



May 11, 2010

The Honourable Chief Justice Allan Lutfy  
The Honourable Madam Justice Snider  
Federal Court of Canada  
90 Sparks Street, 10<sup>th</sup> Floor  
Ottawa, ON K1A 0H9

Dear Chief Justice and Justice Snider:

**Re: Use of “Care of” Addresses on Leave Applications**

### **Introduction**

I am writing on behalf of the Citizenship and Immigration Section of the Canadian Bar Association (CBA Section) in relation to the use of “care of” addresses in Federal Court applications. While we believe the vast majority of applications are filed by reputable lawyers or the applicants themselves, we have become increasingly concerned that when “care of” addresses are listed for applicants in the Federal Court, they are actually the addresses of ghost consultants charging a fee for a service they are not authorized to perform and may be advancing applications in a frivolous or exploitative manner.

Of course, applicants have the right to represent themselves in proceedings before the Federal Court. We recognize that it is the government’s role to ensure that unscrupulous persons are not taking advantage of vulnerable applicants, who often do not speak English or French, have no legal training and may be easily exploited by those wishing to prey on them. However, the research we have conducted on Federal Court leave applications raises suspicions about ghost consultants operating at the Federal Court. The Federal Court may be able to help curb potential abuses through changes to its process.

### **Research**

With the assistance of the Courts Administrations Services staff, Section member Mario Bellissimo and his staff examined 2241 Toronto leave applications filed between January and September 2009 to determine how many applications were filed with care of addresses.<sup>1</sup> Where an application used

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<sup>1</sup> The statistical references below are approximate due to some ambiguous addresses and missing files. These numbers do not represent the complete number of applications filed in that period.

a “care of” address, we sought to determine if the address was ambiguous,<sup>2</sup> multiple<sup>3</sup> or linked to a non-lawyer legal service provider not authorized to appear before the Federal Court.

Our research found the vast majority of Applications for Leave and Judicial Review are filed by lawyers (74%).<sup>4</sup> Approximately 21 per cent of applicants file on their own (some through a lawyer’s address) and approximately four per cent (89 cases) file with the use of a “care of” address.<sup>5</sup>

Fifty-eight percent of those filing with “care of” addresses (37 cases) were determined to have filed with an ambiguous, multiple or non-lawyer legal services address.<sup>6</sup> This was confirmed through electronic searches of the addresses and, where possible, in telephone conversations with these offices. Some offices we contacted claimed to handle immigration services but did not admit to handling Federal Court matters, despite the use of their address on leave applications. In other cases, representatives confirmed they handled Federal Court matters and often asked the caller to call back or gave the first name of another person and a “non lawyer” telephone number. In yet other instances, the caller was disconnected when too many questions were asked.

While it is not a large number of applications numerically, over half of “care of” addresses suggest the involvement of ghost consultants.

### **Recommendation**

Our recommendation is that the Federal Court require additional information to ensure that applicants are using their own address, and that the Court prohibit the use of “care of” addresses or box numbers. This change in process would not require a Rule amendment, but a change to Form 301, which asks the solicitor or applicant to list their name, address, telephone and facsimile number. Exceptions could be made for rural applicants where there is no mail delivery at residential street addresses.

Much like a person filing an appeal at the Immigration Appeal Division (IAD), Form 301 should require an applicant to list their residential address as well as the name, address and telephone number of any representative separately, and state whether the representative is charging a fee.<sup>7</sup>

The rejection of “care of” addresses or the requirement to list both a personal and paid or unpaid representative’s address may uncover applications not filed through a lawyer, as well as applicants who have not been properly counselled and are potentially being exploited or misusing court resources. This will not initially prevent unscrupulous persons from extracting money from applicants to prepare and file applications that have no chance of success. However, it does become more difficult for a ghost consultant to remain on the file if the form explicitly asks for a representative’s address and requires an applicant to disclose their own residential address.

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<sup>2</sup> “Ambiguous” addresses are those where it could not be determined to whom the address belonged.

<sup>3</sup> “Multiple” refers to addresses used more than once for different applicants, did not belong to lawyers and it could not be determined to whom the addresses belonged.

<sup>4</sup> Percentage of people filing through lawyers: 1673 out of 2241 – 74.654%

<sup>5</sup> Percentage of people filing on their own: 479 out of 2241 – 21.374%

Percentage of people filing through c/o addresses: 89 out of 2241 – 3.971%

<sup>6</sup> Percentage of people using c/o addresses who turned out to be filing through lawyers. 37 out of 89 – 41.573% Percentage of people who are using c/o addresses who turned out to be filing on their own: Approximately 52 out of 89 (assuming the ambiguous addresses are not lawyers) – 58.427%. The addresses have been collected and in many cases where possible telephoned but not included in this submission.

<sup>7</sup> [http://www.irb-cisr.gc.ca/Eng/tribunal/form/Pages/ro\\_mr.aspx](http://www.irb-cisr.gc.ca/Eng/tribunal/form/Pages/ro_mr.aspx)

For those ghost consultants who remain undeterred by the additional information, Court staff could remain vigilant for addresses that consistently appear on leave applications, and refer affected applicants to the respective Law Society if they suspect unauthorized practice.

Obviously, this would require additional resources and time to process leave applications, and potentially affect other areas of law. However, it likely would not be significant given the current numbers of problematic addresses, would save court resources by deterring unmeritorious applications, and aid in the protection of the public. The current numbers of problematic addresses may further decline with a change in the Form. We recommend that the Federal Court consider making these changes as a pilot project for immigration and protected person leave applications in the Toronto region for six months. We would undertake to explore the administrative impact of making the change permanent with the Federal Court Multi Stakeholder Committee.

### **Conclusion**

We appreciate the Federal Court's continued vigilance in ensuring that applicants receive due process and that their access to justice is not impaired by court procedures. The Federal Court, through its staff and website, offer comprehensive and meaningful information to assist and protect the public.<sup>8</sup> It is in this spirit we ask the Federal Court to take an additional step to assist in the battle against ghost representatives. Thank you for your attention to this matter, and we look forward to further discussions at the next meeting of the liaison group.

Yours truly,

*(Original signed by Kerri Froc for Stephen Green)*

Stephen Green  
Chair, National Citizenship and Immigration Law Section

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<sup>8</sup> See the Federal Court's website: [http://cas-ncr-nter03.cas-satj.gc.ca/portal/page/portal/fc\\_cf\\_en/Statistics\\_june08-](http://cas-ncr-nter03.cas-satj.gc.ca/portal/page/portal/fc_cf_en/Statistics_june08-)

"Can I represent myself?", "Information about Registry Services to Assist Self-Represented Litigants", "What we can do?", "What we cannot do?" are sections that provide concise and critical information for lay persons.