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i. use of the information, (C)
ii. taking into account the interests of the Individual.

PART 50
NOM #13

Principle #6:
Shall #24

Information **SHALL** be sufficiently

a. accurate,
b. complete, and
c. up-to-date to minimize the possibility that inappropriate information may be used to make a decision about the Individual.

Principle #6:

SHALL #25:
"No Routine Update"

An Organization **SHALL NOT** routinely update Personal Information, unless

a. such a process is necessary to fulfil the purposes for which the information was collected.

Principle #7: SAFEGUARDS

Principle #7: Safeguards
SHALL #26: POP – security safeguards – appropriate to sensitivity

Personal Information **SHALL** be protected by security safeguards appropriate to the sensitivity of the information.

Principle #7: Safeguards
4 Obligations under Principle #7
SHALL #27 to Shall #30

Principle #7: Safeguards

Shall #27: POPI
Loss or theft;
Unauthorized
Access, use, copying, modification or disclosure

UNA ACCESS AND UNA DISCLOSURE

The security safeguards **SHALL** protect Personal Information against:

a. loss or theft; AND
b. unauthorized
   1. access;
   2. disclosure,

FAIL SNIC

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3. copying,
4. use, or
5. modification.

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Principle #7: Safeguards

Shall #28: Protect PII - irrespective of format in which it is held

Organizations SHALL protect Personal Information *regardless of the format* in which it is held.

Principle #7: Safeguards

SHALL #29:
Employee awareness – maintain confidentiality

→ IF EMPLOYEES → NURSE AND PERSONAL

Organizations SHALL make their employees[3] aware of the importance of maintaining the confidentiality of Personal Information.

SEE: ALSO JIA, BEASLEY, DENUSHOLLIE

Principle #7: Safeguards

SHALL #30: Disposal or Destruction

Care SHALL be used in the disposal or destruction of Personal Information, to:

a. prevent unauthorized parties
   i. from
   2. gaining access to "the information" (see Clause 4.5.3).

SEE: NIELWOLTAND
REF: AP
HM
AV
AS
AS "PARTIES"
AS FICTITIOUS
ASSISTANT
WORKERS
(b) NO LONGER INVOLVED
(c) RETAINED?

Principle 8: Openness
5 Obligations under Principle #8
Shall #31 to #35

Principle 8: Openness
SHALL #31: Policy and Procedures – readily available

An Organization SHALL make:

a. readily available to individuals,
b. specific information about its policies and practices
   i. relating to the management of Personal Information.

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(35) PAGE 52

Principle 8: Openness
SHALL #32 to #34

Principle 8: Openness
Shall #32: Open about its practices and policies with respect to management of PI

Organizations SHALL be open about their policies and practices with respect to the management of Personal Information.

Principle 8: Openness
Shall #33:
Organizations shall provide information about their:
Policies and practices without creating undue or unreasonable effort upon the applicant

Individuals SHALL be able to acquire information about an **Organization's** policies and practices without unreasonable effort.

Principle 8: Openness
Shall #34: Organizational Policies – Form – Generally Understandable

This information (policies and practices of the **Organization**) **SHALL** be made available in a form that is generally understandable.

Principle 8: Openness
SHALL #35

SHALL #35(A) to (E): contact; means; type of personal information; general account use; policies; and related organizations

This information made available **SHALL** include:

NEW ALTAND CANNOT BE INVOLVED IN PIPEDA

a. **Contact**: the name or title, and the address, of the person who is accountable for the **Organization's** policies and practices and to whom complaints or inquiries can be forwarded;
b. **Means**: the means of gaining access to personal information held by the **Organization**;
c. **Type of personal information**: a description of the type of personal information held by the **Organization**,
d. **General Account Use**: including a general account of its use;
Organization policies: a copy of any brochures or other information that explain the **Organization's** policies, standards, or codes; and
e. **Related Organizations**: what personal information is made available to related **Organizations** (e.g., subsidiaries).

NOT FOR PURPOSE OF BEING A FAIR RESPONDENTS TOO

PRINCIPLE #9: Individual Access
11 OBLIGATIONS OF AN ORGANIZATION UNDER PRINCIPLE #9
SHALL #36 TO #40

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Principle #9

(36) PAGE 53

Principle #9:
Shall #36 and #37:
Shall #36: informed of EUD of his PI
Shall #37: given access to that information

Upon request, an **Individual SHALL** be informed of the existence, use, and disclosure [EUD] of his or her Personal Information and **SHALL** be given access to that information.

Principle #9: Individual Access
Shall #38. challenge - accuracy –completeness – of the information (after receipt) – amended as appropriate

An **Individual SHALL** be able to challenge the:

a. accuracy and
b. completeness
   i. of the information and
   ii. have it amended as appropriate.

Principle #9: Individual Access
SHALL #39 to #41: (i) whether it holds (at the time of request); (ii) access to "this information"; and (iii)

Shall #39: Does the Organization hold PI about the Individual?

Upon request, an **Organization SHALL** inform an **Individual** whether or not:

the **Organization** holds **Personal Information** about the **Individual**.[4]

Simply put, this requirement (Shall #39) an Organization shall respond to the individual pursuant to the ARPI and confirm or deny whether it holds any personal information about the individual (requestor).

Principle #9: Individual Access
Shall #40: Shall Allow Access

The **Organization SHALL** allow the **Individual** access to this information[5].

Principle #9: Individual Access
Shall #41:

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WHEN?

Historical Use Requirement
Current Use Requirement
Third Party Accounting Disclosure Requirement

(37)

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addition to providing the **Individual** with a **Written** response about the existence of the personal information that **Organization**, the **Organization** **SHALL** provide:

a. **Use Requirement:**
   1. an account of the use that has been made (**"Historical Use Requirement"**) or
   2. is being made of this information (**"Current Use Requirement"**) and
b. **Third Party Disclosure Requirement:**
   3. an account of the third parties to which it has disclosed (or may have disclosed in the event that it cannot unequivocally represent the actual disclosures).[6]

MAY

Principle #9:

SHALL #42: any information that the individual provides by way of particulars shall only be used for the purpose of the Organization complying with its obligations under the Act to provide EUD Accounting

An **Individual** may be required to provide sufficient information to permit an **Organization** to provide an account of the existence, use, and disclosure of **Personal Information**. The information provided **SHALL** only be used for this purpose.

SHALL #43: Where an Organization cannot, in fact, provide a Specific Organization List of actual disclosures, then it shall provide a Specific List Organization to which it MAY have disclosed information about the individual

When it is *not possible* to provide a list of the **Organizations** to which it has actually disclosed information *about*[7] an **Individual**, the **Organization** **SHALL** provide a list of **Organizations** to which it may have disclosed information about the **Individual**.

SHALL #44 to #46

Shall #44: respond in reasonable time; and minimal or no cost to the individual

Shall #45: provided Requested Information: generally understandable form

Shall #46: if internal abbreviations or codes are used – Organization – provide explanations

An **Organization** **SHALL** respond to an **Individual's** request within a reasonable time and at minimal or no cost to the **Individual**.

The requested information[8] **SHALL** be provided or made available in a form that is generally understandable. For example, if the **Organization** uses abbreviations or codes to record information, an explanation **SHALL** be provided.

SHALL #47 to #48

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Shall #47: If individual demonstrates inaccuracy or incompleteness of Personal Information – Organization – shall – amend the information

PAGE 55

When an individual successfully demonstrates the inaccuracy or incompleteness of Personal Information, the Organization **SHALL** amend the information as required.

Shall #48: Amendments – nature of information challenged – CDA – of information ("Amended Information") transmitted – third party

Depending upon the nature of the information challenged, amendment involves the:

a. correction,
b. deletion, or
c. addition
of information.

Where appropriate, the amended information ("Amended Information") **SHALL** be transmitted to third parties having access to the information in question.

Principle #10: Challenging Compliance
5 Obligations under Principle #10
Shall #49 to #53

Principle #10: Challenging Compliance
SHALL #49:
Designated Accountable Individuals ("DAI") or Privacy Compliance Officer ("PCO")

An individual **SHALL** be able to address a challenge concerning compliance with the above principles to the designed PCO:

a. the designated individual or individuals accountable for the Organization's compliance.

SHALL #50

Organizations **SHALL** put procedures in place to receive and respond to complaints or inquiries about their policies and practices relating to the handling of Personal Information.[9]

SHALL #51: Organization – inform – individual about – complaint procedures
Section 11 of *PIPEDA*

Organizations **SHALL** inform individuals who make inquiries or lodge complaints of the existence of relevant complaint procedures. A range of these procedures may exist.

b. For example, some regulatory bodies accept complaints about the personal-information handling practices of the companies they regulate.

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SHALL #52 and #53

Shall #52: Complaint investigation

Organization SHALL investigate all complaints.

Shall #53: Justified Complaint

If a complaint is found to be justified, the Organization SHALL take appropriate measures, including, if necessary,

a. amending its policies and practices.

Conclusion on the word "SHALL"

The Shall Provisions appear 53 times under Schedule #1. Ergo, an applicant can make a complaint if an Organization breached any, some or all of the 53 Shall Provisions.

[i] Which will be subject to a separate PIPEDA request

--

My best regards to you,

Kevin A. McLean (B.A., J.D., CIM)
Chartered Investment Manager
E (personal and confidential): mrkevinmcleanandermcleanbejamin@gmail.com

DISCLAIMER

1. *The content of this email is confidential and intended for the recipient specified in message only. It is strictly forbidden to share any part of this message with any third party, without a written consent of the sender. If you received this message by mistake, please reply to this message and follow with its deletion, so that we can ensure such a mistake does not occur in the future.*
2. *Due to being an accident, this email may be dictated in part or full with voice recognition software. Kindly excuse any errors for grammar, syntax or spelling.*

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Tab 5

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PAGE 17

APRIL 14, 2024

AFFIDAVIT #17

EX A

TAB 5

RE: PIDEON BULLETIN
MARCH 2017

PAGES 40
TO
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Office of the Privacy Commissioner of Canada

Commissariat à la protection de la vie privée du Canada

Applying paragraphs 7(3)(d.1) and 7(3)(d.2) of PIPEDA

March 2017

The *Personal Information Protection and Electronic Documents Act* (PIPEDA (The Personal Information Protection and Electronic Documents Act)). Canada's federal private sector privacy legislation, was amended in 2015.

Among the amendments, PIPEDA (The Personal Information Protection and Electronic Documents Act)'s previous investigative body scheme, which allowed disclosures without consent to a designated investigative body, was repealed. This is replaced with paragraphs 7(3)(d.1) and 7(3)(d.2), which allow, in certain circumstances, organizations to disclose personal information without the knowledge or consent of the individual to another organization.

These new amendments resulted in a change in the accountability, transparency and grounds for disclosures without consent. Given the invisible nature of these disclosures, and that there is no longer a public listing of designated investigative bodies, the Office of the Privacy Commissioner of Canada (OPC) is providing guidance on these provisions to remind organizations that these exceptions, while permissible under certain circumstances, do not permit the indiscriminate disclosure of personal information.

Paragraphs 7(3)(d.1) and 7(3)(d.2):

- *Are not* to be applied in an overly broad manner.
- *Do not allow* for widespread disclosures and casual sharing of personal information.
- *Are limited* to certain purposes, under defined circumstances, and given specific conditions.

In overseeing these provisions, the OPC will expect organizations to:

- Carry out due diligence and exercise good judgement when availing themselves of these exceptions.
- Carefully consider each of the requirements explicitly outlined in the provisions.
- Take care to ensure the limits set out in these provisions are respected.

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750 *Paragraphs 7(3)(d.1) and 7(3)(d.2)*

7(3) ...an organization may disclose personal information without the knowledge or consent of the individual only if the disclosure is

(*d.1*) made to another organization and is reasonable for the purposes of investigating a breach of an agreement or a contravention of the laws of Canada or a province that has been, is being or is about to be committed and it is reasonable to expect that disclosure with the knowledge or consent of the individual would compromise the investigation;
(*d.2*) made to another organization and is reasonable for the purposes of detecting or suppressing fraud or of preventing fraud that is likely to be committed and it is reasonable to expect that the disclosure with the knowledge or consent of the individual would compromise the ability to prevent, detect or suppress the fraud;

A: Requirements Under Paragraphs 7(3)(d.1) and 7(3)(d.2)

Disclosures require responsible consideration and accountability

- Prior to making a disclosure under paragraphs 7(3)(d.1) or 7(3)(d.2):
- Organizations must ensure that the precise requirements set out in the relevant paragraph have been met and should document their rationale before initiating a disclosure. NOT FOR TOUC TO NOT
- In addition, where requests for disclosure of personal information are received, claims from requesting organizations should not be taken at "face value". [4] The organization receiving such requests should take certain measures, such as asking for and documenting the rationale and bona fide nature of a claim from the requesting organization.

Disclosures can only be made to "another organization"

- Disclosures under paragraphs 7(3)(d.1) and (d.2) are limited to disclosures made to other organizations.
- They are *not* broad exceptions that permit disclosure without consent to other parties such as law enforcement or clients' family members.

Disclosures must be "reasonable for the purposes"

- Paragraphs 7(3)(d.1) and (d.2) require the disclosure to be "reasonable for the purposes" specified in each provision.
  - Under paragraph 7(3)(d.1) the disclosure must be "reasonable for the purposes of investigating a breach of an agreement or a contravention of the laws of Canada or a province that has been, is being or is about to be committed".
    - Organizations must ensure that the investigation referred to in paragraph 7(3)(d.1) pertains to a specific breach of an agreement or contravention of the laws of Canada or a province that "has been, is being or is about to be committed".
    - In other words, the disclosing organization must be satisfied that the breach of agreement or contravention of a law has already taken place, is ongoing, or is about to happen.

- An "investigation" can be defined as a formal inquiry or systematic inquiry to discover and examine the facts of an incident, so as to establish the truth. [2] It is not a fishing expedition.
- Organizations must ensure that disclosures of personal information are reasonably related and proportionate to a specified purpose and should not over-reach in their scope.
- An investigation might include, for example, an investigation of professional misconduct by a professional regulatory body, or an investigation by a bank into fraudulent mortgage transactions.
- A "breach of an agreement" generally involves a violation of, or failure to meet, the terms of a binding agreement. A breach of an agreement might include, for example, a breach of a tenancy agreement or a breach of an employment contract. [3]
- A "contravention of a law of Canada or a province" means a contravention of a Canadian law. It does not include contraventions of foreign laws.

- Under paragraph 7(3)(d.2) the disclosure must be "reasonable for the purpose of detecting or suppressing fraud or of preventing fraud that is likely to be committed". While paragraphs 7(3)(d.1) contemplates a specific breach of a law or agreement, paragraph 7(3)(d.2) is not as specific. However:
  - Organizations must ensure that disclosures are limited to "detecting or suppressing fraud or of preventing fraud that is likely to be committed".
  - Preventing fraud that is likely to be committed means that the risk of fraud must be probable and not merely possible.
  - Here too, organizations must ensure that disclosures of personal information for the purposes of detecting or suppressing fraud or of preventing fraud are reasonably related and proportionate to a specified purpose and should not over-reach in their scope.

It must be reasonable to expect that disclosure with the knowledge or consent of the individual concerned would compromise the activity in question

- To help mitigate against the risk of over-disclosure, organizations relying on paragraphs 7(3)(d.1) or 7(3)(d.2) must also evaluate whether it would be reasonable to expect that informing the individual concerned of the disclosure or seeking the individual's consent to the disclosure would compromise the activity in question.
  - Before disclosing personal information under paragraph 7(3)(d.1), an organization must turn its mind to and have formed a reasonable expectation that disclosure with the knowledge or consent of the individual would compromise the investigation.
  - Before disclosing personal information under paragraph 7(3)(d.2), an organization must turn its mind to and have formed a reasonable expectation that knowledge or consent of the individual would compromise the ability to prevent, detect or suppress the fraud.

B: Other Relevant Considerations

Demonstrate due diligence

- An organization should document, and be able to demonstrate, on a case-by-case basis, the reasons why it determined that each disclosure met all of the requirements under paragraphs 7(3)(d.1) or 7(3)(d.2)
- For example, organizations should be able to demonstrate, if/when called upon to do so, how each disclosure is reasonable for the stated purposes and why it is reasonable to expect that the disclosure with the knowledge or consent of the individual concerned would compromise the investigation or ability to detect, suppress or prevent the fraud.

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Ensure accountability and openness

- An organization should develop policies and procedures setting out how it requests and/or responds to these disclosures.
- Organizations should be open about their policies and practices and make them available to individuals.
- Further, any related policies and procedures should be accompanied with up-to-date training for employees on an on-going basis.

Identify procedures for handling access requests from individuals

- Individuals generally have the right to access their personal information, including obtaining an account of the third parties to whom their personal information has been disclosed. Organizations must provide access to personal information on request, unless an exception under PIPEDA (The Personal Information Protection and Electronic Documents Act) applies.

Consider all other PIPEDA (The Personal Information Protection and Electronic Documents Act) requirements

- Even though information-sharing may occur in specified circumstances without consent, an organization is still required to fulfill its other PIPEDA (The Personal Information Protection and Electronic Documents Act) obligations, including but not limited to, limiting the disclosure of personal information, safeguarding it, and ensuring that any disclosure of personal information is only for purposes that a reasonable person would consider are appropriate in the circumstances.

Consider Other Ways to Improve Transparency and Consumer Trust

- Organizations could further consider reporting publicly on the number and types of disclosures made on an annual or semi-annual basis, using aggregate and anonymized data.
- Organizations could also consider making available a summary of their frameworks and information sharing practices under paragraphs 7(3)(d.1) and 7(3)(d.2).
- These additional steps may help organizations build greater trust with individuals by demonstrating accountability for disclosures, and making more visible what would otherwise be invisible to Canadians.

Footnotes

1 For reference, please see the Office of the Privacy Commissioner of Canada's PIPEDA Report of Finding #2014-018 (/en/opc-actions-and-decisions/investigations/investigations-into-businesses/2014/pipeda-2014-018/)

2 Oxford online dictionary "investigation (http://www.oxforddictionaries.com/definition/english/investigation)" and Oxford online dictionary definition of "investigate (http://www.oxforddictionaries.com/definition/english/investigate)"

753 An example of breach of an agreement can be found in PIPEDA Report of Findings #2014-018 (/en/opc-actions-and-decisions/investigations/investigations-into-businesses/2014/pipeda-2014-018/) and PIPEDA Report of Findings #2014-006 (/en/opc-actions-and-decisions/investigations/investigations-into-businesses/2014/pipeda-2014-006/)

Related content

Overview of privacy legislation in Canada (/en/privacy-topics/privacy-laws-in-canada/02_05_d_15/)

PIPEDA legislation and regulations (/en/privacy-topics/privacy-laws-in-canada/the-personal-information-protection-and-electronic-documents-act-pipeda/r_o_p/)

▸ Was this page helpful?

Date modified:
2017-03-17

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Tab 6

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APRIL 14 / 2024

AFFIDAVIT #7

EX A

TAB 6

PAGES 45

TO

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RE: PIDEDA

BULLETIN

PRINCIPLE #5

LUDA

Office of the Privacy Commissioner of Canada

Commissariat à la protection de la vie privée du Canada

PIPEDA Fair Information Principle 5 – Limiting Use, Disclosure, and Retention

Reviewed: August 2020

Your responsibilities

- Unless someone consents otherwise—or unless doing so is required by law—your organization may use or disclose personal information only for the identified purposes for which it was collected. Keep personal information only as long as it is needed to serve those purposes.
- Know what personal information you have, where it is, and what you are doing with it.
- Obtain fresh consent if you intend to use or disclose personal information for a new purpose.
- Collect, use or disclose personal information only for purposes that a reasonable person would consider appropriate in the circumstances.
- Put guidelines and procedures in place for retaining and destroying personal information.

How to fulfill these responsibilities

- Document any new purposes for the use of personal information.
- Limit and monitor employee access to personal information, and take appropriate action when information is accessed without authorization.
- Institute maximum and minimum retention periods that take into account any legal requirements or restrictions as well as appeal mechanisms.
- Dispose of personal information that does not have a specific purpose or no longer fulfills its intended purpose. Dispose of information in a way that prevents a privacy breach, such as by securely shredding paper files or effectively deleting electronic records. If information is to be retained purely for statistical purposes, employ effective techniques that would render it anonymous.
- Ensure all personal information is fully deleted before disposing of electronic devices such as computers, photocopiers and cellphones.
- Ensure your employees receive appropriate training on their roles and responsibilities in protecting personal information.

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PAGE 05

- Use effective processes for destroying, erasing or anonymizing personal information
  (/en/privacy-topics/business-privacy/safeguards-and-breaches/safeguarding-personal-information/gd_rd_201406/)
- Develop guidelines and implement procedures on the retention of personal information.
- Conduct regular reviews to determine whether information is still required.
- Establish a retention schedule to make this easier.

More about Limiting Use, Disclosure, and Retention

Personal Information retention and disposal: Principles and best practices
(/en/privacy-topics/business-privacy/safeguards-and-breaches/safeguarding-personal-information/gd_rd_201406/)

PIPEDA and the Proceeds of Crime (Money Laundering) and Terrorist Financing Act
(/en/privacy-topics/surveillance/police-and-public-safety/financial-transaction-reporting/faqs_pcmltfa_01/)

Related content

PIPEDA legislation and related regulations
(/en/privacy-topics/privacy-laws-in-canada/the-personal-information-protection-and-electronic-documents-act-pipeda/r_o_p/)

PIPEDA Interpretation Bulletins
(/en/privacy-topics/privacy-laws-in-canada/the-personal-information-protection-and-electronic-documents-act-pipeda/pipeda-compliance-help/pipeda-interpretation-bulletins/)

▶ Was this page helpful?

Date modified:
2020-08-13

TAB 42

Electronically filed / Déposé par voie électronique : 18-Feb-2025
Toronto Superior Court of Justice / Cour supérieure de justice

TAB #13: ORAL COMPENDIUM: COURT FILE NO. DC-24-00000718-00JR

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NOM #13
/AB #4

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This is the 18th Affidavit of Kevin A. McLean under TD's Claim Number 035325790-3 (the "Claim Number" or "TD Claim #3"), TD Insurance Policy Number #0010135 1806 (the "Policy Number"), LAT File Number "23-015662/AABS" (the "LAT File Number" or "LAT Proceeding") and was finalized and made on April 15, 2024

BETWEEN:

KEVIN ALEXANDER MCLEAN

APPLICANT/APPELLANT

AND:

SECURITY NATIONAL INSURANCE COMPANY

RESPONDENT

Affidavit #18 of Kevin A. McLean

In a matter under the *Insurance Act*, RSO 1990, c I.8, (the "*Insurance Act*")

In the matter of an "Application of an Injured Person" ("Application" or "AIP") by the Applicant pursuant to subsection 280(2) of the *Insurance Act*, RSO 1990, c I.8., in relation to statutory Accident benefits and the following regulations including but not limited to:

i. *Statutory Accident Benefits Schedule*, O Reg 34/10 ("*SABS*"), and
ii. *Automobile Insurance*, RRO 1990, Reg 664 ("*Reg 664*").

I, Kevin Alexander McLean, Disabled and CAT Impaired (B.A., J.D., CIM) of Toronto, Ontario AFFIRM THAT

VOLUME #1: Affirmation

1. I am the affiant (also defined as the "Applicant", "Insured Person", "Disabled Individual" and/or "CAT Impaired Individual") herein and I affirm, under the pains and penalties of perjury, the following facts to be true. Where I have stated information on my belief, I have cited the source of my belief by references, citations end-noting or otherwise

2. Where I have used square brackets (i.e. [.....]), I have done so for ease of reference and to provide my evidentiary beliefs while citing the source of the same

Where there are double underlined words, they are mine for ease of reference

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Page 12

4 I have adopted the definitions from my served and filed evidence herein and the have same meaning herein as they do therein.

5. I adopt the definitions from the above noted legislation and regulations, including rules where not made under the *SPPA*, and they have the same meaning herein as they do therein.

NOM #7 affirm form

6 I adopt the definitions in my Schedule "A", appendices.

7. Where I have included definitions, I am not making a legal argument in this affirm evidence but I have included the same for consistency purposes.

8. I affirm that where I have added emphasis in "copying and pasting" from any legislation, regulation or rule, the emphasis mine.

Volume #2: Affidavit #18, Exhibit "A", pages 1 to 204
(note: Tab 3 of the Hearing Brief for NOM #7)

9. Now shown to me and marked as Exhibit "A", separated by seven (7) tabs and consecutively numbered, are copies of the following documents with my annotations for ease of reference.

a. Tab 1: select copies of my emails with the LAT Registrar regarding my position of non-compliance with the LAT Orders of February 14, 2024 and April 9, 2024 and *LAT Rules*, emails from the LAT Registrar and emails from Ms. Ortiz and/or on behalf of Mr. Nieuwland (see: pages 1 to 12);

b Tab 2: select copies of my emails with the LAT Registrar regarding my position of non-compliance with the LAT Orders of February 14, 2024 and April 9, 2024 and *LAT Rules*, emails from the LAT Registrar and emails from Ms. Ortiz and/or on behalf of Mr. Nieuwland. I have included my emails wherein I put Mr. Nieuwland, TDGIC, SNIC (Karat) and others therein on notice of some of the law involving the reasoning re conflict of interest for Mr. Nieuwland continuing to act when there is the potential of him being a material or relevant witness et al (see: pages 13 to 76);

c. Tab 3: copies of my then draft submissions on April 5, 2024 involving my NOM #6 which is distinct from the NOM #7 which only arose after the Purported Hearing Briefs (see: Hearing Brief, Tab 1, Schedule "A") (see: pages 77 to 102);

d. Tab 4: copies of my emails to the various individuals therein regarding issues surrounding conflicts of interests regarding my NOM #6 and Mr. Karat no longer being authorized for Security National Insurance Company (see: pages 103 to 128);

e. Tab 5: copies of documents involving my various summons to various individuals therein and why their evidence is relevant to be provided now or in the future of this SNIC Proceeding (see: pages 129 to 141);

f. Tab 6: copies of the filed summons with LAT and served upon the various individuals therein (see: pages 142 to 190);

g. Tab 7: copy of my letter to LAT in March 2024 regarding the issues surrounding having TDGIC as the Respondent with respect to enforcement of any monetary orders with the Sheriff by virtue of the relevant sections of the SPPA when TDGIC is based in Toronto, Ontario when SNIC, as per the Purported SNIC Response, and the majority of correspondence that I received from Ms. Nurse, are located in Markham at SNIC Markham (see: pages 191 to 203).

i. I note, and apologize to LAT, as I was unaware of Vice-Chair Logan's order on my reconsideration motion as I did not realize that said email was not receiving emails for a period of time. I will not waste LAT's time, as I realize it is valuable and finite, as to what I discovered as the cause of that issue. Suffice it to say for the purposes of this Affidavit #18 that I have switched emails and

Alex (B)

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lat@confidentialnelson.ca (including the domain that I owned are permanently closed). The email of nelsonSNICIat@gmail.com will remain as my sole email for all communications with LAT during this SNIC Proceeding and any future LAT proceedings should they arise from another appeal from myself or SNIC.

10. Until I have responsive hearing briefs from Mr. Nieuwland, and on behalf of SNIC, I am unable to provide a reply that cross-references the responsive hearing brief to my NOM #4 and #6.

