

Federal Court



Cour fédérale

**Date: 20260323**

**Docket: T-543-26**

**Citation: 2026 FC 396**

**Vancouver, British Columbia, March 23, 2026**

**PRESENT: Madam Associate Judge Kathleen Ring**

**BETWEEN:**

**BO ZHAO**

**Applicant**

**and**

**ATTORNEY GENERAL OF CANADA**

**Respondent**

**ORDER**

[1] The Applicant, Bo Zhao, who is self-represented, brought for a motion for an Order sealing the records in Court File No. T- 543-26, or portions thereof, from public access. Specifically, paragraphs 1 and 2 of the prayer for relief in the Notice of Motion seek the following relief:

1. An Order directing that this Court file be excluded from online public access and electronic public search systems;
2. In the alternative, an Order sealing specific documents in the Court file from online public access; including in the documents of CTRB as below,
  - 1) Tax returns portion from 2019 to 2022 page 15 to 26 as they contain my personal and my wife's personal Tax information

- 2) The documents of my paystubs and weekly earnings statements from 2020-March 1<sup>st</sup> to 2022 March 14<sup>th</sup> and my responses letters were submitted to CRA per request on March 25, 2025 which included in materials of CTRB served to me on February 23, 2026, can be read out lots of personal information:
  - a) Page 62-103 each of earning statements from Uber contains my name, my cell phone number, my email address, many of them contains my head and face color photos,
  - b) Page 112 & 113 in my paystub from Canada post contains my employee ID, user ID and my home address;
  - c) and in the letters ie: Page 46,47 & 104 also include my home address and phone number, my wife's name, her phone number, her fax number, and her email address.
- 3) The Agent's responses and call plan page 8 were recorded in CTRB with indicating my home phone number
- 4) Not only the above, also can read out information about who my employer is and my careers, driver's work time schedule from earning statements.
- 5) All above information if they are exposed to the public will be very risk and damage to my family and members.

[2] The Applicant's motion is supported by the Affidavit of Bo Zhao sworn (or affirmed) on February 10, 2026 (the "Zhao Affidavit").

[3] The motion was heard by Zoom videoconference at the General Sittings of the Federal Court on March 17, 2026.

[4] As can be seen, the Applicant's Notice of Motion seeks an Order prohibiting online public access to records in the Court file. The Applicant reinforces this point on the top of page 5 of the Notice of Motion where he states that: "The relief sought is limited to restricting online public access. The Applicant does not seek to close the courtroom or restrict access to in-person

inspection subject to normal Court procedures.” The Applicant altered his position at the oral hearing. He now seeks an Order protecting records in the Court File from both online and in-person access.

[5] The Applicant submits that a sealing order is necessary because the Court file “contains highly sensitive personal and financial information, including personal identifiers, income information, tax information, and government benefit eligibility assessments” (Notice of Motion, page 4, para 2). Public access to the file would “create a serious risk of identity, financial harm, and unnecessary invasion of privacy” (Notice of Motion, page 4, para 3).

[6] The Respondent, the Attorney General of Canada, opposes the motion. To the extent the Applicant seeks to prevent materials from being accessed online, the Respondent submits that is already the current situation, as this matter is not subject to the Court’s online access pilot project. The Respondent also argues that the Applicant has not met any of the requirements of the test laid out in *Sherman Estate* (described below).

[7] The Respondent acknowledges that this Court has recognized some tax information, such as a social insurance number, could pose a serious risk to the public interest of privacy. Accordingly, the Canada Revenue Agency has proactively redacted the Applicant’s social insurance number from the Certified Tribunal Record (the “CTR”).

[8] Parenthetically, I note that the Applicant uses the terminology of a “sealing” order in his motion record. In this Order, I have instead used the term “confidentiality order”, unless I am relaying the Applicant’s submissions, as it aligns with the language of Rule 151 of the *Federal Courts Rules* (“Rules”).

[9] Having reviewed the motion records filed by the Applicant and on behalf of the Respondent and having heard their oral submissions at the hearing on March 17, 2026, I am not persuaded that this motion should be granted. For the reasons below, I dismiss the Applicant’s motion.

