

2021 01G  
IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR  
GENERAL DIVISION

BETWEEN:

ALISON COFFIN

FIRST APPLICANT

AND:

WHYMARRH WHITBY

SECOND APPLICANT

AND:

BRUCE CHAULK, in his capacity as  
Chief Electoral Officer of the Province  
of Newfoundland and Labrador

FIRST RESPONDENT

AND:

SHERRY MORRISSEY

SECOND RESPONDENT

AND:

JOHN ABBOTT

THIRD RESPONDENT

SUMMARY OF CURRENT DOCUMENT	
Court File Number:	2021 01G
Date of Filing of Document:	Monday, April 12, 2021
Name of Filing Party:	Alison Coffin, First Applicant, and Whymarrh Whitby, Second Applicant
Application to which Document being filed relates:	Originating Application
Statement of purpose in filing:	Application pursuant to the <i>Elections Act, 1991</i> , SNL 1992, c E-3.1 and the <i>Canadian Charter of Rights and Freedoms</i> , Part I of the <i>Constitution Act, 1982</i> , being Schedule B to the <i>Canada Act 1982 (UK), 1982</i> , c 11.

TO THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR OR ONE OF THE JUDGES THEREOF

The Application of Alison Coffin and Whymarrh Whitby, the Applicants herein, says:

**Nature of the Application**

1. The First Applicant is a resident of the City of St. John's, in the Province of Newfoundland and Labrador. The First Applicant is the leader of the Newfoundland and Labrador New Democratic Party ("NDP") and was the NDP candidate in the electoral district of St. John's East-Quidi Vidi (the "District") in the 2021 Newfoundland and Labrador General Election (the "Election").
2. The Second Applicant is Software Developer and a resident of the City of St. John's, in the Province of Newfoundland and Labrador. The Second Applicant was a qualified elector in the District in the Election.
3. The First Respondent is a resident of the Province of Newfoundland and Labrador. At all times material to the within Application, he was the Chief Electoral Officer ("CEO") of Newfoundland and Labrador, and was responsible for, *inter alia*, administering the Election pursuant to the *Elections Act, 1991*, SNL 1992, c E-3.1 (the "Act"), overseeing all operations of Elections NL and the servants, agents, and employees of Elections NL, and ensuring that the rights of candidates and electors pursuant to the Act and to the *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982 (UK)*, 1982, c 11 (the "Charter") were respected throughout the Election.
4. The Second Respondent is a resident of the Province of Newfoundland and Labrador. She was, at all times material to this action, an employee of Elections NL, working as the Returning Officer in the Election.

5. The Third Respondent is a resident of the Province of Newfoundland and Labrador. He was, at all times material to this action, the Liberal Party candidate in the District in the Election.
6. Pursuant to the Rules of the Supreme Court, 1986 and Practice Note No. 2001-1, to the best of the Applicants' knowledge, information and belief, the particulars of the parties are as follows:

**FIRST APPLICANT**

Residential/Postal Address

c/o Budden & Associates  
5 Hallett Crescent, 2<sup>nd</sup> Floor  
St. John's, NL A1B 4C4

**SECOND APPLICANT**

Residential/Postal Address

c/o Budden & Associates  
5 Hallett Crescent, 2<sup>nd</sup> Floor  
St. John's, NL A1B 4C4

**FIRST RESPONDENT**

Residential/Postal Address

c/o Elections NL  
39 Hallett Crescent  
St. John's, NL A1B 4C4

**SECOND RESPONDENT**

Residential/Postal Address

c/o Elections NL  
39 Hallett Crescent  
St. John's, NL A1B 4C4

**THIRD RESPONDENT**

Residential/Postal Address

P.O. Box 8700  
Confederation Building  
St. John's, NL A1B 4J6

7. The Applicants make the within Application pursuant to s. 228(1) of the *Act* seek an Order pursuant to s. 253(1) of the *Act* and s. 24(1) of the *Charter* declaring that the Election results are void, and a new election called. The Applicants

further seek damages pursuant to s. 24(1) of the *Charter* for a violation of their s. 3 *Charter* rights.

### **Material Facts**

8. The Election was commenced by proclamation of the Lieutenant-Governor, The Honourable Judy Foote, P.C., O.N.L., on January 15, 2021, wherein it was indicated that the deadline for Candidate Nominations would be Saturday, January 23, 2021, a 2:00pm local time, and fixed Saturday, February 13, 2021 as election day, pursuant to ss. 57-60 of the *Act*.
9. Writs of election were issued by the First Respondent to all 40 district returning offices on January 15, 2021, pursuant to s. 61 of the *Act*.
10. On January 23, 2021, the First Respondent published a list of the official candidates for the Election.
11. The original deadline for the application for special ballots was Tuesday, February 2, 2021 at 4:00pm local time. The original deadline for returning special ballots by mail was Tuesday, February 9, 2021 at 4:00pm local time. On February 5, 2021, the First Respondent issued a public advisory indicating that the deadline for electors who applied for special ballots to return their ballots had been extended to Thursday, February 11, 2021 at 4:00pm local time.
12. On February 6, 2021, the First Respondent issued a news release indicating that over 33,000 ballots were cast in the 2021 Advance Polls across the 40 electoral districts. The release further noted that voter turnout in the district of Torngat Mountains was not able to be transmitted due to weather.

13. On February 8, 2021, the Department of Health and Community Services issued a public advisory which, *inter alia*, confirmed 11 new cases of COVID-19 in Newfoundland and Labrador.
14. On February 9, 2021, the Department of Health and Community Services issued a public advisory which, *inter alia*, confirmed 30 new cases of COVID-19 in Newfoundland and Labrador and notified the public of a modified special measures order for the St. John's metro area that was to come into effect Wednesday, February 10, 2021 at 12:01 a.m. local time, which imposed restrictions on gatherings and operations in the St. John's metro area.
15. On February 10, 2021 the Department of Health and Community Services issued a public advisory which, *inter alia*, confirmed 53 new cases of COVID-19 in Newfoundland and Labrador and notified the public of a modified special measures order for the St. John's metro area that was to come into effect Thursday, February 11, 2021 at 12:01 a.m. local time, which imposed further restrictions on gatherings and operations in the St. John's metro area, including a directive to stay at home as much as possible except to get essentials, and closing schools and post-secondary institutions.
16. On February 10, 2021, the First Respondent issued a news release indicating that a poll worker who had worked at an advance polling station on Saturday, February 6, 2021 for the electoral district of Conception Bay East – Bell Island had tested positive for COVID-19.
17. On February 10, 2021, the First Respondent issued a subsequent news release informing voters of a “drive-thru isolation vote”, restricted to those persons who were isolating, to take place on polling day, Saturday, February 13, 2021, from 8:00am to 8:00pm local time. The release further indicated that regular polls would be taken on Saturday, February 13, 2021 as scheduled.

