

**SUPERIOR COURT  
(Civil Division)**

CANADA  
PROVINCE OF QUEBEC  
DISTRICT OF MONTREAL

No.: 500-17-137699-263

DATE: March 27, 2026

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**BY THE HONOURABLE LUC MORIN, S.C.J.**

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**RACHEL HARROCHE**

Plaintiff

v.

**LAW STUDENTS' ASSOCIATION OF MCGILL UNIVERSITY**

-and-

**LAW STUDENTS 4 PALESTINE AT MCGILL**

Defendants

-and-

**MCGILL UNIVERSITY**

-and-

**JEWISH LAW STUDENTS' ASSOCIATION OF MCGILL UNIVERSITY**

Impleaded Parties

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## JUDGMENT<sup>1</sup>

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### I- OVERVIEW

*“Everyone is in favor of free speech. Hardly a day passes without its being extolled, but some people’s idea of it is that they are free to say what they like, but if anyone says anything back, that is an outrage.”*

*Sir Winston Churchill<sup>2</sup>*

[1] Plaintiff seeks the issuance of a provisional injunction to stay the implementation of measures adopted through a referendum entitled “*Referendum Regarding the Academic and Cultural Boycott of Israel to Preserve Academic Freedom*”. This Referendum, initiated at the request of the Defendant *Law Students 4 Palestine at McGill* on February 16, 2025, was approved with 57.3% of the vote.

[2] Plaintiff is a second-year law student at McGill’s Faculty of Law. She is Jewish and of Israeli national origin, having moved to Montréal from Israel to pursue her studies as an international student. She is a member of Defendant the *Law Students’ Association of McGill University* (“**LSA**”) since 2024.

[3] According to Plaintiff, the Referendum proposed to constitutionally entrench within the LSA’s governing documents an academic and cultural boycott of Israeli academic institutions through the adoption of a new By-Law 15 that would:

3.1. Endorse the *Palestinian Campaign for the Academic and Cultural Boycott of Israel* (“**PACBI**”).

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<sup>1</sup> *Les juges de la Cour supérieure doivent soumettre leurs projets de jugement au Service de traduction, mais en raison de contraintes techniques et opérationnelles, une traduction du présent jugement ne peut être jointe immédiatement et sans délai conformément à l’article 10 de la Charte de la langue française. Après vérification auprès du Service de traduction, la traduction du présent jugement devrait être disponible sous peu, mais considérant que ce délai est de nature à priver les parties d’une résolution immédiate de leur litige le Tribunal émettra le présent jugement en langue anglaise, la traduction sera produite au dossier de la Cour dans les meilleurs délais. En optant pour cette solution, le Tribunal tient à souligner que dans la présente affaire, il est question d’une ordonnance qui ne met pas fin à l’instance. Une ordonnance dont l’exécution immédiate est intrinsèque et qui est fonction d’enjeux urgents. Par ailleurs, toutes les procédures étaient rédigées en anglais et toutes les pièces étaient en langue anglaise.*

<sup>2</sup> The Hansard records (the official report of UK parliamentary debates) indicate that this quote is from a speech made in 1943 - 1943 October 13, Hansard, United Kingdom Parliament, Commons, Coalmining Situation, Speaking: The Prime Minister (Winston Churchill), HC Deb, volume 392, cc920-1012. (hansard.millbanksystems.com).

- 3.2. Mandate the severance of all academic exchange agreements with Israeli institutions.
- 3.3. Create a standing “PACBI Committee” to enforce compliance with the boycott.
- 3.4. Constitutionally embed these measures indefinitely.<sup>3</sup>

[4] In support of her Application, Plaintiff alleges that the results (240 of 419 votes cast (57.3%) were in favour) fall short of the two-thirds (2/3) majority required by section 1 of the LSA’s Constitution for constitutional amendments.<sup>4</sup>

[5] At this provisional stage, she seeks to prevent the Referendum from producing its operative consequences, which she says are imminent.

[6] Concretely, she argues that as a result of the Referendum, she may lose access to academic opportunities considering the severance of all exchange agreements and programs with Israeli institutions, including with the Tel Aviv University. Plaintiff further contends that the measures to be implemented pursuant to the Referendum will subject her to a discriminatory framework for the remainder of her legal studies at McGill.

