

Federal Court



Cour fédérale

Date: 20260211

Docket: T-3505-25

Citation: 2026 FC 202

Ottawa, Ontario, February 11, 2026

PRESENT: The Honourable Mr. Justice Roy

BETWEEN:

CATALIN DOMNITEANU

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

ORDER AND REASONS

[1] The Applicant, Catalin Domnitanu, seeks a confidentiality order pursuant to Rule 151 of the *Federal Courts Rules*, SOR/98-106, which reads:

Motion for order of confidentiality

151 (1) On motion, the Court may order that material to be filed shall be treated as confidential.

Requête en confidentialité

151 (1) La Cour peut, sur requête, ordonner que des documents ou éléments matériels qui seront déposés

soient considérés comme confidentiels.

Demonstrated need for confidentiality

(2) Before making an order under subsection (1), the Court must be satisfied that the material should be treated as confidential, notwithstanding the public interest in open and accessible court proceedings.

Circonstances justifiant la confidentialité

(2) Avant de rendre une ordonnance en application du paragraphe (1), la Cour doit être convaincue de la nécessité de considérer les documents ou éléments matériels comme confidentiels, étant donné l'intérêt du public à la publicité des débats judiciaires.

[2] The Applicant is not represented by counsel; he is a litigant-in-person. That may help explain why his motion is deficient. My reasons for reaching the conclusion that the motion must be dismissed follow.

[3] Rule 151 requires a balancing of the interest of a litigant in keeping confidential some information specific to that person which is included in the litigation of a matter, and the public interest that the judicial process be conducted in public, both in the proceedings in dispute and in the material relevant to the resolution of the dispute. That principle is not new. It was firmly affirmed by the Supreme Court of Canada in the case of *Sierra Club v Canada (Minister of Finance)*, 2002 SCC 41; [2002] 2 SCR 522. As the Supreme Court noted, there exists a link between the openness principle in judicial proceedings and the freedom of expression guaranteed by the *Canadian Charter of Rights and Freedoms*. Nevertheless, some material can be covered by a confidentiality order. In view of the principle that the judicial process is to be conducted in the open, a litigant must establish the need for such an order (as Louis Brandeis famously said

before becoming a Justice of the US Supreme Court, “sunlight is said to be the best of disinfectants”).

[4] That is what Rule 151 is about. There must be necessity that some material be kept confidential, but only once has been considered “the public interest in open and accessible court proceedings.” It is for the litigant who seeks confidentiality to make the case for what would necessarily be a finely tailored order.

[5] “Court proceedings are presumptively open to the public” (*Sherman Estate v Donovan*, 2021 SCC 25; [2021] 2 SCR 75, [*Sherman Estate*]). There is not only a test of necessity that must be satisfied by a litigant, but there must also be satisfaction of a test of proportionality. I reproduce paragraph 38 of the *Sherman Estate* decision:

38 The test for discretionary limits on presumptive court openness has been expressed as a two-step inquiry involving the necessity and proportionality of the proposed order (*Sierra Club*, at para. 53). Upon examination, however, this test rests upon three core prerequisites that a person seeking such a limit must show. Recasting the test around these three prerequisites, without altering its essence, helps to clarify the burden on an applicant seeking an exception to the open court principle. In order to succeed, the person asking a court to exercise discretion in a way that limits the open court presumption must establish that:

- (1) court openness poses a serious risk to an important public interest;
- (2) the order sought is necessary to prevent this serious risk to the identified interest because reasonably alternative measures will not prevent this risk; and,
- (3) as a matter of proportionality, the benefits of the order outweigh its negative effects.

As can be seen, there is a measure of strictness to the test.

[6] In this case, Mr. Domnitanu seeks the judicial review of the decision of the Canada Revenue Agency [CRA] to find him ineligible to payments received on account of the Canada Emergency Response Benefit [CERB] and the Canada Recovery Benefit [CRB]. Those were two programs created by Parliament during the COVID-19 crisis. Conditions were set to take advantage of the programs and receive benefits quickly. Then CRA conducted a number of audits. A large number of cases have ended up before our Court once CRA has found recipients ineligible. Those findings have been challenged. Mr. Domnitanu's case is one of many.

[7] However, the Applicant claims that a considerable number of documents ought to be treated as confidential in his judicial review application. I reproduce the list he submitted to the Court:

Documents to Be Filed Under Seal

1. Bank statements and financial records from the Applicant's shared family account, including detailed transaction histories, account numbers, branch identifiers, balances, salary deposits, and other sensitive financial information, intended to be filed as part of the Applicant's Application Record.
2. Banking and financial documents contained in the Certified Tribunal Record, including materials produced by the Canada Revenue Agency that contain sensitive personal and financial information relating to the Applicant and third parties.
3. Unredacted versions of the sample excerpts attached as Exhibit "MR1" to the Applicant's Affidavit, including any pages showing transaction histories, account identifiers, or other sensitive financial data.
4. Any additional unredacted financial documents required to be filed by the Applicant in support of the Application Record that contain sensitive personal or financial information, including

information relating to third parties such as the Applicant's former spouse.