18. On February 10, 2021, the First Respondent issued a further subsequent news release advising that the Returning Office for the district of Mount Pearl – Southlands was closed effective immediately as a result of exposure to COVID-19.
19. On February 11, 2021, the First Respondent wrote to the political party leaders to advise, *inter alia*, that the *Act* provided limited options to the CEO for delaying the Election, and that there were constitutional and legal implications that limited his ability to prolong the Election indefinitely. The CEO advised that such a prolongation was within the scope of powers of the Chief Medical Officer of Health pursuant to the *Public Health Protection and Promotion Act*, SNL 2018, c P-37.3.
20. On February 11, 2021 the Department of Health and Community Services issued a public advisory which, *inter alia*, confirmed 100 new cases of COVID-19 in Newfoundland and Labrador.
21. On February 11, 2021, the First Respondent issued a news release indicating a “two-week circuit break” in the polling process for electoral districts on the Avalon Peninsula, and that in-person voting would be scheduled after the circuit break. The statement further indicated that there was “no guarantee” that in-person voting could be safely administered and encouraged all electors to consider voting by special ballot.
22. On February 11, 2021, the First Respondent issued a subsequent news release which advised that the office was experiencing considerable operational impacts, and that many Election workers had resigned. The release further stated that in-person and “drive-thru” voting was suspended in the 18 electoral districts on the Avalon Peninsula, and that in-person voting would continue on polling day in all other districts. The release also extended special ballot voting, allowing an

elector to apply for their special ballot until Saturday, February 13, 2021 at 8:00pm local time, and that special ballots had to be returned on or before Thursday, February 25, 2021.

23. On February 12, 2021 the Department of Health and Community Services issued a public advisory which, *inter alia*, confirmed 50 new cases of COVID-19 in Newfoundland and Labrador. Later that same day, a news conference was held wherein the Chief Medical Officer of Health reported the presence of the more infectious B.1.1.7 variant and moved the entire province back to Alert Level 5, which imposed the highest restrictions contemplated by the Alert Level system.
24. On February 12, 2021, the First Respondent issued a news release which indicated that campaigning could continue in the Avalon Peninsula districts where the vote was suspended, that the campaign advertising blackout period was in effect for campaigns in all districts on February 12, 2021 and February 13, 2021, and that a further blackout period would occur the day before the new polling day, and on polling day, for the 18 districts where in-person voting had been postponed.
25. On February 12, 2021, the First Respondent issued a subsequent news release which advised that campaigning could continue. The release further stated that in-person and “drive-thru” voting was suspended in the 18 electoral districts on the Avalon Peninsula, and that in-person voting would continue on polling day in all other districts.
26. On February 12, 2021, subsequent to the aforementioned news conference and releases issued earlier that day, the First Respondent issued a subsequent news release indicating that in-person voting was suspended and would not be rescheduled. The deadline to apply for a special ballot was extended to Monday, February 15, 2021 at 8:00pm local time.

27. On February 13, 2021, the First Respondent issued a news release which noted that they had received approximately 20,000 applications for special ballots. The release further noted that COVID-19 precautions had caused a delay in Elections NL's capacity to answer phone calls, and that voicemail boxes were full. The release further encouraged anyone with internet and computer access to apply online for their ballot, but concluded by saying that they had heard concerns about accessibility to computers and internet and inability to provide digital identification, and advised those people to call Elections NL by phone.
28. On February 13, 2021, the NDP requested a meeting with the Respondent, and the Progressive Conservative Party announced that it would be agreeable to participating in such a meeting. The Liberal Party declined to participate in such a meeting.
29. On February 14, 2021, the Liberal Party wrote to the First Respondent to advise that they did not feel it appropriate that a meeting should occur, and the Respondent rejected the request to meet made by the NDP.
30. On February 14, 2021, the NDP wrote to the First Respondent to advise of ongoing concerns with respect to the conduct of the Election and to reiterate their request for an all-party meeting with the First Respondent. No such meeting was granted.
31. On February 19, 2021, there were widespread reports of a website crash which reportedly prevented thousands of electors from requesting their special ballot, despite attempting to do so by the means advertised by the First Respondent.
32. On February 19, 2021, the First Respondent issued a news release indicating that Elections NL had received approximately 110,000 communications seeking



special ballots by various methods, and advising that 24,000 voting kits had been mailed out to date. The release further indicated that they had heard from many electors who had expressed concern that the deadline to return ballots was insufficient, and that the deadline to return special ballots would be extended. The release indicated that all ballots had to be post-marked by Friday, March 12, 2021, and that any ballots post-marked after Friday, March 12, 2021 would be rejected.

33. On February 19, 2021, it was reported in the media that the First Respondent had indicated that voters who left requesting their special ballot to the last minute bore responsibility for not getting their ballot, and that he was unconcerned about voter turnout.
34. On February 21, 2021, the First Respondent issued a news release which indicated that the process of counting special ballots would commence during the week of March 1, 2021, and that the process would continue into the week of March 15, 2021. The release reiterated that voting kits post-marked on or before March 12, 2021 would be counted.
35. On March 4, 2021, it was reported in the media that the First Respondent had hand-delivered "a couple" of special ballots.
36. On March 9, 2021, the First Respondent issued a statement that indicated that concerns had been raised about the timely return of ballots, and that a period of leniency for the return of special ballots would be offered. The release indicated that all ballots had to be received at Elections NL Headquarters by Thursday, March 25, 2021 at 4:00pm local time, and that this cut off would be strictly enforced. The release indicated that the last of the voting kits were mailed to electors on Wednesday, March 3, 2021.

37. On March 23, 2021, the First Respondent issued a news release which indicated that the results of the Election would be released on Saturday, March 27, 2021 at 12:00pm local time.
38. On March 24, 2021, the Department of Health and Community Services issued a public advisory which advised, *inter alia*, that effective Saturday, March 27, 2021, the entire province would move to Alert Level 2.
39. On March 24, 2021, it was reported in the media that the First Respondent had permitted an unknown number of electors to cast their vote by telephone. The First Respondent issued a statement which gave the details of the issue and indicated that he had just received legal advice that voting by telephone was not permitted by the *Act*, despite having previously acknowledged publicly that voting by this means was unlawful.
40. On March 27, 2021, the First Respondent released the preliminary Election results. The results indicated, *inter alia*, that the Third Respondent received 2447 votes, the First Applicant received 2394 votes, and the Progressive Conservative candidate, Mr. Vaughn Hammond, received 856 votes in the District.
41. On April 1, 2021, the First Applicant filed an Originating Application, *Inter Partes*, requesting a recount of the ballots cast in the District pursuant to s. 165 of the *Act*.
42. The Applicants state that First Respondent had duties pursuant to statute, the *Charter*, common law, and a result of constitutional convention, most particularly with respect to his duties enumerated in s. 5(1)(a) of the *Act*, and that the First Respondent failed to discharge those duties in the manner required of him, most notably with respect to his duty to ensure that the Election proceeded with fairness, impartiality and in compliance with the *Act*, and that the First Respondent failed to act in good faith.