[7] This is yet another matter that pits one’s freedom of expression against another’s right not to be subjected to discrimination. The line separating these two constitutionally entrenched fundamental rights is often blurred, particularly when the intensely charged Israeli-Palestinian conflict serves as the backdrop.

[8] McGill University, a unique and world-renowned academic institution, has become the stage for several iterations of this same debate in recent years.

[9] While some may view this with concern, the Court sees it rather as a testament to the remarkable opportunity afforded to students attending such an institution to engage with issues as divisive and polarizing as these, within a country that allows these disputes to unfold in a judicial forum rather than through less desirable alternatives.

[10] The courtroom was full, and the attorneys who argued the case were exceptionally well prepared. In these circumstances, there is far more to commend than to criticize.

[11] For the reasons detailed hereinafter, the Court is of the view that the Plaintiff has not discharged her burden of establishing that she is entitled to the issuance of the injunctive reliefs sought at the provisional stage.

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<sup>3</sup> Exhibit P-8.

<sup>4</sup> Exhibit P-13.

## II- ANALYSIS

[12] The only question the Court must decide is whether the Plaintiff is entitled to a provisional injunction staying the Referendum and the measures to be implemented pursuant to it. The Plaintiff bears the burden of demonstrating that the criteria justifying the issuance of such an injunction are met.

[13] Let's begin with a quick reminder on the fundamentals of a provisional injunction.

[14] Provisional injunctions are governed by articles 510 and 511 C.C.P., which reserve this remedy for urgent situations where the applicant appears to be entitled to it and where it is necessary to prevent the occurrence of serious or irreparable harm.

[15] This remedy remains discretionary and exceptional. Since the Court does not have the benefit of a complete record, it must be granted sparingly and only in compliance with strict conditions<sup>5</sup>.

[16] The criteria for a provisional injunction are well established in the case law: (i) urgency; (ii) the existence of a serious issue to be tried, a *prima facie* case, which must be strong when mandatory injunctions are sought; (iii) the existence of serious or irreparable harm; and (iv) a balance of convenience favouring the party seeking the order. These criteria are cumulative<sup>6</sup>.

[17] This case carries a strong sense of *déjà vu*.

[18] In *Association étudiante de l'Université McGill v. X7*, a strikingly similar matter involving many of the same parties, the Court of Appeal in 2025 reiterated that when restrictions on freedom of expression are at issue, the test that must be applied differs from the traditional test and an injunction should only be granted in the rarest, most exceptional, and clearest of cases.

[19] Judicial intervention is warranted only where the content of the impugned statements, or the measures adopted to give them effect, are so plainly defamatory or impossible to justify that injunctive relief becomes necessary.

[20] This is the framework that must be applied to this case.

[21] Despite the Plaintiff's skilful effort to frame the matter differently, freedom of expression remains the central issue to her Application. The consequences of the

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<sup>5</sup> *Association générale des étudiants de la Faculté des lettres et sciences humaines de l'Université de Sherbrooke c. Roy Grenier*, 2016 QCCA 86, par. 39 et 40; *Entreprises Burak inc. c. Ville de Montréal*, 2019 QCCS 2783, par. 16 à 19; *Ville de Baie-d'Urfé c. Hirtle*, 2020 QCCS 2975, par. 10.

<sup>6</sup> *Lacroix c. 13442624 Canada inc.*, 2023 QCCS 2099, par. 8; *Association lavalloise pour la déficience intellectuelle et le trouble du spectre de l'autisme c. Centre intégré de santé et de services sociaux de Laval*, 2023 QCCS 4265, par. 17.

<sup>7</sup> *Association étudiante de l'Université McGill c. X*, 2025 QCCA 475.

Referendum, and the implementation of the measures it approved, are the natural extension of opinions and viewpoints reflecting a strong sentiment in favour of boycotting Israeli institutions.

[22] For purpose of clarity, this judgment is *not* about the Israeli-Palestinian conflict. It is rather about the safeguard of freedom of expression and the implementation of measures that were democratically voted upon by a student body.

[23] The Court must refrain from intervening in a manner that would jeopardize either the Defendants' or the Plaintiff's right to express their views, including their ability to adopt measures within their academic institutions that give effect to those views and opinions.

[24] Does the Plaintiff's Application present a rare, exceptional, and manifest case? Are the Referendum and the measures to be implemented pursuant to it so clearly defamatory or impossible to justify as to warrant the Court's immediate intervention at this provisional stage?

