

How to intervene at the Supreme Court of Canada

This factsheet goes over the general steps for intervening in a case before the Supreme Court of Canada (SCC). It is meant to serve as general legal information and is not legal advice. The rules and requirements for intervening at other courts may vary by jurisdiction. The lawyer that you are working with will be your best guide throughout the intervention process.

To stay up to date on SCC cases, you can sign up for their mailing list or keep an eye on their bulletins.

There are **six key steps** to intervening in a case before the Supreme Court of Canada:

1 DECIDING TO GET INVOLVED

There are many things to consider when deciding whether to get involved in a particular court case. Here are some key considerations that can help guide your decision-making:



01
Deciding to
Get Involved



02
Finding a
Lawyer



03
Determining
Your Arguments



04
Submitting a Motion
for Leave to Intervene



05
Drafting an
Intervention Factum



06
Presenting Oral
Arguments

CASE CHARACTERISTICS

How much of the case is part of a larger issue?

YOUR CONNECTION TO THE CASE

Do you have expertise in the issues raised?

Will the case affect the people you work with?

PRACTICAL CONCERNS

Do you have the capacity to get involved?

Are there other advocacy avenues you could pursue instead?

Do you have something unique to bring to the case beyond what parties are already saying?

POTENTIAL IMPACT

What would impact look like to you, and how likely are you to achieve it?

For more on measuring impact when it comes to Feminist Strategic Litigation, check out [this factsheet](#).

2

FINDING A LAWYER

Many gender-based violence organizations have lawyers in their networks. Reaching out to lawyers you know is a good first step to finding a lawyer to work with. If they aren't able to work with you, they may know someone who can.

If you don't know any lawyers, you could check in with other organizations in your network to see if they have any suggestions. Organizations local to you may have the best suggestions for lawyers in your community, but you can also reach out to a national organization like LEAF to see if we know anyone who might be a good fit in your area.

You can also use online sources to find lawyers who have represented organizations like yours in court cases in the past. For example, you can enter names of organizations into the search feature on [CanLII](#), an online case database. If the organization has intervened in a case, you should be able to see what the case was about, when it happened, and who represented them.

HOW MUCH DOES IT COST TO WORK WITH A LAWYER?

Many lawyers and law firms will take on an intervention pro bono (for free). Sometimes you may be asked to pay "disbursements," which are expenses your lawyer incurs as part of their work (for example, photocopying and filing fees). These can be in the range of \$500–1,000.

A COUPLE OF GOVERNMENT PROGRAMS THAT PROVIDE FUNDING FOR INTERVENTIONS:

The [Court Challenges Program](#) provides funding for interventions related to human rights and official language rights.

The [Law Foundation of BC Public Interest Law Participation Fund](#) provides funding for interventions by organizations or individuals residing in British Columbia.

3

DETERMINING YOUR ARGUMENTS

Determining your arguments is a team effort, where you bring the subject matter expertise and the lawyer helps translate that into legal arguments.

Meeting with other potential interveners can also help you decide what to include in your arguments and ensure that you're bringing a unique perspective.

SOME QUESTIONS TO CONSIDER IN THINKING ABOUT POTENTIAL ARGUMENTS:

What unique perspective can you offer on the issues raised, drawing on your particular expertise?

What should the Court know about how their decision could affect the communities you work with?

Which issues in the case are most important to you?

What points have the parties already raised? What have they missed?

4

SUBMITTING A MOTION FOR LEAVE TO INTERVENE

What is a motion?

To intervene in an SCC case, you have to put together a motion to intervene, which is essentially a request to the court for permission to intervene. To do this, you'll work with a lawyer to put together a "motion record," which has three main parts:

NOTICE OF MOTION

A court document that tells the other parties that you are bringing a motion, what you are asking the court for (i.e., permission to intervene), and on what basis.

AFFIDAVIT

The evidence for why you should get to intervene. This includes information about your organization, your past intervener experience (if applicable), and your interest and expertise related to the case.

MEMORANDUM OF ARGUMENT

The legal arguments for why you should get to intervene. Here, you'll outline the test for leave to intervene and how you meet the test:

- You have a real and substantial interest in the case
- You bring a unique and useful perspective/expertise on the issue

Finally, you'll work with your lawyer to submit a "notice of name" form to confirm the name of your organization

[Here's](#) an example of a motion that LEAF put together for *Ahluwalia v. Ahluwalia*.

5

DRAFTING AN INTERVENTION FACTUM

Once you get leave to intervene, you'll draft an intervention factum, which is a written document that outlines your perspective and arguments on the issue(s) in the case in detail.

[Here's](#) an example of an intervention factum that LEAF put together for *Ahluwalia v. Ahluwalia*. You can also browse other LEAF intervention factums [here](#).

6

PRESENTING ORAL ARGUMENTS

Your lawyer will also have the opportunity to present a condensed version of your arguments orally before the judges at a hearing. Oral arguments are typically limited to five minutes, during which judges have the opportunity to ask any questions they might have.

You can find examples of oral arguments from intervenors in *Ahluwalia v. Ahluwalia* [here](#) – click the "Webcast" tab and select the 2025-02-12 hearing.



Women and Gender
Equality Canada

Femmes et Égalité
des genres Canada

Canada