43. The Applicants respectfully submit that there were a number of irregularities and errors throughout the Election as a result of the conduct, directives, actions, errors, omissions, and inactions of the First Respondent, including, but not limited to:
- (a) Scrutineers were not permitted to view all of the ballots as they were being counted, as is their right pursuant to s. 138(1)(f) of the *Act*, as there were a limited number of scrutineers permitted in the facility and the counting of many different polls were conducted simultaneously;
  - (b) From the ballots that the scrutineers were able to observe, it was clear that there were at least some ballots which should not have been counted and were improperly counted by the returning officer;
  - (c) From the ballots that the scrutineers were able to observe, it was clear that there were at least some ballots which were not counted, which ought to have been counted by the returning officer;
  - (d) Ballots were provided to electors whose identities were not properly confirmed and therefore in violation of the procedure and requirements outlined in the *Act*, most especially s. 86(5), and Elections NL's own policies and procedures;
  - (e) Polling day did not take place and in-person voting was not made available to the electorate at large, with the exception of the Advance Polls;
  - (f) A large number of electors, including the Second Applicant, report never having received their ballot, despite requesting same;

- (g) A large number of electors report having been unable to request their ballot, as a result of the aforementioned technical and other issues at Elections NL;
- (h) A number of electors report receiving ballots for electoral districts other than their own;
- (i) A number of electors report receiving varying instructions from the First Respondent and Elections NL with respect to how to deal with missing, incorrect, or otherwise problematic ballots when they made inquiries;
- (j) A number of electors, including the Second Applicant, report receiving varying instructions from the First Respondent and Elections NL with respect to how to deal with missing, incorrect, or otherwise problematic ballots when they made inquiries, or not receiving any such instructions despite requesting same;
- (k) A number of ballots were spoiled; though it is not yet clear how many nor the significance of the spoilation, as the First Respondent has refused to release that information until publication in the Gazette on April 12, 2021;
- (l) The First Respondent instituted a primarily electronic process for requesting ballots, which engendered a number of accessibility issues for electors, including but not limited to those electors with disabilities, those electors residing in remote areas of the province, and those electors without reliable access to computer, internet and telephone services. The Applicants respectfully submit that such issues are mitigated when in-person voting takes place on polling day in accordance with the *Act*;

- (m) Ballot kits were not available in Indigenous languages nor in French such that electors would have access to these materials in their first language, and no accommodation was made by the First Respondent for these electors;
- (n) Ballot kits and the process for completing and returning them were more complex than the process required of in-person voting, and assistance that would be available to electors with physical and mental impairments, literacy issues, and other conditions and concerns that would tend to complicate the voting process on polling day pursuant to s. 118 of the *Act* were not available as a result of the cancellation of in-person voting by the First Respondent, and the First Respondent failed to make analogous accommodations to respond to these concerns;
- (o) Some electors were assisted by persons other than an elections official in completing their special ballot, in contravention of s. 86.4(7) of the *Act*, and same was known to the First Respondent and other Elections NL officials;
- (p) The prolongation of the electoral period was not permitted by the *Act* and resulted in disparity amongst voters with respect to the information and opportunities available to them to engage in the democratic process and cast their ballot, violating the democratic rights guaranteed by s. 3 of the *Charter*;
- (q) It is alleged that Elections NL staff were directed by the First Respondent to add people to the voters list in the absence of confirmation of identification;

- (r) It is alleged that Elections NL staff issued ballots to electors who were not on the voters list and who confirmed only their name and address with no other identifying information;
- (s) It is alleged that, in some cases, multiple ballots were issued by Elections NL staff to a single voter who called or e-mailed and provided their name and address and indicated that other members of their family were of voting age and resided at the same address;
- (t) It is alleged that Elections NL staff added hundreds to the voters list as a result of the aforementioned methods;
- (u) It is alleged that Elections NL staff added a higher than usual number of seniors and new voters to the voters list;
- (v) It is alleged that the First Respondent directed Elections NL staff to take home elections materials, including ballot kits, to work on them from their homes, and that many Elections NL workers did so, including the First Respondent and members of his family;
- (w) It is alleged that a number of signatures on declarations appeared to have similar handwriting and signatures affixed to them;
- (x) It is alleged that some ballots were returned with electors having printed their own ballots, or writing their vote on a paper other than was provided by Elections NL, and that at least some of such votes were counted, in violation of s. 139(1)(a) of the *Act*;
- (y) It is alleged that votes from at least four electors, and likely more, were taken by telephone with no lawful authority, and that these votes were

counted in the normal course, and indeed the First Respondent issued a news release indicating that four such votes had been permitted;

- (z) The First Respondent hand-delivered ballots to certain electors, including the Leader of the Opposition and Deputy Premier;
  - (aa) The First Respondent unilaterally extended the writ period, despite the absence of lawful authority to do so;
  - (bb) The First Respondent failed to conduct a proper polling day as required by s. 58(1) the *Act*; and
  - (cc) other irregularities and errors as revealed by the evidence.
44. The Applicants repeat the foregoing and respectfully submit that any one of the aforementioned irregularities would be sufficient to call into question the validity of the results of an election, but that the volume and severity of the aforementioned irregularities is so great that the results of the Election must be voided and a new election must take place forthwith.
45. The Applicants repeat the foregoing and state that the aforementioned irregularities and errors are not limited to the electoral district of St. John's East-Quidi Vidi, and permeate all 40 electoral districts, thus calling into question the validity of the Election results as a whole.
46. The Applicants repeat the foregoing and state that the nature and volume of the irregularities is of particular significance in the electoral district of St. John's East-Quidi Vidi given the small number of votes separating the First Applicant and the Third Respondent in the official results published by the First Respondent.

