.
52. On May 4, 2024, McGill representatives met with high-ranking representatives of the SPVM at their headquarters on St-Urbain street, to inform the SPVM that it believed the Encampment was illegal, as per comments made by the Court in the judgment rendered on May 1st, 2024, and to reiterate McGill's concerns regarding the safety, security and public health risks at the Encampment.
53. During this meeting, the SPVM informed McGill that an intervention would not occur in the short term, as their criteria for a police intervention were not met at that time. The SPVM suggested that McGill seek to resolve the situation peacefully over an undefined period of time, principally through dialogue with the Encampment participants.
54. In McGill's understanding, the SPVM's position on the matter remains the same as of the present Application.

C. Escalation of Tensions, Risk of Violence and Campus Safety

55. On Thursday May 2, 2024, counter-protesters gathered across from the Encampment, on the corner of Sherbrooke Street and McGill College, and access to McGill's downtown Montréal campus through the Roddick gates was significantly impeded.
56. Given that this counter-protest had been planned and announced in advance, several dozens of officers from the SPVM were deployed to separate the Encampment and the counter-protesters, and officers promptly closed Sherbrooke Street to traffic.
57. Individuals involved in the Encampment and their supporters, and those involved in the counter-protest, engaged in heated and fierce verbal exchanges. The "sides" were separated merely by a line of police officers. McGill had to send out an emergency "alert" to all members of its community through its communication channels to warn individuals to avoid the areas where these events were occurring. Many members of the McGill community were deeply troubled and unnerved by this experience.

58. Throughout the protest and counter-protest, tensions between the two groups rose to such a point as to generate a serious risk of violent altercations, thereby putting the safety of McGill's students, staff and other members of its community at risk.
59. Fortunately, and given the deployment of several dozens of police officers, the circumstances did not result in any occurrence of violence.
60. However, McGill reasonably fears that, should the Encampment continue, it will continue to serve as a "magnet" for protests and counter-protests that will generate unrest, creating a foreseeable risk of unsafe situations for members of McGill's community.
61. In the event of an unplanned or spontaneous counter-protest, which may occur at any moment, McGill fears that it may not be able to deploy sufficient resources in due course to deal with such a situation.

D. Challenges faced by McGill's Security Team, Safety Concerns, and Current State of the Encampment

62. Since the Encampment was formed on April 27, 2024, McGill has had to deploy significant resources to ensure the safety of its students, staff and community members on campus grounds.
63. Specifically, McGill more than doubled the amount of security agents on campus, who are now present 24/7 and are working tirelessly to monitor the situation and protect the safety of the McGill community, to the best of their ability.
64. Yet, the situation is absolutely unprecedented and is highly concerning for McGill's security team. Among other safety concerns, Plaintiffs wish to bring the following to the attention of this Honorable Court:
 - a. McGill's security team have little to no visibility into the Encampment, as the Encampment is fully barricaded with opaque, tarp-shielded fencing;
 - b. McGill's security team and the *Service de sécurité incendie de Montréal* have been refused access to the Encampment and have therefore been prevented from exercising their prevention responsibilities and a careful review of the safety situation;
 - c. It would appear the campers inside the Encampment have no escape routes in case of fire, as there appears to be a single entry and egress point, and it is unknown whether the Encampment is equipped with fire extinguishers;
 - d. As the Encampment is fenced in against the McLennan Library building, the campers inside the Encampment have actually blocked at least one fire exit from the outside of the building, to stop any possible police intervention from the McLennan Library building into the Encampment, therefore jeopardizing the safety of individuals within the building in the case of an emergency. Plaintiffs

file as **Exhibit P-14** a pictures of a fire exit blocked by the individuals involved in the Encampment, showing vertical wooden spikes at the foot of the exit. As of the present sworn statement, the wooden spikes have been removed. However, the door has been reblocked, as shown in the second picture at P-14.

65. In addition to these safety concerns, McGill is also concerned with public health issues and the sanitary conditions in the Encampment.
66. Among others sanitary issues, since some of the individuals involved in the Encampment refuse to leave at any time, these individuals relieve themselves in the Encampment, and there are barrels identified as human waste in the Encampment. Some of this human waste has even been put into McGill's McLennan Library building's ventilation system.
67. Some individuals use the restrooms in the adjacent buildings to wash up and relieve themselves, at times leaving these restrooms in a state of disarray.
68. It is clear that without the immediate intervention of this Honorable Court, the state of the Encampment, now a guarded, gated community, will only worsen as time passes, and the concerns for safety and the sanitary conditions will continue to increase.