11. I wish to make clear, if I have not, as to why I am insisting on SNIC being the solely named respondent and party herein. I have read some jurisprudence, of which some has been brought to my attention, that in the event that the wrong party (respondent) carries as the alleged respondent, the entire LAT proceeding herein can be deemed a nullity, and require myself to commence a subsequent LAT proceeding. Moreover, I do not believe that SNIC will be required with any payment orders if TDGIC remains as the named respondent party with counsel of Mr. Nieuwland. I note my letter above regarding enforcement of the same by the Sheriff and the jurisdictional issues therein.

12. I further note that many of the documents, which are not an authority or reported decision, are documents that I have never seen before.

13. Upon further cursory review of the unnumbered "attachments", I have no record of any adjuster with the last name "Bahtsky" and I emailed said name and it bounced back.

14. I note that there are references to "PWC LLP" that reference an "enclosure" but there is "no enclosure" in the unindexed and unnumbered attachments. I have no record of any documents from PWC LLP and no communication with PWC LLP. I further note that I made a *PIPEDA* request in January 2023 and I re-affirm receiving mail from New Brunswick which I addressed as being "suspicious" and an "unknown sender" with incorrect information for myself along with no "magnet" for "TD Insurance Meloche Monnex" [SNIC] on the envelope.

15. I repeat and rely upon the evidence which I included in my affidavits #1 to #4 which included all of the documents that I had sent via secure fax to SNIC Markham (attention: Ms. Nurse) and SNIC Burlington (attention: Ms. Pennad).

16. I advanced my NOM #6 on the bases of the pleadings, which remain un-amended as of today's date, and I do not consent to any changing of positions by a non-respondent in TDGIC.

17. I believe that some of the documents in the **Purported Responsive Hearing Briefs** have been fabricated, back-dated and/or recently created to attempt to establish a timeline of activities that are inconsistent with the **Purported SNIC Response**.

18. Had these changes in positions, albeit without evidence under oath, been brought to my attention in February 2024, I could have attempted to work with SNIC regarding the same. However, I can only confirm that the documents that are the same as documents in my evidence are authentic and I strictly deny that any other documents are authentic and/or were delivered to me. I oppose any attempt to have such "appended documents", if Mr. Nieuwland and TDGIC can obtain leave to "refile" or "file in compliance with the LAT Orders and *LAT Rules*" admitted as "authentic evidence".

19. I note my submissions and affirmed evidence for NOM #4 were advanced on the bases of the responsive pleading (defined as the "PSR" or "**Purported SNIC Response**") being admissions as it related to: (i) IRB Quantum ($400 per week); (ii) IRB Denial Date (December 23, 2023); (iii) my IRB application date (October 13, 2022) and (iv) other admissions therein.

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20. I note LAT Rule 9.3 and the distinction of LAT Rule 9.3 from any previous rule that was pretty concordant to it in that the requirement now is that the "defaulting party" (which there remains a live issue as TDGIC being a "party") is required to seek permission of the Tribunal (when it was previously "consent" of the Tribunal).

21. I am also troubled with references to Ms. Persaud in early June 2023 when she did not become known to me until July 2023. Moreover, I have provided evidence regarding the UHN Notification in my affidavit #5 regarding my counter to a Ms. Persaud letter (which references her but are not signed by her) where TD SNIC claimed to not be aware of the same. However, based on my cursory review, there are references to certain doctors that specialize in brain type issues. I do not know how both letters could then be correct.

22. Mr. Nieuwland has not provided any reasons for his non-compliance with the New *LAT Rules* and the LAT Orders.

23. I affirm that I opposed the admission of any evidence that is not affirmed and corroborated with evidence of having been delivered to me. My position remains that in order for me to "reply" to the "Purported Responsive Hearing Briefs", Mr. Nieuwland needs to comply with the *LAT Rules* with indices, tabs, and consecutively numbered pages along with evidence that certain letters were delivered via mail to my correct address. Until that occurs, I cannot respond to letters that I have never seen and have not been authenticated.

24. I further note that Ms. Nurse's letter dated April 20, 2023, which I take issue with the signature of "As per A Nurse" referenced sending out independent examinations, after alleging that there was no medical evidence of my injuries being outside the MIG at said time (despite the October 2022 MRI Report which I affirmed under the pains and penalties of perjury was delivered to SNIC Markham) but there is no evidence of Ms. Nurse doing so.

25. While I do not wish to go down the proverbial "rabbit hole" and provide any credence to any appended documents therein (albeit unnumbered and unindexed), I would need to have the evidence of Ms. Nurse and Ms. Persaud (and this unknown name to me in Ms. Belitsky) to provide their independent evidence that such letters were sent at the times that they were and evidence of delivery.

26. I note that my affirmed evidence remains uncontroverted for NOM #4 and NOM #6. I do not take issue with Mr. Nieuwland attempting to seek leave to file the Purported Responsive Hearing Briefs in accordance with the *LAT Rules* but I will need to see the draft filings before I can determine whether I would oppose or consent to some or all of the same. I affirm that I will certainly oppose any such non-sworn evidence being tendered in such form but if he wishes to provide me with draft affidavits of Ms. Nurse, Ms. Belitsky and Ms. Persaud regarding the letters where they are individually named and referenced, I can review the same. I again invite Mr. Nieuwland to file a DOR on behalf of SNIC and withdrew his DOR on behalf of TDGIC.

27. As it relates to other relief sought in my NOM #7, I am seeking the striking of the Purported Hearing Briefs on the legal grounds therein and is my to be served and filed written submissions for this NOM #7.

28. I did not consent and will never consent to a non-respondent and non-party being the respondent, and using my Confidential Information (see: Hearing Brief ("HB"), Tab 1, Schedule "A") in the fashion that Mr. Nieuwland and TDGIC did to somehow unilaterally substitute itself for SNIC, remain non-responsive for months, and then disclose documents to LAT which I did not consent to TDGIC and TDISL having at first instance and certainly not for the purposes described in the OCF-1. I affirm that I am NOT "withdrawing consent" in any fashion under the OCF-1 (see: definition under HB, Tab, Schedule "A") but rather putting SNIC, TDGIC and TDISL (and all relevant individuals) on further notice that they have breached my privacy rights and confidence by exceeding the parameters of the plain language in my OCF-1 and the OCF-1, which I executed and delivered in good faith to SNIC Markham on the date admitted in the Purported SNIC Response.

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29. I would also ask Mr. Nieuwland that if he is able to obtain leave from LAT to file responsive hearing briefs in accordance with the *LAT Rules* that he do so promptly. Moreover, I would ask that Mr. Nieuwland, if he is able to obtain leave from LAT under Rule 9.5, that he clarify his positions as it relates to NOM #6 as it relates to words like "this matter" or "matter" as it is unclear to me whether he is referring to the TD Claim #3 and/or the SNIC Proceeding herein and/or both.

30. It also appears to me, which is somewhat ambiguous to me, that Mr. Nieuwland's position is that certain individuals have not been involved in "this matter" (whatever that means in fact or at law while noting that it is nearly two years since the MVA). I do not agree with the bald assertion, absent evidence under oath from each of those individuals. If that is correct, and I receive evidence under oath from those individuals, then my position is that Mr. Nieuwland, on behalf of TDGIC, is consenting to some of the relief sought in the NOM #6. However, I would also need consent from SNIC in this regard as it is SNIC that I sent my Confidential Information to and it is SNIC (not located in Toronto) that is the only "insurer" or "underwriter" named in my documents in my affirmed evidence. I note that SNIC is the only underwriter and insurer named in the documents appended to the Purported Hearing Briefs of Mr. Nieuwland.

31. I again note that the OCF-1 (see: my affidavits #1 to #4; and the standard form document at Part 12 "Signature") references the language of "THE INSURER". I note that Mr. Karai represented to me in writing via email on January 23 and 25, 2024 and February 14, 2024 that he was "REPRESENTING THE SECURITY NATIONAL INSURANCE COMPANY". I note that the February 14, 2024 email was after the Nieuwland DOR Non Respondent

32. I will continue to rely on strict compliance from Mr. Nieuwland and SNIC with respect to the enabling legislation, regulations and *LAT Rules*, including any "rules" issued by FSRA such as the UDAP which I believe replaced the former regulation under the Insurance Act regarding "Unfair Deceptive Acts"

33. I further affirm and believe that Mr. Nieuwland and TDGIC have malice towards me as evidenced by the Purported Hearing Briefs on April 11, 2024. I have now reflexively queried whether TDGIC, not being the Insurer denoted in the OCF-1 et al, does not feel it owes me a duty of good faith and fiduciary obligations. If that is the position of TDGIC, then this is yet another reason why I am seeking the relief that I have sought and in my NOM #7.

34. In light of what I learned on April 11, 2024 and my review thereafter, I am not ready, willing or able to engage with TDGIC and Mr. Nieuwland as I believe that SNIC, TDGIC and TDGIL (and potentially others) have breached my privacy rights, breached my confidence and breached the OCF-1. While I consented to SNIC collecting and using my Confidential Information for the specified purposes in the OCF-1, and "disclosure" for limited purposes therein. I have not read any language where I consented in early October 2023 to SNIC being replaced by a different insurer, whilst having my Confidential Information disclosed to it (TDGIC), to an unknown insurance company to me at the time and not known until 2024, to be used to have my claim dismissed and have $10,000 or $30,000 in costs awarded against me. I affirm, under the pains and penalties in perjury, that I will never consent to such actions that have been taken even if SNIC seeks my "fresh consent" in that regard.

35. If any of the Impugned Individuals involved in what I alleged to be irreconcilable conflict of interest and irremediable conflict of interest, and/or breaches of privacy, breaches of confidence, breaches of *PIPEDA*, breaches of my limited consent in the OCF-1, breaches of the *Insurance Act*, and/or breaches of the UDAP Rule, provide evidence of their non-involvement in the TD Claim Numbers and this SNIC Proceeding, and non-receipt of any of my PI, PHI, SPI (defined as "Confidential Information"), I will tender an apology to them. However, until that time, my affirmed evidence, and where on information and belief and citing the source of my belief, remains and I believe that they have all been involved in the TD Claims Numbers and/or SNIC Proceeding.

36. My position and affirmed evidence remains as to the involvement of the Divorced Husband Conflicted Lawyer in the TD Claim Numbers and this SNIC Proceeding.

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37. My position and affirmed evidence remain as it relates to Mr. Nieuwland misleading myself and the Tribunal regarding Ms. Moraes being his legal assistant when the only legal assistant who has had Mr. Nieuwland's name in her signature block is that of Ms. Ortiz. I note that Ms. Ortiz refers to another lawyer (whom I presume to be a lawyer) in "Ashley Dunkley"

38. My position and affirmed evidence remain as it relates to the "false documents", "forged signatures" and "uttering of the same".

39. My position and affirmed evidence remain as it relates to breaches of the LSA and its By-Laws by known or unknown licensees.

40. I affirm on belief that Mr. Nieuwland did not draft the Purported Hearing Briefs for the reasons of that when he was queried by LAT as to which of the "submissions" exceeded the six page limit, he did not know which ones did even though those were the only document(s) that were "consecutively enumerated"

41. If Mr. Nieuwland's position that only he, Mr. Karat and Ms. Ortiz have been involved in "this matter", then I challenge him to explain how and why Ms. Moraes was involved in this SNIC Proceeding and/or the TD Claim Numbers.

42. Further, if Mr. Nieuwland's position is that the Divorced Husband Conflicted Lawyer, Ms. Saeed and Ms. Klukowska were not involved in "this matter", yet Mr. Nieuwland was away from the office from January 24, 2024 to January 29, 2024, then I challenge him to provide the name of the "supervising lawyer" of Mr. Karat in his sole signing of the Purported SNIC Response. If Mr. Nieuwland was the "supervising lawyer" of Mr. Karat, then I challenge Mr. Nieuwland to explain why he was not copied on the service upon me of the Purported SNIC Response. Further, if Mr. Nieuwland was neither in the "office" nor copied on the January 25, 2024 email from Mr. Karat to myself, wherein he solely served me with the Purported SNIC Response, which he allegedly solely executed, then I challenge him to explain to myself and LAT how an unlicensed representative and non-licensee in Mr. Karat was able to sign the pleading. I draw Mr. Nieuwland's attention to By-Law 7.1, section 6 in this regard.

43. I further challenge Mr. Nieuwland to explain how, if he was the supervising lawyer to Mr. Karat (albeit from different premises in different cities), Mr. Karat and he are representing two different "clients" and "two different insurance companies". I challenge Mr. Nieuwland to explain how he had effective control over Mr Karat – then and now – if Mr. Karat has been *disenfranchised* from acting for SNIC.

44. In light of the above, I again invite SNIC to provide me with a licensed lawyer in Ontario to communicate with regarding this matter so I can take "meaningful steps" herein (see: *Rahimian* with reference to "meaningful steps"). Until a lawyer is appointed for SNIC, I cannot take "meaningful steps" in this SNIC Proceeding and I cannot come to a "case conference" ready to settle with an insurance company not named in thousands of pages of documents and affirmed evidence from the Date of Loss to the Purported SNIC Response.

45. I must, based on guidance and advice that I have received (without any waiver of privilege or confidentiality and solely for the purposes herein), continue to maintain consistency in my positions that I cannot engage with TDGIC but for the purposes of my motions seeking the relief therein.

46 I will note, based upon my cursory review of the Purported Hearing Briefs that there was some reference to the number of emails that I had sent, which I would have to cross-reference to confirm that is correct or false. However, I will note that when sending "Hearing Briefs" in scanned PDF form with indices, tabs and consecutively numbered pages, I was required to send them on a piecemeal basis to ensure that they would not exceed the size limit. I further note that in filing my Appeal on December 24, 2023, I was required to serve SNIC (with the only contacts that I had in Ms. Persaud and Ms. Nurse at said time for SNIC – not TDGIC) them with my listed documents which required approximately 50 or so emails at first instance, then e-receipts and I provide them with "certificates of service.

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47. While I find it regrettable to have to bring motions to deal with these issues, I cannot be seen, in my view, to even have the "tinge" or "faint" that I have consented to any non-compliance with any laws that are applicable herein.

48. I will continue to assert my legal rights and I advanced my two *PIPEDA* requests in 2024 until I receive compliant responses therein. I may supplement this evidence herein as further evidence or law becomes known to me.

Volume #3: Concluding paragraph and Jurat

49 I affirm this Affidavit #18 for no improper purpose and in relation to my NOM #7, general purposes and ancillary purposes (known and unknown).

Affirmed before me at Toronto, Ontario
On this 16 day of April 2024

[redacted] (B.A., J.D., CIM)

Vinh The Tran, Esq.
[redacted]

TAB 43

TAB 4

TAB #4: ORAL COMPENDIUM:
COURT FILE NO. DC-24-00000718-00JR

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This is the 21st Affidavit of Kevin A. McLean under TD's Claim Number 036325790-3 (the "Claim Number" or "TD Claim #3"), TD Insurance Policy Number #001013511805 (the "Policy Number"), LAT File Number "23-015662/AABS" (the "LAT File Number" or "LAT Proceeding") and was finalized and made on May 3, 2024

BETWEEN:

KEVIN ALEXANDER MCLEAN

APPLICANT/APPELLANT

AND:

TD INSURANCE MELOCHE MONNEX (SECURITY NATIONAL INSURANCE COMPANY) [1] [2]

RESPONDENT

Affidavit #21 of Kevin A. McLean

In a matter under the *Insurance Act*, RSO 1990, c I.8, (the "*Insurance Act*")

In the matter of an "Application of an Injured Person" ("Application" or "AIP") by the Applicant pursuant to subsection 280(2) of the *Insurance Act*, RSO 1990, c I.8., in relation to statutory Accident benefits and the following regulations including but not limited to:

i. *Statutory Accident Benefits Schedule*, O Reg 34/10 ("*SABS*"), and
ii. *Automobile Insurance*, RRO 1990, Reg 664 ("*Reg 664*").

Re: My re-affirmation that I cannot consent or engage in any conduct that is inconsistent with any of the consent or consents that I gave to Security National Insurance Company and my continued objections while reserving all of my rights in fact and at law

I, Kevin Alexander McLean, Disabled* (B.A., J.D., CIM) of Toronto, Ontario AFFIRM THAT:

VOLUME #1: Affirmation

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1. I am the affiant (also defined as the "Applicant", "Insured Person", "Disabled Individual" and/or "CAT Impaired Individual") herein and I affirm, under the pains and penalties of perjury, the following facts to be true. Where I have stated information on my belief, I have cited the source of my belief by references, citations, end-noting or otherwise.

2. I adopt my definitions from my previous affidavits with respect to the Insurance Policy, TD Claim #3, and this LAT Proceeding (also defined as "SNIC Proceeding") and they have the same meaning herein as they do therein.

3. Where I am referencing privacy related matters, I adopt the definitions from *PIPEDA* and associated regulations and they have the same meaning herein as they do therein.

4. I repeat and rely upon my previous evidence that I do not consent to any unauthorized or non-permitted collection, use or Access[2] (collectively, "CUA") (collectively, "Unauthorized CUD" or "Non-Permitted CUA") and/or unauthorized or non-permitted subsequent disclosures ("Unauthorized Disclosures") by TD General Insurance Company (formerly "CT Direct Insurance Company") which is defined previously as the "Non-*SABS* Insurance Company".

5. For ease of reference, I will continue to distinguish between Security National Insurance Company as the "*SABS* Insurer" and the "Non-*SABS* Insurance Company".

6. While I was required to attend on May 2, 2024 for the purposes of my NOM #4 and NOM #6, including a "case conference", I repeat and rely upon my positions advanced in my case conference summary.

7. While I appreciate that said matter was confidential and without prejudice, in certain party, I re-affirm that I do not consent to any Non-Permitted CUA or Unauthorized Disclosures by SNIC if SNIC failed to implement the necessary conditions or restrictions upon the Non-SABS Insurance Company's CUA or unauthorized subsequent disclosures (defined herein as "Unauthorized Subsequent Disclosures" as it relates to any "Non-SABS Insurance Companies" with particular reference to TDGIC being the "Non-SABS Insurance Company").

8. I note that the language in the OCF-18 (see: Exhibit "A", Tab 1, page 3) is similar to the language in the OCF-1. As such, I will only provide copies of the same to SNIC (*SABS* Insurer) and not to the "Non-SABS Insurance Company". Where TDGIC receives a copy, it is not being provided with any additional consent to use the same but solely for the purpose of providing the same to LAT with a copy to it for the purposes of why there has been a breach of privacy and confidentiality which amounts, in my submission, to a disqualifying conflict of interest (see: *Jia, Mansuri, Dervishalli, Transamerica* et al cited by me).

9. I note that Mr. Dhaliwal's signature was on March 30, 2023.

10. I note that my signature was on March 30, 2023 (see: Exhibit "A", Tab 1 page 8)

11. I affirm that I did not have a copy of this OCF-18 document (see: Exhibit "A", Tab 1, page 10) until yesterday.

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12. I repeat and rely upon the following cases[6] of the OPCC with respect to my never having consent to any of the Non-Permitted CUID by the **Non-SABS Insurance Company** and/or **Unauthorized Disclosures** by the **Non-SABS Insurance Company**.

13. While I will continue to, in my view and belief, respect for the Tribunal processes and orders. I am providing further notice to the Tribunal that I have not, am not and will not consent to the **Non-SABS Insurance Company** engaging in any activities or conduct involving my PII, CI, PHI and/or SPI without my consent. To avoid any further communication with the **Non-SABS Insurance Company**, I will now (with the benefit of guidance and advice and without any waiver of privilege or confidentiality and solely for the purposes herein) only (as my previous communications were for the purposes of my motions directed to **SNIC** along with issues surrounding conflict of interest, nullities, unauthorized practice, facilitating unauthorized practise et al).

14. As Mr. Karat was present yesterday for **SNIC** and Mr. Nieuwland for the **Non-SABS Insurance Company**, I will now direct my communications, correspondence, filings et al to Mr. Karat for **SNIC** as it relates to this **LAT Proceeding** and Ms. Persaud (until Ms. Miche confirms that she has replaced Ms. Persaud as an "adjuster" or advisor for the *SABS* Insurer).

15. In my view, consistent with my previous submissions and evidence, **SNIC** and the **Non-SABS Insurance Company** are NOT "one and the same". I ground my belief based upon, inter alia, all of the OCF documents that I had signed and sent or had sent, in conjunction with a Physician or Health Practitioner (see: *SABS* definitions), to **Security National Insurance Company**.

16. As there is a dispute between myself and **SNIC** (*SABS* Insurer) as to whether I was outside the MIG in April 2023, I filed and served **SNIC** with a copy of the **OCF-18** that was sent on behalf of my previous PT (Dhaliwal) (see: **Exhibit "A"**, Tab 1).

17. I had previously notified the Tribunal and **SNIC**, including Nurse, that Nurse did not "sign" the **OCF-18** as "As per A. Nurse" is not a "signature" per se but on behalf of Alisha-Anne Nurse. While I have inquired with **SNIC** and Nurse as to what the "inscription above" her "printed name" is, I have not received a reply from any individual on behalf of **SNIC** or **SNIC** itself

18. I now note the discrepancies between the **OCF-18** sent by Dhaliwal to **Security National Insurance Company** (attention: Ms. Nurse) on or around April 6, 2023 and the "page 8 of 8" document sent by **SNIC** to me in a letter dated April 20, 2023 which referenced Ms. Nurse (see: **Exhibit "A", Tab 2**).

19. I have also reviewed the document titled, "**HCAI: OCF-18 Treatment & Assessment Plan**" (see: **Exhibit "A", Tab 3**) (defined herein as "**HCAI OCF-18 Manual**"). I believe that "HCAI" is an acronym for "Health Claims For Auto Insurance". I note that in the HCAI OCF-18 Manual not only distinguishes between "insurers" but also references potential branches of "insurers" in Ontario as it relates to *SABS* and the **OCF-18**.

Issue #2: Interplay between OPCC and *SABS*

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Volume #2(A): Consent provided during application for benefits allows insurer to share client's personal information with third-party broker

20. I now quote from the OPCC decision regarding the above heading.

> "Organizations may have a legitimate need to use or disclose an individual's personal information for more than one purpose. However, all the purposes for which the information may or will be used or disclosed must be stated (e.g., on an application form) in such a manner that the individual can reasonably understand them in order for consent to be meaningful.
>
> Explicit and detailed descriptions on a standardized form of the appropriate purposes for the collection, use or disclosure of personal information are important elements in demonstrating that the individual signing the form provided informed consent to the onward sharing of personal information."
>
> At issue is whether, pursuant to Principle 4.3, the complainant's insurance company obtained the complainant's consent to use and disclose her personal health information to obtain an annuity via third party organizations. Germane to this issue is whether the purposes for the consent were presented by her insurance company in a manner that could be reasonably understood (Principle 4.3.2)."

21. I note that the **Non-SABS Insurance Company** was NOT and is NOT a "third party broker".

22. I note that the **Non-SABS Insurance Company** is a licensed insurance company in Ontario.

23. I never consented to "TDGIC" (**Non-SABS Insurance Company**) receiving my **Confidential Information** at the time of executing the OCF documents or thereafter. I do not consent to **TDGIC** receiving, as a purported "Respondent", my **Confidential Information** and "Confidential Documents" (defined herein as any "document" that I provided with my express written consent and duly signed by me as it relates to PI, PHI, SPI or CI).

Volume #2(B): OPCC: 2017-005

24. I note the following:

- Individuals may withdraw consent for the collection, use and disclosure of personal information, subject to legal or contractual restrictions and reasonable notice. An organization must inform the individual of the implications of such withdrawal.
- Organizations should have a policy and procedure for assessing and documenting what personal information it holds, and why it is collecting, using and disclosing that information.

TAB 1
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- Under *PIPEDA*, an organization does not have to ensure that an individual's personal information is deleted from a third-party's records if the information has already been lawfully disclosed.

In the course of our Office's investigation, it became evident that the company did not have a readily available explanation for, or a clear understanding of, its disclosure of an insured individual's personal information to third-party organizations, putting them in contravention of Principle 4.1.4(d) of *PIPEDA*, which states that an organization shall develop information to explain the organization's policies and procedures. The company committed to developing a document to track where and how personal information is disclosed to third-parties and making this information readily available upon request. The company agreed to provide our Office with this document, three months following the issuance of our Office's findings for this investigation. Therefore, our Office found that this portion of the complaint was well-founded and conditionally resolved.

25. I affirm that I am not withdrawing any consent but re-affirming that I have not, am not and will not consent to the **Non-SABS Insurance Company** engaging in any CUA of my Confidential Information for purposes for which I did not consent.

26. I will continue to exercise my *PIPEDA* rights in relation to the "TD Financial Group" to determine the "tracking" of my **Confidential Information** for any purposes for which I did not consent.

Volume #2 CI: 2017-003 OPCC

27. I now quote from the following:

- Organizations must make a reasonable effort to ensure that the individual is advised of the purposes for which the information will be used. To make consent meaningful, the purposes for the collection of the personal information must be stated in such a manner that the individual can reasonably understand how the information will be used or disclosed.
- In order for consent to be valid, individuals must be able to understand the nature, purpose and consequences of the collection, use and disclosure of their personal information.
- Failure to make a reasonable effort to ensure that an individual understands that collecting personal information is optional can render consent uninformed or meaningless.

28. I re-affirm that I never consented to any insurance company other than **SNIC** to receive my PI, PHI, CI or SPI other than the **Limited Purposes** in the OCF documents and/or my correspondence that was exclusively provided to **SNIC** (Markham and Burlington).

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29. I note the following regarding my "*Speaking Notes*" for my NOM #6 still to be heard with further preliminary or jurisdictional issues to be decided regarding the same directly or indirectly:

> Paragraph 319: The authorization of the OCF-1 speaks to the following:
> a. Investigation of the **Appellant**'s claims;
> b. Obtaining information relating to his claim;
> c. Recovering payment from "Other Insurers" for amounts paid in connection with his claim (see: **SNIC** has been the only "Payor" of benefits to the **Appellant**).
> d. Identifying and analyzing goods and services provided by health care providers;
> e. Preventing fraud;
> f. Compiling statistics; and
> g. Assessing risks.
>
> (collectively, the "**Limited Purposes**"; see also: **Affidavit #15**)
>
> Paragraph 320: **The Limited Purposes** in the OCF-1 do NOT extend to the uses and disclosures by **Nieuwland** on behalf of "Another Insurer"
> Paragraph 321: **The Appellant** did not consent to the access, use and DISCLOSURE of his **Confidential Information** for any purpose OTHER THAN the purpose for which it was collected.

Volume #3: Exhibit "A"

30. Now shown to me and marked as **Exhibit "A"** are following pages that are enumerated as follows (with my annotations for emphasis purposes):

a. **Tab 1, pages 1 to 10:** a copy of my **OCF-18**, from April 2023, signed by myself and Mr Dhaliwal, PT of **TONP**;

b. **Tab 2, pages, 11 to 13:** a copy of the letter (dated April 20, 2023) from **Security National Insurance Company**, 101 McNabb Street, Markham, Ontario, L3R 4H8 with the following enclosures:

   i. my right to dispute the same regarding the decision of **Security National Insurance Company** (see: page 12); and
   ii. one page from an **OCF-18** document that was **NOT** signed by Alisha-Anne Nurse but with "printed lettering" of "As per A. Nurse" with the inscription of "IG W."

c. **Tab 3, pages 14 to 44:** a copy of the HCAI **OCF-18** Manual with some of my annotations therein.

