

Media backgrounder
Single Mothers' Alliance v BC
Public Interest Standing Application Hearings

What is *Single Mothers' Alliance v BC* about?

This case is being brought on behalf of the Single Mothers' Alliance of BC (SMA), a non-profit organization made up of many single mothers, a group of people who have been harmed by their inability to access legal aid in BC for family law court proceedings. West Coast LEAF is representing the organizational plaintiff in this case to challenge the Province of BC's laws and policies restricting access to legal aid in family law cases. Two decades ago, legal aid in BC was drastically cut by 40% overall and by a shocking 60% for family law. Today, three out of every five applications for family law legal aid representation are denied. Even when people do qualify for help from a legal aid lawyer, the hours the lawyer can spend preparing for the case are capped at such a low number that many of their legal needs go unmet.

For people who are fleeing family violence, a lack of legal representation in a family law dispute can mean protracted conflict and an escalation of violence. Their safety is threatened, their children's well-being is at risk, and they stand to lose custody of their children, all because they cannot afford a lawyer.

What's the status of the case?

In February 2022, the Province of BC filed a challenge to the public interest standing of SMA in an effort to have the case thrown out. The hearing to determine SMA's public interest standing application will take place at the BC Supreme Court on August 23-25, 2022. The trial is currently scheduled to begin in February 2023.

What is public interest standing?

In Canada, individuals have the standing (i.e., the ability) to bring legal challenges to laws or government actions that directly affect them. However, many people do not have the resources to navigate the legal system on their own, or at all. This means that human rights violations often go unchallenged.

Courts have long recognized the problem of unequal access to justice and allow organizations to bring legal challenges on behalf of directly affected people in certain circumstances. In these cases, organizations have what is called "public interest standing."

Why does public interest standing matter?

Public interest standing is an important tool to hold governments accountable and to promote access to justice. It is often necessary when it is unreasonable or difficult for individuals to shoulder the burden of challenging laws and government actions—especially when the people who feel the impact of unjust laws and actions are already experiencing injustice and marginalization in society.

Many challenges under the Charter are brought by organizations with public interest standing. For instance, public interest standing has been used to challenge laws that impact sex workers, people in solitary confinement, unhoused people, and people detained involuntarily in mental health facilities.

By challenging SMA's standing as a public interest plaintiff, the government is trying to crush the ability of organizations like SMA to sue the government and challenge unjust laws and government actions. Instead, they expect impacted people to carry the impossible weight of systemic constitutional challenges by themselves, even as they navigate multiple levels of marginalization. This is an outrageous threat to access to justice, especially for people with very little money and power.

Why is *British Columbia (Attorney General) v Council of Canadians with Disabilities* an important case for public interest standing?

In June 2022, the Supreme Court of Canada (SCC) released a decision in *Council of Canadians with Disabilities v British Columbia* that upholds the ability of public interest organizations to sue the government on behalf of marginalized communities.

This case was about whether the Council of Canadians with Disabilities (CCD) could continue their *Charter* challenge to BC's mental health laws. CCD argues that these provisions harm and discriminate against people with mental health disabilities who are subjected to psychiatric treatments against their will. Yet, before the case could even go to trial, the Province of BC tried to have the case dismissed by claiming that CCD did not meet the test for public interest standing.

West Coast LEAF intervened in that case to argue that public interest organizations play a critical role in supporting access to justice for members of the public. Many marginalized communities face social, political, and economic barriers to bringing forward their own cases. Constitutional litigation is prohibitively expensive, complex, and can take many years to resolve. In its decision, Canada's highest court agreed and confirmed that courts must remain flexible and generous in allowing public interest organizations to challenge unconstitutional laws on behalf of marginalized communities.

Nearly six years after starting their litigation, CCD can finally get their day in court. The SCC's decision sent a clear signal to governments that standing challenges cannot become a tactic to delay or obstruct important constitutional cases. Despite that ruling, the Province of BC is continuing with its efforts to challenge SMA's standing.

To learn more about *Single Mothers' Alliance v BC* and what's at stake, visit westcoastleaf.org/our-work/legal-aid-test-case/