I. **Background**

[10] On February 3, 2026, the Applicant commenced an application for judicial review of a decision of the Canada Revenue Agency dated January 15, 2026, which found the Applicant ineligible for the Canada Emergency Response Benefit.

[11] On February 10, 2026, the Applicant served his supporting affidavit under Rule 306 on the Respondent and filed proof of service (the “Rule 306 Affidavit”).

[12] On February 23, 2026, the decision-maker transmitted the CTR to the Registry and to the Applicant.

[13] The Applicant filed the present motion on March 10, 2026.

II. **Governing Legal Principles**

[14] Court proceedings are presumptively open to the public. The Supreme Court has repeatedly stated that the power to impose limits on the openness and accessibility of court proceedings and on the freedom of the press to report on them must be exercised with care and restraint because of the critical importance of both of these fundamental values to the proper functioning of our democracy: *Sierra Club of Canada v Canada (Minister of Finance)*, 2002 SCC 41 at paras 1 and 26 (“*Sierra Club*”); *Sherman Estate v Donovan*, 2021 SCC 25 at paras 30 and 39 (“*Sherman Estate*”).

[15] Rule 151 of the *Rules* permits the Court, on motion, to order that material to be filed shall be treated as confidential. Before doing so, the Court “must be satisfied that the material should be treated as confidential, notwithstanding the public interest in open and accessible court proceedings”: Rule 151(2).

[16] The test for discretionary limits on the open court principle, such as a confidentiality order under Rule 151, was set out by the Supreme Court of Canada in *Sierra Club* at para 53 and recently recast in *Sherman Estate* at paras 37 and 38. To succeed, the person seeking a confidentiality order 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.

[17] Departing from the open court principle is an exceptional measure. Thus, a moving party will have a heavy burden to demonstrate that each of the three elements of the *Sherman Estate* test for a confidentiality order have been met: *Rémillard v Canada (National Revenue)*, 2022 FCA 63 at para 51.

### III. Analysis

[18] In the discussion that follows, I have addressed the Applicant’s concerns regarding online access to the material in the Court file separately from his concerns regarding in-person access to the physical Court file as some different considerations bear upon the analysis.

### A. Online Access to the Court File

[19] As framed in his Notice of Motion, the Applicant's motion is predicated on the assumption that the information on the Court file is publicly accessible online on the internet. However, as I explained to the Applicant during the hearing, and as stated in the Respondent's submissions, the material on the Court file for this proceeding is not accessible online to the public.

[20] The parameters of this Court's pilot project on online access to court records are set out at paragraphs 20 to 25 of the *Amended Consolidated General Practice Guidelines*, dated June 20, 2025 (the "*Guidelines*"). The relevant excerpt from the *Guidelines* is attached as Appendix I to this Order.

[21] Paragraph 20 of the *Guidelines* states that during the first phase of the pilot project, online access to court records will only apply to records on Court files in the areas of "Maritime and Admiralty, Class Actions, Aboriginal law, and Intellectual Property law". This case does not fall within any of those categories. Accordingly, no documents submitted for e-filing on this case will be accessible online to the public.

[22] Furthermore, even if this case came within the parameters of the Court's pilot project (which it does not), online access to court records under the pilot project is only available for specific categories of documents, namely "pleadings (e.g., statements of claim and defence, notices of application, notices of motion, notices of appeal) and written arguments (written representations, memoranda of fact and law) filed by parties through the Court's E-filing portal": *Guidelines* at para 20(a). Online access to court records does not extend to the CTR which contains

the documentary evidence of concern to the Applicant, such as his tax records and personal information.

[23] Accordingly, insofar as the Applicant seeks an Order prohibiting online access to documents on the Court file, the motion must be dismissed as both unnecessary and unfounded. Given this Court's policy regarding online access to material in Court files, there is simply no risk of harm to an important public interest arising from the prospect of online access to documents on this Court file.