47. The Applicants respectfully submit that there is no way to cure the aforementioned irregularities such that public confidence in the democratic electoral process might be restored and the integrity of the electoral process preserved other than voiding the Election results.
48. The Applicants respectfully submit that the aforementioned irregularities and errors had a material impact on the results of the Election such that the Election should be declared void, and intend to adduce evidence to this effect.
49. The Applicants respectfully submit that it is within this Honourable Court's jurisdiction to grant the requested relief pursuant to the controverted elections provisions contained in the *Act*, and most particularly ss. 228(1), 253(1) and 265, and being a court of competent jurisdiction in the application of the *Charter*.
50. The Applicants respectfully submit that the aforementioned irregularities and errors engage s. 3 of the *Charter* in that candidates, including the First Applicant, and electors, including the Second Applicant, were denied the rights guaranteed to them pursuant to s. 3 as a result of conduct, directives, actions, errors, omissions, and inactions of the First Respondent and Elections NL, and request remedies, including but not limited to a declaration that the Election is void and damages, pursuant to s. 24(1) of the *Charter* for the breach of their *Charter* rights.
51. The Applicants respectfully submit that the aforementioned irregularities and errors pertaining to accessibility engage s. 15 of the *Charter* and that the design and process with respect to the vote by special ballot was discriminatory to a number of electors on the basis of the enumerated grounds protections in s. 15(1) of the *Charter*.
52. The Applicants respectfully submit that s. 15(1) of the *Charter* declares all individuals equal before and under the law, and having the right to equal



protection and equal benefit of the law without discrimination including, *inter alia*, discrimination on the basis of national or ethnic origin, age, mental, and physical disability.

53. The Applicants respectfully submit that the procedures put in place by the First Respondent and Elections NL in the Election discriminated against voters on the basis of national or ethnic origin, age, mental, and physical disability in that they:
- (a) failed to provide in-person voting, wherein assistance would be available to electors in casting their ballot pursuant to s. 118 of the *Act*, or any suitable accommodation in lieu of same;
  - (b) failed to provide sufficient non-electronic means by which electors could request ballots, which disproportionately impacted and disenfranchised voters with physical and mental disabilities and elderly voters;
  - (c) failed to provide assistance to electors in completing their special ballots pursuant to s. 86.4(7) of the *Act*;
  - (d) refused to count ballots returned with irregular declarations, including, *inter alia*, special ballot declarations where a signature was present, though not on the designated signature line;
  - (e) failed to make available special ballots and other Election materials in the first languages of Indigenous voters and other voters whose first language was not English, nor provide any suitable accommodation in lieu of same; and
  - (f) other such discriminatory actions which may be revealed by the evidence.

54. The First Applicant respectfully submits that she has standing to bring the within Application pursuant to s. 229(1)(a) of the *Act*.
55. The Second Applicant respectfully submits that he has standing to bring the within Application pursuant to s. 229(1)(b) of the *Act*.
56. The Applicants repeat the foregoing and respectfully submit that they have provided the foundation required to bring the within action pursuant to the requirements of the controverted elections provisions as set out in ss. 228(1)(a) and 233 of the *Act*.
57. The Applicants plead and rely on:
  - (a) the *Elections Act*, 1991, SNL 1992, c E-3.1, as amended; and
  - (b) the *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act*, 1982, being Schedule B to the *Canada Act 1982 (UK)*, 1982, c 11.
58. The Applicants repeat the foregoing and states that the Applicants have deposited the sum of \$500.00 with the Registrar of the Supreme Court as security for the payment of all costs, charges and expenses that become payable by the Applicants, in accordance with s. 240(1) of the *Act*.

#### **Other Pertinent Information and References**


59. Annexed hereto as Schedule "A" is the Affidavit of the First Applicant, in support of the Application.
60. Annexed hereto as Schedule "B" is the Affidavit of Second Applicant, in support of the Application.
61. Annexed hereto as Schedule "C" is the Affidavit of Ms. Judy Vanta, in support of the Application.

62. Annexed hereto as Schedule "D" is the Affidavit of Mr. Jordan Mulrooney, in support of the Application.
63. Annexed hereto is a draft Order detailing the relief the Applicant seeks of this Honourable Court.

### Relief Sought

64. The Applicants repeat the foregoing and therefore seek of this Honourable Court:
- (i) an Order pursuant to the s 253(1) of the *Act* and s. 24(1) of the *Charter*, declaring the Election void and ordering a new election take place without delay;
  - (ii) an Order pursuant to s. 24(1) of the *Charter* ordering damages as a result of the violation of the Applicants' rights guaranteed under the *Charter*;
  - (iii) an Order of costs on a solicitor and client basis;
  - (iv) such further and other relief as this Honourable Court finds mete and just.

**DATED** at the City of St. John's, in the Province of Newfoundland and Labrador, this 11<sup>th</sup> day of April 2021.

  
ALISON COFFIN, First Applicant

  
WHYMARRH WHITBY, Second Applicant

ALLISON S. CONWAY & KYLE REES  
BUDDEN & ASSOCIATES, O'DEA EARLE  
SOLICITORS FOR THE APPLICANTS  
WHOSE ADDRESS FOR SERVICE IS:  
c/o Budden & Associates

5 Hallett Crescent, Unit 4  
St. John's, NL A1B 4C4

**TO:** Supreme Court of Newfoundland and Labrador  
General Division  
Court House, Duckworth Street  
P. O. Box 937  
St. John's, NL A1C 5M3

**AND TO:** The First Respondent  
c/o Elections NL  
39 Hallett Crescent  
St. John's, NL A1B 4C4

**AND TO:** The Second Respondent  
c/o Elections NL  
39 Hallett Crescent  
St. John's, NL A1B 4C4

**AND TO:** The Third Respondent  
P.O. Box 8700  
Confederation Building  
St. John's, NL A1B 4J6

**ISSUED** at the City of St. John's, in the Province of Newfoundland and Labrador this  
\_\_\_\_\_ day of \_\_\_\_\_, 2021.

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**REGISTRAR**

2021 01G  
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**BETWEEN:**

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FIRST RESPONDENT

**AND:**

SHERRY MORRISSEY

SECOND RESPONDENT

**AND:**

JOHN ABBOTT

THIRD RESPONDENT

**NOTICE TO THE RESPONDENT(S)**

You are hereby notified that the foregoing application will be heard by the judge presiding in the chambers at the Court House at \_\_\_\_\_, Newfoundland and Labrador, on \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ at \_\_\_\_\_ or so soon thereafter as the application can be heard. AND FURTHER TAKE NOTICE that on the hearing of the application, the judge may make an order in favour of the plaintiff in your absence and without further notice unless you or your solicitor (a) cause to be delivered to the Applicant or the Applicant's solicitor at the address named herein for service, not later than two clear days before the hearing of the application, a true copy of any affidavit or other material that you or your solicitor intend to read on the hearing of the application, and (b) appear on the hearing of the application at the time and place appointed for the hearing.