E. Spring Convocation

69. Every year, for decades now, Spring Convocation ceremonies are held under a tent on the lower field of McGill's downtown Montréal campus in a Convocation Tent erected just beyond the Roddick Gates on McGill's lower west field, right next to the Encampment, as appears from a plan showing the location of the Convocation Tent, a copy of which is communicated in support hereof as **Exhibit P-15**.
70. Each Spring, approximately 7,500 students graduate from the McGill downtown Montréal Faculties, of which 5,400 attend and cross the stage at Convocation. The tent has a capacity of 3,000 seats for graduates, families and guests.
71. Against the backdrop of Mount Royal and in the heart of Montréal, new graduates cross the stage in the Convocation Tent and receive their hard-earned diplomas.
72. Convocation is a significant and memorable event for graduates and their families. To hold the ceremonies on campus allows graduates to celebrate their accomplishments with their families at McGill, a fitting conclusion and celebration of their time at the university.
73. For many students' families, Convocation is one of the few times they will be officially welcomed by the University and visit the campus. And through Convocation on campus, McGill has a valuable and unique opportunity to deepen relationships with many members of its community.

74. This year, twelve (12) ceremonies are expected to be held in the Convocation Tent from May 28 to June 4, 2024.
75. Given the fact that it takes approximately two (2) weeks to set up the Convocation Tent, the work on the Tent would need to begin at the latest on May 13, 2024.
76. In all likelihood, McGill has determined that because of the Encampment, it will be unable to hold Spring Convocation on the campus grounds.
77. There are few venues in Montreal that meet the necessary capacity. Those venues require advanced booking and are challenging to secure just mere weeks before the ceremonies.
78. Given the foregoing, as a contingency plan, McGill has just recently secured at great costs an alternate venue. McGill will have to expend in excess of \$700,000 to move the Spring Convocation to this alternate venue.
79. Because of the Encampment, 5,400 graduates and even more guests will, in all likelihood, be deprived of experiencing Spring Convocation in accordance with this McGill tradition.

F. McGill's Policies and Operating Procedures

80. McGill has dealt with the Encampment consistent with its applicable policies.
81. As already described, the Encampment involves monopolizing a broad area of McGill's downtown Montréal campus on a continuous basis, 24 hours per day.
82. The existence of the Encampment means that a significant part of McGill's lower campus is unavailable to the McGill community for permitted uses. It also transforms a significant section of McGill's lower campus for a use that was never intended or authorized - i.e., outdoor living space where over a hundred people eat, sleep, wash and require sanitation facilities.
83. The first McGill policy that applies to this situation is Article 7 of the Student Code of Conduct and Disciplinary Procedures ("**Student Code**"), which states:

No student shall knowingly enter or remain in any University premises:

- (a) Without right or authorization; or
- (b) With intent to obstruct University activities; or
- (c) With intent to damage, destroy or steal University property;

as appears from the Student Code, a copy of which is communicated as **Exhibit P-16**.