31. While "TD Insurance Meloche Monnex" contains the name of "TD Insurance" or the "string" of "TD Insurance", I note that "TD General Insurance" does not.

32. I again affirm and reference my previous affirmed evidence that "TD Insurance Meloche Monnex" refers to two different insurance programs: (i) Alumni Program, and (ii) Employer Group Program. It is only the "Alumni Program" that is relevant to **TD Claim #3** and this **SNIC Proceeding**.

33. While that is my true and authentic signature on the OCF-18 and Mr. Dhaliwal signed the OCF-18, I do not have an OCF-18 signed by the adjuster at said time in Ms. Alisha-Anne Nurse.

34. I have emailed Nurse asking for a signed OCF-18 in relation to the same and she did not respond. After emailing Nurse, I received an email "bounce back" that stated "invalid recipient".

35. I asked Ms. Persaud for a copy of the signed OCF-18 by Ms. Nurse and Ms. Persaud did not respond.

36. I also do not have any accounting or itemization for which of the physio sessions that Ms. Nurse denied.

37. I further note that I became aware, through one of the health practitioners, that Ms. Bev Michie is now the "adjuster" or "advisor" on behalf of SNIC. I have emailed Ms. Michie but she has not responded as of today's date.

38. I note that the language therein which states, "*SABS* states that **THE INSURER [SNIC]**, shall, within **10 business days** of receiving this Treatment and Assessment, give the applicant (*myself*) a notice stating the goods and services contemplated by the Treatment and Assessment Plan for which **THE INSURER [SNIC]** will or will not pay."

39. I allege that **SNIC** did not comply with the requirements under *SABS* as it relates to Ms. Nurse SIGNING under Part 13 therein and **all** of the items are deemed approved, and **SNIC** is required, by the *Insurance Act* and *SABS*, to pay forthwith any physio sessions that have been denied by Security National Insurance Company pursuant to the OCF-18 (albeit with a different page count that the one sent by Mr. Dhaliwal on behalf of TONP and myself)

40. I continue to reserve all of my rights in fact and at law, and to the extent that any individual on behalf of TDGIC or the *Tribunal* requires me to provide any document or thing (outside of the scope of my motions and relief sought in relation to the Non-SABS Insurance Company or any individual acting on its behalf), I will strictly rely on *PIPEDA* being federal legislation and, inter alia, the "paramountcy doctrine".

41. I reserve the right to rely upon this affidavit #21 herein for purposes inside and outside of the TD Claim #3 and **SNIC Proceeding** including but not limited to obtain access to the CUA of my Personal Information and PHI by those **Organizations** or persons for purposes others than the **Limited Purposes** or otherwise.

42. Where I have provided a copy of this affidavit with Exhibit "A" to the Non-SABS Insurance Company, it operates as a notice and demand to comply with the language in the OCF-1 and OCF-18, and any other documents that I sent to SNIC regarding "privacy and confidentiality", and to forthwith comply with *PIPEDA* whilst confirming the same to me by written letter or email.

Pièce 81

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43. I affirm this **Affidavit #21** for no improper purpose and in relation to the above.

Affirmed before me at Toronto, Ontario
On this 3rd day of May 2024

Mr. Kevin A. McLean (B.A., J.D., CIM)

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OCF-18

Part 11 Health Care Providers

Provider Number	Provider Type	Provider Last Name	Provider First Name	Regulated College Number	Occupation (if applicable, or "none")	Hourly Rate (if applicable)
A	PT	[illegible]	[illegible]	11001		

Part 12 Proposed Goods or Services Requiring Insurer Approval

Item	Description	Code	Attribute	Provider Ref	Estimated Quantity	Estimated Frequency	Estimated Cost	Projected Total Count	Projected Total Cost
1	Physical rehabilitation	G12.PR		A	1.00	HR	60.00	36	2160.00
2	"Assessment (cognitive, and body"	G12.03		A	1.00	HR	216.00	1	216.00
								37	2376.00

Estimated duration of this Plan: 12 Months

Total money which have been already provided: up to date

Applicant or Guardian/Custodian (when applicable) confirms consent to proposed goods and services

*Please indicate any additional information regarding proposed goods and services:

Are there any attachments? ☐ Yes ☒ No

If Yes, how many? ____
Send any attachments directly to the Insurer

Part 13 Signature of Insurer

☑ I make the requirement of the Applicant's signature.

I have reviewed the Treatment and Assessment Plan and based upon the information provided, I:

☐ Approve this Treatment and Assessment Plan ☒ Partially approve ☐ Do not approve

The Statutory Accident Benefits Schedule states that the Insurer shall, within 10 business days of receiving this Treatment and Assessment Plan, give the applicant a notice stating the goods and services contemplated by the Treatment and Assessment Plan for which the Insurer will not be liable.

Name of Adjuster (please print)	Signature of Adjuster	Date (YYYY-MM-DD)
Nurse, Alisha Anne	Alisha Anne Nurse	2023-04-28

To the Insurer: Please provide a copy of this page to the applicant, the Health Practitioner indicated in Part 1 and the Regulated Health Professional indicated in Part 6.

Note: The Statutory Accident Benefits Schedule sets out the rights and obligations of insurers and applicants. For more details, see the Insurance Act and the Statutory Accident Benefits Schedule. This form must be used for all applications for medical, rehabilitation and attendant care benefits that are more than $3,000, including all optional assessments. Insurers may require other forms for applications for lower amounts.

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Additional Comments & Attachments

- HCAI enables Facilities to do the following:
  - Offer more information to Adjusters by using the space provided in Tab 6.
    - This may be important to help the adjuster better understand the injury and its effect on the Applicant/Patient as well as the rationale around treatment.
  - Advise Adjusters that additional documentation (attachments) is being sent which the Insurer requires to adjudicate the form

How should attachments be sent?

- Attachments must be faxed/mailed directly to the Adjuster.
  - Attachments cannot be sent electronically via HCAI and should not be sent to HCAI.
- To indicate that an attachment is being sent to the Adjuster, check off "Attachments being sent, if any."
  - If this box is ticked, the Facility must use the space below to describe the attachment being sent.



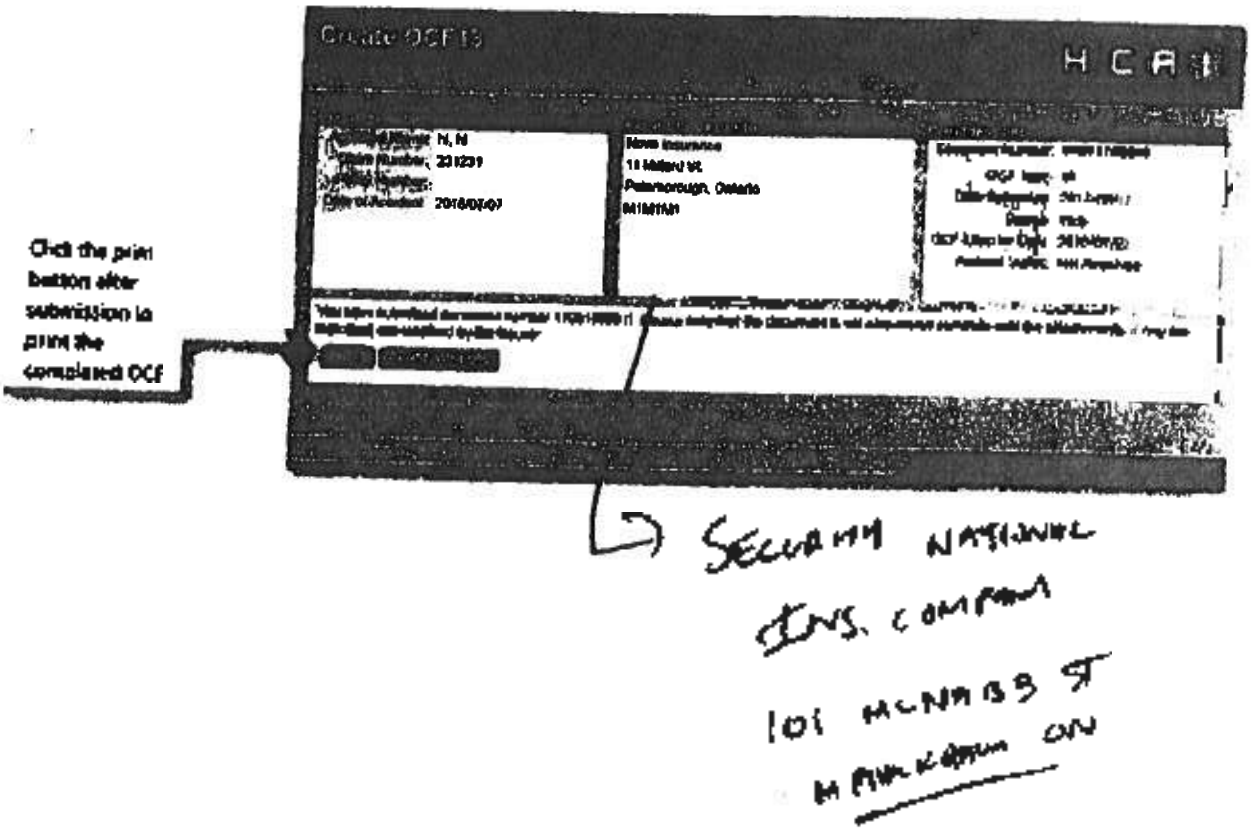
Signature(s) on OCF-18 - Printing the completed OCF

- Signatures are not transmitted to the Insurer; however, hard copies of the OCF must be printed, signed by the Provider(s) and the Applicant/Patient or substitute decision maker and kept on file at the Facility.
- Before obtaining signatures, the entire OCF should be completed.
- To print an OCF-18:
  - Click on the [redacted] button located at the top and bottom of the OCF page.

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- You can also print the OCF after it has been submitted. After pressing the submit button, the successful submission window will appear. Click on the [redacted] button. When printing after submission, the HCAI document number will automatically be displayed on the printed OCF.
- Depending on your internet browser settings, the document may immediately download or you may need to select whether to open or save the document.
  - For more information on changing your internet browser's pop-up settings, please review the Pop ups section of HCAIinfo's Computer Requirements & Tips page.



SECURITY NATIONAL INS. COMPANY
101 MCNABB ST
MARKHAM ON

TAB 44

TAB #15: ORAL COMPENDIUM: COURT FILE NO. DC-24-00000718-00JR

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NIM #13
TAB #6
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This is the 22nd Affidavit of Kevin A. McLean under TD's Claim Number 035325790-3 (the "Claim Number" or "TD Claim #3"), TD Insurance Policy Number #0010 9351 (the "Policy Number"), LAT File Number "23-015662/AABS" (the "LAT File Number" or "LAT Proceeding") and was finalized and made on May 10, 2024

BETWEEN

KEVIN ALEXANDER McLEAN

APPLICANT/APPELLANT

AND:

TD INSURANCE MELOCHE MONNEX (SECURITY NATIONAL INSURANCE COMPANY)

RESPONDENT

Affidavit #22 of Kevin A. McLean

In a matter under the *Insurance Act*, RSO 1990, c I.8. (the "*Insurance Act*")

In the matter of an "Application of an Injured Person" ("Application" or "AIP") by the Applicant pursuant to subsection 280(2) of the *Insurance Act*, RSO 1990, c I.8., in relation to statutory Accident benefits and the following regulations including but not limited to:

i. *Statutory Accident Benefits Schedule*, O Reg 34/10 ("*SABS*"); and
ii. *Automobile Insurance*, RRO 1990, Reg 664 ("*Reg 664*")

I, Kevin Alexander McLean, Disabled (B.A., J.D., CIM) of Toronto, Ontario AFFIRM THAT

Volume #1: Affirmation

1. I am the affiant (also defined as the "Applicant", "Injured Person", "Disabled Individual" and/or "CAT Impaired Individual") herein and I affirm, under the pains and penalties of perjury, the following facts to be true. Where I have stated information on my belief, I have cited the source of my belief by reference, citations, end-noting or otherwise.

Volume #2: Definitions

2. I adopt my definitions from my previously filed documents with the Tribunal, my affidavits with respect to the Insurance Policy, TD Claim #3, and this LAT Proceeding (also defined as "SNIC Proceeding") and they have the same meaning herein as they do therein.

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Volume #3: SECURITY NATIONAL INSURANCE COMPANY = SNIC = *SABS* INSURER = Ontario Insurance Registration #397

3 For ease of reference, I will continue to distinguish between **SECURITY NATIONAL INSURANCE COMPANY** as the "***SABS INSURER***" or "**SNIC #397**" or words and definitions to the similar effect

Volume #4: TD General Insurance Company = TDGIC

4. For ease of distinguishing, I will continue to reference to TD General Insurance Company as "***NON-SABS* INSURANCE COMPANY**" (or "**TDGIC #353**")

Volume #5: My section 21.1 of the *SPPA* request of the Tribunal to correct the errors (technical deficiencies) in the name of the respondent [sic] in any and all decisions or orders of the Tribunal (see: Exhibit "A", pages 12 to 33, with the e-receipt at Exhibit "A", page 34));

5. On May 9, 2024, I filed and served my request pursuant to subsection 21.1 of the *SPPA* (the "**Error Correction Request**" or "*SPPA* **Section 21.1 Request**") which has sought the following

a. correction to the name of the respondent in previously issued decisions and orders of the Tribunal pursuant to the statutory authority under section 21 of the *SPPA* along with all other sections of the *SPPA* that are relevant to the definition and interpretation of "parties", representatives *et al* including references to the *Legislation Act*, *Insurance Act* and *SABS*; and

i. in favour of the above and to avoid continuing advancing my request for the outstanding information for how, inter alia, a misapprehension was created upon the Tribunal, regarding which email (or communications orally) and/or individuals inadvertently misrepresented (in writing or orally) to or created the misapprehension upon the Tribunal that the "respondent" [sic] was **TDGIC** [sic], I am content to have the name of the respondent corrected by the amendment of two words:

1. ~~TD General~~ Insurance Company to **SECURITY NATIONAL INSURANCE COMPANY**.

Volume #6: Exhibit "A", pages 1 to 34

6. Now shown to me and marked as **Exhibit "A"** to this my affidavit are the following consecutive pages 1 to 34 which I describe in "general terms":

a. **Pages 1 to 11**:
   i. copy of my emails to the **Tribunal**, **SNIC** (Karat), **TDGIC** (TDIADR email), Nieuwland (representative to **TDGIC**) and Nieuwland's now known legal assistant in Ms Ortiz;
b. **Pages 12 to 33**:
   i. a copy of my filed and served ***SPPA* Section 21.1 Request**, and
c. **Page 34**:
   i. a copy of the e-receipt on May 9, 2024, of the aforementioned **Error Correction Request**

Volume #7: Exhibit "A", pages 5 to 11

7. Now shown to me on page 5 to 11 is a copy of my email from May 2, 2024 which I sent at 1:12 a.m. wherein I asked **SNIC** to provide me a copy of one of one of the "Spam Faxes" which I denoted in my affidavit #1, which was served on **SNIC** prior to the filing of this my "Application Of An Injured" and solely served on **SNIC** as I did not know the name of "**TDGIC**" at said time in relation to TD Claim #3. Despite my request I did not receive a copy of the same from any of the persons that I requested the same upon. I believe, based upon the *lack of response* to my request, that an individual on behalf of **TDGIC** created an misapprehension

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upon the Tribunal on or around January 13, 2024 and said error must, which is not a legal conclusion but my belief (based on the new loss and damage that I am suffering as a result) be corrected in accordance with the strict requirements (see: "technical deficiency" defined on page 28 of my Exhibit "A": "technical", according to strict interpretation of the law" and "deficiency": the state of not having something that is needed (i.e. the words of "Security National" in favour of "*TD General*") of the *Insurance Act*, *SPPA*, *Legislation Act*, *Law Society Act*, and any associated regulations with said empowering and enabling legislation.

8 If I recall the language in that "Spam Fax" correctly, said fax requested invited me to send any confidential information and correspondence to an address in North York, Ontario and not "SNIC Markham". I declined that invitation in the Spring of 2023 and continued to fax SNIC Markham. Moreover, I was stunned at the time that said fax represented to me that it had *no record* of my TD Claim #3. I took steps thereafter to clarify the same with SNIC Markham (attention: Ms. Nurse) and I continued to communicate, exclusively via fax, to SNIC Markham until I learned of Ms. Persaud (SNIC Burlington) in the Fall of 2023 and I then faxed my correspondence to SNIC Burlington.

9 At various points in 2023, I received mailed letters, on behalf of *TD Insurance Meloche Monnex* with a return address of either SNIC Markham or SNIC Burlington, requesting that we communicate via email. At that point, I was not comfortable communicating with SNIC via email as I had concerns about its compliance with PIPEDA.

10. To distinguish between the SNIC Markham fax number and the SNIC Burlington fax number, the former has and had a 416 area code fax number and the latter had and has a 905 fax number. While I honoured the switch from SNIC Markham (Nurse) to SNIC Burlington (Persaud), the SNIC Burlington fax number was regularly unable to receive faxes so I often would attempt to deliver to both and the SNIC Markham fax would receive all of the pages of the fax or the majority of them.

11. I continue to agree with the filing on behalf of SNIC in the form of the SNIC Response that the name of the insurance company that was exclusively input therein was and is, as it relates to my dispute under the *Insurance Act* and *SABS*, **SECURITY NATIONAL INSURANCE COMPANY**.

Volume #8: Exhibit "A", page 4 (May 1, 2024 email at 5:36 p.m.)

12. Now shown to me at Exhibit "A" is a copy of my email to the Tribunal and the email of "TDIADR" *et al* therein, wherein I confirmed and provided a copy of my OCF-18 which confirmed my disabilities and impairments at the time of April 2023. Said OCF-18 was signed by myself and Mr. Dhaliwal, PT, and relates to the April 20, 2023 letter that had the name (not a signature) of "As Per A. Nurse", with the interruption of "Kt. W" above said printed language ("As Per A. Nurse") under the requirement of "signature of an adjuster". I have maintained my position that "As Per A. Nurse" does not meet the requirements of a signature by Ms. Alisha Anne-Nurse on behalf of **SECURITY NATIONAL INSURANCE COMPANY** as I believe and submit that "as per" means on behalf of that individual and there is no signature of "another individual" on her behalf which is on behalf of **SECURITY NATIONAL INSURANCE COMPANY**.

13 While I will continue to maintain my position in this SNIC Proceeding that **SECURITY NATIONAL INSURANCE COMPANY** failed to respond within ten business days of the time (presuming it was sent on April 6, 2023) that Mr. Dhaliwal submitted the OCF-18 through HCAI (which I have been informed that he did and I believe to be true) to **SECURITY NATIONAL INSURANCE COMPANY** (attention: Alisha-Annie [sic] Nurse) at **SNIC Markham**, I also assert that said printed name of "As Per A. Nurse" does not meet the requirements of the insurer (SNIC) requirements of having an adjuster "sign" the OCF-18. My position will remain that had Ms. Alisha-Anne Nurse even printed her name (which I do not believe that she did) of "Alisha Anne Nurse" that it may (and emphasize "may") have constituted a "signature" on her behalf. I take issue with the "as per" as I believe that "as per" means "on behalf" of a person (namely, the individual known as "Ms. Alisha-Anne Nurse").

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14. Irrespective of the above paragraphs under Volume #8 herein, I note that at all times from the Date Of Loss to Spring 2023 to present that any and all documents and correspondence involving TD Claim #3 have involved one "insurer" and one "insurer" only and that is "SNIC #397"

Volume #9: Exhibit "A", page 3

15. Now shown to me and marked as Exhibit "A", page 3 is a copy of my email to the Tribunal (also defined as "LAT") (with a copy to TDIADR and others named therein for SNIC and TDGIC) requesting a copy of any information and documents as to how the error was caused by reference to the unnamed respondent as TDGIC as opposed to SNIC #397.

Volume #10: Exhibit "A, page 3 (Mr. Karat's email: misstating that TDIADR does not send outgoing mail)

16. Now shown to me and marked as Exhibit "A", page 3 is a copy of Mr. Karat's email, with thanks, representing to me and LAT that the "TDIADR email account" only receives mail and does not send mail. I disagreed with his position and provided him with a copy of the email that I received on Wednesday, January 17,2024 at 7:15 a.m. which stated, "*Please do not forward claims' expenses to this mailbox*" (see Exhibit "A", page 2). For precision purposes, I attached one of my OCF-6's, exclusively directed to SNIC Markham, and I received said response from "TDIADR email account". Therefore, I disagree with Mr. Karat's representation to myself and the Tribunal that the "TDIADR email" is not for "outgoing mail" If the "TDIADR email" did not engage in any outgoing mail, then I query whom informed the "Tribunal" of the email of "TDIADR" as it was included by the Tribunal and not myself. I further query as to how the "Tribunal" could have determined that the name of the "respondent" was "TDGIC" [sic] when it was not included in the Appeal with reference to any of the required and obligatory listed and attached documents to the Appeal, and more deliberately and later by a direction or requirement of the Tribunal (which I presume was pursuant to the *SPPA* in order to process my Appeal), the filed and uploaded "Denial Letters" which were extracted from the obligatorily listed and attached documents from my filed Appeal which was served on SNIC via fax to SNIC Markham

17. I re-affirm my belief as to the individual that controls and responds to emails from the TDIADR email account (also defined as the "**TDIADR Email Account**" or "**TDIADR Email**")

Volume #11: Exhibit "A", page 1

18. Now shown to me and marked as Exhibit "A", page 3 is a copy of my email to the Tribunal (attention Mr Grant) and SNIC #397 where I had, in my view, fortuitously found the "Ontario insurance license and registration numbers" of SNIC and TDGIC which are:

a. SNIC: #397; and
b. TDGIC: #953.

19. I delivered this email to the Tribunal and apologized for the error I had created as I had wrongly presumed that the insurance registration number for SNIC and TDGIC were the longer numbers that I had previously provided (albeit from other province(s), whilst still demonstrating that they held different insurance registration numbers in other provinces. I will no longer refer to those incorrect insurance registration numbers, and only rely on SNIC #397 and TDGIC #953.

Volume #12: Adoption and incorporation of the facts in the *SPPA* Section 21.1 Request

20. I adopt the facts stated in my **Error Correction Request** as my evidence herein and they are so formally and hereby incorporated.

Volume #13: No requirement for SNIC or TDGIC to respond

800 NOM #5 cont'd PAGE 10 of 15

21 As the "fresh evidence" that I have provided to the Tribunal is a matter of documents issued by the FSRA in an enforcement actions, I respectfully submit to the Tribunal that no response (see: LAT Rule 9 which only applies to a "party" which would be SNIC and require a response by Mr. Karat who is an unlicensed representative when measured against the requirements under the *LSA* and its By-Laws) is required from SNIC #397 (or TDGIC #353) as the evidence therein cannot be disputed. I affirm, yet again under the penalty of perjury, that I have not found any attempts by SNIC or TDGIC to rescind or set aside those separate and distinct consent agreements to their separate and distinct contraventions of sections under the *Insurance Act*, with reference to the *AIRSA*. I further affirm that I am not aware of any outstanding motions by SNIC (or TDGIC) to correct any of the decisions and orders of the FSRA (Superintendent of Financial Services in Mr. Brian Mills at said time) with respect to the insurance registration numbers that were denoted as being separately held by each.

22 I respectfully submit to the Tribunal that since SNIC agreed and consent to the payment of fines (see: Exhibit "A", page 19, brought by the initial allegations of contravention by the FSRA (formerly the FCSO) against it [SNIC #397], it cannot now take the position with the Tribunal that another registered insurance company in TDGIC (#353) can be substituted as the "*SABS* INSURER" when it is not. I respectfully submit that the same applies to TDGIC (see: Exhibit "A", page 20)

Volume #14: Correction of Errors: "Tribunal may, at any time, correct a similar error made in ITS decision OR order"

23. As noted in my Error Correction Request, I am seeking the correction of errors in any and all decisions or orders by the Tribunal from January 2024 to present (May 10, 2024)

24. I affirm that my Error Correction Request is NOT a "reconsideration request" like my "reconsideration request" in relation to NOM #5 as the Tribunal's orders and decisions in relation to notices of motions or that of Mr. Nieuwland on behalf of the NON-*SABS* INSURANCE COMPANY (TDGIC #353) as there were not any "final decisions" made by the Tribunal.

25 I note that in *Black Swan*, albeit in relation to an HRTO matter, that at paragraph 9 (see: Exhibit "A", page 23), the decision maker of the HRTO, noted that the Tribunal routinely grants requests to amend the names of corporate respondents to reflect their correct legal names.

26 I note that the correct legal name of the *SABS* INSURER herein is "SECURITY NATIONAL INSURANCE COMPANY" (see: including but not limited to: Insurance Policy, correspondence in my listed and attached documents to my filed Appeal on December 24, 2023; denial letters filed on or around January 9, 2024 pursuant to the requirement of the Tribunal in order to process my Appeal, my notices of motions (#1 to #3 filed in January 2024; Mr. Karat's email to me on January 23, 2024 wherein he represented to me that he was assigned as the "ADR" to handle this LAT Dispute while representing that he was "representing the SECURITY NATIONAL INSURANCE COMPANY, and the Karat COS, evidencing his service of the cover letter (see: return address of SNIC Markham with the logo in the upper left hand corner of "*TD Insurance Meloche Monnex*") and SNIC Response which he signed and filed whilst referencing the insurance company of "SECURITY NATIONAL INSURANCE COMPANY)

27. I note that TDGIC and SNIC are both "corporations" but only one can be the "insurer" (see: *Insurance Act*, s.1(1)) as it relates to *SABS*.

28. As I have claims for monetary orders in this SNIC Proceeding, I note the language in *Black Swan* which the HRTO stated, "The error in the respondent's name...is a barrier to effective enforcement of the orders." While I am not raising the issue herein as it relates to an abuse of process under section 25(1) of the *SPPA*, I note that Mr. Nieuwland, which was astonishing to me at the time of his representation to me on May 2, 2024, that "SNIC and TDGIC are one and the same". Since that is his position, and his a lawyer licensee with the LSO (which requires him to be honest in any representations or submissions made to the Tribunal), I respectfully submit to the Tribunal that there is no prejudice to TDGIC to correct (amend) the errors in previously issued orders or decisions of the Tribunal. In this regard, I also note that the issues faced by the

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applicant and then judgment creditor after the issuance of a decision and order relating to *Shinewald v. 2252419 Ontario Inc.*, 2013 HRTO 2023 (see: Exhibit "A", page 26). The applicant therein attempted to have her order enforced by the sheriff but was advised by the sheriff that the Tribunal's order could NOT be enforced (see: paragraph 5, sentence 3 therein; **Exhibit "A"**, page 26) unless it was amended to reflect the respondent's corporation name as opposed to a registered business name. As SNIC is the only corporation (*SABS* **INSURER: SNIC #397**) that has paid me benefits by ETF, pursuant to my exclusive consent to **SNIC #397**, to do so and I have NOT consented to any other insurance company paying me in said form or otherwise. I re-affirm my previously affirmed evidence that I would not be able to have a monetary order enforced, as it relates to *SABS*, against "**TDGIC #353**"; rather, I could only, in good faith and honesty, seek to enforce any monetary order pursuant to *SABS* against **SNIC #397**.