**TO:           The First Respondent  
              c/o Elections NL**

**39 Hallett Crescent  
St. John's, NL A1B 4C4**

**AND TO: The Second Respondent  
c/o Elections NL  
39 Hallett Crescent  
St. John's, NL A1B 4C4**

**AND TO: The Third Respondent  
P.O. Box 8700  
Confederation Building  
St. John's, NL A1B 4J6**

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SECOND RESPONDENT

AND:

JOHN ABBOTT

THIRD RESPONDENT

**Endorsements**

RECEIVED on \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_, 2021.

This Application and attached Notice to Respondent(s) was served by me on the First Respondent at \_\_\_\_\_, on \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_, 2021, before the hour of \_\_\_\_\_ in the \_\_\_\_\_ noon.

Endorsed on \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
\_\_\_\_\_

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AND:

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SECOND RESPONDENT

AND:

JOHN ABBOTT

THIRD RESPONDENT

**Affidavit of Service**

I, \_\_\_\_\_ of \_\_\_\_\_,  
\_\_\_\_\_, Newfoundland and Labrador, \_\_\_\_\_ make oath (or  
affirm) and say that I did on \_\_\_\_\_, the \_\_\_\_ day of \_\_\_\_\_, 2021, at  
approximately \_\_\_\_\_m. serve \_\_\_\_\_, with the within Application  
by leaving a true copy of the same with \_\_\_\_\_ personally at  
\_\_\_\_\_, and that I endorsed the date of service thereon on  
\_\_\_\_\_, the \_\_\_\_ day of \_\_\_\_\_, 2021.

SWORN (OR AFFIRMED) to at \_\_\_\_\_ in the Province of  
\_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 2021, before me

\_\_\_\_\_



2021 01G  
IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR  
GENERAL DIVISION

BETWEEN:

ALISON COFFIN

FIRST APPLICANT

AND:

WHYMARRH WHITBY

SECOND APPLICANT

AND:

BRUCE CHAULK, in his capacity as  
Chief Electoral Officer of the Province  
of Newfoundland and Labrador

FIRST RESPONDENT

AND:

SHERRY MORRISSEY

SECOND RESPONDENT

AND:

JOHN ABBOTT

THIRD RESPONDENT

**Endorsements**

RECEIVED on \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_, 2021.

This Application and attached Notice to Respondent(s) was served by me on the Second Respondent at \_\_\_\_\_, on \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_, 2021, before the hour of \_\_\_\_\_ in the \_\_\_\_\_ noon.

Endorsed on \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
\_\_\_\_\_

2021 01G  
IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR  
GENERAL DIVISION

BETWEEN:

ALISON COFFIN

FIRST APPLICANT

AND:

WHYMARRH WHITBY

SECOND APPLICANT

AND:

BRUCE CHAULK, in his capacity as  
Chief Electoral Officer of the Province  
of Newfoundland and Labrador

FIRST RESPONDENT

AND:

SHERRY MORRISSEY

SECOND RESPONDENT

AND:

JOHN ABBOTT

THIRD RESPONDENT

**Affidavit of Service**

I, \_\_\_\_\_ of \_\_\_\_\_,  
\_\_\_\_\_, Newfoundland and Labrador, \_\_\_\_\_ make oath (or  
affirm) and say that I did on \_\_\_\_\_, the \_\_\_\_ day of \_\_\_\_\_, 2021, at  
approximately \_\_\_\_\_m. serve \_\_\_\_\_, with the within Application  
by leaving a true copy of the same with \_\_\_\_\_ personally at  
\_\_\_\_\_, and that I endorsed the date of service thereon on  
\_\_\_\_\_, the \_\_\_\_ day of \_\_\_\_\_, 2021.

SWORN (OR AFFIRMED) to at \_\_\_\_\_ in the Province of  
\_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 2021, before me

\_\_\_\_\_

2021 01G  
IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR  
GENERAL DIVISION

BETWEEN:

ALISON COFFIN

FIRST APPLICANT

AND:

WHYMARRH WHITBY

SECOND APPLICANT

AND:

BRUCE CHAULK, in his capacity as  
Chief Electoral Officer of the Province  
of Newfoundland and Labrador

FIRST RESPONDENT

AND:

SHERRY MORRISSEY

SECOND RESPONDENT

AND:

JOHN ABBOTT

THIRD RESPONDENT

**Endorsements**

RECEIVED on \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_, 2021.

This Application and attached Notice to Respondent(s) was served by me on the Third Respondent at \_\_\_\_\_, on \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_, 2021, before the hour of \_\_\_\_\_ in the \_\_\_\_\_ noon.

Endorsed on \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
\_\_\_\_\_

2021 01G  
IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR  
GENERAL DIVISION

BETWEEN:

ALISON COFFIN

FIRST APPLICANT

AND:

WHYMARRH WHITBY

SECOND APPLICANT

AND:

BRUCE CHAULK, in his capacity as  
Chief Electoral Officer of the Province  
of Newfoundland and Labrador

FIRST RESPONDENT

AND:

SHERRY MORRISSEY

SECOND RESPONDENT

AND:

JOHN ABBOTT

THIRD RESPONDENT

**Affidavit of Service**

I, \_\_\_\_\_ of \_\_\_\_\_,  
\_\_\_\_\_, Newfoundland and Labrador, \_\_\_\_\_ make oath (or  
affirm) and say that I did on \_\_\_\_\_, the \_\_\_\_ day of \_\_\_\_\_, 2021, at  
approximately \_\_\_\_\_m. serve \_\_\_\_\_, with the within Application  
by leaving a true copy of the same with \_\_\_\_\_ personally at  
\_\_\_\_\_, and that I endorsed the date of service thereon on  
\_\_\_\_\_, the \_\_\_\_ day of \_\_\_\_\_, 2021.

SWORN (OR AFFIRMED) to at \_\_\_\_\_ in the Province of  
\_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 2021, before me

\_\_\_\_\_

2021 01G  
IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR  
GENERAL DIVISION

BETWEEN:

ALISON COFFIN

FIRST APPLICANT

AND:

WHYMARRH WHITBY

SECOND APPLICANT

AND:

BRUCE CHAULK, in his capacity as  
Chief Electoral Officer of the Province  
of Newfoundland and Labrador

FIRST RESPONDENT

AND:

SHERRY MORRISSEY

SECOND RESPONDENT

AND:

JOHN ABBOTT

THIRD RESPONDENT

AFFIDAVIT

I, Alison Coffin, of the City of St. John's, in the Province of Newfoundland and Labrador, Leader of the New Democratic Party (hereafter "NDP") of Newfoundland and Labrador, make oath and say as follows:

1. THAT I was the candidate for the NDP in the 2021 Newfoundland and Labrador General Election (hereafter the "Election") in the electoral district of St. John's East-Quidi Vidi (hereafter the "District") and am the First Applicant in the within Application.