### **B. In-Person Access to the Physical Court File**

[24] As earlier noted, the Applicant broadened his request for a confidentiality order at the hearing of the motion to include records located in the physical Court file.

[25] In accordance with the open court principle, physical court records stored in the Court's Registry offices are presumptively accessible to members of the public. In *Kirikos v Fowlie*, 2016 FCA 80, the Federal Court of Appeal stated the following at paragraph 19:

What is meant by the “open court principle”? In a nutshell, it signifies that in Canada, unless otherwise stated, all court proceedings, including all material forming part of a court's records, remain publicly available. As such, confidentiality orders are the exception. Orders such as the one requested in this case are granted only in exceptional circumstances to avoid deleterious effects on the principle of open courts and freedom of expression ....

[Emphasis added.]

[26] The issue before the Court is whether the Applicant has met the heavy burden upon him to demonstrate that all three elements of the *Sherman Estate* test for a confidentiality order have been met. On the first element of the *Sherman Estate* test, the Applicant must establish that court

openness poses a serious risk to an important public interest. The Applicant alleges in his Notice of Motion and at the oral hearing that public access to certain documents in the physical Court file would create a serious risk of identity theft, financial harm, and an “unnecessary invasion of privacy” (Notice of Motion, page 4, para 3).

[27] Turning first to the asserted affront to his privacy interest, I have no doubt that the Applicant regards the information set out in the CTR to be personal and private information. However, the Supreme Court of Canada has rejected the notion that an “unbounded privacy interest ... qualifies as an important public interest” within the meaning of the *Sierra Club* test: *Sherman Estate* at para 32. Justice Kasirer held at paragraph 33 of *Sherman Estate*:

A court can make an exception to the open court principle, notwithstanding the strong presumption in its favour, if the interest in protecting core aspects of individuals’ personal lives that bear on their dignity is at serious risk by reason of the dissemination of sufficiently sensitive information. The question is not whether the information is “personal” to the individual concerned, but whether, because of its highly sensitive character, its dissemination would occasion an affront to their dignity that society as a whole has a stake in protecting.

[Emphasis added.]

[28] At paragraph 35 of *Sherman Estate*, Justice Kasirer states that for the purposes of the *Sierra Club* test, the information in question must be sufficiently sensitive that it can be said to strike at the “biographical core of the individual”:

For the purposes of the test for discretionary limits on court openness, this requires the applicant to show that the information in the court file is sufficiently sensitive such that it can be said to strike at the biographical core of the individual and, in the broader circumstances, that there is a serious risk that, without an exceptional order, the affected individual will suffer an affront to their dignity.

[Emphasis added.]

[29] Some examples of the range of sensitive personal information that, if exposed, could give rise to a serious risk to a public privacy interest include information related to stigmatized medical conditions, stigmatized work, sexual orientation, and subjection to sexual assault or harassment: *Sherman Estate* at para 77.

[30] In this case, the Applicant submits in his Notice of Motion that certain documents in the CTR that he seeks to have treated as confidential “contains highly sensitive personal and financial information, including personal identifiers, income information, tax information, and government benefit eligibility assessments” (Notice of Motion, page 4 para 2).

[31] I am not satisfied that the seemingly unbounded privacy interest the Applicant invokes on this motion qualifies as an important public interest within the meaning of *Sherman Estate*. This Court has previously rejected the argument that all financial and tax information must be kept confidential in a proceeding to preserve the right to privacy. As Justice Pamel observed in his second *Rémillard* decision, “if that were the case, most, if not all, cases brought before the TCC [Tax Court of Canada] would automatically be subject to a confidentiality requirement”: *Rémillard v Canada (National Revenue)*, 2021 FC 644 at paras 35, 73 and 76.

[32] Even if the Applicant could establish that there is an important public interest in maintaining the privacy of his tax and financial information, the Supreme Court of Canada held in *Sherman Estate* that applicants seeking a confidentiality order cannot content themselves with an unsubstantiated claim that this public interest in dignity is compromised. They must show on the facts of the case that, as an important interest, this dignity dimension of their privacy is at “serious risk”. Otherwise stated, the law requires the serious risk asserted to be substantiated and well

grounded in the evidence: *Sherman Estate* at paras 35, 62 and 102; *Canada (Commissioner of Competition) v Rogers Communications Inc.*, 2024 FC 239 at para 10.