84. The Encampment is not an authorized use of space by McGill students.
85. To be clear, though it probably goes without saying, non-students do not have greater rights to encamp at McGill than students. While the Student Code does not apply to non-students, needless to say that, as a private property-owner, McGill controls its campus and does not allow non-students to encamp on its premises either.
86. There are other policies at McGill that have been developed and regularly applied to typical protests held at the university, which Plaintiffs would like to call to the attention of this Honourable Court.
87. These policies make clear that McGill recognizes the crucial importance of and provides broad protection for the freedom of expression and peaceful assembly, especially in a campus setting. McGill's policies also recognize that these freedoms are not absolute and cannot be exercised in a manner contrary to law or our policies, or if the exercise of such freedoms unduly infringes upon the rights of others.
88. McGill expressly recognizes the right to freedom of expression and peaceful assembly in its Statement of Principles Concerning Freedom of Expression and Freedom of Peaceful Assembly, a copy of which is communicated in support hereof as **Exhibit P-17**.
89. In addition to recognizing the right to freedom of expression and peaceful assembly, this statement recognizes limits to this right, affirming that "[i]n particular, there is a need to safeguard other core institutional objectives, including the right of members of the University community to carry out their activities without undue interference, and in a safe environment", as appears from Exhibit P-17.
90. McGill's Charter of Students' Rights at articles 12 and 38 (communicated in support hereof as **Exhibit P-18**), and its Policy on Academic Freedom at articles 3 and 21 (communicated in support hereof as **Exhibit P-19**), also confirm the importance of freedom of expression at the university.
91. Finally, McGill has Operating Procedures Regarding Demonstrations, Protests and Occupations on McGill Campuses, communicated in support hereof as **Exhibit P-20**.
92. These operating procedures are not meant to determine the permissibility of certain conduct, but rather to guide whether action is required when internal policies or the law are contravened.
93. In determining whether demonstrations are "peaceful", these operating procedures point to a variety of factors, including whether they allow McGill to "maintain a safe and secure environment" and whether they "permit the conduct of University activities, such as learning, teaching, research, support services, administration, or of meetings and events which have been duly authorized by the University" (e.g., Spring Convocation).

94. The Encampment's establishment and subsequent escalation undoubtedly violates McGill's policies and operating procedures. The Encampment surpasses the bounds of the allowable exercise of freedom of expression and assembly, notably because it deprives the University and members of its community from the use and enjoyment of a critical area on its campus and because the activities taking place at this site present clear, foreseeable, and serious risks to human health and safety.

G. Further Attempt to Initiate a Dialogue and Find a Solution

95. Before seeking this Honorable Court's assistance, McGill initiated direct discussions with individuals alleging to be representing the participants at the Encampment.
96. As of the present Application, McGill held six meetings over a week with apparent representatives of the individuals involved in the Encampment, with a view to finding an amicable resolution.
97. As reported on May 6, 2024, upon their latest meeting that same day with Plaintiffs, the individuals alleging to be representing the participants at the Encampment declared themselves "unsatisfied" and reiterated by way of a press conference that they will maintain the Encampment and even expand, as required, until their demands are fully met by McGill, as appears from a summary of said press conference, a copy of which is communicated in support hereof as **Exhibit P-21**.
98. McGill continues to meet and dialogue in good faith with these individuals in the hopes of arriving at a resolution where they would accept to dismantle the Encampment and cease their occupation of campus grounds. However, even if such a resolution were reached, it is not obvious that it would be accepted by all participants in the Encampment. This is because there is no clear leadership within the Encampment, and it is not clear that anyone within it has the authority to make decisions that others must or will accept. What's more, the Encampment is composed of various groups with different causes, as evidenced by the different banners suspended from fences that encircle the Encampment. Hence, McGill has minimal confidence that any agreement reached with Encampment participants from McGill would lead to the Encampment's dismantlement.
99. McGill is committed to remaining "at the table", working in good faith and doing what is possible within its governance structure and in line with its academic mission, principles, and policies to reach a resolution through discussion with the Encampment representatives. At the same time, in the circumstances, McGill has no other choice but to seize the Court at this stage.

IV. GROUNDS IN SUPPORT OF THE PRESENT APPLICATION

A. Clear Right

100. Plaintiffs have a clear right at law and a strong *prima facie* case to seek the conclusions sought herein.

101. Indeed, as the owner of the property where the Encampment is situated, McGill has the right to occupy and enjoy the peaceful possession of its property, pursuant to the following provisions of the *Charter of Human Rights and Freedoms*, CQLR c C-12:

6. Every person has a right to the peaceful enjoyment and free disposition of his property, except to the extent provided by law.

8. No one may enter upon the property of another or take anything therefrom without his express or implied consent.

102. Plaintiffs' ownership rights are also safeguarded by provisions of the *Civil Code of Québec*, CQLR c CCQ-1991, such as the following:

947. Ownership is the right to use, enjoy and dispose of property fully and freely, subject to the limits and conditions for doing so determined by law

953. The owner of property has a right to revendicate it against the possessor or the person detaining it without right, and may object to any encroachment or to any use not authorized by him or by law.

103. The unauthorized Encampment constitutes a clear violation of Plaintiffs' right to peaceful enjoyment of its property.