2. THAT I have read and understood the foregoing Application. I have personal knowledge of the facts and matters contained herein, except where otherwise stated or based upon information or belief;
3. THAT the official results of the Election, which were released in preliminary form on Saturday, March 27, 2021, and confirmed as the Official Addition of the Votes on Tuesday, March 30, 2021, demonstrated that I received 2,394 votes, that the Third Respondent received 2,447 votes, and that the Progressive Conservative candidate in the District, Mr. Vaughn Hammond, received 856 votes in the District;
4. THAT I have heard from individuals who have self-identified as NDP supporters and others who have not divulged any political affiliation who are registered voters in the District who requested a special ballot and never received one. I am informed, and do verily believe, that many of these individuals made their requests for special ballots early on in the Election period, with some making repeated requests for their ballot;
5. THAT the Second Applicant was one such elector in the District who I heard from who requested but never received his ballot, the details of which are outlined in the Affidavit of the Second Applicant;
6. THAT I have been made aware of conversations with officials at Elections NL and understand from them and do verily believe that there were many individuals in the District who were added to the voters list without being properly sworn and providing proper identification. I understand and do verily believe that many individuals were added to the voters list based on telephone calls to Elections NL, and that they were provided with ballots, and in some cases, multiple ballots, without producing proof of their eligibility to vote, as detailed in the Affidavits appended to this Application;



- 7. **THAT** I have a number of concerns with respect to the conduct of the Election, including, but not limited to, multiple extensions of the writ period, the failure of the First Respondent to facilitate in-person voting on polling day, multiple changes to polling day, the failure to ensure that all electors who requested ballots received one, and the provision of ballots to individuals without proper verification of their identity;
- 8. **THAT** the NDP requested that a meeting be held between party leaders and the First Respondent to discuss the concerns with respect to the conduct of the Election on at least two occasions in February, 2021, and that these requests were refused by the First Respondent and no such meeting ever took place;
- 9. **THAT** I have spoken with Ms. Judy Vanta, scrutineer for the NDP in the Election, and am informed and do verily believe that there were a number of issues with respect to the scrutineers' ability to observe the counting of the ballots, as detailed in the Affidavit of Judy Vanta; and
- 10. **THAT** I make this Affidavit in support of this Application and swear this affidavit conscientiously believing it to be true to the best of my knowledge, information and belief, and knowing that it is a criminal offence to falsely swear an affidavit.

SWORN TO at the )  
 City of St. John's, in the Province of )  
 Newfoundland and Labrador, this 17<sup>TH</sup> )  
 day of April 2021, before me: )

Scott Lynch )  
 Scott Lynch )  
 Barrister for NL )

  
 ALISON COFFIN

2021 01G  
IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR  
GENERAL DIVISION

BETWEEN:

ALISON COFFIN

FIRST APPLICANT

AND:

WHYMARRH WHITBY

SECOND APPLICANT

AND:

BRUCE CHAULK, in his capacity as  
Chief Electoral Officer of the Province  
of Newfoundland and Labrador

FIRST RESPONDENT

AND:

SHERRY MORRISSEY

SECOND RESPONDENT

AND:

JOHN ABBOTT

THIRD RESPONDENT

AFFIDAVIT

I, Whymarrh Whitby, of the City of St. John's, in the Province of Newfoundland and Labrador, Software Developer, make oath and say as follows:

1. THAT I am a resident of and registered voter in the electoral district of St. John's East-Quidi Vidi, and the Second Applicant in the within Application;
2. THAT I have read and understood the foregoing Application. I have personal knowledge of the facts and matters contained herein, except where otherwise stated or based upon information or belief;



W.W.

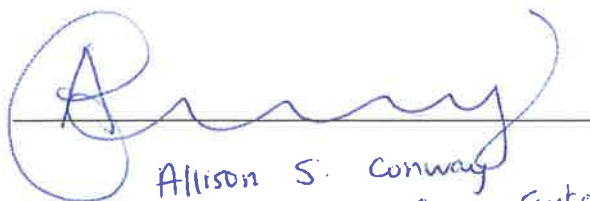


3. THAT I requested my special ballot from Elections NL using the online form on Saturday, February 13, 2021 at approximately 1:00am local time, and used a copy of my Newfoundland Power electricity bill to confirm my residency and, therefore, my eligibility to vote. I received a confirmation that my submission was successful;
4. THAT when I had still not received my ballot as of Monday, March 22, 2021, I called Elections NL at 2:28pm local time and spoke with a representative from Elections Canada. I was advised by the representative that I would receive a return phone call. It is my understanding that this call was recorded;
5. THAT when I had still not received my ballot and I had not received a return phone call following my call of March 22, 2021, I once again called Elections NL at 12:51pm local time on Wednesday, March 24, 2021 and spoke with a representative from Elections Canada. I asked for direction as to how to proceed to cast my ballot, as the deadline for receipt of special ballots was the next day and I had still not received my ballot. I was advised that I would receive a return phone call. It is my understanding that this call was recorded;
6. THAT I never did receive a return phone call despite my two attempts to contact Elections NL subsequent to my request for my special ballot;
7. THAT I did not receive my special ballot prior to the deadline for return of ballots, that being March 25, 2021 at 4:00pm local time. I was not provided with any other opportunity or means by which to cast my ballot, and therefore was denied my right to vote in the 2021 Newfoundland and Labrador General Election;
8. THAT I sent an e-mail request to Mr. Chris Foley, CIAPP-P, Manager, Voter Registry/ ATIPP Coordinator for Elections NL, and copied to the ATIPP Office on

March 25, 2021, requesting access to my personal information in the possession of Elections NL regarding the 2021 Newfoundland and Labrador General Election. Specifically, I requested a copy of Elections NL's records of my special ballot request, any e-mail conversations in which I was mentioned, Elections NL's records showing my special ballot had been mailed out, and copies of the recordings of the phone calls I made to Elections NL and all records of my information taken during these calls;

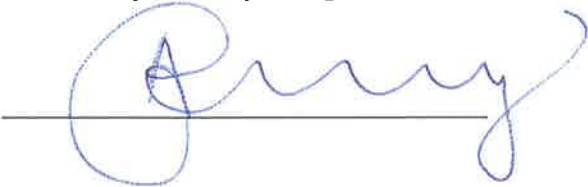
- 9. **THAT** I received an e-mail response from Mr. Foley on Friday, March 26, 2021 (attached hereto as Exhibit 1). The e-mail from Mr. Foley confirms that my application for a special ballot was received on Saturday, February 13, 2021 at 1:49am local time, and that I contacted Elections NL on March 22, 2021, and March 24, 2021 to advise that I had not received my special ballot;
- 10. **THAT** I have since reiterated my request to Mr. Foley to receive confirmation that my special ballot had been mailed, but that I have not, as of today's date, received a response to that request; and
- 11. **THAT** I affirm this affidavit in support of this Application, conscientiously believing it to be true to the best of my knowledge, information and belief, and knowing that it is a criminal offence to falsely affirm an affidavit.