29 I am only seeking remedies against SNIC in reference to the *Insurance Act* and *SABS* (see: Exhibit "A", page 27 citing paragraph 12 of *Shinewald*).

30. I again affirm that by not correcting the errors in the "respondent's name", it is creating prejudice and difficulty for me in updating my various health practitioners, professionals *et al*, as to the status of this SNIC Proceeding as there is a differently named corporation (**TDGIC**) than the underlying documents in **TD Claim #3**.

31. As of today's date, which was somewhat of the impetus for this affidavit hereto, I was queried by two separate "professionals" who have provided services to me and continue to provide services to me (whilst I continue to attempt to resolve this LAT dispute), with words to the effect of whether any favourable decisions against **TDGIC** would have any effect in our ongoing professional relationship (i.e. whether a decision to remove me from the MIG against **TDGIC** as opposed to SNIC would authorize of any treatment plans or payment for their services through HCAI in the future). Moreover, I have had recent confirmation from one prospective health practitioner that their clinic could not submit any treatment plans without referencing the name in the **Insurance Policy** and any discrepancy between the same would not be sufficient for it. As such, before I embark on the same or provide necessary updates to my current health practitioners (which are aware of the issues involving SNIC), I kindly request that the "technical deficiencies" are corrected forthwith.

Volume #15: My Deep Concerns: I will not be treated by any current or future health practitioners until the Error Correction Request is granted

32. Without disclosing any confidential name(s), I felt compelled to provide this affidavit in support of my **Error Correction Request**.

33. For the above evidentiary reasons, some submitted on information and belief, and considering that Mr Nieuwland sees them as "one and the same" yet my I and, particularly, my "health practitioners" do not and cannot submit any OCF documents or communicate in relation to my **TD Claim #3** and my **Insurance Policy** under **Insurance Policy #001013511806** in relation to "**TDGIC**" but only **SNIC**. I would be most grateful if the Tribunal would, most expeditiously, provide me with an order that the sole insurer herein as the "respondent insurer" in relation to *SABS* is "**SECURITY NATIONAL INSURANCE COMPANY**".

34. I fear that if this "technical deficiency" is not corrected forthwith, I will be without interim treatment and I based on my diagnoses through independent MRI examinations and assessments along with my current status with **OCF-18's** being submitted exclusively to **SECURITY NATIONAL INSURANCE COMPANY**, will permanently and irreversibly suffer without the same in light of the same and the risk and prejudice to me. I had to cancel my accident related and health appointments today. As such, the damage and loss is already occurring as a result of the same. Moreover, while I have offered to pay in the interim, the insistence of certain health practitioners located in Ontario is to be paid through the "HCAI system". In this regard, I note that Mr Nieuwland on behalf of **TDGIC** took issue with my submission of **OCF-6's** as opposed to having a health practitioner in Ontario submitted an **OCF-18** – which can only be exclusively directed to **SNIC**. I do not know exactly how the payments work from SNIC to a health practitioners who is a registered license provider which

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I believe is under section 46 of *SABS* but I am informing the Tribunal of this issue as yet another ground as to why the "Error Correction Request" must be granted.

35. While Mr. Nieuwland may take, in my view, a more "laissez-faire" approach to "parties" and "insurers" and he may subjectively see "SNIC" and "TDGIC" as "one and the same", I do not and certainly my health practitioners' evidence (along with any physicians who are not members of the Royal College Of Physicians And Surgeons in Ontario all have referenced the "insurer" (i.e. the insurance company that agreed to undertake and underwrite the Insurance Policy that provided for *SABS* under the Schedule) was and is that the only "insurer" that it can communicate and correspond in relation to my impairments (see: *SABS*, ss. 3(1)) is that of Security National Insurance Company.

36. In order for me to provide any level of assurance to health practitioners in Ontario or otherwise, I am required to provide updates as it relates to this SNIC Proceeding, and I respectfully request that the Tribunal provide me with an order that I can rely upon with my health practitioners *et al* for the same.

37. I affirm that I brought the FSRA enforcement actions against SNIC (#397), TDHA (#1063), TDGIC (#353), and Primmum (#1396) as soon as I became aware of the same. Put another way, I affirm that the "timelines" of my Error Correction Request was made within hours of learning of the same. In addition to my above evidentiary reasons in support of the granting of my Error Correction Request, I believe that this will focus any further hearings and the hearing proper in a manner that is consistent with the Appeal, the SNIC Response and the underlying evidence – which is consistent with the documents tendered by Mr. Nieuwland on behalf of TDGIC (not SNIC) in relation to my NOM #4 and NOM #6 (see: all documents, albeit unnumbered, referenced one insurer and one insurer only is Security National Insurance Company). Moreover, I do not wish, and I believe it would be inconsistent with the section 2 of the *SPPA* (see: language of "most expeditious, just and cost-effective") and section 64 of the *Legislation Act* (see: language of "remedial" in relation to the "objects") to spend any further time on this issue.

38. I have provided this affidavit #22 with Exhibit "A" and its annexed pages to ensure that I have provided evidence to the Tribunal (although the FSRA decisions with their distinct administrative penalties against SNIC and TDGIC are of a public nature via online search therein despite the transition to the FSRA from the FCSO) in affirmed or sworn form (see: paragraph 6 of *Statement*, page 28 of Exhibit "A").

39. I affirm this Affidavit #22 for in relation to the above specifically (and general purposes if necessary) that the Tribunal, as a creature of statute) is required to rectify this "technical deficiency" by the removal of two words ("TD General") in favour of "Security National" in any previous decisions or orders. I thank the Tribunal in advance for its consideration of my Error Correction Request, with this evidence herein, and I look forward to being able to provide the aforementioned third parties with a copy of the same so I do not suffer any further loss or damage as a result of this "technical deficiency" or "error" (see: Exhibit "A", page 29 – "inadvertent incorrectness", "false statement not made deliberately", a "mistake" or the "state, quality or condition of being wrong"). Until the state of wrongness with the naming of "TD General Insurance Company" is correct, I affirm that I will suffer loss and damage, and I affirm, based upon belief, that since the representative (Nieuwland) for TDGIC (Non-*SABS* insurer) subjectively sees "TDGIC" and "SNIC" as "one and the same", I kindly request that the Tribunal grants the Error Correction Request in substantially the same form as I have sought such an order as that would be, in my submission, consistent with the "strict interpretation of the various statutes" (see: *Insurance Act*, *SPPA*, *Legislation Act* and *LSA* (defined herein as the "Governing Legislation")). To the extent that there is any inconsistency between the LAT Rules and the Governing Legislation, I note that the LAT Rules (effective August 21, 2023 https://tribunalsontario.ca/documents/lat/LAT-Rules.html) state that in the event of an inconsistency between the LAT Rules and legislation or regulations, the legislation or regulation prevails (see: Rule 1.2: "If there is a conflict between these Rules and any statute or regulation, the provisions of the statute or regulation prevail". Moreover, I note that the LAT Rules, Rule 3.1(c) ("Liberal Interpretation") states, "These Rules will be liberally interpreted to ensure [guarantee] consistency with governing legislation and regulations". I affirm that neither SNIC nor TDGIC have provided any authorities, based upon the same facts, or sworn evidence whose neither an "appellant" (applicant) (whether the injured person or insurance company) nor "respondent"

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(whether the injured person or insurance company) has named "TDGIC" and a "Response" has been filed on behalf of "Security National Insurance Company" that would authorize a representative to file a DOR on behalf of TDGIC and continue the LAT Proceeding as if "SNIC" was not a party and respondent (i.e. TDGIC substituted for SNIC)

40. In this vein, I note that the definition of "correction" includes "setting right" but also "substitution for an error or mistake". I note that the heading, with explicit language chosen by the Legislature, for section 21.1 of the *SPPA* is "Correction Of Errors". While I do note that the Legislature referenced the word "may" in section 21.1 of the *SPPA*, I do note that the language chosen by the Legislature in the Insurance Act for the definition of "insurer". As now noted by the FSRA enforcement decisions, the FSRA unequivocally, which passed the UDAP Rule, found that SNIC and TDGIC are separate insurance companies with separate registration insurance numbers.

41. It is my respectful submission (without making a legal conclusion or making legal argument but merely my submission to the Tribunal) that if the LAT Rules state to the public that the LAT Rules will [shall] be liberally interpreted to guarantee [ensure] consistency with the governing legislation and regulations, then it is not a matter of discretion (may) for the Tribunal but a mandatory obligation to correct the errors. I appreciate that I had not advanced this "fresh evidence" before but I note the Legislature's choice of language of "at any time correct...a similar error made in its decision or order". I respectfully ask that this Error Correction Request be brought to the attention of the "chair of LAT" – whomever that esteemed individual may be

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42 I affirm this Affidavit #22 for no improper purpose and in relation to the above.

Affirmed before me at Toronto, Ontario
On this 10th day of May 2024

[redacted] McLean (B.A., J.D., CIM)

Universal No Expiration
NO FLA PROVIDED
Identification Confirmed

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[3]One year after the Accident as determined by a physician (neurosurgeon) when reviewing the four different MRIs that I had since the Accident (please: Affidavits #1 to #4 which were attached to my filed pleading herein on December 24, 2021)
[4]The claim number being "TD Claim #3"
[5]As not all Ontario registered insurance companies have been subject to enforcement actions by the FSRA and none of the insurance registration license numbers are publicly listed like other provinces such as Saskatchewan

TAB 45

TAB #16: ORAL COMPENDIUM: COURT FILE NO. DC-24-00000718-00JR

807 MOM #13 TAB #1

PAGE 112

This is the 23rd Affidavit of Kevin A. McLean under TD's Claim Number 0353525790-3 (the "Claim Number" or "TD Claim #3"), TD Insurance Policy Number #0001135111806 (the "Policy Number"), LAT File Number "23-015662/AABS" (the "LAT File Number" or "LAT Proceeding") and was finalized and made on May 11, 2024

BETWEEN

KEVIN ALEXANDER MCLEAN

APPLICANT/APPELLANT

AND.

TD INSURANCE MELOCHE MONNEX (SECURITY NATIONAL INSURANCE COMPANY)

RESPONDENT

Affidavit #23 of Kevin A. McLean

In a matter under the *Insurance Act*, RSO 1990, c I 8, (the "*Insurance Act*")

In the matter of an "Application of an Injured Person" ("Application" or "AIP") by the Applicant pursuant to subsection 38(2) of the *Insurance Act*, RSO 1990, c I 8., in relation to statutory Accident benefits and the following regulations including but not limited to

i. *Statutory Accident Benefits Schedule*, O Reg 34/10 ("*SABS*"), and
ii. *Automobile Insurance*, RRO 1990, Reg 664 ("*Reg 664*")

I, Kevin Alexander McLean, Disabled[1] (B.A., J.D., CIM) of Toronto, Ontario **AFFIRM** THAT:

Volume #1: Affirmation

1. I am the affiant (also defined as the "Appellant", "Applicant", "Insured Person", "Disabled Individual" and/or "CAT Impaired Individual") herein and I affirm, under the pains and penalties of perjury, the following facts to be true. Where I have stated information on my belief, I have cited the source of my belief by references, citations, end-noting or otherwise.

Volume #1: Exhibit "A"

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PAGE 113

2

Now shown to me and marked as Exhibit "A", Tabs 1 to 10, pages 1 to 140 are the following described tabs and pages (with my annotations and highlighting for ease of reference):

a. Tab 1, pages 1 to 41: my filed and served, on SNIC Markham, Appeal on December 24, 2023, along with select portions of my listed and attached documents to my Appeal with the attached filing confirmation (see: pages 40 and 41);
b. Tab 2, pages 42 to 66: my motion submissions for my NOM #1 (also defined as the "Henderson Motion" or a "Henderson Order Motion") (see: January 3, 2024).
c. Tab 3, pages 67 to 80: my motion submissions for NOM #2 (see: January 7, 2024);
d. Tab 4, pages 81 to 101: the denial letters (which were appended documents to my Appeal by way of attached and listed documents) that the Tribunal required that I submit in order to finally process my Appeal (see: January 8, 2024);
e. Tab 5, pages 102 to 120: my motion submissions for NOM #3 (see: January 13, 2024);
f. Tab 6, pages 121 to 123: the additional denial letters (see: January 17, 2024);
g. Tab 7, pages 124 to 131: excerpts from my affidavit #13 (see: references thereto to the Motor Vehicle Liability Card, Mr. Karat initial email to me on January 23, 2024 wherein he represented to me that he was "representing the Security National Insurance Company" and he had been "assigned" as the "ADR" to handle this "LAT dispute", et al);
h. Tab 8, pages 132 to 136: the cover letter and filed Application Response by SNIC which were sent to me by Mr. Karat, without Mr. Nieuwland or Ms. Persaud copied (see: January 25, 2024).
i. Tab 9, page 137: Mr. Karat's service of his certificate of service regarding his filed and signed Application Response on behalf of SNIC (see: service of the same on February 14, 2024); and
j. Tab 10, pages 138 to 140: a copy of Mr. Nieuwland's submissions on behalf of TDGIC in relation to my COI Motion

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Volume #3: Conclusion

3 I affirm this Affidavit #2 for no improper purpose and in relation to the above

Affirmed before me at Toronto, Ontario
On this 10th day of May 2024

Mr. Kevin A. McLean (B.A., J.D., CIM)

Vinh Thu Tran, Esq.

TAB 46

Electronically filed / Déposé par voie électronique : 18-Feb-2025
Toronto Superior Court of Justice / Cour supérieure de justice

TAB #17: ORAL COMPENDIUM: COURT FILE NO. DC-24-00000718-00JR

813 NOM #13 TAB #8

Page 117

This is the 24th Affidavit of Kevin A. McLean under TD's Claim Number 035325790-3 (the "Claim Number" or "TD Claim #"), TD Insurance Policy Number #0010331513806 (the "Policy Number"), LAT File Number "23-015662/AABS" (the "LAT File Number" or "LAT Proceeding") and was finalized and made on May 15, 2024

BETWEEN:

KEVIN ALEXANDER MCLEAN

APPLICANT/APPELLANT

AND

TD INSURANCE MELOCHE MONNEX (SECURITY NATIONAL INSURANCE COMPANY)

RESPONDENT

Affidavit #24 of Kevin A. McLean

In a matter under the *Insurance Act*, RSO 1990, c I.8. (the "*Insurance Act*")

In the matter of an "Application of an Injured Person" ("Application" or "AIP") by the Applicant pursuant to subsection 280(2) of the *Insurance Act*, RSO 1990, c I.8., in relation to statutory Accident benefits and the following regulations including but not limited to:

i. *Statutory Accident Benefits Schedule*, O Reg 34/10 ("*SABS*"), and
ii. *Automobile Insurance*, RRO 1990, Reg 664 ("*Reg 664*")

I, Kevin Alexander McLean, Disabled[1] (B.A., J.D., CIM) of Toronto, Ontario AFFIRM THAT

Volume #1: Affirmation

1. I am the affiant (also defined as the "Appellant", "Applicant", "Insured Person", "Disabled Individual" and/or "CAT Impaired Individual") herein and I affirm, under the pains and penalties of perjury, the following facts to be true. Where I have stated information on my belief, I have cited the source of my belief by references, citations, cash-noting or otherwise

Volume #2: Exhibit "A"

TAB #3 PAGE 118

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Now shown to me and marked as Exhibit "A", pages 1 to 23 are the following described tabs and pages (with any annotations and highlighting for ease of reference).

a. **pages 1 to 6 (Meloche Monnex Trademark)**: a print out from the Government Of Canada website (Canadian Trademarks Database) with the registration number for the trademark "Meloche Monnex" of TMA 619498 ("MM 498" or "Meloche Monnex 498") along with the initial registrant (Meloche Monnex Insurance And Financial Services Inc.), current owner (Meloche Monnex Inc.) and its agent of Fasken LLP
   i. I note that Meloche Monnex Inc. has the same address as the head office for SNIC.
   ii. I note that the filing of the application for the trademark of "Meloche Monnex" was in 1991.
b. **pages 7 to 13 (TD Insurance Trademark)**: a copy of a print out from the Government Of Canada website (Canadian Trademarks Database) regarding the trademarked words of "TD Insurance" with a TMA of 1191290 ("TDI TM 290");
   i. I note that the trademark for TDI TM 290 was filed in June 2019.
   ii. I note that the TDI TM 290 trademark was registered on July 20, 2023.
c. **pages 14 to 15**: a copy of a print from the Government of Canada website (Canadian Trademarks Database) regarding the trademark for the design of "Meloche Monnex Insurance for professionals and alumni
   a. I note that this trademark for said design was filed in January 2005.
d. **page 16**: a copy of a printout from the Government of Canada website (Canadian Trademarks Database) regarding the renewal of the trademarked words of "Meloche Monnex" on October 15, 2008 for ("MM 498");
e. **page 17**: a copy of the "Trademark Certificate Of Registration" from the Government Of Canada website (ISED) for TDI TM 290 with the registration date of July 20, 2023;
f. **page 18**: a copy of a document from the Government Of Canada website (ISED) regarding "Meloche Monnex 498" and its "Requirement To Furnish Statement Under Subsection 44.1(1) of the *Trademarks Act* (Canada).
g. **pages 19 to 21**: a copy of a printout from the website of TD Insurance | Meloche Monnex Insurance which provides the following:
   i. TD Insurance Meloche Monnex Program, specifically designed for professionals, alumni and employer groups (see page 20);
   ii. Legal.
      1. "TD Insurance Meloche Monnex" refers to the travel, home and auto insurance program for Professionals, Alumni and Employer Groups
      2. The home and auto insurance policies for Alumni and Professionals are underwritten by Security National Insurance Company and distributed by TD Insurance Direct Agency Inc. in the rest of Canada.
      3. The home and auto insurance policies for "Employer Groups" are underwritten by Primmum Insurance Company and distributed by TD Insurance Direct Agency Inc. in the rest of Canada.
      4. Address of the corporate secretariat):
         a. TD Insurance (Corporate Secretariat)
         b. 50, Place Cremazie
         c. 12th Floor
         d. Montreal (Quebec) H2P 1B6.
h. **Pages 22 and 23**: select pages from the financial statements (audited financial statements of The Toronto Dominion Bank (FIN 004) and its distinct subsidiaries as defined by it as the "TD Bank Group"
   i. I note that I am unable to find any references in these financial statements to the name at the bottom of the letters regarding TD Claim #), addressed to me, from "TD Insurance Meloche Monnex" (Security National Insurance Company) of "TD Bank Financial Group"
      i. I note for example the April 20, 2023 letter, where I take issue with the printed "As per A Nurse" instead of her signature on behalf of SNIC, with the footnote at the bottom of the letter as follows:
         a. "Member of TD Bank Financial [sic] Group".
         b. "Meloche Monnex is a trade-mark of Meloche Monnex Inc., under license, and

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PAGE 119

c "TD Insurance" is a trade mark of "The Toronto-Dominion Bank" and used under license.

Volume #3: Concluding paragraph(2)

3 I maintain my position, evidence and submissions to the Tribunal that I cannot find any evidence that supports Mr. Nieuwland's representation on May 2, 2024 that "SNIC" (FSRA insurance company registration #397) and "TD General" (FSRA insurance registration #333) are "one and the same". I will not get into any motives or whether the process is being abused at this time and I will, in the spirit of having this SNIC Proceeding determined in accordance with the Insurance Act, SPPA, Legislation Act, LATA and the LSA along with any and all associated regulations including but not limited to SABS, Reg 664 and the LSO By-Laws, confirm by this Affidavit #24 that I do not require any further information regarding how the misapprehension was created upon the Tribunal so long as the "errors" are "corrected" in any and all previous decisions or orders

4 I provide this affidavit, inter alia, in support of correcting the error (which I say amounts to a similar error by way of "technical deficiency) in any and all orders or decisions under this SNIC Proceeding from "TD General Insurance Company" to "Security National Insurance Company".

5 I affirm this Affidavit #24 for no improper purpose and in relation to the above.

Affirmed before me at Toronto, Ontario
on this 15th day of May 2024

Mr. Kevin A. [illegible] (B.A., J.D., CIM)

Mark The Tree, Esq.

[illegible]
NO JLA REQUIRED.
Identification Confirmed

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AFFIDAVIT #24

PAGE 121

THIS IS EXHIBIT "A" REFERRED TO IN THE AFFIDAVIT OF KEVIN A. MCLEAN AFFIRMED BEFORE ME, THIS 15th DAY OF MAY, 20 25

A COMMISSIONER, ETC.

Vinh The Tran, Esq., LSUC #97761C
Lawyer, Notary, Oaths Commissioner
188 638 Dupont Street, Toronto, ON
M6G 1Z4, T. 647-209-7389
vinhtranlaw@hotmail.com

Government of Canada / Gouvernement du Canada

PAGE 17 (1)

Share this page

MELOCHE MONNEX – 0695938

Application number
0695938

Registration number
TMA419498 -419498

Type(s)
Word

Category
Trademark

CIPO Status
REGISTERED

TMS status
ACTIVE/REGISTRATION/Issued and Active

The trademark application has been registered with the Office.

Filed 1991
1991-12-20

Registered
1993-11-12

Registration Expiry Date
2033-11-12

Current owner

Disclaimer text

The right to the exclusive use of the word MELOCHE is disclaimed apart from the trademark.

Index headings

MELOCHE MONNEX

Services (Nice class & Statement)

(1) Insurance brokerage services and insurance services.

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Meloche Monnex Inc.
50, Place Crémazie,
12th Floor,
Montreal,
QUEBEC H2P1B6

Agent
FASKEN MARTINEAU DUMOULIN LLP
333 BAY STREET, SUITE 2400
BAY ADELAIDE CENTRE, BOX 20
TORONTO
ONTARIO M5H2T6

Registrant
Meloche Monnex Assurance et Services Financiers Inc./ Meloche Monnex Insurance and Financial Services Inc.
50, PLACE CREMAZIES,
12TH FLOOR,
MONTREAL,
QUEBEC H2P1B6

Documents
View documents

(2) Insurance services, namely personal insurance services intended primarily to provide assistance to independent entrepreneurs, namely: life insurance, health insurance and hospitalization insurance, namely accident-illness protection covering, among other things, hospitalization costs, medications, health professional fees, dental care insurance, disability insurance, namely: general office expenses insurance to enable its operation during the disability period and income insurance; credit services, namely mortgage and consumer loan services including automobile leasing, savings services, namely savings plans, legal assistance, legal insurance, commercial and industrial insurance brokerage; assistance services, namely roadside assistance and personal assistance in most countries around the world for holders of the applicant's card.

(3) Insurance services, namely: travel insurance, health insurance, medical expenses insurance, home insurance, automobile insurance, assistance services, namely international assistance service, namely services for organizing the transportation of people due to medical emergency.

(4) Insurance services, automobile, home insurance services, insurance services for corneal lenses, insurance management services; settlement of claims, establishment of insurance rates and reinsurance transactions, consulting

TAB #12
NOA #13
PAGE 124

Government of Canada / Gouvernement du Canada

Share this page

TD INSURANCE – 1968906

Application number
1968906

Registration number
TMA1191290

Type(s)
Word

Category
Trademark

CIPO Status
REGISTERED

TMS status
ACTIVE/REGISTRATION/Issued and Active

The trademark application has been registered with the Office.

Filed
2019-06-11

Registered
2023-07-20

Registration Expiry Date
2033-07-20

Registrant

Index headings

TD INSURANCE

Goods (Nice class & Statement)

6 (1) Alloys of common metal; ores of metal; ingots made of common metal; statues, busts and works of art made of metal; safes and strongboxes made of metal or non-metal

9 (2) Computer software and downloadable mobile applications in the field of insurance services, namely filing and processing insurance claims, providing insurance services and insurance quotes and providing information regarding insurance services; downloadable and non-downloadable electronic publications in the nature of magazines, newsletters and brochures in the fields of banking, finance, investment, insurance and securities trading

9 (3) Computer software and mobile applications for electronically trading securities and managing financial portfolios; computer software and mobile applications for online, internet and mobile banking; computer software and mobile applications for financial management and financial planning; electronic payment terminals; credit and debit cards

14 (4) Alloys of precious metal; badges of precious metal; ingots made of metal alloys; statues, busts and works of art made of metal alloys; boxes of precious metal; busts of precious metal; coins and

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THE TORONTO-DOMINION BANK
66 Wellington Street West
Toronto Dominion Tower
12th Floor
Toronto
ONTARIO M5K1A2

Agent
FASKEN MARTINEAU DUMOULIN LLP
333 BAY STREET, SUITE 2400
BAY ADELAIDE CENTRE, BOX 20
TORONTO
ONTARIO M5H2T6

Documents
View documents

	commemorative coins; diamonds; jewellery; gold; ingots of precious metal; key rings and key chains; medals; pearls; platinum; precious metals; precious stones; rings made of precious metals; silver; works of art of precious metal
16	(5) Printed publications, namely, magazines, newsletters, guides, manuals, pamphlets, brochures and catalogues of products, all in the fields of banking, financial advisory, investment management, mutual fund, insurance, insurance brokerage and underwriting, real estate, credit card and securities brokerage services
18	(6) All purpose carrying bags; sports bags
20	(7) Furniture, namely armchairs; mother-of-pearl; statues of amber and works of art made of amber; yellow amber; mirrors; picture frames
21	(8) Mugs; beer glasses, brandy glasses, cocktail glasses and drinking glasses; water bottles; bottle openers
25	(9) Clothing, namely t-shirts, sweatshirts, sports jerseys, gloves, jackets, scarves, socks and baby clothes; headwear, namely baseball caps, toques, sun visors, caps with visors and visors for athletic use, ear muffs; footwear, namely shoes, sports shoes and baby shoes
32	(10) Beers; mineral and aerated waters; fruit juices; vegetable juices; soft drinks and carbonated soft drinks
33	(11) Wine; distilled alcoholic beverages, namely vodka, rum, whiskey, tequila and gin; alcoholic coolers
34	(12) Tobacco and pipe tobacco; cigarettes; e-cigarettes; oral vaporizers for smoking purposes; cigars; smokers' articles, namely lighters, ashtrays, cigarette rolling papers, machines for rolling cigarettes and matches; dried marijuana, marijuana

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cigarettes, marijuana for smoking, marijuana oil for electronic cigarettes and marijuana oil for oral vaporizers for smoking; oral vaporizers for smoking marijuana

Services (Nice class & Statement)

35 (1) Statement production, namely, preparation of financial statements for others; preparing business reports containing financial and economic information; business management and administration services and business management consulting; business consulting in the field of business acquisitions and mergers; business consultancy in the field of banking leads; business consultancy services in relation to corporate social responsibility; strategic business analysis consulting; business consulting services in the field of business acquisitions and mergers

35 (2) Credit and debit card reward program services; arranging and conducting incentive reward programs to promote the sale of products and services of others; environmental initiatives, namely promoting public awareness of reducing the environmental footprint of business operations, environmental programs and green products and services of others relating to the banking, insurance and financial services industries; online payroll preparation

36 (3) Insurance claim processing and insurance underwriting services in the fields of life, health, travel, accident, fire, home, pet and automobile insurance; insurance brokerage; providing grants to charitable organizations and governmental bodies in the fields of finance, investment, corporate social responsibility programs, the reduction of

file:\\elec\trade_mark\01\2\035\44\1243544.htm printed: 2005-01-14 10:54

823

Code d'identification de transaction : [illegible]

(14)

Date de réception de la demande électronique: 13 janvier 2005 15:26:01

Numéro de référence : CD/12031.56

Description : Meloche Monnex Insurance for professionals and alumni (dessin)

Date : 13 janvier 2005

DESIGN

Registraire des marques de commerce
Bureau des marques de commerce
Gatineau (Québec) K1A 0C9
CANADA

Le Registraire des marques de commerce au nom du receveur général du Canada est par la présente autorisé à débiter le droit prescrit du compte de dépôt de cette firme pour un montant total de 250 $ CA.