104. Plaintiffs have a clear right to have the Encampment dismantled on this basis alone, but there is more.

105. Indeed, as stated above, the Encampment violates Plaintiffs' policies and operating procedures and prevents McGill from complying with its mission to provide its students, staff and other members of its community with a safe and secure environment, free from violence, harassment, obstruction and intimidation.

106. In this regard, the safety of the public is a consideration of public interest which also favours the issuance of the orders sought herein.

B. Serious or Irreparable Harm

107. As described above, in addition to McGill's property rights being irremediably violated, the state of the Encampment coupled with the palpable tensions that stand to arise between its participants and those who oppose their views risk compromising the safety and well-being of McGill students, staff and other members of its community.

108. Needless to say, if this Honourable Court does not immediately intervene and issue the orders sought herein by way of injunctive relief, a situation will be created that is not susceptible of being remedied by the judgment on the merits, especially where Plaintiffs are unable to identify the Defendants.

109. The serious prejudice or irreparable harm which has already been suffered and will continue to be experienced because of the Encampment are the following:

- a) Unauthorized use and access to McGill's buildings and its facilities, and disruption of Plaintiffs' peaceful enjoyment of their property for the benefit of all the members of the McGill community;
- b) The holding of Spring Convocation at a venue other than McGill's downtown Montréal campus, as detailed above;
- c) The risk of violence and intimidation, and the perceived threat of violence and intimidation felt by certain members of the McGill community;
- d) Safety and public health risks for participants in the Encampment and members of the McGill community; and
- e) Significant damage to McGill's property and its reputation in Canada and around the world.

110. In addition to the foregoing, McGill's failure to seek and obtain the Court's assistance in ensuring its mission to provide students, staff and other members of its community with a safe and secure environment would likely also continue to harm Plaintiffs' reputation, a damage which can hardly be remedied by the judgment on the merits.

C. Urgency

111. The Encampment began on Saturday, April 27, 2024, when the majority of McGill students, staff, and faculty members would not be on campus.

112. The Encampment took form spontaneously, without being advertised publicly, reflecting that Defendants' behaviour is unpredictable, and it is not possible to know what they will do next, or where.

113. Plaintiffs acted diligently in the face of real and immediate urgency, and filed the present Application when they realized that the SPVM would intervene only if and when they deemed it necessary.

114. Indeed, as of this Honorable Court's judgment in Court Case No. 500-17-129763-242, McGill believed in good faith that the SPVM would in fact intervene promptly, effectively, and safely, at a time and in a manner the SPVM deemed appropriate, to dismantle the Encampment.

115. Yet, as of May 8, 2024, the SPVM confirmed by way of declaration to the media: **"Montreal police continue to monitor the camp but have made it clear any intervention on their part will be based on the camp's legal situation — an attempt to obtain an injunction barring protesters from being within 100 metres of any of the school's buildings was refused — and the maintenance of the security for the public and the protesters."** (emphasis added), as appears from an article of

the Montreal Gazette date May 8, 2024, a copy of which is communicated in support hereof as **Exhibit P-22**.

116. In addition to the state of its discussions with the Encampment representatives, and the fact that the latter have signaled the Encampment will remain or grow unless McGill meets their demands, this declaration by the SPVM to the media has led McGill to conclude that it has no other choice but to seize the Court at this stage.
117. Moreover, within the same article, Exhibit P-22, the Montreal Gazette reported that the Encampment had “grown significantly in the last two days” and that “protest actions could become more pronounced as the days wear on”, including the possibility of university buildings being occupied.
118. Plaintiffs were diligent in retaining counsel for this Application to be heard before this Honourable Court before the situation deteriorates further.
119. There is a clear, imminent and real threat that, without an injunction, the Encampment will continue, necessarily infringing on the rights of Plaintiffs and its community, and exposing the latter to serious and/or irreparable harm, as detailed above.
120. The uncertainty and unpredictability of the Defendants’ conduct creates a constant state of urgency for the Plaintiffs, given that the latter are unable to predict where the Defendants will go and what they will do, frustrating the Plaintiffs’ ability to take steps to mitigate against further harm.
121. Plaintiffs cannot know whether activities associated with the Encampment will involve violations of the law institutional policies. Moreover, there is no way to predict whether and when additional planned or spontaneous protests, counter-protests and counter-counter-protests will be held. Therefore, Plaintiffs are unable to plan accordingly and ensure the safety of its campus grounds, as is their obligation, to the benefit of the members of its community.