[25] The Court does not believe so. At least not at this provisional stage.

[26] Here's why.

A- **Urgency has not Been Established**

[27] The case law is replete with decisions holding that the alleged urgency must be real and not artificially created by the party invoking it. Urgency is a fundamental condition; if it is not met, the application is fatally undermined.

[28] The colorful remarks of the Honourable Donald Bisson, J.S.C., in *Gestion Solodarmo inc. c. Sawatzky*<sup>8</sup> refer to a "9-1-1" type urgency, akin to requiring an immediate blood transfusion, a tree about to be cut down by pruning shears, or a wall on the brink of being destroyed by a wrecking ball.

[29] Only "extremely urgent" cases should be considered for the granting of a provisional interlocutory injunction. This urgency requires the applicant to act diligently and must not arise from delay in bringing the proceeding.

[30] In short, the urgency must be "immediate and apparent."<sup>9</sup>

[31] Here, the evidence does not support this immediate and apparent type of urgency. Nor does it establish the need for an urgent intervention of the Court to prevent "something" from occurring in the next 10 days.

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<sup>8</sup> *Gestion Solodarmo inc. c. Sawatzky*, 2019 QCCS 3567, par. 25, citée dans 2786630 *Canada inc. (Vitrerie Vision 2000) c. Simoneau*, 2021 QCCS 2166, par. 12.

Voir également : *McCrory c. Collège Jean-Eudes inc.*, 2019 QCCS 2595, par. 19.

<sup>9</sup> *Pettenon Cosmetics c. De Michele*, 2020 QCCS 421, par. 29.

[32] In fact, a central question remains unanswered: What is expected to occur over the next 10 days? What are we trying to prevent from happening?

[33] The Court asked this question several times to both the Plaintiff and the Defendants. None of the parties were able to articulate a straightforward answer.

[34] This underscores that the debate before the Court today is seemingly driven more by political considerations than by strictly legal ones. In fact, the only substantive conclusion sought by the Plaintiff at this provisional stage is framed as follows:

**ORDER** Defendant, Law Students' Association of McGill University, its officers, directors, agents, assigns and employees **to suspend the implementation of the results of the Referendum** entitled "Referendum Regarding the Academic and Cultural Boycott of Israel to preserve Academic Freedom", **including** but not limited to the **adoption of proposed By-Law 15, the amendments to By-Law 9** and the creation of the **PACBI Committee**.

[Emphasis added]

[35] It is a broad conclusion only seeking the suspension of the Referendum and the measures it seeks to implement, without many details.

[36] In the end, the burden to provide a clear and convincing answer to this question in a manner to establish imminent and immediate urgency squarely fell on the Plaintiff.

[37] In the Court's view, she failed to do so.

[38] For example, the anticipated severance of all exchange agreements and programs with Israeli institutions, including Tel Aviv University, that may result from the Referendum will not be implemented within the next 10 days. In fact, the evidence indicates that such programs are already on hold due to existing governmental travel restrictions affecting Israel<sup>10</sup>.

[39] In addition, Plaintiff has availed herself of the required internal mechanisms to contest the Referendum by filing a petition before the SSMU Judicial Board contesting the validity of the Referendum<sup>11</sup> who has confirmed that the hearing would take place within a few weeks<sup>12</sup>.

[40] In addition to this personal contestation, on March 22, 2026, the Impleaded Party, the *Jewish Law Students' Association* ("**JLSA**") – of which the Plaintiff has been a member since 2024 – filed a complaint before the SSMU Judicial Board contesting the result and raising significant procedural voting irregularities.<sup>13</sup>

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<sup>10</sup> Exhibit RB-2.

<sup>11</sup> Exhibit P-9.

<sup>12</sup> Exhibit P-10.

<sup>13</sup> Exhibit P-15.

[41] The Court of appeal in *Association étudiante de l'Université McGill v. X*<sup>14</sup> reminded that great caution and restraint must be exercised when courts consider intervening in the internal affairs of a private legal person. The Court should not interfere in the internal affairs of the Association and the University in this case, at least not until they have exhausted the process established for that purpose.

[42] As such, the Court concludes that urgency has not been established by Plaintiff at this provisional stage.