Un dessin de la marque de commerce est ci-joint.

DEMANDE D'ENREGISTREMENT D'UNE MARQUE DE COMMERCE

1. La requérante, **MELOCHE MONNEX INC.**, qui a un bureau principal ou siège d'affaires dont l'adresse postale complète est 50, Place Crémazie, 12e étage, Montréal, QUÉBEC, CANADA, H2P 1B6, demande l'enregistrement selon les dispositions de la *Loi sur les marques de commerce*, de la marque de commerce identifiée ci-dessous.

2. La marque de commerce apparaît dans le dessin ci-joint :

3. La requérante elle-même ou par l'entremise d'un licencié, ou elle-même et par l'entremise d'un licencié, a l'intention d'employer la marque de commerce au Canada en liaison avec (1) services de courtage d'assurances et services d'assurances; services d'assurances nommément assistance juridique, assurance juridique, courtage d'assurances commercial et industriel; services d'assistance nommément assistance routière et assistance personnelle dans la plupart des pays du monde pour les détenteurs de la carte de la requérante; services d'assurances, nommément: assurance voyage, assurance-maladie, assurance frais médicaux, assurance habitation, assurance automobile, services d'assistance nommément service d'assistance international nommément services d'organisation de transport de personnes pour cause d'urgence médicale; services d'assurance pour lentilles cornéennes, services de gestion d'assurances; règlement de sinistre, établissement de tarifs d'assurances et transaction de réassurance, services de conseils nommément services de conseillers en

matière d'assurance auprès des corporations ou associations professionnelles ou entreprises

824 demande l'enregistrement de la marque de commerce à l'égard de ces services.

4. La requérante nomme GOUDREAU GAGE DUBUC, dont l'adresse postale complète au Canada est TOUR DE LA BOURSE, 800 PLACE-VICTORIA, BUREAU 3400, C.P. 242, MONTREAL, QUEBEC, CANADA, H4Z 1E9, comme la personne (firme ou un membre quelconque de ladite firme), comme ses agents avec pleins pouvoirs de substitution ou de révocation aux fins de présenter une demande, de signer tout amendement s'y rapportant de même que toute demande, et les pouvoirs desdits agents comprenant celui de recevoir le certificat d'enregistrement pour le compte de la requérante.

→ FORMER OWNERS BEFORE FINAL

5. La requérante nomme GOUDREAU GAGE DUBUC, dont l'adresse postale complète au Canada est TOUR DE LA BOURSE, 800 PLACE-VICTORIA, BUREAU 3400, C.P. 242, MONTREAL, QUEBEC, CANADA, H4Z 1E9, comme la personne (ou firme) à qui peut être envoyé tout avis concernant la demande ou l'inscription, et à qui peuvent être délivrées ou signifiées toutes procédures relatives à la demande ou à l'inscription, avec le même effet que si elles avaient été délivrées ou signifiées à la requérante ou à l'inscrivant.

6. La requérante est convaincue qu'elle a le droit d'employer la marque de commerce au Canada en liaison avec les services dont la description est donnée ci-dessus.

TAB #8
PAGE 12
NUM #13

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(16)

Marques de commerce

Certificat de renouvellement

Trade-marks

Certificate of Renewal

La présente atteste que l'enregistrement de cette marque de commerce est renouvelé pour une période de quinze ans, conformément à l'article 46 de la *Loi sur les marques de commerce*.

This is to certify that this trade-mark registration is renewed for a period of fifteen years, in accordance with section 46 of the *Trade-marks Act*.

MELOCHE MONNEX

419 498 = MELOCHE MONNEX = NUMS TRADEMARK

Numéro d'enregistrement / Registration Number: **TMA419,498**

Numéro de dossier / File Number: **695938**

Date d'échéance / Expiry Date: **12 nov/Nov 2023**

Date: **15 oct/Oct 2008**

Registraire des marques de commerce / Registrar of Trade-marks

Innovation, Sciences et Développement économique Canada
Innovation, Science and Economic Development Canada

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P 066 130

(17)

Marque de commerce / Trademark

CERTIFICAT D'ENREGISTREMENT / CERTIFICATE OF REGISTRATION

LMC/TMA 1,191,290 ± TD INSURANCE

Numéro d'enregistrement / Registration number

Numéro de la demande / Application number
1968906

Date d'enregistrement / Registration date
20 juil/Jul 2023

La présente certifie que la marque de commerce identifiée sur ce certificat a été enregistrée. L'extrait ci-joint est une copie conforme de l'inscription de son enregistrement.

This is to certify that the trademark identified on this certificate has been registered and that the attached extract is a true copy of the record of its registration.

Conformément aux dispositions de la Loi sur les marques de commerce, cet enregistrement est sujet à un renouvellement tous les 10 ans à compter de la date d'enregistrement.

In accordance with the provisions of the Trademarks Act, this registration is subject to renewal every 10 years from the registration date.

TD INSURANCE

Registraire des marques de commerce
Registrar of Trademarks

Canada

827

Développement économique Canada
Office de la propriété intellectuelle du Canada

Economic Development Canada
Canadian Intellectual Property Office

(18)

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FASKEN MARTINEAU DUMOULIN LLP
333 BAY STREET, SUITE 2400
BAY ADELAIDE CENTRE, BOX 20
TORONTO
ONTARIO M5H 2T6

Attention: Simon Hinchens

Propriétaire - Owner
Melochs Monnex Inc.

Marque de commerce - Trademark
MELOCHE MONNEX

Date 23 oct/Oct 2023
Votre référence - Your reference
Numéro de dossier - File number 605938
Numéro d'enregistrement - Registration number TMA419,498

EXIGENCE DE FOURNIR UN ÉTAT SELON LE PARAGRAPHE 44.1(1)

Conformément aux dispositions du paragraphe 44.1(1) de la *Loi sur les marques de commerce*, le propriétaire inscrit de cette marque de commerce doit grouper et classer les produits ou services associés avec la marque de commerce, selon les classes de la classification de Nice avant le 23 avril 2024.

Les propriétaires inscrits peuvent utiliser le service en ligne sur notre site Web à l'adresse ci-dessous ou peuvent envoyer une correspondance écrite au registraire des marques de commerce, indiquant le numéro d'enregistrement ou le numéro de la demande ainsi que la liste complète des produits ou services groupés et classés selon la classification de Nice. Chaque groupe de produits ou services devra être précédé du numéro de la classe de cette classification à laquelle il appartient et étant présenté dans l'ordre des classes de cette classification. Pour des renseignements supplémentaires au sujet de la classification des produits ou services, veuillez consulter le *Manuel d'examen des marques de commerce* sur notre site Web à l'adresse ci-dessous.

Veuillez noter que cette exigence s'applique uniquement aux produits ou services existants tels qu'ils figurent actuellement sur le registre des marques de commerce.

REQUIREMENT TO FURNISH STATEMENT UNDER SUBSECTION 44.1(1)

Pursuant to subsection 44.1(1) of the *Trademarks Act*, the registered owner of this trademark is required to group and class the associated goods or services according to the classes of the Nice Classification on or before April 23, 2024.

Registered owners may use the e-service on our website at the address below or send written correspondence to the Registrar of Trademarks indicating the registration number or the application number and the complete listing of goods or services grouped and classed according to the Nice Classification. Each grouping of goods or services must be preceded by the number of the class of the Nice Classification to which that group of goods or services belongs, and presented in the order of the classes of the Nice Classification. For more information on the classification of goods or services, please consult the *Trademarks Examination Manual* on our website at the address below.

Please note that this requirement applies only to the existing goods or services as they currently appear on the register of trademarks.

TD Insurance

NOM #13
TAB #8

PAGE 32

Insurance coverage & savings to help you.

[redacted]

Find the right coverage for you from a range of insurance products

engineers canada
ingénieurs canada

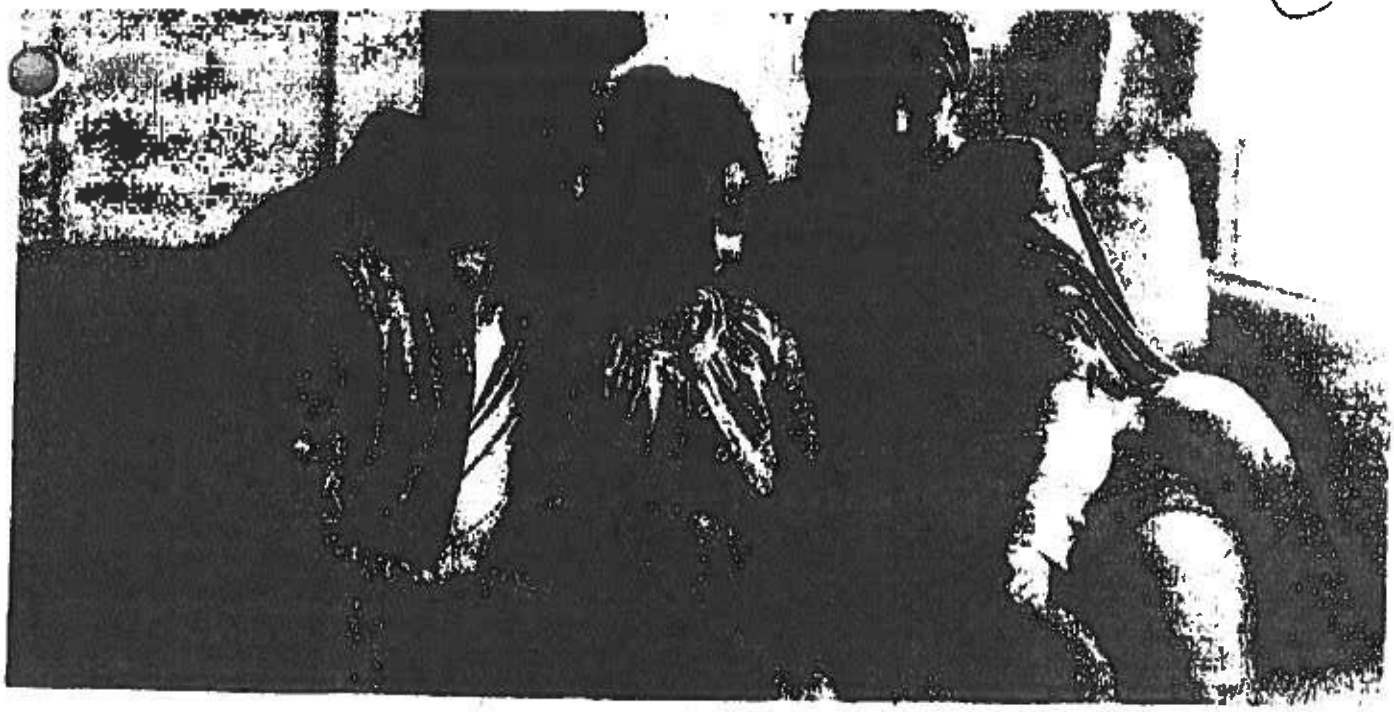
PROFESSIONALS

IF PROFESSIONALS OR ALUMNI =
SNIC = UNDERWRITER

829

PARC 133

(C)



Welcome, Engineers and Geoscientists

Being members means you have access to savings as part of the Engineers Canada sponsored program with TD Insurance. The programs enable you to have access to preferred rates and savings on a variety of insurance options. Find a plan suitable for your needs.

TD Insurance Meloche Monnex Program:

NOT A DIRECT CONTRACT BUT PROGRAM

- Specifically designed for professionals, alumni and employer groups.
- Offers Car, Home, Condominium Tenant and Motorcycle & RV Insurance.

Engineers Canada Groups

Select your Engineers Canada sponsored group program below.

https://www.tdinsurance.com/meloche-monnex/insurance/engineerscanada

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21

Coverage that fits

Personalized coverage assessments for home and car tailored to your needs.

We're here for you

Conveniently speak to our experienced Claims Advisors when you need to get your car repaired, or pick up a rental vehicle at a TD Insurance Auto Centre.

NO REFERENCE TO TD GENERAL

Legal

"TD Insurance Meloche Monnex" refers to the travel, home and auto insurance program for Professionals, Alumni and Employer Groups. The home and auto insurance policies for Alumni and Professionals are underwritten by Security National Insurance Company and distributed by Meloche Monnex Insurance and Financial Services Inc. in Québec, and TD Insurance Direct Agency Inc. in the rest of Canada. The home and auto insurance policies for Employer Groups are underwritten by Primmum Insurance Company and distributed by Meloche Monnex Insurance and Financial Services Inc. in Québec and TD Insurance Direct Agency Inc. in the rest of Canada.

*Conditions apply. Subject to eligibility rules.
Note: You may not always be given the option to buy online. If this happens, we encourage you to call and speak to one of our licensed advisors.

TD Insurance (Corporate Secretariat)
50 Place Crémazie
12th Floor
Montreal (Quebec) H2P 1B6

^ Top

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832 INFORMATION ON SUBSIDIARIES

The following is a list of the directly or indirectly held significant subsidiaries.

SIGNIFICANT SUBSIDIARIES[1]

Name of Subsidiary	Jurisdiction of Head or Principal Office[2]	October 31, 2022 Carrying value of shares owned by the Bank[3]
North America		
Meloche Monnex Inc.	Montreal, Quebec	$ 2,359
Security National Insurance Company → ONE → #397	Montreal, Quebec	
Portage Insurance Company →	Toronto, Ontario	
TD Direct Insurance Inc.	Toronto, Ontario	
TD General Insurance Company → ONE #353	Toronto, Ontario	
TD Home and Auto Insurance Company →	Toronto, Ontario	
TD Waste Holdings Canada Limited	Toronto, Ontario	3,114
TD Asset Management Inc.	Toronto, Ontario	
QMI Servicing Inc.	Winnipeg, Manitoba	
TD Waterhouse Private Investment Counsel Inc.	Toronto, Ontario	
TD Waterhouse Canada Inc.	Toronto, Ontario	
TD Auto Finance (Canada) Inc.	Toronto, Ontario	4,827
TD Group US Holdings LLC	Wilmington, Delaware	78 167
Toronto Dominion Holdings (U.S.A.) Inc.	New York, New York	
Cowen Inc.	New York, New York	
Cowen Structured Holdings LLC	New York, New York	
Cowen Structured Holdings Inc.	New York, New York	
ATM Execution LLC	New York, New York	
RCG LV Pearl, LLC	New York, New York	
Cowen Financial Products LLC	New York, New York	
Cowen Holdings, Inc.	New York, New York	
Cowen and Company, LLC	New York, New York	
Cowen CV Acquisition LLC	New York, New York	
Cowen Execution Holdco LLC	New York, New York	
Westminster Research Associates LLC	New York, New York	
RCG Insurance Company	New York, New York	
TD Prime Services LLC	New York, New York	
TD Securities Automated Trading LLC	Chicago, Illinois	
TD Securities (USA) LLC	New York, New York	
Toronto Dominion (Texas) LLC	New York, New York	
Toronto Dominion (New York) LLC	New York, New York	
Toronto Dominion Capital (U.S.A.) Inc.	New York, New York	
Toronto Dominion Investments, Inc.	New York, New York	
TD Bank US Holding Company	Cherry Hill, New Jersey	
Epoch Investment Partners, Inc.	New York, New York	
TD Bank USA, National Association	Cherry Hill, New Jersey	
TD Bank, National Association	Cherry Hill, New Jersey	
TD Equipment Finance, Inc.	Mt. Laurel, New Jersey	
TD Private Client Wealth LLC	New York, New York	
TD Public Finance LLC	New York, New York	
TD Wealth Management Services Inc.	Mt. Laurel, New Jersey	
TD Investment Services Inc.	Toronto, Ontario	47
TD Life Insurance Company	Toronto, Ontario	396
TD Mortgage Corporation	Toronto, Ontario	12,447
TD Pacific Mortgage Corporation	Vancouver, British Columbia	
The Canada Trust Company	Toronto, Ontario	
TD Securities Inc.	Toronto, Ontario	3,955
TD Vermillion Holdings Limited	Toronto, Ontario	26,691
TD Financial Int'l Holdings Ltd.	Hamilton, Bermuda	
TD Reinsurance (Barbados) Inc.	St. James, Barbados	
International		
Cowen Media Holdings Limited	Glasgow, Scotland	27
Cowen Sweeper Corp (Int'l) Ltd.	Wilmington, Delaware	
Rattle-Entreprise Luxembourg Holdco S.à r.l.	Luxembourg, Luxembourg	227
Cowen Participations S.A.	Luxembourg, Luxembourg	
TD Ireland Unlimited Company	Dublin, Ireland	2,741
TD Global Finance Unlimited Company	Dublin, Ireland	
TD Securities (Japan) Co. Ltd.	Tokyo, Japan	11
Toronto Dominion Australia Limited	Sydney, Australia	97
TD Bank Europe Limited	London, England	1,387
Toronto Dominion International Pte. Ltd.	Singapore, Singapore	622
Cowen International Limited	London, England	
Cowen Execution Services Limited	London, England	
Cowen Asia Limited	Central, Hong Kong	
Cowen and Company (Asia) Limited	Central, Hong Kong	
Toronto Dominion (South East Asia) Limited	Singapore, Singapore	1,496

Unless otherwise noted, The Toronto-Dominion Bank owns directly or through an subsidiary, owns 100% of the entity and/or 100% of any issued and outstanding voting securities and voting securities of the entities listed.

Each subsidiary is incorporated or organized in the country in which its head or principal office is located.

Carrying amounts are prepared for purposes of meeting the disclosure requirements of Section 308 (3)(a)(v) of the Bank Act (Canada). Investments may be included here as which are eliminated for consolidated financial reporting purposes.

TAB 47

TAB #18: ORAL COMPENDIUM: COURT FILE NO. DC-24-00000718-00JR

NOM TABS #9 PAGE 1360

834 This is the 27th Affidavit of Mr. Kevin A. McLean under TD's Claim Number [illegible] (the "Claim Number" or "TD Claim #3"), TD Insurance Policy Number [illegible] (the "Policy Number"), LAT File Number "23-015462/AABS" (the "LAT File Number" or "LAT Proceeding") under section 280(2) of the Insurance Act involving the sole respondent party (the "Sole Respondent Party") to Security National Insurance Company ("SNIC", with an FSRA file registration number of 283 ("SNIC #283")

This is the 27th Affidavit of Mr. Kevin A McLean under TD's Claim Number 835325790-3 (the "Claim Number" or "TD Claim #3"), TD Insurance Policy Number #0010135111806 (the "Policy Number"), LAT File Number "23-015462/AABS" (the "LAT File Number" or "LAT Proceeding") and was finalized and made on June 10, 2024

Jurisdiction: Provincial (Ontario)
Governing Automobile Insurance Legislation: *Insurance Act, R.S.O., 1990, c I.8 et seq ("Insurance Act" or "Ins. Act")*
Governing Automobile Provincial Regulations: *SABS and Reg 664*
Governing FSRA Rule: *Unfair Deceptive or Act Practices Rule 2022 et seq* Unfair or Deceptive Acts or Practices Rule as amended by Deferred Sales Charge Amendment 2 Approved by Ministry of Finance: January 30, 2024 *("UDAP Rule")*
Insurance' Policy #: #0010135111806 (the "Insurance Policy", "Insurance Contract" or "Insurance Policy #806")
Insurance Program and Product: *Alumni And Professional Program*
Underwriter/Insurer: *Security National Insurance Company (FSRA Insurance Registration #283)*

> ***Combined Name with two distinct trademarks for two different insurance programs.*** *"TD Insurance Meloche Monnex"*
> ***Trademark word holder of "TD Insurance":*** *The Toronto-Dominion Bank ("TD Bank")*
> ***Trademark word holder of "Meloche Monnex":*** *Meloche Monnex Inc. ("MMI"), a CBCA incorporated company*

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835 [illegible]

"Broker": Meloche Monnex Financial Services Inc. (the "Broker" or "Agent", or "MMFSI")
"Named Insureds": BMW Financial Services Inc. (A Division of BMW Canada Inc.) (defined as "BMW FS Inc."; and Nicole Ariopoulos (B.A., M.A.) ("McLean Spouse" or "Individual Policyholder")
Insured Automobile: BMW 3 Series Xi Drive 2019 4DR AWD
Lessee: Nicole Ariopoulos
Lessor: BMW FS Inc.
Insured Person[4]: Mr. Kevin A. McLean (B.A., J.D., CIM) ("Ariopoulos Spouse", "Insured Person", "Unnamed Insured Person", "Occupant", "Appellant", Applicant", or "Claimant"[5])
Date of Loss: August 31, 2022 ("DOL" or "Date Of Loss")
Location of Loss: 320 to 360 Spadina Road (Northbound) (between Heath Rd and St. Clair Avenue), Toronto, Ontario (multiple postal codes due to involuntary movement of Insured Automobile by force of being rear-ended by the tortfeasor (insured by the tort insurer in Pembridge Insurance Company ("Pembridge" or "Tort Insurer")
Police File Number (North York Reporting Collision Centre): Affidavit #3, Exhibit "A"
TD Insurance Claim #:035325790[6]
TD Insurance Claim # for Appellant: 035325790-3 ("TD Claim #3")

TAB #9 PAGE 136

836 This is the 2nd Affidavit of Mr. Kevin A. McLean under TD's Claim Number [illegible] (the "Claim Number" or "TD Claim #") TD Insurance Policy Number [illegible] (the "Policy Number"), LAT File Number "21-[illegible]" (the "LAT File Number" or "LAT Proceeding") under section 280(2) of the Insurance Act where the sole respondent party (the "Sole Respondent Party") is Security National Insurance Company ("SNIC") with its FSRA Registration Number of 397 ("SNIC #397")

BETWEEN:

KEVIN ALEXANDER MCLEAN

APPLICANT/APPELLANT

AND:

TD INSURANCE MELOCHE MONNEX (SECURITY NATIONAL INSURANCE COMPANY)

RESPONDENT

Affidavit #26 of Kevin A. McLean

In a matter under the *Insurance Act*, RSO 1990, c I.8, (the "*Insurance Act*")

In the matter of an "Application of an Injured Person" ("Application" or "AIP") filed by the Applicant with the License Appeal Tribunal ("LAT") Automobile Accident Services ("AABS") on December 24, 2023, and served on Security National Insurance Company ("SNIC"), FRSRA Insurance Registration Number 397 ("SNIC #397") and a response filed by SNIC with LAT on January 25, 2024, all pursuant to subsection 280(2) of the *Insurance Act*, RSO 1990, c I.8., in relation to statutory Accident benefits and the following regulations including but not limited to:

i. *Statutory Accident Benefits Schedule*, O Reg 34/10 ("*SABS*"); and
ii. *Automobile Insurance*, RRO 1990, Reg 664 ("*Reg 664*").

I, Kevin Alexander McLean, Disabled[1] (B.A., J.D., CIM) of Toronto, Ontario AFFIRM THAT:

VOLUME #1: Affirmation

1. I am the affiant (also defined as the "Appellant", "Applicant", "Insured Person", "Disabled Individual" and/or "CAT Impaired Individual") herein and I affirm, under the pains and penalties of perjury, the following facts to be true. Where I have stated information on my belief, I have cited the source of my belief by references, citations, cut-outs or otherwise. When I have used the expression of "in my view", "in my opinion", or "belief", I am not drawing any conclusion of law or affirming my conclusion of law but rather citing my position and opinions as a matter of fact.

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837 This is the 21st Affidavit of Mr. Kevin A. McLean under TD's Claim Number [illegible] (the "Claim Number" or "TD Claim #2"), TD Insurance Policy Number [illegible] (the "Policy Number"), LAT File Number "[illegible]" (the "LAT File Number" or "LAT Proceeding") under section 258(2) of the Insurance Institutions Act (the only respondent party (the "Sole Respondent Party") is Security National Insurance Company ("SNIC") with an FSRA Registration Number of 709 ("FSRA #709")

2. I adopt the definitions from my previously filed documents in this LAT Proceeding (also defined as the "SNIC Proceeding") and they have the same meaning herein as they do therein unless expressly denoted otherwise.

3. I have filed and served (with a COS filed with the Tribunal) my affidavit #26 on SNIC with a courtesy copy to the Fictitious Respondent and Nimrodland and his non-fictitious (authentic) legal assistant in Ms. Ortiz. I have also served a courtesy copy upon the "TDMADR email account".

4. I provide a copy of this Affidavit #37 in support of NOM #11.

Volume #2: Independent status certificates for SNIC and Fictitious Respondent

5. I affirm that I have applied and paid the requisite fees to the FSRA to obtain the certificates of status for the following:

   a. SNIC; and
   b. Fictitious Respondent.

6. I will provide them to the Tribunal when I receive the same.

Volume #3: No record of any denial notice on or around December 23, 2023 in relation to my IRB benefit

7. In relation to the above heading, I affirm that as of today's date I cannot find any record of any denial dated on or around December 23, 2023, as pleaded by SNIC, in relation to my IRB benefit. I affirm, on belief, that no such denial notice was ever sent by SNIC and I intend to proceed with my NOM #11 which seeks to reset the subsistence of NOM #4 with the added monetary amounts from December 23, 2023 to June 20, 2024.

8. I put SNIC to strict proof herein.

Volume #4: No DOR filed on behalf of SNIC

9. I affirm that I have not received a DOR on behalf of SNIC and with the Fictitious Respondent not opposing the relief in NOM #8, I do not have any authorized representative in this SNIC Proceeding for SNIC albeit I will continue to serve the unlicensed representative in Mr. Karat with any and all materials for SNIC.

10. I object to Mr. Nimrodland file a DOR on behalf of SNIC and I affirm that he has not done so since the Non-Party Admission on June 6, 2024.

Volume #5: Costs

1 Aug 140

838 In the 27th Affidavit of Eric A. McLean under TD's Claim Number [redacted] (the "Claim Number" or "TD Claim #"), TD Insurance Policy Number [redacted] (the "Policy Number"), LAT File Number "[redacted]" (the "LAT File Number" or "LAT Proceeding") under section 258(2) of the Insurance Act dealing the sole respondent party (the "Sole Respondent Party") in Security National Insurance Company ("SNIC") with an FSRA Registration Number of [redacted] ("SNIC #####")

11. I affirm that if SNIC does not provide any responsive materials, with a DOR filed by a licensee on its behalf by the end of the business day on June 11, 2024, that I intend to proceed with my NOM #11 with it being heard on June 20, 2024, and seek costs in the amount of $1,000 for all three motions.

