Court File No.: IMM-7743-26

FEDERAL COURT

BETWEEN:

[redacted] and

[redacted], a minor

Applicants

- and -

THE MINISTER OF CITIZENSHIP AND IMMIGRATION and

THE MINISTER OF PUBLIC SAFETY AND EMERGENCY PREPAREDNESS

Respondents

APPLICANTS' WRITTEN REPRESENTATIONS IN REPLY

(Rule 369(3) of the Federal Courts Rules)

I. OVERVIEW

1. This motion is narrow. It asks the Court to regularize and accept the Applicants' reply materials — served on the Respondents on June 3, 2026 and submitted by e-filing on June 4, 2026 under confirmation No. [redacted] — a single one-day filing step after timely service. It does not reopen the merits of the underlying motions and introduces no new evidence.

2. The opposition raises nothing new. Every point in it — the non-lawyer "representation" theory, the "reply evidence" objection, and the assertion that the underlying motions are "meritless" — was already raised by the Respondents and already answered in the Applicants' reply of June 3, 2026 and motion of June 16, 2026. The Respondents recite the four-part extension test (opposition ¶¶4, 31), but under each head their substance simply re-argues those same points and matters reserved for the hearing of the underlying motions; the opposition never shows why reply materials served in time, acknowledged, and uploaded one day later should be refused.

3. A reply under Rule 369(3) answers what is new. As nothing here is, the Applicants rely on and adopt the June 3 reply and the June 16 motion and will not re-litigate points already joined. The Court should keep this motion in its proper frame — extension, regularization, and any directions it considers just — and decline the invitation to re-open and re-debate settled matters. The opposition does not stop at resisting regularization: it asks the Court to dismiss the **entire** application for leave and judicial review ("ALJR") off a single one-day filing step, branding the underlying motions "completely meritless," "abuses of process," and "bound to fail" (opposition ¶¶35, 38) — an overreach answered in Part V and reflected in the relief sought.

II. THE PROPER FRAME

4. This motion is, in substance, a regularization of a one-day filing irregularity after timely service, governed by Federal Courts Rules ("FCR") 71.1, 72, 72.1 and 363. The materials were served on the Respondents' designated address before 5:00 p.m. Eastern Time on June 3, 2026 (so service was effective that day: FCR 143) and acknowledged the same day; only the e-filing followed on June 4. Under FCR 71.1, a document sent to the Registry is "submitted for filing" when it is "received and dated by the Registry" (and any fee is paid), the time of an electronic transmission being fixed "in the Eastern time zone" (FCR 71.1(2)); under FCR 72, where filing is in issue the Administrator refers the document to the Court, which may accept it; and under FCR 72.1, "[u]nless the Court directs otherwise, a document that is accepted for filing is deemed to have been filed at the time the document was submitted for filing." FCR 363 requires the supporting affidavit for facts not appearing on the Court file. To the extent any extension of time is needed, FCR 8 permits it before or after the period has expired — supporting acceptance of the June 4 submission nunc pro tunc.

5. The dismissal the Respondents seek is not available on this motion. Non-compliance with the Rules is a curable irregularity, not a nullity (FCR 56). By FCCIRPR Rule 4(1), the immigration rules do not incorporate Part 4 of the FCR, so Rule 221 (motion to strike) does not apply. The Court's residual plenary power to strike a judicial-review application is reserved for the exceptional case that is "so clearly improper as to be bereft of any possibility of success" — a "show stopper" or "knockout punch" (Canada (NR) v JP Morgan Asset Management, 2013 FCA 250 at ¶¶47-48, citing David Bull Laboratories v Pharmacia, [1995] 1 FC 588 at 600). A one-day filing step after timely service comes nowhere near that threshold; and JP Morgan confirms (¶48) that raising matters "that should be advanced at the hearing on the

merits" frustrates the summary nature of judicial review.

III. THE OPPOSITION'S POINTS WERE ALREADY ANSWERED — AND ARE NOT THE SUBJECT OF THIS MOTION

6. **Non-lawyer "representation."** Already answered: Rosa is entitled to act in person (FCR 119(1)), and did: she swore that "Victor is not my lawyer," that he charges no fee, signed no document as counsel, and that she gave the instructions and authorization for her own materials (June 3 reply, ¶¶8-9). The Respondents themselves concede there is "no evidence that Mr. Gutierrez Verduzco is a lawyer, nor does he represent himself to be one" (opposition ¶20) — which directly undercuts the objection they press. Any residual concern about the minor is met by directions under FCR 115 and 121, not by dismissing a child's application on a one-day filing motion.