[33] The Applicant has tendered the Zhao Affidavit in support of his motion. This Affidavit is not helpful because it does not contain *any* evidence that would support the Applicant's bare assertions regarding an invasion of his privacy, nor of a risk of identity theft and financial harm, if a confidentiality order is not made. Instead, the Zhao Affidavit contains evidence relating to the merits of the Applicant's underlying judicial review application. Given the date on which the Zhao Affidavit was made (February 10, 2026) and its contents, it appears that the Applicant may have filed his Rule 306 Affidavit in support of this motion.

[34] In the absence of any evidence to substantiate his claim, I conclude that the Applicant has failed to demonstrate that there is a serious risk that he will suffer an affront to his dignity if a confidentiality order is not made.

[35] As regards the Applicant's concern about identity theft and financial injury, he asserts at paragraph 3 of his Notice of Motion (page 4) that:

3. Public online access to the file would create a serious risk of identity, financial harm, and unnecessary invasion of privacy. I used to experience privacy info exposed to the unknown person or party around 3 years ago who said from WCB to contact me by phone. But after I answered her questions to identify me with my name, Sin #, BOD, address and phone number. then line was dropped. I called it back immediately and heard the person who picked the phone up said that nobody called me. This incident caused me and my wife have been worried so much since then. I'm concerned about if my court file accessible to the public may be used by those who intend to do illegal, further to fraudulent and harm my family and also not good at all to the public in the term of interest.

[36] At the hearing, the Applicant relayed another incident when his wife got a suspicious call from an unknown person posing as a strata insurance broker who asked for personal information from her. He alleges that these incidents caused distress for himself and his wife.

[37] None of these allegations are set out in the Zhao Affidavit filed in support of this motion. As such, there is no sworn evidence before the Court to substantiate the Applicant's concerns that he is at risk of identity theft or financial harm.

[38] In any event, even if these allegations had been presented as sworn evidence, I fail to see how the Applicant's assertions of having received suspicious phone calls in the past seeking personal information from himself or his wife substantiate his claim that information contained in the Court file exposes him to a serious risk of harm in the form of identity theft.

[39] I note that the CTR contains a Certificate signed by the Acting Program Officer in the Canada Emergency Benefits section of the Canada Revenue Agency Headquarters, which attests that the officer "redacted the Applicant's social insurance number, bank account numbers and other identifying information". The Applicant does not dispute this attestation.

[40] Considering that various personal information relating to the Applicant has already been redacted in the CTR, and in the absence of any sworn evidence to substantiate the Applicant's claims, I am not persuaded that public access to the records in the physical Court file for this proceeding will create a serious risk of identity theft or financial harm to the Applicant if a confidentiality order is not made.

[41] For the above reasons, I conclude that the Applicant has not demonstrated a serious risk to a public interest that would justify this Court to make an exception to the open court principle and

grant a confidentiality order in this matter. His motion for a confidentiality order must therefore be dismissed on this ground alone.

[42] In light of my determination that the Applicant has failed to establish the first element of the test set out in *Sherman Estate*, it is not necessary to address the remaining two elements of the test and I decline to do so.

IV. **Conclusion**

[43] For the foregoing reasons, the Applicant's motion for a confidentiality order is dismissed.

[44] However, consistent with the redactions made by the CRA to the CTR by redacting the Applicant's social insurance number, bank account numbers and other identifying information, I will make a provision in this Order that the parties shall redact this same information from any further documents to be filed in this proceeding (*e.g.*, the Rule 307 Affidavit (if any), the Applicant's Record and the Respondent's Record).

[45] Neither party has sought their costs of this motion so none shall be awarded: *Exeter v Canada (Attorney General)*, 2013 FCA 134.