Volume #6: Pre-emptive notice to Nieuwland and any other potential licensees who may be retained by SNIC who are part of a Non-SABS Insurer department that is NOT SNIC

12. To underscore my position and reasons as to why I object to Nieuwland filing a DOR on behalf of SNIC, I quote from *Transamerica*, as per The Honourable Justice Price of the Ontario Superior Court, at paragraph 56 citing *Dervishalli* (emphasis is mine):

> "(56) On this basis, the Divisional Court in Dervishalli concluded:
>
> The only basis upon which State Farm [tort liability department] was entitled to access the plaintiff's accident benefit file contents was with the consent of the plaintiff or by court order. That consent was never sought, nor was it ever provided. By disclosing this information to Reisler [the lawyer it had retained to examine the insured under oath pursuant to the Statutory Accident Benefits Schedule] without the consent of the plaintiff, State Farm placed Reisler in an irreconcilable position of conflict, and the only appropriate remedy is to remove Reisler as the solicitor of record for State Farm in these proceedings.

13. I again affirm that I NEVER consented to TDCIC having access to my accident benefits file with SNIC and I absolutely never consented to TDCIC being able to collect and access my accident benefits file exclusively with SNIC and then substituting itself as the "respondent party" for SNIC, and then reciting and recoiling from said position that it held for, at least, 130 days.

14. Neither SNIC nor the Fictitious Respondent has provided any evidence of a court order to engage in the conduct that the Fictitious Respondent did (some known to me and presumably some unbeknownst to me).

15. As Nieuwland has finally admitted as of June 6, 2024 that the Fictitious Respondent is not the "respondent party" herein, I affirm that I oppose Nieuwland (or any individual so associated, affiliated, supervised, advised, instructed or facilitated by him or in the future) being involved in this SNIC Proceeding by formal declared representation of SNIC or by virtue of providing legal services, practising law, or deemed representation of SNIC pursuant to section 1(7) of the LSA in relation to myself and SNIC in relation to the SNIC Proceeding. [9]

16. Since Nieuwland was not the representative to a party herein, I affirm that I do not take issue with him confirming with the Tribunal that he has removed himself as the representative to the Fictitious Respondent. In light of my reading of Rule 24 (see: Affidavit #26, page 12, paragraph 12) in that only a representative to a party (see: "removed as a party's representative at the Tribunal") must follow said requirements to do so when it is less than 30 days before an adjudicative event, I affirm that if SNIC does not appoint a representative and said representative does not file a DOR that SNIC that I will presume that it does not oppose the relief in NOM #10 and #11.

Page 1 of 11

839 In the 27th Affidavit of Mr. Kevin A. Hickson under TD's Claim Number [illegible] (the "Claim Number" or "TD Claim #"), TD Insurance Policy Number [illegible] (the "Policy Number"), LAT File Number "[illegible]" (the "LAT File Number" or "LAT Proceeding") under section 258(1) of the Insurance Act involving the sole responding party the "Sole Respondent Party") is Security National Insurance Company ("SNIC") with an FSRA Registration Number of 307 ("SNIC #307")

17. My position remains, as a notice to SNIC, that since Nieuwland was a "representative" to the Fictitious Respondent and he made the Non-Party Admission on June 6, 2024 that if SNIC wished to have a representative herein, it was required to instruct said representative to do so immediately (see: Affidavit #26, paragraph 11 of the body therein on page 12 of 68).

18. Since SNIC and Mr. Karst's position was that Mr. Karst could exclusively and solely file, sign and serve the SNIC Response, then my position (while disagreeing that Mr. Karst could) will be that if Mr. Karst does not consent to the relief in NOM #8 and NOM #10 on behalf of SNIC by the end of the day (even after five p.m.) that SNIC is putting me to further expense and I will seek costs against it for NOM #8.

Volume #7: Concluding paragraph and Jurat

19. I am not aware of any impediment to SNIC to retain an independent licensee or law firm to represent it in this SNIC Proceeding.

20. I affirm that the conduct of the Fictitious Respondent and SNIC (by omission and failing, as I allege, to act in accordance with its duties of good faith and fiduciary duties (see: Beasley, 2010 ONSC 2095 at paragraph 34 per the Honourable Justice Moore)) and the "party" issues continues to cause issues in my ability to receive the necessary benefits under SABS. As such, I have informed, in light of the delays caused by the conduct of SNIC and the Fictitious Respondent, my health care professionals (in Canada and abroad) that I will proceed to seek the relevant payments for them by NOM #11. I must be respectful to the services that I have received, am receiving (where applicable) and for future purposes (myself included) and take all necessary steps to ensure that each are paid for the services they have provided and/or where I have incurred the expenses that I am reimbursed for the same in accordance with SABS.

21. I provide a courtesy notice to SNIC and any potential licensee that may be retained by SNIC that I will oppose any adjournments and I welcome any responsive materials in relation to my NOM #8, #10 and potentially filed NOM #11.

22. I affirm this Affidavit #27 for no improper purpose and in relation to the above.

Affirmed before me at Toronto, Ontario
On this 11th day of June 2024

Mr. Kevin A. Hickson (B.A., J.D., CIM)

Tab 142

849 This is the 27th Affidavit of Mr. Kevin A. McKeon under TD's Claim Number [redacted] (the "Claim Number" or "TD Claim #"), TD Insurance Policy Number [redacted] (the "Policy Number"), LAT File Number "[redacted]" (the "LAT File Number" or "LAT Proceeding") under section 258(2) of the Insurance Act involving the sole respondent party (the "Sole Respondent Party") to Security National Insurance Company ("SNIC") with its FSRA Registration Number of [redacted] ("SNIC #[redacted]")

Made Electronic Form by:
[redacted]

Page 7 of 8: June 11, 2024

AB #7 TAB 11? NOM #1

841 This is the 7th Affidavit of Mr. Kevin A. McLean under TD's Claim Number [redacted] (the "Claim Number" or "TD Claim #3"), TD Insurance Policy Number [redacted] (the "Policy Number"), LAT File Number "[redacted]" (the "LAT File Number" or "LAT Proceeding") under section 280(2) of the Insurance Act adding the sole respondent party (the "Sole Respondent Party") to Security National Insurance Company ("SNIC") with an FSRA Registered No. of [redacted] ("SNIC #247").

---

[1] "Insurance" means the undertaking by one person to indemnify another person against loss or liability for loss in respect of a certain risk or peril to which the object of the insurance may be exposed, or to pay a sum of money or other thing of value upon the happening of a certain event, and includes life insurance (see: s.1(1) of the UDAP Rule);

[2] UDAP Rule, 1(1)(v)(c): "Contract of insurance" means(c) for a contract of insurance not referred to in (a) or (b), has the meaning ascribed to "contract" in s. 1 of the Act; see: section 1(1) of Insurance Act (Ontario): "contract" means a contract of insurance, and includes a policy, certificate, binder receipt, renewal receipt, or writing evidencing the contract, whether sealed or not, and a binding oral agreement;

[3] See: *SPPA*, section 1(1) definition of 'license registration or similar form of permission required by law';

[4] See: *Insurance Act*, ss. 279 (includes does not exclude); see: section 3(1) of SABS which includes the Spouse of the Individual Named Insured (Antipodes)

[5] As defined under UDAP Rule, ss. 1(1): "Claimant": "means a person who claims statutory accident benefits or who otherwise claims any benefit, compensation or payment under a contract of insurance.

[6] See: SNIC Response on January 25, 2024

[7] One year after the Accident as determined by a physician (neurosurgeon) when reviewing the four different MRIs that I had since the Accident (please: Affidavits #1 to #6 which were attached to my filed pleading herein on December 24, 2023).

[8] I also object to his involvement in TD Claim #3 and request to associated, affiliated, advised or supervised by him as it relates to TD Claim #3.

TAB 48

TAB #19: ORAL COMPENDIUM: COURT FILE NO. DC-24-00000718-00JR

PAGE 1 of 13

843 of the 28th Affidavit of Mr. Kevin A. McLean under TD Insurance (SNIC "Aleem Pengina") Claim Number 035325790-3 ("TD Claim #3") re TD Insurance Policy Number #0010135111806 (the "Policy Number"), LAT File Number "23-015662/AABS" (the "LAT File Number" or "LAT Proceeding") under section 280(2) of the Insurance involving the sole respondent party (the "Sole Respondent Party") re Security National Insurance Company ("SNIC") re 48 of 1 SRA Replacement Number of 249 ("SNIC #197")

NOM #13
TAB #10

This is the 28th Affidavit of Mr Kevin A. McLean under TD Insurance (SNIC) Claim Number 035325790-3 (the "Claim Number" or "TD Claim #3"), TD Insurance Policy Number #0010135111806 (the "Policy Number"), LAT File Number "23-015662/AABS" (the "LAT File Number" or "LAT Proceeding") and was finalized and made on July 5, 2024

Jurisdiction: *Provincial (Ontario)*
Governing Automobile Insurance Legislation: *Insurance Act, R.S.O., 1990, c I.8 et seq ("Insurance Act" or "Ins. Act")*
Governing Automobile Provincial Regulations: *SABS and Reg 664*
Governing FSRA Rule: *Unfair Deceptive or Act Practices Rule 2022 et seq* Unfair or Deceptive Acts or Practices *Rule* as amended by Deferred Sales Charge Amendment 2 Approved by Minister of Finance: January 30, 2024 *("UDAP Rule")*
Insurance' Policy #: #0010135111806 (the "Insurance Policy", "**Insurance Contract**" or "Insurance Policy #806")
Insurance Program and Product: *(Home And Professional Program*
Underwriter/Insurer: *Security National Insurance Company (FSRA Insurance Registration #197")*
Combined Name with two distinct trademarks for two different insurance programs: *"TD Insurance Meloche Monnex"*
Trademark word holder of "TD Insurance": *The Toronto-Dominion Bank ("TD Bank")*
Trademark word holder of "Meloche Monnex": *Meloche Monnex Inc. ("MMI"), a CBCA incorporated company*
"Broker": *Meloche Monnex Financial Services Inc. (the "Broker" or "Agent", or "MMFSI")*
"Named Insureds": *BMW Financial Services Inc. (A Division of BMW Canada Inc.) (defined as "BMW FS Inc."; and Nicole Arsenakos*

/IAB #10

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844 ...r 2nd Affidavit of Mr. Kevin A. McLean under TD Insurance (SNK: "Alonso Program") Claim Number 035325790-3 ("TD Claim #3"), TD Insurance Policy Number 4000133120E (the "Policy Number"), LAT File Number "D-018662/AABS" (the "LAT File Number" or "LAT Proceeding") under section 280(2) of the Insurance involving the sole respondent party (the "Sole Respondent Party") as Security National Insurance Company ("SNIC") with its FSRA Reparation Number of 397 ("SNIC #397")

(B.A., M.A.) ("McLean Spouse" or "Individual Policyholder")
***Insured Automobile**: BMW 3 Series X Drive 2019 4DR AWD*
***Lessee**: Nicole Artopoulos*
***Lessor**: BMW FS Inc.*
Insured Person: *Mr. Kevin A. McLean (B.A., J.D., CIM) ("Artopoulos Spouse", "Insured Person", "Unnamed Insured Person" "Occupant", "Appellant", Applicant", or "Claimant")*
***Date of Loss**: August 31, 2022 ("DOL" or "Date Of Loss")*
***Location of Loss**: 320 to 360 Spadina Road (Northbound) (between Heath Rd and St. Clair Avenue), Toronto, Ontario (multiple postal codes due to involuntary movement of Insured Automobile by force of being rear-ended by the tortfeasor (insured by the tort insurer in Pembridge Insurance Company ("Pembridge" or "Tort Insurer")*
***Police File Number (North York Reporting Collision Centre)**: Affidavit #3, Exhibit "A"*
TD Insurance Claim #:035325790
TD Insurance Claim # for Appellant:
035325790-3 ("TD Claim #3")

Fictitious TD Insurance Claim Number for Appellant with fictitious "exposure number" (04) with Fictitious Insurer and Fictitious Respondent: 034325790-03 ("Fictitious TD Claim Number")

BETWEEN:

KEVIN ALEXANDER MCLEAN

APPLICANT/APPELLANT

AND:

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84 Affidavit #28 of Mr. Kevin A. McLean under TD Insurance (SNIC: "Aurora Pagnan") Claim Number 0353887903 ("TDC Claim #3") / TD Insurance Policy Number 0060012511806 (the "Policy Number"), LAT File Number "22-015468/AABS" (the "LAT File Number" or "LAT Proceeding") under Section 280(2) of the *Insurance Act* involving the sole respondent party (the "Sole Respondent Party") is Security National Insurance Company ("SNIC") with an FSRA Registration Number of 397 ("SNIC #397")

SECURITY NATIONAL INSURANCE COMPANY

RESPONDENT

Affidavit #28 of Kevin A. McLean

In a matter under the *Insurance Act*, RSO 1990, c I.8, (the "*Insurance Act*")

In the matter of an "**Application of an Injured Person**" ("**Application**" or "**AIP**") filed by the Applicant with the License Appeal Tribunal ("**LAT**" or "**Tribunal**") Automobile Accident Services ("**AABS**") on December 24, 2023, and served on Security National Insurance Company ("**SNIC**"), FRSRA Insurance Registration Number 397 ("**SNIC #397**") and a response filed by SNIC with LAT on January 25, 2024, all pursuant to subsection 280(2) of the *Insurance Act*, RSO 1990, c I.8., in relation to statutory Accident benefits and the following regulations including but not limited to:

i. *Statutory Accident Benefits Schedule*, O Reg 34 10 ("*SABS*"); and
ii. *Automobile Insurance*, RRO 1990, *Reg 664* ("*Reg 664*").

I, Kevin Alexander McLean, Disabled[5] (B.A., J.D., CIM) of Toronto, Ontario, SWEAR THAT:

VOLUME #1: Background

1. I am the deponent or affiant (also defined as the "**Appellant**", "**Applicant**", "**Insured Person**", "**Disabled Individual**" and/or "**CAT Impaired Individual**") herein and I swear, under the pains and penalties of perjury, the following facts to be true.

2. Where I have stated or sworn information on my belief, I have cited the source of my belief by references, citations, end-noting or otherwise. When I have used the expression of "in my view", "in my opinion", or "belief", I am not drawing any conclusion of law or swearing my conclusions of law but rather citing my position and opinions as a matter of fact. As an administrative note, I have switched from "affirming" to "swearing" herein and will do so in the future. Where I have referenced previous affidavits and used the word "swearing", I am referring to my affirmations therein.

3. I adopt the definitions from my previously filed documents in this **LAT Proceeding** (also defined as the "**SNIC Proceeding**") and they have the same meaning herein as they do therein unless expressly denoted otherwise.

4. I swear that I repeat and rely upon my previous evidence which I will, unless **TDGIC** provides me with copies of the requested documents or things, submit is relevant to the issues in my motion that seeks production of documents or things from a non-party(ies) in **TDGIC** and any authorized agents of **TDGIC** from the times known to **TDGIC** and them (the "**Non-Party Production Order Motion**" or "**NOM #13**"). In referencing

857 (1) PAR 150

Re: 23/015662/AABS – Further Request for Production of Non-Parties

PRODUCTION ORDER –NON PARTY(IES)

[redacted]

Kevin McLean <mcleansniclat@gmail.com> Tue, 9:40 A

to Matthew, Christiana, Michelle, Arla Saeed, Adrianna.Klukowska

Re: 23/015662/AABS Further Request for Production of Non-Parties

Dear Sirs/Mesdames:

I write regarding the above and confirm that I made a request for production of TD General Insurance Company ("TDGIC" or "Non-Party") for all documents or things in its possession or control since TDGIC was retained regarding my claim for accident benefits. I was assigned TD Claim #3 in September 2022. As you will know, in February 2024, I learned that there was a fictitious TD claim number assigned to me that had the same initial string but ended in 04

As noted in my recently filed submissions for NOM #6 and NOM #9, post the granting of my NOM #8, I also noted that in October 2023, I received an email (absent consent to discuss matters via email), that involved TD Claim #2 which was not my TD claim number and unknown to me. However, I will presume it was the TD claim number of either my Spouse or IBAW Financial Services Inc.

As you know, at all material times, TDGIC was a non-party in the SNIC Proceeding and never an insurer as it related to SABS. As such, it was and is a non-party

As TDGIC never filed a Response in the SNIC Proceeding but an unknown individual(s) misrepresented to the Tribunal that TDGIC was the sole respondent party hereto, I went to great lengths to obtain the order in NOM #8.

It is my position and evidence, on belief while citing the various sources for my belief, that TDGIC was intimately involved in the decision making process and decisions as early as March 2023 (see my affidavit #3 in this regard) and perhaps earlier.

Therefore, any and all documents or things that relate to the involvement of TDGIC (the "Non-Party"), TD Claim #4 (also defined as the "Fictitious TD Claim Number") and Mr. Nemtsan, Ms. Morales (and her supervising lawyers), Ms. Ortiz and other unknown individuals (collectively the "Individual Non-Parties") who were involved with the same are *relevant* to the issues in this SNIC Proceeding.

To the extent that Non-Party had its file denoted as TD Claim #4 and that is the manner in which the Individual Non-Parties (which exclude Mr. Karst as he signed and filed a Response for SNIC's

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TD Insurance Claim Number for Appellant: 035325790-3 *("TD Claim #")*

Appendix #3: Fictitious TD Claim #

***Fictitious TD Insurance Claim Number for Appellant with fictitious "exposure number (04) with Fictitious Insurer and Fictitious Respondent:* 035325790-04 ("Fictitious TD Claim Number")**

Yours truly

Mr. Kevin A. McLean (B.A., J.D., CIM) (he/him)
(e): MCLEANSNICLAT@GMAIL.COM; (p): 647 [illegible]; and guidance for service for [illegible] and SNIC Proceeding (re: Appeal): 810-775 King Street West, Toronto, Ontario M5V 1K

Disclaimer

DUTY OF CONFIDENTIALITY: *The contents of this email and its attachments are confidential [illegible] for the specified purposes above and intended for the recipient specified in message [illegible] and* ***DICTATION OF EMAIL or Assistance from Third Parties*** *(no waiver of confidentiality or privilege): this email may have been created using voice recognition software and the author reserves the right to correct any spelling, grammar and syntax upon further review.*

Reservation of rights in fact and action: out of an abundance of caution, and [illegible] with previous objections by Mr. McLean ("Claimant" or "Appellant") has not, is not and will not consent to an unauthorized collection, use or access ("CUA") of his PII, PHI, or SPI ("Confidential Information" or "CI") that is inconsistent with any OCF documents that he signed and delivered exclusively to the "Insurer" (see: *Insurance Act* (Ontario)), whom he had recourse against for SAHS, in Security National Insurance Company (the "SABS Insurer" or "SNIC") via letter (ex: to SNIC Markham (416-[illegible]) and SNIC Burlington, and via email involving the LAT Proceeding

Relevant particulars: *Insurance Policy #: 0000135111806; Insurance Program: [illegible] (Ontario Motor Vehicle Accident Program); Broker: Allstate Motors Financial Services Inc. (a Division of RBC General Insurance Company); Named Insured: BMW Financial Services Inc. (a Division of RBC General Corp.); and Nicole Armandola (B.A., M.A.) ("McLean Spouse"); Insured Automobile: [illegible] Year: 2018; Insured Person/Appellant: Mr. Kevin A. McLean (B.A., J.D., CIM) ("Claimant"); Date of Loss: August 31, 2021 ("DOL"); Location of Loss: Spadina Road (between Bloor Rd and St. Clair Ave), Toronto, Ontario; Police File Number (North York Reporting Collision Centre) (see: affidavit #1); and TD Insurance Claim #: 035325790-3 ("TD Claim #"); and AABS File Number: "23-01366/AABS (the "LAT Proceeding" or "SNIC Proceeding")*

***emails may be sent with "scheduled send"**

K

Kevin McLean <mcleansniclat@gmail.com>

Tue, Jun 25, [illegible]
[illegible]:42 AM (0 days ago)
[illegible]

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assisted in the same and it is all in "one file", kindly provide a copy of the contents of that file by no later than end of business day tomorrow. To the extent that the Individual Non Parties have documents or things in their possession or control that do not fall within TD Claim #4 (case file management) and are relevant to this SNIC Proceeding by way of any conduct or decisions that pre-date my filing of the Appeal, kindly provide copies under this thread.

If I do not hear back from you with full production or a response confirming a timeline by end of business day tomorrow, I will rely on this correspondence and file a motion upon the Non Parties and Individual Non-Parties, along with a copy on the other party (SNIC), and seek the relief therein. I may supplement this request but for the time being, it is to be read in conjunction with my previous request as of yesterday when serving you with the written submissions for the Col motion (NOM #6 and NOM #9). As noted, I could only make this demand once. NOM # was granted.

I will largely be away today and tomorrow so kindly excuse any delay in my response.

Should anything be unclear, kindly revert back under this thread or I will presume the demand and scope is sufficiently clear. Thank you.

Appendices

Appendix #1: Rule 9.2.2

9.2.2 ORDERS FOR NON-PARTY PRODUCTIONS

A party seeking production from a non-party may request an order from the Tribunal by filing a notice of motion and serving it on the other parties and the non-party. The notice of motion must provide contact information for the non-party.

The Tribunal may order a non-party to disclose or produce any document or thing that the Tribunal considers relevant to the issues in dispute in the proceeding.

The requesting party must make reasonable efforts to obtain the document or thing without a production order.

Before an order is granted by the Tribunal, the non-party will have an opportunity to make submissions as set out in the notice of motion hearing.

Appendix #2: Authentic TD Claim #

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To Matthew, Christiana, Michelle, Arla.Saeed, Adrianna.Klukowski

Dear Sirs/Mesdames,

I am writing to confirm that the aforementioned documents were delivered successfully. I would also like to clarify a few points regarding the inapplicability of litigation privilege and solicitor-client privilege for TDGIC.

Firstly, I want to confirm that there was no litigation privilege at any time relating to the Non-Party (TDGIC). Additionally, if your position was that litigation privilege arose from the time that TDGIC was misnamed in the style of cause, it would have ended on June 21, 2024, due to the retrospective or retroactive nature of the Morrissette Order.

Secondly, I want to confirm that no representative from TD Insurance Staff Legal has filed a DOR for SNIC. As such, Mr. Karat remains the sole unlicensed representative for SNIC. To the extent that Mr. Nieuwland or any licensee that was engaged in any form of deemed representation for TDGIC (see: section 1(7) of the LSA), files a DOR for SNIC, this will further underscore the above point.

Lastly, if you consider relying on solicitor-client privilege between a solicitor (Mr. Nieuwland) and a client (TDGIC), the retainer between TDGIC and TDISL would be unlawful from the outset and no privilege attached.

I provide this courtesy notice to ensure that the Tribunal's resources are not wasted unnecessarily.

You are required to preserve any and all documents from the above until the Non-Party, inclu(ing) the Individual Non-Parties (along with any documents in joint possession or control of TDISL), that are relevant to the issues in this SNIC Proceeding, have made full production under this thread to our mutual satisfaction. If we have not agreed that the document production is full, accurate, and complete, the Non-Party, the Individual Non-Parties, and TDISL must preserve and retain all documents until the Tribunal has made an order in relation to my potential motion and all time limits for judicial review or appeals have been exhausted.

As the above sought and demanded documents are relevant to the issues in this SNIC Proceeding (which you will know better than I) and a long weekend is approaching along with the delays in obtaining an order in NOM #8 which should have been by consent order in January 2024, I intend to proceed expeditiously if I do not hear from you by the end of the business day tomorrow (Wednesday, June 26, 2024). I intend to do so because this will provide further oversight for any potential destruction or deletion of relevant documents therein. Moreover, it will provide necessary oversight in the event that a file transfer is required to an independent licensee or licensee firm that requires TDGIC to transfer its file (the "Fictitious TD Claim Number"), which I presume was in early 2023, to such an independent licensee which would be distinct from that of TD Claim #3 (SNIC).

Thank you for your attention to this matter.

Yours truly,

Mr. Kevin A. McLean (B.A., J.D., CIM) (he/him)

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(c): MCLEANSNICLAT@GMAIL.COM; (p): tel:+1 [illegible]; and [illegible] for service for TDIC and #1 and SNIC Proceeding (see. Appeal) 410-775 King Street West, Toronto, Ontario, M5V 2K1

Disclaimer

DUTY OF CONFIDENTIALITY: *The contents of this email, unless attachments are confidential, with it for the specified purposes above and extended for the request specified in meetings [illegible] and **DICTATION OF EMAIL** or statements from Third Parties (no waiver of confidentiality or privilege): this email may have been created using voice recognition software and the author reserves the right to correct any spelling, grammar and syntax upon further review.*

Reservation of rights in fact and at law: out of an abundance of caution, and consistent with prior objections by Mr. McLean ("Claimant" or "Applicant") has not, is not and will not consent to any unauthorized collection, use or access ("CUA") of his PI, PHI, or SPI ("Confidential Information" or "CI") that is inconsistent with any OCF documents that he signed and delivered exclusively to the "Insurer" (see: *Insurance Act* (Ontario)), whom he had recourse against for SABS, as Security National Insurance Company (the "SABS Insurer" or "SNIC") via secure fax to SNIC Markham [illegible] and SNIC Burlington, and via email involving this LAT Proceeding.

Relevant particulars: *Insurance Policy #: 8000013511806; Insurance Program: "TD Insurance Meloche Monnex Home (Owner And Professional Program); Broker: Ontario; Named Insurer: Security National Insurance Company; Named Insureds: BMW Canada Inc. o/a BMW Financial Svcs.; and Nicole Arguindin (B.A., M.A.) ("Lessee Spouse"); Insured Automobile: BMW [illegible]; Date of Loss: 2019, Insured Person/Applicant: Mr. Kevin T. McLean (B.E., J.D., CIM); Impugnable Answer: Date of Loss: August 31, 2022 ("DOL"); Location of Loss: Spadina Road entrance Hwy 401 and [illegible], Toronto, Ontario; Police File Number (Harm Tort Reporting Collision Centre) (see: affidavit #5); and TD Insurance Claim #: 0565125796-3 ("TD Claim #"); and AABS File Number: "23-815662-AABS (the "LAT Proceeding" or "SNIC Proceeding").*

emails may be sent with "scheduled send"

[redacted]

Kevin McLean <mcleansniclat@gmail.com> We

to TDI, Matthew, Christiana, Michelle, Arfa.Saeed, Adrianna.Klukowska

Re: potential motion for production order of non-parties pursuant to Rule 9.2 of the LAT Rules (effective August 21, 2023) – URGENT

Dear Sirs/Mesdames,

I am writing to confirm that I will file a motion for production orders of a non-party if I do not have access to all relevant records in the possession or control of non-parties, including TDGIC ("Non-Party" and "Non-SABS Insurance Company"), and its authorized agents since the Date Of Loss (August 31, 2022).

As the Tribunal has clarified today in NOM #8 that Mr. Karat was the sole signatory and filer of the SNIC Response and that Mr. Neuestand has only been acting for SNIC since Friday June 28, 2024, I am now able to proceed with my motion.