AFFIRMED at the )  
City of St. John's, in the Province of )  
Newfoundland and Labrador, this 11th )  
day of April 2021, before me: )

  
Allison S. Conway  
Minister of the Supreme Court of NL

  
WHYMARRH WHITBY

This is Exhibit 1, referred to in the affidavit of Whymarrh Whitby, sworn or affirmed before me  
this day 11<sup>th</sup> day of April, 2021



Allison S. Conway  
Barrister of the Supreme Court of NL



W.W.

**Fwd: Elections NL Access to Information Request**

Whymarrh Whitby <  
To: allison@buddenlaw.com

Fri, Apr 9, 2021 at 5:34 PM

----- Forwarded message -----

From: **Foley, Chris** <chrisfoley@gov.nl.ca>  
Date: Fri, Mar 26, 2021 at 7:22 PM  
Subject: RE: Elections NL Access to Information Request  
To: Whymarrh Whitby,

Hi Mr. Whitby –

Thanks for contacting us. I apologize for any inconvenience you may have experienced during the election period.

I can confirm that your application was received via the email web form on Sat 2/13/2021 at 1:49 AM. I have also looked through the Elections Canada Call Centre logs on the dates you included and found the following entries:

Last	First	DOB	Telephone	Mailing		Details	Date
Whymarrh	Whipby			A1C 1H6 St. John's, NFLD		Still hasn't received his special ballot in the mail.	22-Mar-21
Whymarrh	Whithby					CALL BACK: Client applied on Feb 13 to receive mail in ballot and still have not received it. They already called two weeks ago and still didn't have a call back. He is wondering what to do since the deadline is tomorrow.	24-Mar-21

I will look further into your issue next week to determine what might have happened here for you not to receive it. Again, I apologize for any inconvenience caused during this unprecedented election.

Chris Foley, CIAPP-P | Manager, Voter Registry/ATIPP Coordinator  
Office of the Chief Electoral Officer

39 Hallett Crescent, St. John's NL A1B 4C4

709.729.1634 (office) | 1.877.729.7987 (toll-free)

www.elections.gov.nl.ca | cfoley@gov.nl.ca

From: Whymarrh Whitby <  
Sent: Thursday, March 25, 2021 11:30 PM  
To: Foley, Chris <chrisfoley@gov.nl.ca>

  
W.W.

4/11/2021

Budden & Associates Mail - Fwd: Elections NL Access to Information Request

Cc: ATIPP Office <ATIPPoffice@gov.nl.ca>

Subject: Elections NL Access to Information Request

Hi there!

I would like to request access to my personal information that Elections NL has regarding the 2021 general election.

I submitted a request for a special ballot on the morning of February 13th, 2021 at around 01:00, with a copy of my Newfoundland Power electricity bill. I was redirected to a submission confirmation screen (screenshot attached).

I would like a copy of Elections NL's records of my special ballot request, any email conversations it may be mentioned in, and Elections NL's records that it was mailed out.

Additionally, I called Elections NL at 709-729-0789 on Monday, March 22, 2021 at 14:28 and again on Wednesday, March 24th at 12:51, and both times spoke to representatives from Elections Canada. Both of those calls were recorded and both representatives took my contact information for a callback. I would like a copy of Elections NL's recordings of these calls and all records of my information that was taken.

Please let me know what the process is for getting this information.

Thanks!

Whymarrh Whitby

"This email and any attached files are intended for the sole use of the primary and copied addressee(s) and may contain privileged and/or confidential information. Any distribution, use or copying by any means of this information is strictly prohibited. If you received this email in error, please delete it immediately and notify the sender."

W.W. (A)

2021 01G  
IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR  
GENERAL DIVISION

BETWEEN:

ALISON COFFIN

FIRST APPLICANT

AND:

WHYMARRH WHITBY

SECOND APPLICANT

AND:

BRUCE CHAULK, in his capacity as  
Chief Electoral Officer of the Province  
of Newfoundland and Labrador

FIRST RESPONDENT

AND:

SHERRY MORRISSEY

SECOND RESPONDENT

AND:

JOHN ABBOTT

THIRD RESPONDENT

AFFIDAVIT

I, Judy Vanta, of the City of St. John's, in the Province of Newfoundland and Labrador, Scrutineer, make oath and say as follows:

1. **THAT** I was the scrutineer for the New Democratic Party of Newfoundland and Labrador (hereafter "NDP") during the 2021 Newfoundland and Labrador General Election (hereafter the "Election"). I have personal knowledge of the facts and matters contained herein, except where otherwise stated or based upon information or belief;



2. THAT I have taken on the role of scrutineer in many elections. I am familiar with the process and procedures, as well as the rights of scrutineers to observe certain processes before voting, during voting and in the counting of ballots;
3. THAT as a result of restrictions imposed due to the COVID-19 pandemic, and the suspension of in-person voting, the opening and counting of ballots in the Election was very different than any other election in my experience;
4. THAT in the normal course of an election, I would be one of many NDP scrutineers in a polling station, and there would be party scrutineers in almost every polling station across the Province, all of whom would observe a small number of votes being cast and ballots being counted;
5. THAT in this Election, the majority of ballots were mailed to a central location where approximately ten separate polls were counted simultaneously over the course of 18 days for approximately 9-12 hours per day. As a result of these ballots being counted simultaneously, from multiple districts in the Province, I was prevented from adequately observing the counting process and reviewing each ballot cast in the electoral district of St. John's East-Quidi Vidi, and from reviewing other materials typically available to scrutineers;
6. THAT as a result of restrictions imposed due to the COVID-19 pandemic, I was limited in my ability as a scrutineer to clearly observe the counting of ballots, as is my right pursuant to the *Elections Act, 1991*, SNL 1992, c E-3.1 (hereafter the "Act"). For instance, in order to maintain social distancing, I was only permitted to stand in certain designated locations, which hampered my ability to fully observe the counting process. As a result, and based on what I was able to observe, I believe that there were some ballots that were counted which should not have been counted;