**THIS COURT ORDERS that:**

1. The Applicant's motion for a confidentiality order is dismissed.

2. Consistent with the redactions made to the Certified Tribunal Record, the parties shall redact the Applicant's social insurance number, bank account numbers and other identifying information from any further documents to be filed in this proceeding, prior to their filing.
3. There shall be no order as to costs of this motion.

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“Kathleen Ring”  
Associate Judge

**Appendix I to the Order of  
Associate Judge Kathleen Ring  
dated March 23, 2026  
in Federal Court File No. T-543-26**

**Amended Consolidated General Practice Guidelines dated June 20, 2025**

Online Access to Court Record

20. The Court launched a pilot project on online access to Court records on September 12, 2022. As part of the first phase, only document submitted via E-Filing for records in the following categories are subject to this pilot project:
- a) Pleadings (e.g., statements of claim and defence, notices of application, notices of motion, notices of appeal) and written arguments (written representations, memoranda of fact and law) filed by parties through the Court’s E-filing portal in matters that are:
    - i. Commenced on or after September 12, 2022;
    - ii. In the areas of Maritime and Admiralty, Class Actions, Aboriginal law, and Intellectual Property law; and
    - iii. Not subject to a confidentiality or other sealing order. Court-generated documents (e.g., orders, directions, reasons, judgments) in the foregoing matters mentioned in paragraph a).
21. Documents meeting the foregoing criteria will be available for online access approximately three (3) business days after they are filed, to allow for document processing and to limit the potential for inadvertent posting of confidential documents. Copies will continue to be available from the Registry before and after they are posted. Future phases of the project will provide for additional records being available in these and other areas of the Court’s jurisdiction. Documents filed in proceedings commenced prior to September 12, 2022 will not be available via the online access. The public may continue to obtain access to such documents through the Registry, provided they are not subject to a confidentiality Order.
22. **Protecting Privacy Interests – Exemption from Online Access.** The open court principle requires that records filed in Canadian courts, including the Federal Court, be available to members of the public. Given the importance of this principle, exceptions to it are limited and rare. In the Federal Court, open access to court proceedings has long included the availability of court records through modern means, including obtaining documents from the Registry by fax or email. The introduction of online access is a logical extension of this historical practice. It provides a new and practical method to obtain court records that have always been available in other ways. The Court recognizes that making records that are already available through the Court registry available online may in exceptional circumstances raise concerns about security or privacy because of the loss of “practical

obscurity”: *Sherman Estate v Donovan*, 2021 SCC 25 at para 80. As a result, it may be appropriate in some cases that information that is not subject to a confidentiality or sealing order is nonetheless not available online.

23. **Request for Exemption.** Consistent with the foregoing, parties may file a request that all or part of certain records be exempt from online access. Parties and counsel filing documents through the E-filing portal will be required to indicate whether a request for an exemption from online access is being made and, if so, to file their request with the document. Such requests may be made by informal request in letter format. Other parties may respond. Given the importance of the open court principle, parties seeking an exemption will bear the onus to demonstrate that it is justified in the circumstances. The request will be referred to a member of the Court for determination before the document is made available online. If granted, the Court may require a party to file a version of the document that can be posted online.
24. The Court member determining the request for an exemption will have full discretion to decide the matter. However, the Court anticipates that parties will be required to show that there is a serious risk that making the document available through the Court’s online platform, in addition to being available from the Registry, will result in a material adverse impact on the personal dignity or security of an individual. Relevant considerations in this assessment may include, but are not limited to, the nature of the information and the proceeding; the extent to which the concerns raised exceed the usual discomfort or potential embarrassment inherent in involvement in litigation and the disclosure of information in open court; and the relationship between any concerns identified and the values underlying the open court principle.
25. For clarity, nothing in this notice or the potential exemption from online accessibility affects the availability of, or requirements for, a confidentiality or sealing order, which remain subject to the conditions set out in the jurisprudence, notably *Sierra Club of Canada v. Canada (Minister of Finance)*, 2002 SCC 41. Parties are reminded that documents containing confidential information should not be filed through the E-filing portal.