To comply with the requirement to make reasonable efforts to obtain these documents or things from the Non-SABS Insurance Company, I will affirm on belief that TDGIC has been involved since on or around the time of the request for email communications and the Spam Faxes (March 2023 and April 2023). The requested documents are highly relevant to the issues in this SNIC Proceeding.

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(6) TAB #10 PAGE 163

The relevant issues in the SNIC Proceeding, as governed by the pleadings signed by Mr. Kanat, relate to documents or things wherein TDGIC was involved in TD Claim Numbers (see: TD Claim #3, TD Claim #2, and the Fictitious TD Claim Number (which was identified in a *PIPEDA* response on behalf of the Fictitious Respondent (TDGIC) therein (see reference to a letter apparently sent on March 26, 2024, relating to the "Andy Gera" issue).

The contact information for the non-party (TDGIC) will be the address in North York that was referenced in the Spam Faxes in Spring 2023 and by reference to the Non-Party(ies) participation in the SNIC Proceeding.

Due to the time required to obtain the necessary orders and the clarification of NOM #8, I am now in a position to file my motion and obtain the relevant documents or things which will be of use herein.

TDGIC and any authorized agents for TDGIC (and any other unknown non-parties) are required to preserve any and all records or things until the Tribunal has decided my motion and all avenues of reconsideration, judicial review, and/or appeals have been exhausted by the parties (myself, SNIC, and any non-party (TDGIC) or authorized agents for the Non-Party, including TDISL in its capacity of acting for TDGIC).

To the extent that I do not receive access to any or all of the requested records involving TDGIC from a time known to it (perhaps earlier than March 2023) by the end of the business day by return email(s) herein, I confirm that I have provided reasonable time for the Non-Party to provide me access to the same.

As Mr. Nieuwland has not commenced acting for SNIC until June 28, 2024, all of the records of his representation for TDGIC in the SNIC Proceeding fall under that category. It is my belief that TDGIC has been involved as the Fictitious SABS insurance company ("Fictitious SABS Insurance Company") since as early as January 2023 and perhaps before that time. However, this again coincides with my only PIPEDA request in February 2023 regarding SNIC.

In relying on Rule 9.2, I was fortunate enough to find the *Old LAT Rules* in PDF format and it is attached herein by reference to Appendix #2. I note that Rule 9.2 is a new feature of the New LAT Rules in that regard but I will, of course, cite relevant authorities for production by a non-party(ies) with respect to the relevance test.

I again seek any and all copies of documents or things relating to the timing of TDGIC's involvement in the TD Claim #3 (and other TD Claim #).

I may supplement this letter with particulars of what I am seeking with respect to TDGIC's collection, use and disclosure of my information, personal information, personal health information, and confidential information, and any rules it had with respect to any decisions that were purportedly made by SNIC in relation to my claims for accident benefits. However, irrespective of supplementation, TDGIC has the burden of persuasion regarding production of documents as it will know of all of its relevant involvement in the TD Claim Numbers and the SNIC Proceeding including but not limited to when it received any Confidential Information from SNIC and for what purposes.

I remind all of their obligations under the Insurance Act, associated regulations and the UDAP Rule.

I remind all licensees of their obligations under the LSA, LSO By-Laws, ROPC (lawyers and paralegals), and applicable policies.

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(7) page 16/1

I confirm that any and all non-parties (although Mr. Nieuwland when representing TDGIC referred to various individuals as "parties") have not sought any extension of time

I confirm that I am distinguishing between various capacities and had Mr. Nieuwland not filed a DOR for SNIC, it may have affected this potential motion. However we now have a clear timeline in this SNIC Proceeding as to when Mr. Nieuwland commenced acting for TDGIC (January 30, 2024), and then commenced acting for SNIC (June 28, 2024). I again note that January 23, 2024 email from Mr. Karat to myself albeit on behalf of SNIC.

I again note that Ms. Persaud was away from the office from September 2023 to early January 2024 so in reference to TD Claim #2 (not my TD Claim Number) and the e-mail sent to my email (not by consent and not for TD Claim #3), there must be a mystery writer in that regard and it did not reference SNIC in that email.

I will of course exhaust any and all other avenues available to me that will compare and contrast the document produced, volitionally or by order, against those other avenues in the event the Tribunal is yet again misled.

I will (if necessary) rely on the documentary admissions and signed documents by Mr. Nieuwland in his capacity as counsel to TDGIC.

I confirm that I have NOT included Mr. Karat in this email as he has solely acted for SNIC in this SNIC Proceeding and represented that he was only an ADR Specialist (not a claims adjuster). I further confirm that the SNIC Response failed to list and attach any documents therein

I stand by my position that a representative on behalf of TDGIC misrepresented that TDGIC was the sole respondent herein in January 2024. You will also recall that I attempted to have the style of cause changed in February/March 2024 but Vice Chair Lake declined to rule on that order at that time. Therefore, it required the representations of Mr. Nieuwland on May 2, 2024 that were misrepresentations (i.e. "TDGIC and SNIC are one and the same" [sic]) to have that evidence, along with the FSRA evidence in the form of certificates of status). By Mr. Nieuwland filed DOR on June 28, 2024, he has admitted that SNIC and TDGIC are not one and the same

Should anything be unclear, kindly let me know by the end of the business day. Otherwise, I shall presume my request is sufficiently clear and it includes any and all documents or things (including any disclosures made by TDGIC to other organizations) since the Date Of Loss to present

Thank you for your attention to this matter.

Sincerely,

Appendices

Appendix

9.2.2 ORDERS FOR NON-PARTY PRODUCTIONS

TAB 49

Electronically filed / Déposé par voie électronique : 18-Feb-2025
Toronto Superior Court of Justice / Cour supérieure de justice

TAB #20: ORAL COMPENDIUM: COURT FILE NO. DC-24-00000718-00JR

Divorced Husband Conflicted Lawyer, to do so and bind SNIC. However, I believe and allege that Karat breached the LSA and its By-Laws along with whomever was his supervising lawyer(s).

VOLUME #1(B)(XIII): Rule 14.6

77. I submit and have submitted that SNIC is required to attend the case conference as it is a "Party" as defined under Rule 2.16.

78. As SNIC does not have a licensed lawyer representative, I believe it is required to have one if it wishes to provide any oral submissions on May 2, 2024. I will object to any late attempt to do so but my position remains.

VOLUME #1(B)(XIV): Adjournments

79. I appreciate that Nieuwland has finally provided the name and contact information for his legal assistant in Ms. Ortiz but do note that Ms. Moraes was not his legal assistant when referencing her signature block. Having cursorily review the **Purported Hearing Briefs** (motion submissions), as I am applying to strike them unless Mr. Nieuwland has brought forth a motion to seek leave, I do not admit and expressly deny any submissions he has made that are prejudicial to me or favourable to him and/or *TDGIC (NON-SABS INSURER)*. I do not agree that Ms. Moraes was his legal assistant at any time as required by the LSA, its By-Laws and the ROPC.

80. The Tribunal was copied on emails from Ms. Moraes wherein she represented, in her email signature block, was the assistant to Ms. Saeed and Ms. Klukowska.

VOLUME #1(B)(XV): Nieuwland's costs

81. By implication and reference, I have submitted that the portion of Nieuwland's submissions in the **Purported Hearing Briefs** and his motion (already not to be decided) are abuses of processes in whole and with particular reference to his references on costs (see Rule 19).

VOLUME #1(B)(XVI): Rule 20.5

82. As a party, the "Appellant", I will continue to exchange my settlement offers and be prepared to discuss settlement at the case conference so long as SNIC has a representative who is a lawyer licensee. If not, then I will ask for my outstanding motions to be decided forthwith and immediate payment of all outstanding benefits under *SABS*.

VOLUME #1(C): Breaches of Procedural Fairness and Protecting the integrity of the Tribunal Process

83. I have prepared this affidavit now over multiple days, with assistance in a variety of areas (not limited to technological and administrative), and I further re-affirm my position, like the arguments made in Orne, that the striking of the **Purported Hearing Briefs** must be determined prior to me responding by way of reply to said **Purported Hearing Briefs** (see: Orne, NOM #7, HB, pages 340).

I. I do not follow how Nieuwland could not take the time to provide an index for NOM #4 and NOM #6 when the LAT Order in relation to NOM #4 (which referenced the "party responding to the motion" which had to be SNIC in my submission) was on or around February 13, 2024. I believe that Nieuwland has and is deliberately abusing the process of the Tribunal. I believe that he is

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attempting to slow down the requirements of an "insurer" within the TD Insurance Group by creating procedural "roadblocks" for me and not having taken the step to file a DOR for SNIC.

85. I re-affirm my position Nieuwland must and should be excluded from making any further submissions or filings on behalf of *TDGIC [NON-SABS INSURER]* in light of, inter alia, the COI Motion along with NOM #7.

86. Pursuant to Mosa and By-Law 7.1 of the LSO, I also allege that Mr. Karat is not authorized to act for SNIC in any matters that involve CAT Impairment". I further note that Mr. Karat has represented in his auto-reply emails that he is de-authorized in relation to SNIC but not Primmum, *TDGIC [NON-SABS INSURER]* and TD Home & Auto.

87. If this Appeal did not involve "CAT Impairment", it may have been that Mr. Karat could appear without counsel but I remain of the view that Mr. Karat could not sign the **Purported SNIC Response**.

VOLUME #1(D): *Wheeler v. Taylor*

88 As my position and submissions remain that *TDGIC [NON-SABS INSURER]* is not a "Party", and any misnomer in the style of cause at first instance was deliberately and intentionally, in my view, opposed by the "Party" in SNIC by the **Purported SNIC Response** and the Karat COS, I do not believe that any client of Nieuwland or Karat, or any "Deemed Representatives" pursuant to section 1(7) of the LSA, could waive the conflict when they are likely witnesses as it relates to this SNIC Proceeding subject to any "settlement agreement" (see: Reg 664, s. 9.1) (see: NOM #7, HB, Tab 8, page 352; see also: ibid, page 694 of Tab 35)).

VOLUME #1(E): Bosa (see: HB, NOM #7, Tab 9, page 358)

89. I remain of the view and position, as there is no sworn evidence or any evidence that I have seen or been served with that contradict my position that the Divorced Husband Conflicted Lawyer had duties to my Spouse and myself to not engage in any conduct that was against her interest, my interests and our interests (the "Third Party Duties" of the Divorced Husband Conflicted Lawyer). I note that the Conflicted Lawyer has not denied any of my evidence to date or by the LAT Order of April 9, 2024 with a deadline of April 18, 2024

90. I have submitted and continue to submit that the Divorced Husband Conflicted Lawyer (also defined as "**Tainted Lawyer**") has created an irreconcilable conflict of interest for any and all associates, affiliates, partners, or individuals who have acted, as being employed by TD Insurance, TD General Insurance, and TD Bank (see: Ms. Klukowska). I remain of the position, which will not change, that SNIC requires an independent law firm and independent lawyer licensee wherein there are "Chinese Walls" and "cones of silence"

91. I note the language in Bosa, by Mr. Justice Perell, that primacy is given to ensuring the integrity of the both the legal profession and the administration of justice (see: NOM #7, HB, Tab 9, page 359, paragraph 95).

VOLUME #1(F): Duty of Good Faith and Fiduciary Duties (see: Beasley) [document exchange is not an adequate order]

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92. Whether Nieuwland is able to obtain leave regarding any and all of the above including filing a DOR for SNIC, my position will remain, as a courtesy and for notice purposes (not making legal argument or drawing legal conclusions) that SNIC is required to have a representative that is a lawyer licensee as this SNIC Proceeding involves issues where I am CAT impaired by the only medical evidence to available.

93. My position remains that SNIC is required to have a lawyer-licensee who is independent of SNIC (and has not been involved like Nieuwland has or any "Deemed Representatives" herein (known or unknown) as per SNIC owning me a duty of good faith and fiduciary obligations (see Beasley, NOM #7, HB Tab 10, page 362 at paragraph 34).

94. Since *TDGIC [NON-SABS INSURER]* is a "Non-*SABS Insurer*", I believe and allege this is why *TDGIC [NON-SABS INSURER]* has not acted in accordance with what I allege to be breaches of the duties of good faith, duties of fidelity and fiduciary duties. As noted in Beasley, "the obligation...to pay accident benefits is very different from the exposure that a defendant faces in a tort action".

95. While there may be intercorporate relationships between SNIC, *TDGIC [NON-SABS INSURER]*, Primmum, TD Direct and TD Home And Auto, I am not a party to those contracts, and I am not an "Insured Person" as it relates to the four insurance companies NOT named SNIC.

96. From the DOL to the time of the Purported SNIC Response, at no point, did any individual on behalf of SNIC or *TDGIC [NON-SABS INSURER]* represent to me that *TDGIC [NON-SABS INSURER]* was the *SABS Insurer*. Each and every piece of communication between myself and SNIC has been to SNIC Markham or SNIC Burlington via the fax numbered provided at first instance and then Ms. Persaud (or at least referenced to her).

97. *TDGIC [NON-SABS INSURER]* never sought my consent to go into the accident benefit file and, collect, used and disclose my Confidential Information for the purposes it did and, most unequivocally, not for any purposes outside of the OCF documents (particularly the OCF-1) or in breach of PIPEDA. I am not aware of any court order that *TDGIC [NON-SABS INSURER]* has obtained to have done so. Irrespective of whether Mr. Nieuwland and *TDGIC [NON-SABS INSURER]* were aware or not aware of the scope of an OCF (which I would find shocking), there is no evidence before the Tribunal, or at least not served on me, that provides my consent for Nieuwland, on behalf of a NON-*SABS Insurer* to use my confidential information, attempt to destroy or disarm my legal rights under the *Insurance Act* and *SABS*, and seek costs in amount that would exceed any amounts allowable under Rule 19.

VOLUME #1(F): Mansuri

98. While counsel for Dominion of Canada General Insurance Company ("Dominion Insurance Company") represented to Vice Chair McGee of LAT that the remedy or order for impermissible sharing (not necessarily disclosure) of "confidential information" was for the parties to exchange documents, there was no dispute in Mansuri of the correct applicant in each of the proceedings and the correct and legal name of the "SABS insurer therein" which was Dominion Insurance Company. However, there remains an undecided and live issue as to why Kanat has represented SNIC and Nieuwland continues to act for the Non-SABS Insurer

99. I continue to object and affirm that I have not, am not and will not consent to any "joint adjusting" by SNIC and *TDGIC [NON-SABS INSURER]* or any "quasi" joint representation of SNIC and

TDGIC [NON-SABS INSURER] by Karat for SNIC and Nieuwland (*TDGIC [NON-SABS INSURER]*). To the extent that Nieuwland attempts to bring a motion to add *TDGIC [NON-SABS INSURER]* as a party, I object. I do not take issue with Mr. Nieuwland being included as a party as *INSURER]* as a party, I object. I do not take issue with Mr. Nieuwland being included as a party as I am seeking costs against him in his personal capacity for what I allege to be unreasonable, bad faith, and imprudent conduct.

100. SNIC's disclosures to *TDGIC [NON-SABS INSURER]* occurred without my knowledge and my consent, and without my written and express consent (see: NOM #7, Tab 12, page 384 for reference to the position of Dominion Insurance therein as a defence to why the applicant, Mr. Mansuri, did consent to the pooling of information between the files of the Mansuri brothers). I affirm that I agree with the position of the respondent's counsel in Mansuri particularly in light of the fact that the "brothers" were likely engaging in tendering "duplicative invoices". By way of example, when I learned that I had once accidentally tendered the same invoice twice to SNIC Markham, I promptly advised of my mistake.

VOLUME #1(F)(I): Would an order that the parties comply with the prescribed or rules based process of exchange of documents be sufficient regarding the relief sought in NOM #6 and NOM #7?

101. I do not believe that such a position, like that of Dominion Insurance in Mansuri (see: paragraph 17) would be appropriate herein and I would oppose, preemptively and in perpetuity, as per my position on *TDGIC [NON-SABS INSURER]* not being a party per the *Insurance Act* et al. Moreover, if there was sworn evidence by each of the Impugned Individuals deny or refusing my affirmed evidence, then I could potentially see how exchange of documents between myself and SNIC (Karat and the Divorced Husband Conflicted Lawyer and those who had acted historically for SNIC like Ms. Klukowska) may assist in the motion for NOM #6 (and NOM #7) but without any affirmed evidence, condescending upon particulars or denying their involvement in TD Claim Numbers and this SNIC Proceeding, then I do not see how an exchange of documents would satisfy my concerns regarding continued breaches of my confidentiality and privacy rights.

102. Moreover, since Mr. Nieuwland has only ever acted for *TDGIC [NON-SABS INSURER]*, and the "Andy Gess" PIPEDA response references "solicitor-client privilege" and "litigation privilege", then I fail to see how documents could even be exchanged in that regard, or at the very least delay this SNIC Proceeding contrary to the most expeditious, just and cost-effective manner.

VOLUME #1(F)(II) Distinction between sharing and disclosing; informed consent (see: NOM #7, HB, Tab 13, 14)

103. I re-affirm that I do not take any issue, and my consent remains, including disclosures of my confidential information to police for those limited purposes therein. However, I never consented and will never consent to a Non-*SABS Insurer* using my Confidential Information against me during a LAT Proceeding as if it were the insurer in the Insurance Policy or Insurance Contract.

104. I again bolster my position (which is not legal argument or a legal conclusion but my stated position once I had knowledge of the same that "all purposes for which the information MAY or will be disclosed MUST be stated (e.g. on an application form) in such a manner that the individual (myself) can be reasonably understand in order for consent to be meaningful (see: page 388 of HB for NOM #7).

1008

105. I never consented to *TDGIC [NON-SABS INSURER]*, which is noted in my Exhibit "A" in that *TDGIC [NON-SABS INSURER]* has different data and numbers in its publicly disclosed financial on the OSFI website from SNIC (including goodwill), collecting, using, accessing and disclosing my Confidential Information in that manner that it did. I again reiterate my demand, which will remain in perpetuity until it is complied by *TDGIC [NON-SABS INSURER]*, TDISL (in the capacity that it did acting for *TDGIC [NON-SABS INSURER]*) with or by LAT order and/or Federal Court order.

106. Had SNIC (through Ms. Nurse) taken the time to explain to me that the wording in the OCF-1 or other standard application documents, which I now know, are a precondition to obtaining benefits under *SABS*.

VOLUME #1(G): Ashley Dunkley[20]

107. I note that once Mr. Nieuwland provided the name of his, in fact and at law, legal assistant in Ms. Ortiz, Ms. Ortiz also included her signature block which did not include the names of lawyer licensees (Ms. Khakowska and Ms. Saeed in the signature block of Ms. Morses).

108. I allege that Mr. Nieuwland was knowingly dishonest and/or he remained silent when he was required to notify me and the Tribunal that his legal assistant was NOT Ms. Morses.

109. I, in my view and belief, operated in "good faith" by corresponding with Ms. Morses regarding case conference dates and she, as the Tribunal was copied and will know, sought an adjournment without compliance with the *LAT Rules*.

VOLUME #1(H): If a Claims Adjuster[21] could "File" but not "sign"

110. Based on my research, I believe that a "claims adjuster" could be a paralegal but not a barrister and solicitor. It may be, in a hypothetical, that a claims adjuster, who is also a paralegal but not a licensed salaried employee of a licensed insurer, could file and sign a response under section 280(2) of the *Insurance Act*. It may also be that in proceedings NOT involving CAT Impairment, that a "claims adjuster" could perform similar duties or have an exemption to perform services to the equivalent of a paralegal under the relevant By-Laws of the LSO (see, exemption for in-house legal services provider). I note the language of legislature for "claims adjuster" regarding "salaried". It may be that a "claims adjuster" is a non-salaried employee of a licensed insurer like SNIC (see, License # denoted previously) and where a matter does NOT involve CAT Impairment, that he or she whilst providing legal services exclusively to one employer and no other persons, can sign a "response" on behalf of the "insurer" in such a proceeding.

111. I also note that it may be that an employee or officer of an insurer, who may not be a "salaried employee", may be able to sign a "response" in limited circumstances where they are able to rely on certain exemption under the By-Laws of the LSO. However, my position has remained that Karat, based on his status of being a "non-licensee" and unlicensed representative, could not claims that he was the "insurance company" or like Ms. Morrow in Mosa mistakenly representing that she was an "independent party".

1009 303

112. It may be that some "ADR representatives" are able to "file" on behalf of an insurer, like Mr. Karat did, but have authority to use the "corporate seal" of the insurer as opposed to certifying in their own name with their own signature.

VOLUME #1(I): The Two (2) Underwriters for *TD Insurance Meloche Monnex*

113. The two underwriters for two different insurance programs, which are the "Professional And Alumni Program" and the "Employer Group Program" are:

a. SNIC; and
b. Primmum.

114. As per my affidavit #3 and other affidavits, I appended documents therein to Exhibit "A" which demonstrated that the underwriter for the Insurance Policy was SNIC.

115. I provided affidavits #1 to #4 to SNIC via fax to SNIC Markham and SNIC Burlington prior to filing my Appeal.

116. I included the name of the "respondent therein" as "*TD Insurance Meloche Monnex*" (Security National Insurance Company [also defined herein as the "SABS Insurer"]).

117. When I filed my Appeal on December 24, 2023, I attempted to include the full name but there was not sufficient space to do so. I included the name of "TD Insurance" and then referenced my listed and attached affidavits which all referenced the underwriter of "SNIC" with the "trade name" of "*TD Insurance Meloche Monnex*".

118. When Mr. Karat apparently signed the "Response", then filed the Respondent, and serve me with "Response"; he did so by referencing "Security National Insurance Company [also defined herein as the "SABS Insurer"]" on the Purported SNIC Response.

119. I now address the histories of the only two underwriters for "*TD Insurance Meloche Monnex*" by reference to Exhibit "A" et al.

VOLUME #2: Security National Insurance Company [also defined herein as the "SABS Insurer"]

VOLUME #2(A): *The Year of 1934: SNIC: incorporation*

120. SNIC was incorporated in 1934.

VOLUME #2(A): *The Year of 1991: Parliament passes "Insurance Companies Act" in 1991*

121. The *Insurance Companies Act* (Canada) was passed in 1991. SNIC continued as a federally incorporated insurance company in 1991.

VOLUME #2(A): *The Year of 1997: SNIC intended to make application to change its name*

1010 304

122. On August 26, 1997, SNIC gave notice under section 224 of the *Insurance Companies Act*, S.C., 1991, c. 47 that intended to make an application to the Minister of Finance for approval to change the "French version of its name" from La Seneate National Compagnie d'Assurances to "La Securitie National Compagnie d'Asurance". The Canada Gazette represented that it [SNIC] was advised by "Martineau Walker Legal Advisors" (see Exhibit "A", Tab Z, page 8).

VOLUME #2(A): OSFI references (see: https://www.osfi-bsif.gc.ca/en/supervision/financial-institutions/canadian-foreign-insurance-companies-fraternal-benefits-societies)

123. I now copy and paste from the OSFI URL denoted above:

a. Security National Insurance Company [also defined herein as the "SABS Insurer"] changed the French version of its name to La Sécurité Nationale Compagnie d'Assurance, effective October 21, 1997.
b. Security National Insurance Company [also defined herein as the "SABS Insurer"] changed the French version of its name to Sécurité Nationale Compagnie d'Assurance, effective April 6, 1998.

124. It appears to me that the Canada Gazette publication that I found demonstrated about a two month period from the time that SNIC made its application in August 1997 to the time of approval from by the federal Canadian government of its first name change in 1997 (albeit solely for the French version).

VOLUME #2(B): Primmum Insurance Company

1988: Baltica Reinsurance becomes Primmum Insurance Company
1998: Primmum becomes CT Direct Insurance
2001: Canada Life and Casualty becomes Primmum

125. I now copy and paste from the Office Of Superintendent of Financial Institutions above hyperlink:

a. 1988: Baltica-Skandinavia Reinsurance Company of Canada changed its name to Primmum Insurance Company effective July 20, 1988.
b. 1998 (March 10): Primmum Insurance Company changed its name to CT Direct Insurance Company effective March 10, 1998;
c. 2001: Canada Life Casualty Insurance Company changed its name to Primmum Insurance Company effective May 1, 2001

VOLUME #2(C): September 1, 2000:

VOLUME #2(C): Toronto Dominion General Insurance Company changes its name to TD Direct Insurance Company

126. I now copy and paste from the hyperlink denoted above:

a. Toronto Dominion General Insurance Company changed its name to TD Direct Insurance Inc effective September 1, 2000.

VOLUME #2(C): CT Direct Insurance Inc. [not CT Direct Insurance Company] changes its name to TD General Insurance Company

127. I now copy and paste from the above hyperlink:

a. CT Direct Insurance Inc. changed its name to TD General Insurance Company effective September 1, 2000.

VOLUME #2(D): The Year of 2005

VOLUME #2(D): Liberty General Insurance Company of Canada changes name to TD Home and Auto Insurance Company[7]

128. I now copy and paste from the above hyperlink regarding the change of name from Liberty General to TD Home & Auto:

a. Liberty Insurance Company of Canada changed its name to TD Home and Auto Insurance Company effective March 7, 2005.

VOLUME #2(E): No Evidence of any amalgamation between SNIC, Primmum, TD Direct, TD General or TD Home Auto

129. Unlike TD Life Insurance Company (which amalgamated with CT Financial Assurance Company in November 1, 2014), there is no evidence of any amalgamation between any of the insurance companies of SNIC, Primmum, TD Direct, TD General or TD Home Auto.

130. Moreover, there is no evidence of any changing of names between them since that time or during the time leading up to August 31, 2022

VOLUME #2(F): TD acquisitions

131. I now copy and paste from the following link ((see: https://www.td.com/ca/en/about-td/for-investors/investor-relations/presentation-and-events/acquisition-history-2004)

> "In 2004, TD Bank Group (TD) looked beyond investing in the organic growth of our existing businesses and in August this year, announced a deal to acquire 51% of Portland, Maine-based Banknorth Group, Inc. This acquisition significantly increased TD's personal and commercial banking footprint in the United States.
>
> TD also announced the acquisition of the Canadian personal lines property and casualty operations of Boston-based Liberty Mutual Group. The acquisition made Meloche Monnex Canada's largest direct-response property and casualty insurer and one of the country's top four property and casualty insurers in personal lines.

VOLUME #2(G): The History of Meloche Monnex (Jean Meloche)

132. I now copy and paste from the following:

1012

"The University of British Columbia is honoured to recognize the generous contribution of TD Insurance toward building the Robert H. Lee Alumni Centre.
TD Insurance has a proud history of supporting higher education and continuing professional education through awards, scholarships and event sponsorship
Since 1949, the year the company was created by Jean Meloche in Montreal, TD Insurance has worked with its university, college and professional association partners across Canada to develop tremendously effective and successful affinity insurance programs nationwide.

After a growth and acquisition period in the 1970s and 80s, TD Insurance, then called "Meloche," became the sole Canadian brokerage firm to own both brokerage and underwriting entities, and in 1991 the company was renamed Meloche Monnex Inc. In 2000, with offices located across Canada, the company became a member of the TD Bank Group and was renamed TD Insurance.

TD Insurance has become the number one affinity insurer and largest direct-response insurer in Canada, employing over 4,000 individuals and offering insurance programs to close to 900 university and college alumni and associations, as well as councils, orders and professional associations.