[43] This is sufficient to dismiss the Plaintiff's Application for the provisional injunctive reliefs sought. That being said, considering the sensitivity of the issue, the Court will continue the analysis in respect to the other criteria.

**B- Appearance of Right: The Elevated Test of Association étudiante de l'Université McGill v. X is Not Met**

[44] The "serious issue to be tried" condition for obtaining a provisional injunction is generally not a demanding one.

[45] A lengthy examination of the merits is often neither necessary nor desirable, except in exceptional circumstances, such as where the interlocutory injunction would effectively amount to a final disposition of the dispute.

[46] Even though the "serious issue" threshold is usually low, a provisional injunction may be granted only where the applicant appears to have a right to it. The judicial process must be grounded in factual elements of sufficient substance to support it, and not on arbitrary approximations.

[47] That is the traditional test.

[48] But as the Court of Appeal indicated in *Association étudiante de l'Université McGill v. X*<sup>15</sup>, where a request for injunctive relief touches upon any form of limitation on freedom of expression, the traditional test for such relief must be applied with heightened scrutiny, exceeding the ordinary threshold of a mere serious issue to be tried:

[60] Cela dit, une distinction importante, voire fondamentale, doit être apportée à ce principe lorsque l'injonction interlocutoire demandée, comme en l'espèce, vise à restreindre la liberté d'expression. Dans un tel cas de figure, la jurisprudence, de façon constante, a plutôt établi que ce test traditionnel n'est pas alors celui qui est approprié. **Lorsque l'injonction recherchée vise à interdire la diffusion de propos ou à autrement restreindre la liberté d'expression, ce n'est que dans les cas manifestes et extrêmement rares qu'une injonction pourra être prononcée, étalon**

<sup>14</sup> *Association étudiante de l'Université McGill c. X*, 2025 QCCA 475, par. 80.

<sup>15</sup> *Association étudiante de l'Université McGill c. X*, 2025 QCCA 475.

**qui va bien au-delà de la simple détermination du caractère frivole ou vexatoire d'une question sérieuse à trancher.**

[Emphasis added – references omitted]

[49] Plaintiff recognizes that this elevated test put forward in *Association étudiante de l'Université McGill v. X* is applicable to any injunction seeking to curtail or restrict freedom of expression and requiring applicant to demonstrate that the expression is so manifestly wrongful that the action would almost certainly succeed.

[50] But she argues that this elevated test does not apply here, contending that what she is asking for is to stay the binding operational consequences of the Referendum, namely the mandatory severance of exchange agreements, the creation of a policing committee and the indefinite constitutional entrenchment of these measures.

[51] The Court does not share the Plaintiff's assessment.

[52] A similar type of argument was in fact presented in the *Association étudiante de l'Université McGill v. X* and dismissed by the Court. In that case it was argued that the issue was not one of freedom of expression but rather the violation of a purely contractual right.<sup>16</sup>

[53] After a full day of hearing, five detailed affidavits - including two from Jewish students who support the Referendum and the boycott measures against Israeli institutions - and impressive written submissions supported by relevant case law and authorities, the Court can confidently state that freedom of expression lies squarely at the core of the Plaintiff's Application.

[54] The argument advanced by the Plaintiff is predicated on an alleged difficulty in moving from expression in its cognitive or passive form to its concrete implementation. However, this transition has no bearing on the scope of the protection afforded to expression.

[55] Freedom of expression is a core value in our democratic society and must be given a liberal interpretation. The protection afforded to this freedom - the ability to express oneself, including the expression of views that may be unwelcome - must be interpreted just as broadly.

[56] This protection applies to every stage of the expressive process: from the formation of ideas to their dissemination, and ultimately to their implementation through concrete measures that bear a direct connection to the underlying thought or viewpoint.

[57] This constitutional protection cannot be surgically divided according to the particular stage of evolution at which expression happens to be at a given moment.

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<sup>16</sup> *Association étudiante de l'Université McGill c. X*, 2025 QCCA 475, par. 64.

[58] Accepting the Plaintiff's argument would be tantamount to denying protection to the final chapter of an opinion or viewpoint and would render impossible any concrete measures implementing it.