5. Medical documents and records filed or to be filed in this proceeding that contain personal health information relating to the Applicant or third parties.
6. Documents containing personal identifiers, including the Applicant's home address, email address, telephone number, or other identifying information, as well as documents containing third-party personal identifiers.

[8] The submissions offered by the Applicant do not provide a demonstration of the necessity for the documents to be treated as confidential and, even more so, where lies the proportionality. Indeed, the documents that would require that they be treated as confidential are not even part of the Applicant's record.

[9] The failure to identify with any precision what specific documents, and what in those specific documents is deserving of the protection of a confidentiality order, is fatal. Instead, the Respondent is right that is sought "a blanket order to deem confidential and seal whatever documents might be considered as part of the broad categories listed in Schedule A" [reproduced at paragraph 7 of this Order and Reasons] (Respondent's written representations, para 17).

[10] In effect, the Applicant, after identifying large categories of documents declares that those documents "contain dense, continuous financial data such that meaningful redaction is impractical and would require removing nearly all content, leaving no usable public version" (Applicant's written representations, para 7). Such bold proposition is not supported by any articulation that could bring the Court to be satisfied that it is needed or proportionate. The

public interest in ensuring that proceedings take place in public, including the material relevant to the case must be protected.

[11] The kind of general statements made by the Applicant cannot suffice to justify the type of bold protection of information that is sought. This is not to say that financial information (or more precisely some elements of documents) can never be protected by a confidentiality order. But they must be identified and justified on the basis of necessity and proportionality. This is clearly missing in the case at hand.

[12] I add that the Applicant focussed his attention on information of a financial nature which he calls “highly sensitive” or the disclosure of which would pose “significant risks.” Instead of identifying clearly what they are and what should be made confidential, he paints with a broad brush. As I have tried to explain that does not satisfy basic requirements. There was also a reference to medical documents. In the list reproduced at paragraph 7 herein, the Applicant speaks of medical reports to be filed that contain personal health information. The Respondent states that no such document has been presented. It is accordingly even more obscure what the specific issue may be. Nevertheless, assuming that the Applicant may seek to file that kind of information, and given the possible special sensitivity of that information, he may want to consider seeking guidance from counsel for the Respondent about the acceptance of properly redacted documents, in accordance with the law. As an officer of the Court counsel could accept appropriate redaction if the medical information is relevant and necessary to the resolution of the case.

[13] In sum, the Applicant's motion for a broad confidentiality order can only be dismissed because:

- The Applicant has not established that the extensive categories of documents to be covered by the order should be confidential in view of the public interest in ensuring that the judicial process be in public, both in the proceedings and the material relevant to the litigation;
- There is no justification provided that could satisfy the requirements of necessity and proportionality;
- The Applicant's submissions are declarative, as opposed to providing arguments of a persuasive nature which would allow the Court, in specific cases, to be satisfied that a confidentiality order is warranted in view of the strong presumption in favour of open courts. To quote from *Sherman Estate*, "It is understood that this allows for public scrutiny which can be the source of inconvenience and even embarrassment to those who feel that their engagement in the justice system brings intrusion into their private lives. But this discomfort is not, as a general matter, enough to overturn the strong presumption that the public can attend hearings and that court files can be consulted and reported upon by the free press" (para 2).

[14] To be sure, confidentiality orders can, and are, granted where they are targeted and justified in motions which have granularity. Broad motions like the one before the Court do not allow for the balancing act required by Rule 151.

[15] The Respondent sought its costs. In my view, this is not a case where costs ought to be awarded.

ORDER IN T-3505-25

THIS COURT ORDERS that:

1. The motion for a confidentiality order is dismissed.
2. There will be no costs awarded.

"Yvan Roy"
Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-3505-25

STYLE OF CAUSE: CATALIN DOMNITEANU v ATTORNEY GENERAL
OF CANADA

**MOTION IN WRITING CONSIDERED AT OTTAWA, ONTARIO PURSUANT TO
RULE 369 OF THE *FEDERAL COURTS RULES***

ORDER AND REASONS: ROY J.

DATED: FEBRUARY 11, 2026

WRITTEN REPRESENTATIONS BY:

Catalin Domniteanu

FOR THE APPLICANT
(ON HIS OWN BEHALF)

Adam Al Ahmad

FOR THE RESPONDENT

SOLICITORS OF RECORD:

Attorney General of Canada
Montreal, Quebec

FOR THE RESPONDENT