D. Balance of Convenience

122. Given the clear right to obtain the conclusions detailed below and serious prejudice and/or irreparable harm as described above, Plaintiffs respectfully submit that the Court is not required to examine the balance of convenience.
123. Notwithstanding the foregoing, the balance of convenience clearly favours Plaintiffs and justifies the issuance of the injunction orders sought herein.
124. The serious and/or irreparable harm suffered by Plaintiffs has already been described above.
125. On the other hand, Plaintiffs reiterate that they have not limited, nor do they in any way intend or seek to limit the right of anyone to protest or to exercise their freedoms of expression and peaceful assembly, within the bounds of the law. The Plaintiffs

seek only to ensure that they can continue to pursue their academic mission in a peaceful, safe and secure environment, and that any protest or other form of expression or assembly be exercised in accordance with the law and McGill's policies.

126. The Defendants suffer absolutely no prejudice if they are allowed to protest within the confines of the law and McGill's policies.

127. Defendants can be heard through forms of expression that refrain from occupying and monopolizing Plaintiffs' private property or from compromising the rights, or posing a risk to the safety and security, of McGill's students, employees, and other members of its community.

V. CONCLUSION

128. In conclusion, Plaintiffs are well-founded to seek this Court's intervention with a view to dismantling the Encampment, preventing any further occupation or obstruction of their property, and ensuring any further protest is conducted in accordance with the law and McGill's policies and operating procedures.

129. Furthermore, in light of all of the foregoing, Plaintiffs respectfully submit that they should not have the obligation to provide a suretyship;

130. The present Application is well founded in fact and in law.

FOR THESE REASONS, MAY IT PLEASE THE COURT:

AT THE PROVISIONAL STAGE

A. **GRANT** the present *Judicial Application Originating a Proceeding for the Issuance of Provisional, Interlocutory and Permanent Injunction Orders* at the provisional stage;

B. **ISSUE** provisional injunction orders to remain in full force and effect for a period of ten (10) days from the date of the judgment to be rendered on the present Application **ORDERING** any person having knowledge or having received service of the judgment to be rendered to:

a. **DISMANTLE** any encampment, including but without limitation any tent, shelter, structure, barrier, fence, of any kind whatsoever, located on Plaintiffs' downtown Montréal campus grounds bordered by Sherbrooke Street West, University Street, des Pins Avenue, du Docteur-Penfield Avenue and McTavish Street, and comprised of lots No. 1,339,464, 1,515,590, 1,339,465 and 1,514,343 of the Cadastre of Québec, Registration Division of Montréal;

b. **CEASE, DESIST and REFRAIN** from camping on or occupying in any manner whatsoever, including without limitation by fencing, barricading,

blocking or otherwise obstructing or hindering, in whole or in part, Plaintiffs' downtown Montréal campus grounds bordered by Sherbrooke Street West, University Street, des Pins Avenue, du Docteur-Penfield Avenue and McTavish Street, and comprised of lots No. 1,339,464, 1,515,590, 1,339,465 and 1,514,343 of the Cadastre of Québec, Registration Division of Montréal;