SR 

7. THAT during the counting of the ballots, counted ballots were recorded and totaled for each candidate on a tally sheet by Elections NL workers. From these tally sheets, summary sheets of the counted ballots were created. I was never permitted to review the tally sheets. For the first week of counting, I was also prevented from reviewing the summary sheets. When I tried to view these tally and summary sheets, Elections NL staff would shield the papers from view with their bodies;
8. THAT while Mr. Bruce Chaulk later reversed Elections NL's position with respect to the summary sheets following a letter from the NDP raising concerns, and myself and other scrutineers were able to review the summary sheets following the first week of counting, the fact remains that I was never able to review the tally sheets, and that when I was permitted to review the summary sheets, I was only permitted to review many summary sheets at one time, for a limited time, which hampered my ability to review and understand the information;
9. THAT when I was finally permitted to see the summary sheets, I observed at least one error in the recording of the ballot count;
10. THAT I did have a chance to review all of the ballots that were deemed spoiled in the electoral district of St. John's East-Quidi Vidi. In my view, at least some of those ballots ought to have been counted, as they indicated voter intention and did not disclose any identifying marks;
11. THAT I was prohibited from taking notes while observing the counting process, unlike my experience in all previous elections in which I was involved. Scrutineers were advised that we were not allowed to take notes when out "on the floor" in the room when counting was taking place, and we were prohibited from taking

SR JV



paper or pens into that room. We were permitted to take notes only once we had left the room where the count was taking place;

12. **THAT** I had a chance to review all of the "blue envelopes" which were unopened in the electoral district of St. John's East-Quidi Vidi. These are envelopes that were mailed by electors but were deemed to be invalid due to missing or misplaced signatures on the voter declaration form. These envelopes were not opened, so the ballots contained within were not counted. In my view, at least some of these envelopes should have been opened and counted;

13. **THAT** I make this Affidavit in support of this Application and swear this affidavit conscientiously believing it to be true to the best of my knowledge, information and belief, and knowing that it is a criminal offence to falsely swear an affidavit.

SWORN TO at the )  
City of St. John's, in the Province of )  
Newfoundland and Labrador, this 11<sup>TH</sup> )  
day of April 2021, before me: )

Scott Lynch )  
Scott Lynch )  
Barrister for NL )

Judy Vanta  
JUDY VANTA

2021 01G  
IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR  
GENERAL DIVISION

BETWEEN:

ALISON COFFIN

FIRST APPLICANT

AND:

WHYMARRH WHITBY

SECOND APPLICANT

AND:

BRUCE CHAULK, in his capacity as  
Chief Electoral Officer of the Province  
of Newfoundland and Labrador

FIRST RESPONDENT

AND:

SHERRY MORRISSEY

SECOND RESPONDENT

AND:

JOHN ABBOTT

THIRD RESPONDENT

AFFIDAVIT

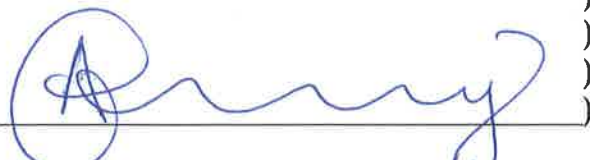
I, Jordan Mulrooney, of the city of St. John's in the Province of Newfoundland and Labrador, Former Special Ballot Co-ordinator, make oath and say as follows:

1. **THAT** I held the position of special ballot co-ordinator in the 2021 Newfoundland and Labrador General Election (hereafter the "Election") from on or about January 19, 2021 through March 31, 2021;
2. **THAT** my understanding was that to add electors to the voters list and to provide them a special ballot kit, I was required to verify the identity of electors pursuant to the means approved by Elections NL policy and procedures;

Jm (A)

- 3. **THAT** there was a change in procedure with respect to adding individuals to the voters list and providing special ballot kits partway through the Election, and myself and other Elections NL staff were directed to add individuals to the voters list in the absence of identification verification, and were further directed to send special ballots to individuals who could not be located on the voters list without verifying their identity;
- 4. **THAT** a large number of voters applied for ballots by phone, and that I am not aware of any case wherein a voter who applied for their ballot by phone had their identity verified prior to their ballot being issued;
- 5. **THAT** there were numerous instances where an individual would call to request their ballot, and would also request ballots for family members, and those ballots were provided to the address given by the individual without confirmation of identity or eligibility of the individuals;
- 6. **THAT** I do verily believe that at least some voters were permitted to vote in person at Elections NL headquarters on March 25, 2021; and
- 7. **THAT** I swear this affidavit conscientiously believing it to be true to the best of my knowledge, information and belief, and knowing that it is a criminal offence to falsely swear an affidavit.

SWORN TO at the )  
 City of St. John's, in the Province of )  
 Newfoundland and Labrador, this 11th )  
 day of April 2021, before me: )

  
 Allison S. Conway  
 Barrister of the Supreme Court of NL

  
 JORDAN MULROONEY

2021 01G  
IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR  
GENERAL DIVISION

BETWEEN:

ALISON COFFIN

FIRST APPLICANT

AND:

WHYMARRH WHITBY

SECOND APPLICANT

AND:

BRUCE CHAULK, in his capacity as  
Chief Electoral Officer of the Province  
of Newfoundland and Labrador

FIRST RESPONDENT

AND:

SHERRY MORRISSEY

SECOND RESPONDENT

AND:

JOHN ABBOTT

THIRD RESPONDENT

ORDER

This Matter having come before the Honourable \_\_\_\_\_ Justice \_\_\_\_\_  
on the \_\_\_\_\_ day of \_\_\_\_\_, 202\_\_.

UPON READING

---

*i*

AND UPON HEARING

---

*i*

IT IS HEREBY DECLARED AND ORDERED AS FOLLOWS:

1. **THAT** the Election is voided pursuant to s. 253(1) of the *Elections Act, 1991*, SNL 1992, c E-3.1 and s. 24(1) of the *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982 (UK), 1982, c 11*; and
  
2. **THAT** the Applicants are granted damages, to be assessed, payable by the Respondents pursuant to s. 24(1) of the *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982 (UK), 1982, c 11*; and
  
3. **THAT** the Applicants are awarded costs on a solicitor and client basis.

**DATED** at the \_\_\_\_\_, in the Province of Newfoundland and Labrador, this \_\_\_\_\_ day of \_\_\_\_\_, 202\_\_\_\_.

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