

COURT OF APPEAL

CANADA
PROVINCE OF QUEBEC
MONTREAL SEAT

No.: 500-09-700429-251
(500-17-135376-252)

MINUTES OF HEARING

DATE: November 13, 2025

THE HONOURABLE CHRISTIAN IMMER J.A.

APPLICANT	COUNSEL
ASHRAF AZAR	ABSENT AND UNREPRESENTED
RESPONDENT	COUNSEL
UNIVERSITÉ DE MONTRÉAL	Mtre Christina Parent-Roberts A.L.I.A. SERVICES JURIDIQUES By videoconference

DESCRIPTION: **Application for leave to appeal from a judgment rendered on September 15, 2025 by the honourable Silvana Conte of the Superior Court, district of Montreal (Art. 30 and 360 C.C.P.).**

Clerk at the hearing: Mélanie Camiré

Courtroom: RC-18

HEARING

9:41 Continuation of the hearing held on November 11, 2025.

Mr. Azar is absent at the present hearing. The court clerk called Mr. Azar and left a voicemail indicating that the judgment will be read today at 9:40 and inviting him to be present.

BY THE JUDGE: Judgment rendered orally at the hearing – see page 3.

9:48 Conclusion of the hearing.

Mélanie Camiré, clerk at the hearing

JUDGMENT

[1] Petitioner, a former Ph.D student in Respondent's Department of Biochemistry and Molecular Medicine Department seeks leave to appeal a judgment of the Superior Cour rendered on September 15, 2025 (the honourable Silvana Conte) dismissing his application for safeguard measures seeking his immediate reintegration to the Department¹.

[2] The context is set out in detail in the Judgment. In summary, Petitioner commenced his Ph.D work under the supervision of Professor Michnick on January 1, 2004, for an annual \$25,000 stipend. After he received a first evaluation on May 30, 2004, Petitioner was informed in September 2024, by Professor Michnick, that he could no longer act as a supervisor. Petitioner asked for a review of the decision and for detailed reasons justifying same. Reasons were provided to him on December 10, 2024. Assistance was offered to him to secure another supervisor and emergency financial assistance was also provided. The Petitioner did not follow up on the request for information despite several requests and meetings, but he eventually provided some information on July 15, 2025, which was held to be insufficient. The urgency to find a supervisor was impressed on Petitioner, as the August 15, 2025 was approaching at which date his Ph.D admission would be terminated if no supervisor was found. Pettioner was unable to secure a supervisor and his admission was indeed terminated. On September 9, 2025, Petitioner filed these proceedings seeking readmission to the Ph.D program. The safeguard measures he prayed the first instance judge to issue are the following:

ISSUE a safeguard order to have effect for six months or until a decision is rendered with respect to the interlocutory injunction.

ORDER the Defendant to reinstate the Plaintiff as a candidate in the Defendant's Department of Biochemistry and Molecular Medicine, including the reinstatement of his insurance coverage.

ORDER the Defendant to assist the Plaintiff in securing a new supervisor by identifying specific potential projects or specific potential professors who whose work is compatible with the Plaintiff's research background and educational skill set including, if necessary, collaborative supervision with professors from other universities, and order the Defendant not to disclose the existence of the unproven allegations made against the Plaintiff regarding his time at Professor Michnick's lab to potential supervisors or other professors.

¹ *Azar c. Université de Montréal*, 2025 QCCS 3559 [Judgment].

[3] The first instance judge concluded that the Petitioner did not discharge his burden to be entitled to such exceptional remedies on an interim basis. She concluded that any alleged urgency was attributable to Petitioner's lack of action since September 24, 2024. Secondly, she found that since a mandatory injunction was being sought, Petitioner had to establish a strong *prima facie* case. She found he did not. Respondent met its regulatory obligations. Repeated written offers were made to assist Petitioner beginning in October 2024 and ending in August 2025, but were not met with any constructive reply. Thirdly, she found no serious or irreparable harm, as she held that the harm alleged by Petitioner was speculative. He had not applied to another university or tried to find another supervisor for his Ph.D thesis. There was no evidence showing that he was denied admission because of Professor Michnick's comments. Finally, as a result, the balance of inconvenience could not weigh in Petitioner's favour.

[4] Respondent argues that the first instance judge incorrectly applied each of the applicable criteria. On urgency, he argues that the first point in time he could act was on August 15, 2025 when he was excluded from the Ph.D program, but at which time he was hospitalized. On the appearance of right, he seems to put forth that despite its regulatory obligation to ensure continuity of supervision, the Respondent did not offer any effective assistance to him. He also raises the fact that he was not provided procedural fairness as required by the Respondent's regulations and its charter, as a Special Appeal Committee should have been formed. On prejudice, he maintains that the judge overlooked the false "rapport définitif – non complété" which appears in the transcript. His transcript will be consulted by employers and academic institutions and the false and it will undermine his professional standing. He continues to insist on reinstatement in the program and an order to force the Respondent to name a supervisor.

* * *

[5] The Judgment was rendered in the course of the proceedings (art. 31 *C.C.P.*) and leave must therefore be obtained before Petitioner may appeal it. Safeguard measures serve to preserve the *status quo*, until the matter may be heard on the merits, so as to ensure that any eventual conclusions are not issued in vain². Given that such measures are the result of the first instance judge's exercise of discretion and that, by their nature, they are an interim measure, a judgment dismissing a request for a provisional injunction or safeguard measure may only be appealed in exceptional and compelling circumstances, such as, for instance, a clear and decisive error of law³. In all cases, the interests of justice must warrant it⁴. These interests entail that the appeal must comply with the rule of proportionality, namely the sound management of judicial resources.

² *FLS Transportation Services Limited c. Fuze Logistics Services Inc.*, 2020 QCCA 1637; *McGill University c. Kahentinetha*, 2024 QCCA 1050.

³ *FLS Transportation Services Limited c. Fuze Logistics Services Inc.*, 2020 QCCA 1363 (judge alone).

⁴ *Publications TVA inc. c. Transcontinental inc.*, 2005 QCCA 1549 (judge alone).

These interests are not served by allowing an appeal that is bound to fail⁵. The threshold for appellate intervention is therefore high.

[6] The first instance judge correctly identified the four applicable criteria that must be met by a petitioner before a safeguard measure can be issued. The judge provided detailed reasons why each of them was not met. The Petitioner does not agree with her findings and asks that the Court of Appeal substitute its own opinion on the speculative character of the prejudice; he argues that if he has to demonstrate concrete prejudice, injunctive relief which is meant to prevent such prejudice will be useless. Petitioner is seeking remedies which do not maintain the *status quo*. Upon review of the judge's reasons and given the far-reaching conclusions sought, his appeal has no reasonable chance of success. Being mindful of proportionality, the efforts of the parties are far better served by setting the matter down for hearing on the interlocutory and permanent injunction.

[7] On a final note, during the Respondent's pleadings, it was brought to light that most of the references applicant has made to case law in his application for leave simply do not exist. The Respondent suggests that this is the result of artificial intelligence hallucinations. In reply, the Petitioner gave no explanations as to how such a situation could come about. It is troubling that Petitioner has acted in such a fashion and this further weighs against finding that an appeal would be in the interest of justice.

FOR THESE REASONS, THE UNDERSIGNED:

[8] **DISMISSES** Petitioner's Application for leave to appeal, with legal costs.

CHRISTIAN IMMER, J.C.A.

⁵ *Independent Special Interlocutor for Missing Children and Unmarked Graves and Burial Sites associated with Indian Residential Schools c. Société québécoise des infrastructures*, 2024 QCCA 379, par. 17 (judge alone).