- c. **CEASE, DESIST and REFRAIN** from conducting any protest which is in violation of Plaintiffs' policies and operating procedures on Plaintiffs' downtown Montréal campus grounds bordered by Sherbrooke Street West, University Street, des Pins Avenue, du Docteur-Penfield Avenue and McTavish Street, and comprised of lots No. 1,339,464, 1,515,590, 1,339,465 and 1,514,343 of the Cadastre of Québec, Registration Division of Montréal;
- C. **AUTHORIZE** Plaintiffs to remove and dismantle any encampment, including but without limitation any tent, shelter, structure, barrier, fence, of any kind whatsoever, located on Plaintiffs' downtown Montréal campus grounds bordered by Sherbrooke Street West, University Street, des Pins Avenue, du Docteur-Penfield Avenue and McTavish Street, and comprised of lots No. 1,339,464, 1,515,590, 1,339,465 and 1,514,343 of the Cadastre of Québec, Registration Division of Montréal;
- D. **AUTHORIZE** the bailiffs tasked with serving the judgment to be rendered on the present Application to call upon any peace officer to assist them in serving the judgment to be rendered on the present Application, if they deem it appropriate, and **AUTHORIZE** any peace officer called upon by the bailiffs, including notably the *Service de police de la Ville de Montréal* (SPVM), to provide them with the requested assistance;
- E. **AUTHORIZE** any peace officer, including notably the *Service de police de la Ville de Montréal* (SPVM), to enforce the judgment to be rendered on the present Application, and to arrest and remove any person who the peace officer has reasonable grounds to believe is contravening or has contravened the judgment to be rendered on the present Application;
- F. **AUTHORIZE** Defendants and any person having knowledge or having received service of the judgment to be rendered to apply to the Court with a view to obtaining the modification or cancellation of the judgment to be rendered on the present Application, to the extent said person's rights are affected by the judgment, and subject to providing Plaintiffs with seventy-two (72) hours written prior notice of the date and time of said application;
- G. **DISPENSE** Plaintiffs from any obligation to provide suretyship;
- H. **AUTHORIZE** the judgment to be rendered on the present Application to be served at any time, including between 9:00 pm and 7:00 am and on a holiday (*jour férié*),

by any means, including notably electronic service through email and/or social media, and the displaying of the judgment on any encampment's entry point;

- I. **ORDER** the provisional execution of the judgment to be rendered on the present Application, notwithstanding any appeal;
- J. **ORDER** any other measure that this Honourable Court may deem necessary or appropriate in the circumstances;
- K. **THE WHOLE** without legal costs, unless in case of contestation.

AT THE INTERLOCUTORY STAGE

- L. **GRANT** the present *Judicial Application Originating a Proceeding for the Issuance of Provisional, Interlocutory and Permanent Injunction Orders* at the interlocutory stage;
- M. **ISSUE** interlocutory injunction orders to remain in full force and effect until judgment is rendered by this Honourable Court with respect to the permanent injunction orders sought herein **ORDERING** any person having knowledge or having received service of the judgment to be rendered to:
 - a. **CEASE, DESIST and REFRAIN** from camping on or occupying in any manner whatsoever, including without limitation by fencing, barricading, blocking or otherwise obstructing or hindering, in whole or in part, Plaintiffs' downtown Montréal campus grounds bordered by Sherbrooke Street West, University Street, des Pins Avenue, du Docteur-Penfield Avenue and McTavish Street, and comprised of lots No. 1,339,464, 1,515,590, 1,339,465 and 1,514,343 of the Cadastre of Québec, Registration Division of Montréal;
 - b. **CEASE, DESIST and REFRAIN** from conducting any protest which is in violation of Plaintiffs' policies and operating procedures on Plaintiffs' downtown Montréal campus grounds bordered by Sherbrooke Street West, University Street, des Pins Avenue, du Docteur-Penfield Avenue and McTavish Street, and comprised of lots No. 1,339,464, 1,515,590, 1,339,465 and 1,514,343 of the Cadastre of Québec, Registration Division of Montréal;
- N. **AUTHORIZE** the bailiffs tasked with serving the judgment to be rendered on the present Application to call upon any peace officer to assist them in serving the judgment to be rendered on the present Application, if they deem it appropriate, and **AUTHORIZE** any peace officer called upon by the bailiffs, including notably the *Service de police de la Ville de Montréal* (SPVM), to provide them with the requested assistance;
- O. **AUTHORIZE** any peace officer, including notably the *Service de police de la Ville de Montréal* (SPVM), to enforce the judgment to be rendered on the present

Application, and to arrest and remove any person who the peace officer has reasonable grounds to believe is contravening or has contravened the judgment to be rendered on the present Application;

- P. **DISPENSE** Plaintiffs from any obligation to provide security for costs;
- Q. **AUTHORIZE** the judgment to be rendered on the present Application to be served at any time, including between 9:00 pm and 7:00 am and on a holiday (*jour férié*), by any means, including notably electronic service through email and/or social media, and the displaying of the judgment on any encampment's entry point;
- R. **ORDER** the provisional execution of the judgment to be rendered on the present Application, notwithstanding any appeal;
- S. **ORDER** any other measure that this Honourable Court may deem necessary or appropriate in the circumstances;
- T. **THE WHOLE** without legal costs, unless in case of contestation.