[59] This would be contrary to the findings of the Supreme Court in *Irwin Toy Ltd. v. Quebec (Attorney General)*<sup>17</sup>:

**"Expression" has both a content and a form, and the two can be inextricably connected.** Activity is expressive if it attempts to convey meaning. That meaning is its content. **Freedom of expression was entrenched in our Constitution and is guaranteed in the Quebec Charter so as to ensure that everyone can manifest their thoughts, opinions, beliefs, indeed all expressions of the heart and mind, however unpopular, distasteful or contrary to the mainstream.** Such protection is, in the words of both the Canadian and Quebec Charters, "fundamental" because in a free, pluralistic and democratic society we prize a diversity of ideas and opinions for their inherent value both to the community and to the individual. [...]

The content of expression can be conveyed through an **infinite variety of forms of expression**: for example, the written or spoken word, the arts, and even physical gestures or acts. While the guarantee of free expression protects all content of expression, certainly violence as a form of expression receives no such protection. [...]"

[Emphasis added]

[60] In the Court's view, the implementation of an opinion or viewpoint must receive the same protection as the thought process that gave rise to it.

[61] The Referendum and the measures it seeks to implement represent the final chapter in the expression of a viewpoint, namely that Israeli institutions should be subject to a boycott. One may certainly disagree with that view and with its implications, but in the Court's view, it nevertheless falls squarely within the scope of the protection afforded to freedom of expression.

[62] To sum it up, the Court therefore concludes that:

- 62.1. The elevated test established by the Court of Appeal in *Association étudiante de l'Université McGill v. X*<sup>18</sup> is applicable to the present case.
- 62.2. The Referendum and the measures adopted pursuant to it lie at the implementation end of the freedom-of-expression spectrum. Boycott is a form of expression that deserves protection<sup>19</sup>.

<sup>17</sup> *Irwin Toy Ltd. v. Quebec (Attorney General)*, [1989] 1 S.C.R. 927.

<sup>18</sup> *Association étudiante de l'Université McGill c. X*, 2025 QCCA 475.

<sup>19</sup> *Association professionnelle des ingénieurs du Gouvernement du Québec c. Procureure générale du Québec*, 2019 QCCA 1171, par. 42.

62.3. The Plaintiff's Application does not present a rare, exceptional, and manifest case justifying a provisional intervention of the Court.

62.4. The Referendum and the measures to be implemented pursuant to it are not so clearly defamatory or impossible to justify as to warrant the Court's immediate intervention at this provisional stage.

C- **Plaintiff has not Established Irreparable Harm**

[63] The party seeking a provisional injunction must demonstrate that it would suffer irreparable harm if the application was not granted. The term *irreparable* refers to the nature of the harm rather than its magnitude. It is harm that cannot be quantified in monetary terms or that cannot be remedied, generally because one party cannot be compensated by the other<sup>20</sup>.

[64] Irreparable harm is harm that cannot be compensated by damages, or that can only be compensated with great difficulty<sup>21</sup>. A party seeking an interlocutory injunction must provide clear and convincing evidence that it will suffer such harm if its application is denied.

[65] Precise allegations supported by facts are required.

[66] Furthermore, a person's direct and personal interest in bringing a matter before the courts must stem from a distinct right that is their own, personal and attached to their own individuality, rather than to that of the society, community, or group to which they belong.

[67] In the absence of a demonstration of a specific and personal prejudice, an applicant cannot claim the prejudice suffered by a broader collective, even if that prejudice affects the applicant as a member of that collective<sup>22</sup>.

[68] Here, from a practical standpoint, the Plaintiff argues that the measures to be implemented pursuant to the Referendum may deprive her of:

68.1. Academic opportunities, pointing in particular to the severance of all exchange agreements with Israeli institutions, including Tel Aviv University.

68.2. Her right to be free from discrimination based on ethnicity, religion, political beliefs, and national origin, as well as her right to be free from discriminatory harassment on a daily basis.

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<sup>20</sup> *RJR – MacDonald Inc. c. Canada (Procureur général)*, (1994) 1 R.C.S. 311; *Association étudiante de l'Université McGill c. X*, 2025 QCCA 475.

<sup>21</sup> *Groupe CRH Canada inc. c. Beauregard*, 2018 QCCA 1063; *Diez c. Club de chasse et pêche du comté de Wolfe inc.*, 2025 QCCS 1942.

<sup>22</sup> *Association étudiante de l'Université McGill c. X*, 2025 QCCA 475, par. 89-91.

68.3. The full value associated with her eventual law degree from McGill University.

[69] All of which constitute irreparable harm in Plaintiff's view.