7. **The "respective reply" mischaracterization.** The opposition frames "one motion seeking an extension of time for both the Applicants and Mr. Gutierrez Verduzco to file their **respective** 'Reply Materials.'" That is incorrect: Mr. Gutierrez Verduzco filed no reply. There is one reply — Rosa's — "in relation to motion documents #7 and #14" (the June 16 motion); the motion seeks only to cure its one-day upload. The Respondents elsewhere call the materials "identical" (opposition ¶¶10, 12): materials cannot be two "respective" (distinct) replies and "identical" at once. The Respondents themselves served separate motion records (their own ¶9, "Documents #20 to 27"); one consolidated reply mirrors how they proceeded.

8. **"Reply evidence."** Already answered: the June 3 materials are a reply memorandum and a short confirmation affidavit carrying **no exhibits** (the June 3 reply). The affidavit tenders no new evidentiary package; where it refers to the travel/eTA chronology, it does so only because the Respondents opened that door — their s.18.2 response asserted there was "no evidence that they have tried, and failed, to book a flight back to Canada" and that it was not "clear why any airline would refuse to board the Applicants" (the Respondents' s. 18.2 response). Rosa answered precisely that: "That paragraph opened the door to the eTA and airline chronology. I do not introduce that chronology as a new free-standing claim. I use it to answer the exact allegation" (June 3 reply memorandum, ¶40). Olia recognizes that, while a reply memorandum carries argument, reply evidence "has [been] admitted" from time to time where a matter has been put in issue (2005 FC 315 at ¶3); Taiyese confirms "reply argument" is permitted (2024 FC 1730 at ¶9). A responsive affidavit answering facts the Respondents themselves raised is

necessary, not merely supplementary: FCR 363 requires the affidavit for facts not on the Court file, and the Rules are to be "interpreted and applied … so as to secure the just, most expeditious and least expensive outcome of every proceeding" (FCR 3). The Respondents cannot put the travel/eTA matter in issue and then resist the very affidavit that answers it — which is, in any event, offered subject to the Court's leave. Any discrete admissibility or weight question is for the judge hearing the underlying motions, not a ground to refuse a one-day regularization.

9. **"Meritless" / "injunction not available."** This is a merits conclusion reserved for the hearing of the underlying motions, where Rosa expressly reserved the full record (June 3 reply, ¶¶5-6); it does not bear on whether the timely-served reply materials should be accepted. On an extension motion the threshold is only an arguable case, which the reply plainly meets; and in any event s. 18.2 of the Federal Courts Act empowers interim orders on a judicial review. The Respondents are themselves inconsistent about the very relief they call meritless — a "mandatory interlocutory injunction" (opposition ¶2) and a "permanent interlocutory injunction" (¶10).

IV. THE PROPER QUESTIONS — THE EXTENSION FACTORS AND PREJUDICE

10. To the extent the four-part extension test (Canada (AG) v Hennelly, 1999 CanLII 8190 (FCA)) applies — as the Respondents invoke it — it is flexible: "an extension of time can still be granted even if one of the criteria is not satisfied" (Hogervorst, 2007 FCA 41 at ¶33), the overriding consideration being the interests of justice; "it is not necessary that all four criteria be satisfied" (Kiflom, 2020 FC 205 at ¶27). The Applicants meet it: the materials were served in time, with a one-day e-filing by a self-represented litigant abroad contending with translation and electronic-filing steps (reasonable explanation); Rosa swore her continuing intention in the June 3 affidavit served on the Respondents within time (continuing intention; Kiflom ¶34); the Respondents received and acknowledged the materials within time, so their only "prejudice" is the ordinary burden of litigating materials they already hold — de minimis, with "the interests of justice … the overriding consideration" above it (Mayow, 2021 FC 278 at ¶¶42-43; Kiflom ¶50); and the reply states an arguable case.

11. The Respondents received and acknowledged the materials within time and identify no concrete disadvantage from the one-day upload; the practical prejudice falls on the Applicants, especially the minor. Refusing to accept timely-served reply materials would keep the Court

from considering them in an urgent, return-related matter, while the administrative impediment Rosa has sworn to remains unresolved and the parent-child separation continues — even though the officer's Rule 9 statement, which the Respondents called accurate, was that she could return "without delay." It is the continued opposition to a one-day, timely-served filing — not that one-day upload — that defers resolution, and each day of deferral compounds the harm the interim relief was meant to prevent. Granting the extension, so the pending issues are decided on a complete record, is what serves the interests of justice (Pintea v Johns, 2017 SCC 23 at ¶4, on the fair treatment of self-represented litigants).