AT THE PERMANENT STAGE

- U. **GRANT** the present *Judicial Application Originating a Proceeding for the Issuance of Provisional, Interlocutory and Permanent Injunction Orders* at the permanent stage;
- V. **ISSUE** permanent injunction orders **ORDERING** any person having knowledge or having received service of the judgment to be rendered to:
 - a. **CEASE, DESIST** and **REFRAIN** from camping on or occupying in any manner whatsoever, including without limitation by fencing, barricading, blocking or otherwise obstructing or hindering, in whole or in part, Plaintiffs' downtown Montréal campus grounds bordered by Sherbrooke Street West, University Street, des Pins Avenue, du Docteur-Penfield Avenue and McTavish Street, and comprised of lots No. 1,339,464, 1,515,590, 1,339,465 and 1,514,343 of the Cadastre of Québec, Registration Division of Montréal;
 - b. **CEASE, DESIST** and **REFRAIN** from conducting any protest which is in violation of Plaintiffs' policies and operating procedures on Plaintiffs' downtown Montréal campus grounds bordered by Sherbrooke Street West, University Street, des Pins Avenue, du Docteur-Penfield Avenue and McTavish Street, and comprised of lots No. 1,339,464, 1,515,590, 1,339,465 and 1,514,343 of the Cadastre of Québec, Registration Division of Montréal;
- W. **AUTHORIZE** the bailiffs tasked with serving the judgment to be rendered on the present Application to call upon any peace officer to assist them in serving the judgment to be rendered on the present Application, if they deem it appropriate,

and **AUTHORIZE** any peace officer called upon by the bailiffs, including notably the *Service de police de la Ville de Montréal* (SPVM), to provide them with the requested assistance;

- X. **AUTHORIZE** any peace officer, including notably the *Service de police de la Ville de Montréal* (SPVM), to enforce the judgment to be rendered on the present Application, and to arrest and remove any person who the peace officer has reasonable grounds to believe is contravening or has contravened the judgment to be rendered on the present Application;
- Y. **AUTHORIZE** the judgment to be rendered on the present Application to be served at any time, including between 9:00 pm and 7:00 am and on a holiday (*jour férié*), by any means, including notably electronic service through email and/or social media, and the displaying of the judgment on any encampment's entry point;
- Z. **ORDER** the provisional execution of the judgment to be rendered on the present Application, notwithstanding any appeal;
- AA. **ORDER** any other measure that this Honourable Court may deem necessary or appropriate in the circumstances;
- BB. **THE WHOLE** without legal costs, unless in case of contestation.

Montréal, May 10, 2024



Borden Ladner Gervais LLP

Lawyers for Plaintiffs

(Mtre. Jacques S. Darche)

(Mtre. Patrick Plante)

(Mtre. Hugo Saint Laurent)

1000 De La Gauchetière Street West

Suite 900

Montréal, QC H3B 5H4

Tel.: 514.954.3156

Fax: 514.954.1905

Email: jdarche@blg.com /

pplante@blg.com / hsaintlaurent@blg.com

NOTICE OF PRESENTATION OF THE PROVISIONAL INJUNCTION

TAKE NOTICE that the present *Judicial Application Originating a Proceeding for the Issuance of Provisional, Interlocutory and Permanent Injunction Orders* will be presented for adjudication, at the stage of Provisional Injunction, before this Honourable Court, in room 2.13 of the Montréal Courthouse, located at 1 Notre-Dame Street East on **Monday May 13, 2024**, at 9:00 am or so soon thereafter as counsel may be heard.

PLEASE GOVERN YOURSELVES ACCORDINGLY.

Montréal, May 10, 2024

A handwritten signature in blue ink, appearing to read "Borden Ladner Gervais LLP", is written over a horizontal line.

Borden Ladner Gervais LLP

Lawyers for Plaintiffs

(Mtre. Jacques S. Darche)

(Mtre. Patrick Plante)

(Mtre. Hugo Saint Laurent)

1000 De La Gauchetière Street West

Suite 900

Montréal, QC H3B 5H4

Tel.: 514.954.3156

Fax: 514.954.1905

Email: jdarche@blg.com

pplante@blg.com

hsaintlaurent@blg.com