

IN THE SUPREME COURT OF CANADA
(ON APPEAL FROM THE COURT OF APPEAL OF BRITISH COLUMBIA)

B E T W E E N:

ROSS MCKENZIE KIRKPATRICK

Appellant
(Respondent)

– and –

HER MAJESTY THE QUEEN

Respondent
(Appellant)

**NOTICE OF MOTION FOR LEAVE TO INTERVENE OF THE PROPOSED
INTERVENER, BARBRA SCHLIFER COMMEMORATIVE CLINIC**

(Pursuant to Rules 47 and 55 of the *Rules of the Supreme Court of Canada*, S.O.R./2002-156)

TAKE NOTICE that the Barbra Schlifer Commemorative Clinic (the “Clinic”), hereby applies to a Judge of this Honourable Court pursuant to Rules 47 and 55 of the *Rules of the Supreme Court of Canada* for an order:

- a) granting the Clinic leave to intervene in this appeal;
- b) permitting the Clinic to file a factum not exceeding 10 pages;
- c) permitting the Clinic to present oral argument at the hearing of the appeal; and
- d) And any further order that the Court may deem appropriate.

AND FURTHER TAKE NOTICE that the following documents will be referred to in support of such a motion:

1. The Affidavit of Deepa Mattoo, Executive Director of the Clinic, affirmed on June 3, 2021.
2. Such further and other material as counsel may advise and may be permitted.

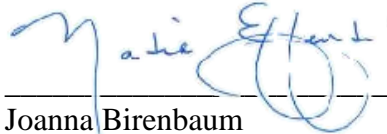
AND FURTHER TAKE NOTICE that the motion shall be made on the following grounds:

1. The Clinic is a multi-disciplinary, front-line service provider to women experiencing violence, including sexual violence. It was established in the memory of Barbra Schlifer, who was sexually assaulted and murdered on the night of her call to the Bar. The Clinic's objective is to support women who have experienced violence by, among other things, offering avenues for redressing the harms they have suffered. As part of its mandate, the Clinic works to change the legal conditions that threaten women's safety, dignity, and equality, and advocates to improve access to justice for survivors of sexual violence.
2. The Clinic has a long history of intervening to provide assistance to this Court, as well as other courts in Canada, in proceedings where the outcome may influence women's safety, dignity, and equality.
3. The issues raised in this appeal include legal issues of significant public interest that have impacts beyond the immediate parties to the case. The equality, dignity and privacy rights of women who report sexual assault to the police, including racialized, black, Indigenous, trans and gender non-conforming women, are significantly engaged by scope of consent that is at issue in this case and women's equality and autonomy to choose not to engage in sexual activity without a condom.
4. More generally, this appeal concerns the degree to which the criminal law will recognize forms of reproductive coercion as constituting sexual assault.
5. The Clinic works with survivors of sexual violence and other forms of gender-based violence and has expertise in the areas of intersecting experiences and vulnerabilities that impact a woman's experience of violence.
6. If granted leave to intervene, the Clinic will bring a useful, distinct, and crucial perspective to this appeal that is different from that of the parties. The Clinic's regular and direct contact with survivors of sexual violence means it understands how survivors perceive and interact with the justice system, enabling it to provide this Court with useful submissions infused with these perspectives.

7. The Clinic's proposed submissions are set out in the Affidavit of Deepa Mattoo at paragraphs 40-46. These proposed submissions will be useful to the Court in determining the multiple and layered issues raised in the appeal and cross-appeal. The Clinic commits to working co-operatively with other interveners to avoid duplication.

Dated at Toronto, Ontario this 3rd day of June 2021.

Per:



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