[70] The Court disagrees.

[71] Let's turn our attention to each of these alleged causes for irreparable harm.

***i) There is no Loss of Academic Opportunities***

[72] The Application is silent as to whether Plaintiff actually intends to pursue such opportunities. There is no mention of a live application, no indication of ongoing efforts, and no evidence of any concrete plan to participate in an exchange program.

[73] Moreover, the Court cannot overlook the fact that the Plaintiff is an Israeli citizen, a circumstance that casts serious doubt on the necessity of an exchange program for her to access academic opportunities to which she is presumably entitled by virtue of her Israeli citizenship.

[74] Besides, from an administrative standpoint, the exchange program with the Tel Aviv University has been suspended by McGill University for the time being considering the governmental travel restrictions<sup>23</sup>.

***ii) The Discriminatory Impact has not been Established.***

[75] As for the other grounds invoked to support Plaintiff's claim of irreparable harm - namely the alleged violation of her Charter protected rights to dignity, to be free from discrimination based on ethnicity, religion, political beliefs, and national origin, and her right to be free from discriminatory harassment - the Application provides no adequate evidence establishing such violations.

[76] The Court in no way seeks to minimize the potential consequences the Plaintiff anticipates following the adoption and implementation of the Referendum, or their possible impact on her fundamental rights.

[77] That said, at this provisional stage, what was required was a precise and compelling demonstration of the imminent materialization of the harms she alleges. That demonstration is simply absent from the Plaintiff's Application and evidence adduced in support thereto.

[78] Concrete and precise evidence is required when dealing with alleged violations to fundamental rights.

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<sup>23</sup> Exhibit RB-2.

iii) **Impact on the Value of Plaintiff's Eventual Law Degree has not been Established**

[79] During his pleadings, Plaintiff's attorney attempted to frame alleged reputational harm to McGill University as prejudice suffered by the Plaintiff herself.

[80] He argued that, since the filing of the Plaintiff's application on March 23, 2026, media coverage in the *National Post*<sup>24</sup> and the resignation of Jonathan Amiel, Chair of the McGill Law School Faculty Advisory Board and a course lecturer<sup>25</sup> have prompted McGill to take a firm position<sup>26</sup> against the Referendum.

[81] This, he suggested, places McGill University in disrepute. When pressed on how this purported harm to McGill University translates into a prejudice for the Plaintiff, counsel invoked the supposed impact on the value of her eventual degree.

[82] With respect, this assertion is, at best, entirely unsupported.

[83] McGill is an internationally recognized academic institution whose stellar reputation is the envy of many around the globe. To suggest that the value of the law degree the Plaintiff may one day obtain would be diminished simply because the Court does not issue an injunction is far fetched and completely unfounded.

D- **Balance of Inconvenience Favours the Defendants**

[84] The balance of inconvenience requires the Court to determine which of the parties will face the greater inconvenience depending on whether the injunction is granted or refused.

[85] The Plaintiff argues that, if the injunction is refused, she will be subjected to a discriminatory framework for the remainder of her legal studies at McGill. She also contends that the Referendum has far-reaching and permanent consequences for the LSA's constitution.

[86] Conversely, she submits that if the injunction is granted, freedom of expression would remain intact for all members of McGill's LSA to advocate pro-Palestinian views, the only effect being that the severance of academic partnerships would be temporarily stayed pending a decision on the merits.

[87] Her attorney also attempted to infer fault from the Defendants' refusal to commit to not proceeding with the implementation of the measures approved under the Referendum.

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<sup>24</sup> Exhibit P-18.

<sup>25</sup> Supplemental Affidavit of Rachel Banks, par. 12-14.

<sup>26</sup> Exhibit P-19.

[88] The Court disagrees.

[89] As previously noted, the Referendum and the measures adopted pursuant to it lie at the implementation end of the freedom-of-expression spectrum. Freedom of expression is constitutionally protected and cannot be dissected into stages depending on the point along its evolution at which expression happens to fall.

[90] Moreover, granting the injunction would deprive the members who voted in favour of implementing the Referendum measures of the ability to advance their criticisms and demands, views with which one may or may not agree, but which nonetheless represent the primary expression of their social and political ideas and of their freedom of expression.

[91] Finally, as for the alleged permanence of the measures adopted pursuant to the Referendum, this is simply not the case.