V. THE COST-OF-ANSWERING POINT FAILS — AND CANNOT DISMISS THE JUDICIAL REVIEW

12. The opposition's one genuinely new note is that answering the Applicants has become burdensome — and the Respondents deploy that burden, with the labels "completely meritless," "abuses of process," and "bound to fail" (opposition ¶¶35, 38), not merely to resist the one-day regularization but to seek dismissal of the **entire** ALJR. That bootstrapping fails at every step. First, the burden is self-inflicted: the Respondents were under no obligation to answer the reply materials; having chosen to, they cannot convert their own choice into a grievance. Second, the burden of responding to litigation is not "prejudice" in the extension test, which asks whether the delay impaired the responding party's ability to meet the case — it did not; a litigant's own effort to reply is never a basis to dismiss the opposing party's claim. Third, filing the motions a self-represented party is entitled to bring is not an "abuse of process"; dismissal of a judicial-review application remains reserved for the case that is "bereft of any possibility of success" (JP Morgan, above), which a one-day e-filing step after timely service comes nowhere near. Ending the entire judicial review over a one-day upload would be grossly disproportionate. Finally, the Respondents seek no costs, and none arise: there are no "special reasons" — conduct that is unfair, oppressive, improper, or in bad faith (Liu v Canada, 2024 FC 1516 at ¶17; FCCIRPR Rule 22).

VI. RELIEF SOUGHT

13. The Applicants ask the Court to:

(a) extend the time, nunc pro tunc to June 4, 2026, and accept for filing the Applicants' reply materials submitted under e-filing confirmation No. [redacted];

(b) decline the Respondents' request to strike or dismiss the underlying application as overbroad, premature, and outside the scope of this motion (Rule 221 not being incorporated, and the exceptional plenary-jurisdiction threshold for striking an application — "bereft of any possibility of success" — being nowhere near met: JP Morgan, 2013 FCA 250 at ¶¶47-48);

(c) in the alternative, give any directions the Court considers just under FCR 53, 55 and 60 and, if necessary, FCR 115 and 121; and

(d) make no order as to costs (FCCIRPR Rule 22).

14. Nothing in this reply concedes the Respondents' characterizations of the Applicants' materials, of Mr. Gutierrez Verduzco's role, or of the underlying motions. Those matters — including the representation, reply-evidence, and merits questions — belong, if relevant, to the hearing of the underlying motions and to any directions, not to dismissal of the application through an opposition to a one-day extension motion.

Dated at Montréal, Québec, this 23rd day of June, 2026.

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Applicant, self-represented, on her own behalf and, subject to the Court's directions, as mother of the minor Applicant

LIST OF AUTHORITIES

Authorities relied on by the Applicants

- Federal Courts Act, RSC 1985, c F-7, s. 18.2.
- FCCIRPR, SOR/93-22, rr. 4, 22.
- Federal Courts Rules, SOR/98-106, rr. 3, 8, 53, 55, 56, 60, 71.1, 72, 72.1, 115, 119, 121, 143, 363, 369.
- Canada (AG) v Hennelly, 1999 CanLII 8190 (FCA).

- Canada (MHRD) v Hogervorst, 2007 FCA 41 (and Grewal v Canada, 1985 CanLII 5550 (FCA), as cited therein).
- Olia v Canada (MCI), 2005 FC 315.
- Kiflom v Canada (MCI), 2020 FC 205 (and Larkman v Canada, 2012 FCA 204, as restated therein).
- Mayow v Canada (MCI), 2021 FC 278.
- Pintea v Johns, 2017 SCC 23.
- Canada (NR) v JP Morgan Asset Management (Canada) Inc., 2013 FCA 250 (and David Bull Laboratories (Canada) Inc. v Pharmacia Inc., [1995] 1 FC 588 (CA), as cited therein) — threshold to strike a JR application.
- Liu v Canada (MCI), 2024 FC 1516 (costs standard only).
- Taiyese v Canada (MCI), 2024 FC 1730 (the Respondents' own authority; relied on for ¶9).