[92] The Court sees no reason why a subsequent referendum could not reverse any measure that has been approved, nor why the implementation of those measures could not likewise be undone.

[93] Similarly, the Court fails to see how the judge who will ultimately hear the case on the merits would be unable to revisit or reverse what has been done. At the very least, such permanence cannot be inferred from the evidence submitted in support of the Plaintiff's Application.

### III- CONCLUSION

[94] A few final remarks are warranted.

[95] First, the Court wishes to reiterate that it is mindful of the sensitive nature of the issues raised by the Referendum and their alleged impact on the daily lives of students and faculty alike.

[96] These issues warrant a full and thorough debate, one that simply cannot be undertaken at this provisional stage.

[97] For example, the question of what voting threshold was required for the Referendum to be valid is the subject of conflicting views and interpretations.

[98] The Referendum is muddled by a multitude of "*Whereas*" clauses and only six operative resolutions. There appears to be genuine confusion as to whether the measures adopted pursuant to the Referendum concern amendments to the existing By-Law 9 and the adoption of a new By-Law 15, or whether they should instead be treated as a constitutional amendment.

[99] The distinction may prove to be important, as the voting thresholds differ significantly: amendments to a by-law or the adoption of a new by-law require only a simple majority, whereas a constitutional amendment requires a two-thirds special majority.

[100] That said, this point of contention between the parties should not be allowed to obscure the broader picture. The core issue before the Court concerns the boycott measures to be implemented pursuant to the Referendum and their impact on the Plaintiff's fundamental rights.

[101] This is, at its essence, a freedom-of-expression matter.

[102] *'They lost!'* was a refrain repeated several times during Plaintiff's attorney's pleadings. With respect, the reality appears somewhat more nuanced. And the Court cannot persuade itself that all of this can be reduced to a mere threshold issue. Certainly not at this provisional stage.

[103] Plaintiff's attorney also argued that this case is not about freedom of expression, but rather about discrimination. However, the line between these two fundamental, Charter-protected rights is delicate and requires a full and thorough debate, one that cannot properly be undertaken at this provisional stage.

[104] A final word on the position expressed on March 24, 2026, by Professor H. Deep Saini, President and Vice-Chancellor of McGill University, opposing the Referendum<sup>27</sup>.

[105] His statement contains very strong assertions, made at a time when the Court was already seized of the matter. Timing for such a statement was probably not ideal.

[106] Nevertheless, the Court appreciates that navigating the turbulent waters of such a polarizing debate is undeniably a delicate exercise in public relations. Yet a university is, by its very nature, a privileged forum for the expression of ideas and opinions of all kinds, including on complex or contentious subjects that engage major social and political issues. Put differently, it comes with the territory.

[107] While the Court appreciates the position taken by President and Vice Chancellor Saini in opposing the Referendum, public-relations considerations respond to imperatives quite distinct from those that guide the Court in adjudicating the legal issues between the parties.

[108] Hopefully McGill will intervene in this debate at the interlocutory stage and take a formal position supported by a detailed affidavit articulating the University's legal stance with respect to the Referendum and the measures implemented thereto.

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<sup>27</sup> Exhibit P-19.

**FOR ALL THESE REASONS, THE COURT:**

[109] **DISMISSES** the Plaintiff's Application for the issuance of injunctive reliefs at the provisional stage.

[110] **THE WHOLE**, costs to follow.

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**LUC MORIN J.S.C.**

**Mtre Nicholas Chine**

STEIN & STEIN INC.

**Mtre Michael Hollander**

CHOUKE HOLLANDER S.E.N.C.R.L.

Co-Attorneys for the Plaintiff

**Mtre Alexandre B. Romano**

**Mtre Julianna Duholke**

MMGC AVOCATS

Attorneys for the Defendant, Law Students' Association of McGill University

**Mtre Pierre-Luc Bouchard**

Attorney for the Defendant, Law Students 4 Palestine at McGill

**Mtre Corey Omer**

**Mtre Georges Pollack J.**

DAVIES WARD PHILLIPS & VINEBERG

Attorneys for the Impleaded Party, Jewish Law Students' Association of McGill University

**Mtre Johanna Mortreux**

IMK S.E.N.C.R.L./ IMK L.L.P.

Attorney for the Impleaded Party, McGill University

Hearing date: March 26, 2026