(see: https://alumnicentre.ubc.ca/donors/td-insurance/

VOLUME #2(H): SCC names "*TD Insurance Meloche Monnex*" as such (see: https://www.insurancebusinessmag.com/ca/news/legal-insights/td-insurance-meloche-monnex-loses-in-supreme-court-case-481565.aspx)

133. In 2024, the SCC found:

> "Furthermore, the LAT adjudicator's reconsideration decision was unreasonable, as he failed to take into account relevant legal constraints. The matter should be referred back to the LAT adjudicator for reconsideration."

VOLUME #2(I): Financial Data Involving SNIC vs. TD General Insurance

VOLUME #2(I)(a): OSFI

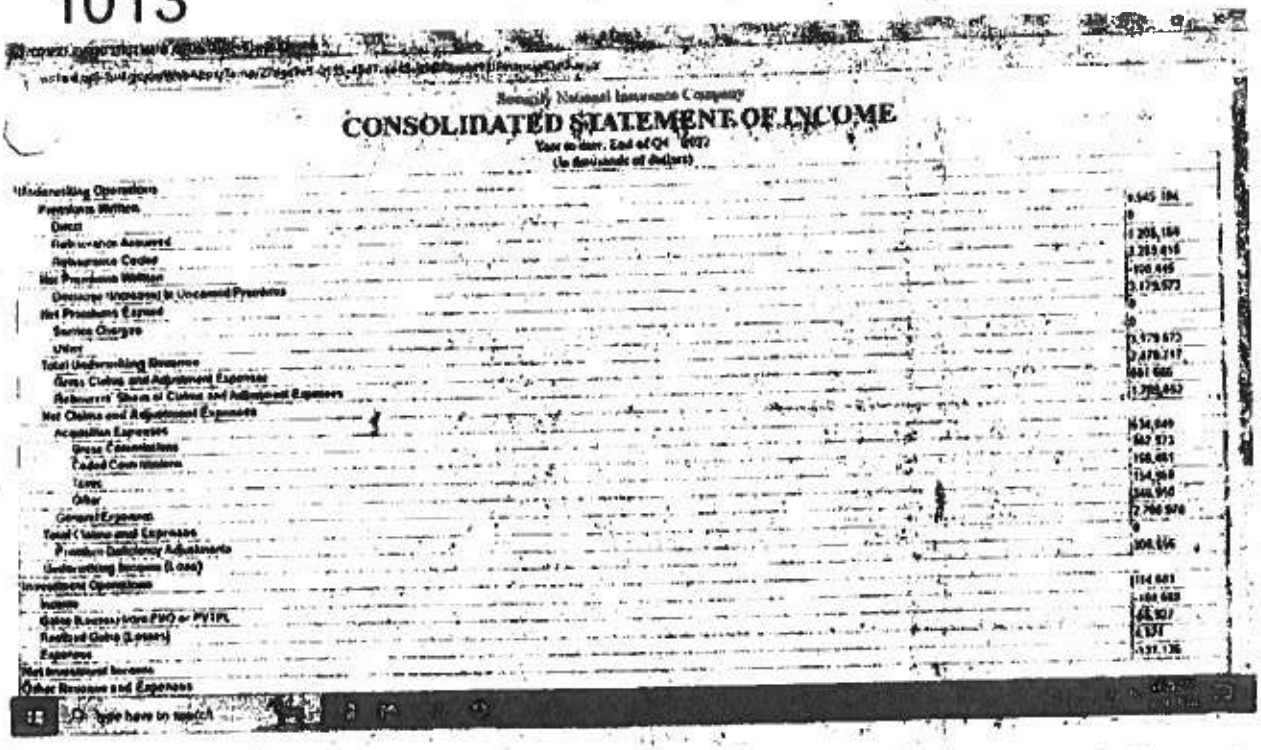
134. The OSFI publishes the financial data for various insurance companies in Canada. I have made references herein to the financial data regarding all of the insurance companies with the "TDI" or "TD Group of Insurance Companies" to demonstrate, inter alia, that they are distinct in a variety of manners including but not limited to differences in their financial statements, required statements under OSFI, and the

VOLUME #2(J): SNIC

135. For ease of reference, I now provide a screenshot herein of SNIC's financial statements as it relates to on or around the time of the Accident in said quarter (on or around):

307

1013


Security National Insurance Company

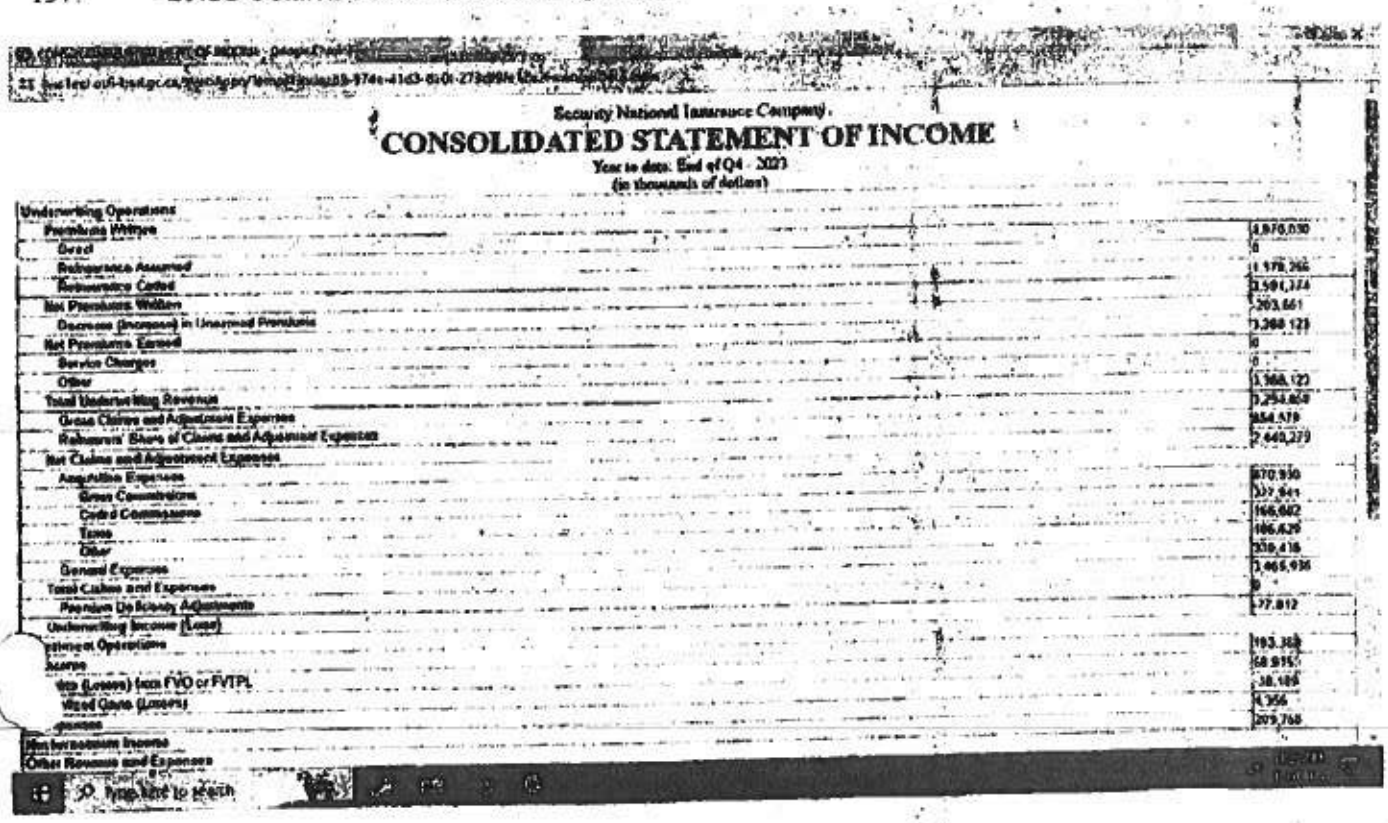
CONSOLIDATED STATEMENT OF INCOME

Year to date: End of Q4 2022

(in thousands of dollars)

136. Based upon my review, SNIC had total underwriting revenue of $3,178,573 (in thousands of dollars) and total claims and expenses" of $2,780,978 for "underwriting income" of net $398,595 for Q4 2022.

137. SNIC's statement of income for Q4 2023.


Security National Insurance Company

CONSOLIDATED STATEMENT OF INCOME

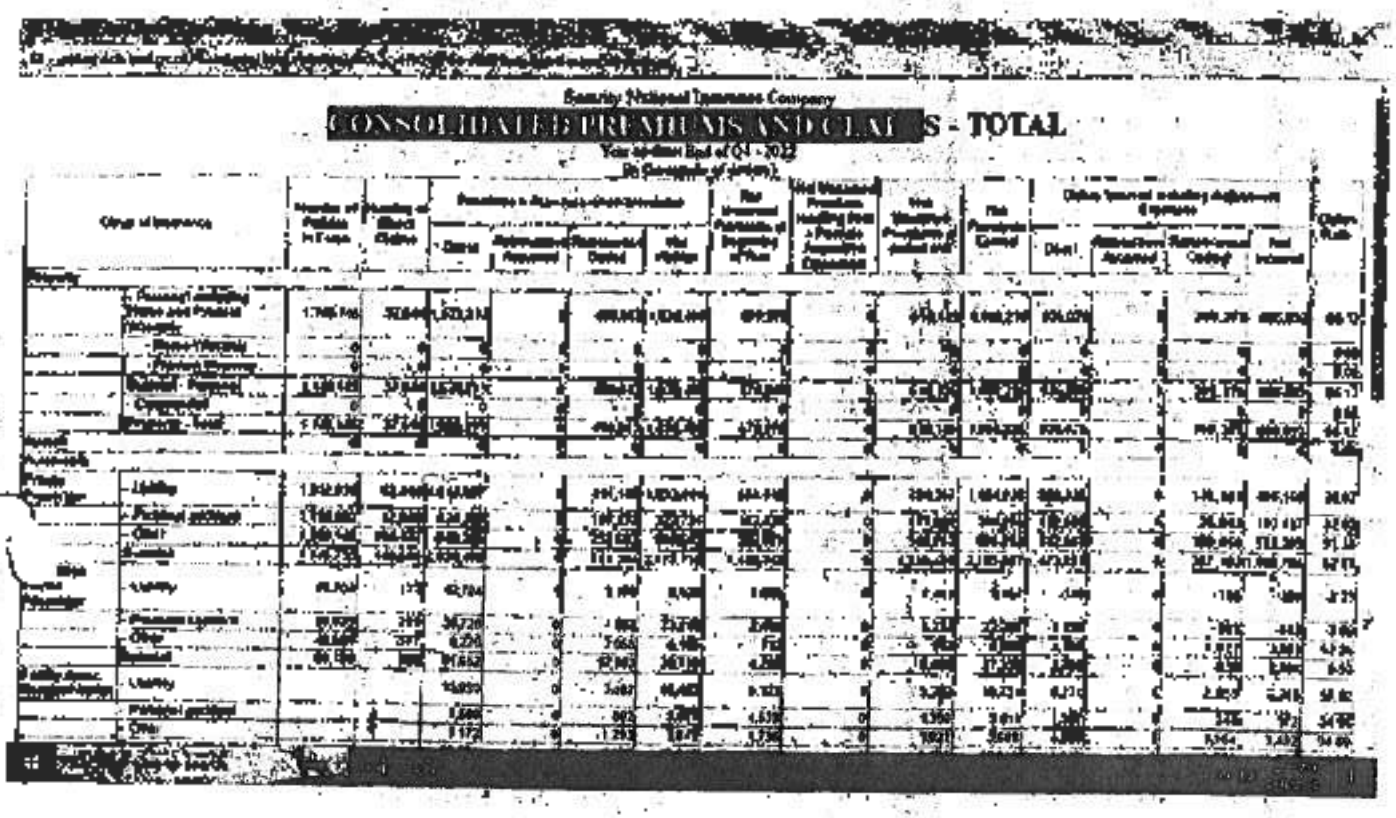
Year to date: End of Q4 2023

(in thousands of dollars)

1014

VOLUME #2(J)(i): SNIC's Consolidated Premiums and Claims Total

138. Now shown to me is a screenshot of SNIC's Consolidated Premiums and Claims Total for 2022(Q4), 2023 (Q1)



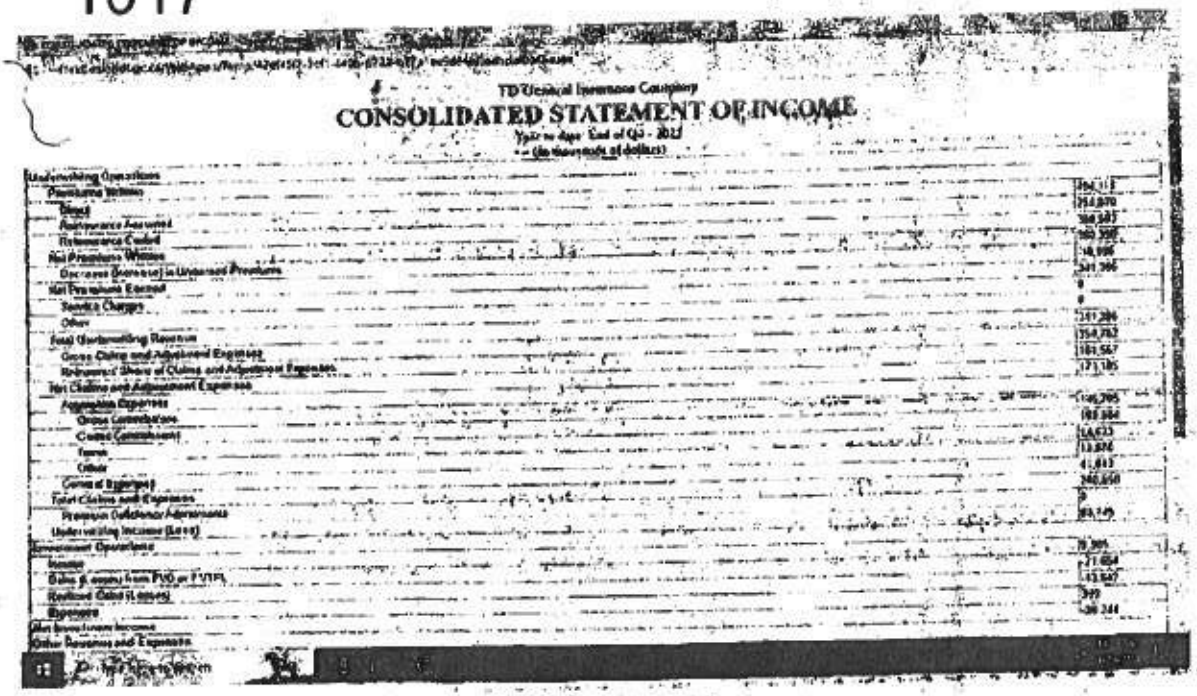
Security National Insurance Company

CONSOLIDATED PREMIUMS AND CLAIMS - TOTAL

VOLUME #2(J)(ii): Q1 2023: SNIC

1017

311

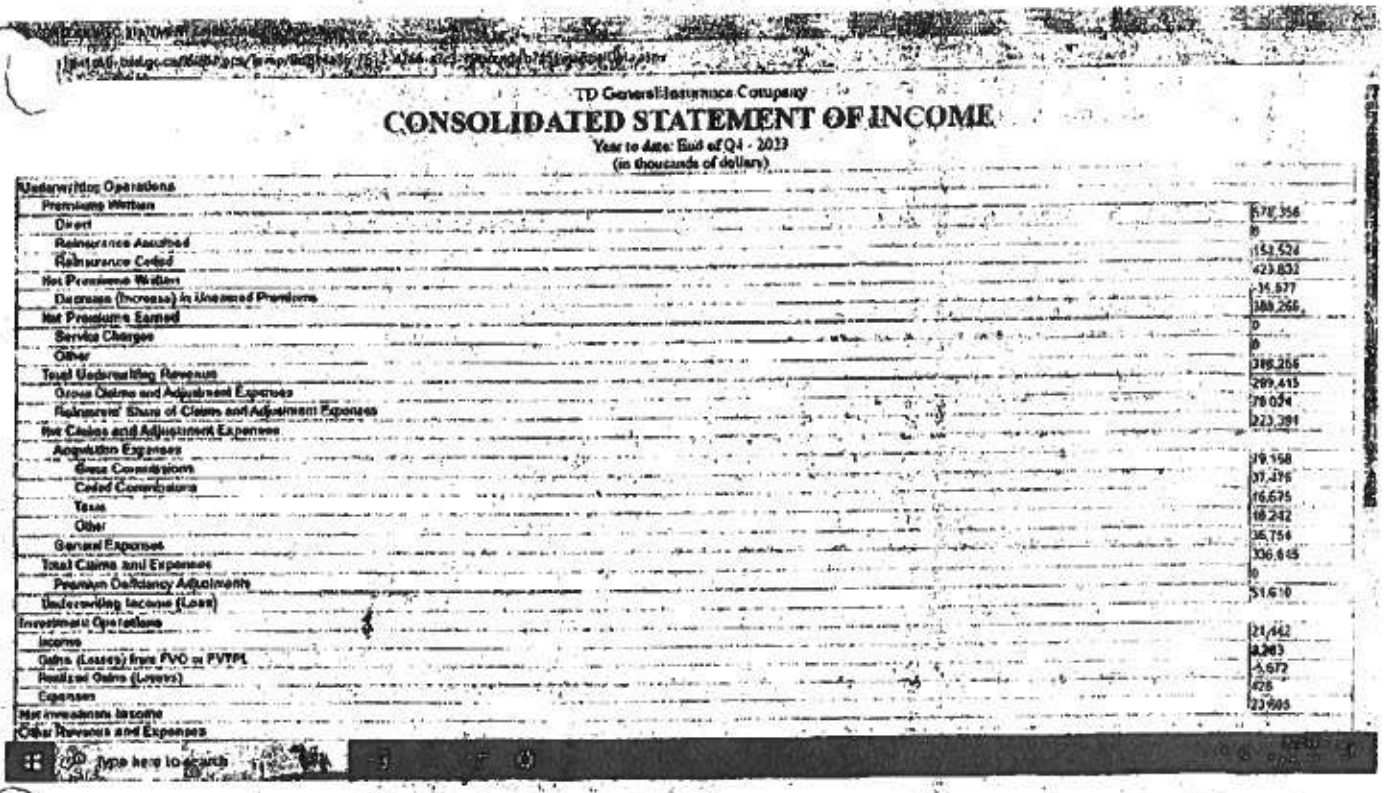

TD General Insurance Company

CONSOLIDATED STATEMENT OF INCOME

Year to date: End of Q3 - 2023

(in thousands of dollars)

141. TD General Insurance's statement of income for


TD General Insurance Company

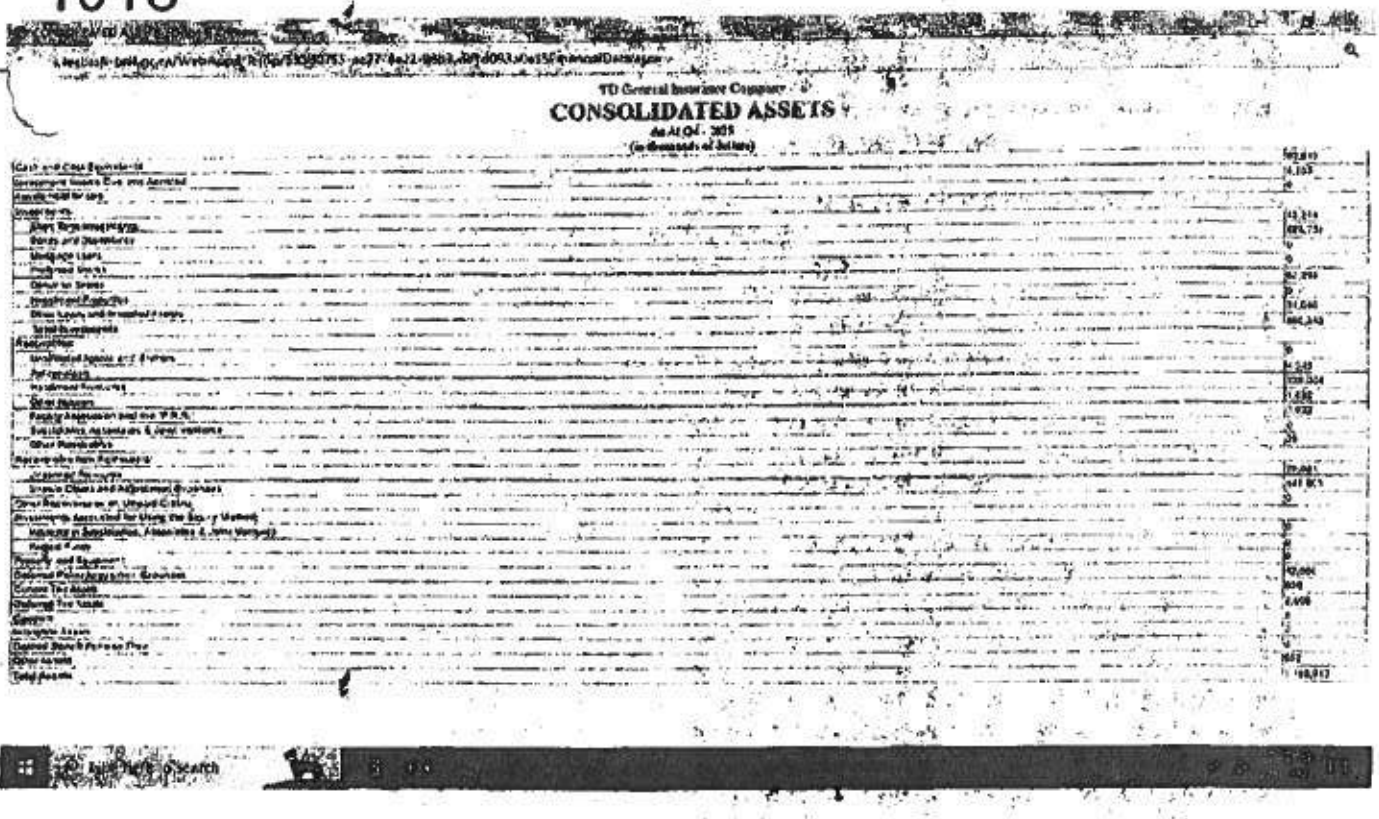
CONSOLIDATED STATEMENT OF INCOME

Year to date: End of Q4 - 2023

(in thousands of dollars)

Underwriting Operations	
Premiums Written	
Direct	678,356
Reinsurance Assumed	0
Reinsurance Ceded	153,524
Net Premiums Written	423,832
Decrease (Increase) in Unearned Premiums	-34,577
Net Premiums Earned	389,255
Service Charges	0
Other	0
Total Underwriting Revenues	389,255
Gross Claims and Adjustment Expenses	299,415
Reinsurers' Share of Claims and Adjustment Expenses	76,024
Net Claims and Adjustment Expenses	223,391
Acquisition Expenses	
Gross Commissions	59,158
Ceded Commissions	37,376
Taxes	16,675
Other	18,242
General Expenses	36,754
Total Claims and Expenses	356,645
Premium Deficiency Adjustment	0
Underwriting Income (Loss)	31,610
Investment Operations	
Income	21,442
Gains (Losses) from FVO or FVTPL	8,283
Realized Gains (Losses)	-5,672
Expenses	428
Net Investment Income	23,625
Other Revenues and Expenses	

VOLUME #2(K)(a): TD General: Consolidated Claims and Premiums



3. **TD General Insurance** does not have any receivables from subsidiaries, associates or joint ventures and it does not have investments using the "equity method" with "subsidiaries, associates and joint ventures".

VOLUME #2(R): IFRS [24]

154. IFRS 17 requires a company to measure insurance contracts using updated estimates and assumptions that reflect the timing of cash flows and any uncertainty relating to insurance contracts

VOLUME #2(S): The Intercorporate Relationships (see: Exhibit "A", page 23: "Financial Statements of TD Bank Group" Definition of "Inter"

155. "Inter" is defined as "between".

VOLUME #2(T): *SPPA*:
Evidence: What is admissible in evidence at a hearing?

Issue: Does LAT's general discretion under section 15 authorize it to allow evidence that is not affirmed or under oath in the form of documents or other things when submitted by the Non-SABS Insurer purporting to be "SABS Insurer" after the "SABS Insurer" has filed and served the only "Response" in a "LAT Proceeding"?

156. I now quote from section 15 of the *SPPA*.

> **Evidence**
> **What is admissible in evidence at a hearing**
> **15** (1) Subject to subsections (2) and (3), a tribunal may admit as evidence at a hearing, whether or not given or proven under oath or affirmation or admissible as evidence in a court,
> (a) any oral testimony; and
> (b) any document or other thing,
> relevant to the subject-matter of the proceeding and may act on such evidence, but the tribunal may exclude anything unduly repetitious.
> **What is inadmissible in evidence at a hearing**
> (2) Nothing is admissible in evidence at a hearing,
> (a) that would be inadmissible in a court by reason of any privilege under the law of evidence; or
> (b) that is inadmissible by the statute under which the proceeding arises or any other statute.

VOLUME #2(T): *Non-Sworn Evidence*

157. I re-affirm that I have not received any evidence under oath or sworn evidence in relation to NOM #6.

VOLUME #2(T):(I) *Inadmissible by the statute (Insurance Act) under which the proceeding arose*

158. This SNIC Proceeding arose under the *Insurance Act* (Ontario).

VOLUME #2(T):(II) *Insurance Act, ss. 279 to 288* Dispute Resolution — Statutory Accident Benefits

Section 279

159. I now copy and paste from section 279 of the *Insurance Act* (Ontario).

> **Definitions**
> *279* For the purposes of sections 280 to 283,
> "**Insured Person**" includes a person who is claiming funeral expenses or a death benefit under the *Statutory Accident Benefits Schedule*. ("personne assurée")
> "**Licence Appeal Tribunal**" means the Licence Appeal Tribunal established under the *Licence Appeal Tribunal Act, 1999*. ("Tribunal d'appel en matière de permis") 2014, c. 9, Sched. 3, s. 14.

VOLUME #2(T):(II)(a): *Relevance to this SNIC Proceeding and NOM # 4 and NOM #6*

160. I re-affirm that *TD Insurance Meloche Monnex* (SNIC) determined in September 2022 that I was an **Insured Person** based on my "spousal status" with the policyholder Nicole Antopoulos.

VOLUME #2(T)(II)(b): Section 280 of the *Insurance Act*

161. I now quote from section 280 of the *Insurance Act*:

> **Resolution of disputes**
> **280** (1) This section applies with respect to the resolution of disputes in respect of an **Insured Person**'s entitlement to statutory accident benefits or in respect of the amount of statutory accident benefits to which an **Insured Person** is entitled. 2014, c. 9, Sched. 3, s. 14.
> **Application to Tribunal**
> (2) The **Insured Person** or the insurer may apply to the **Licence Appeal Tribunal** to resolve a dispute described in subsection (1). 2014, c. 9, Sched. 3, s. 14.
> **Limit on court proceedings**
> (3) No person may bring a proceeding in any court with respect to a dispute described in subsection (1), other than an appeal from a decision of the **Licence Appeal Tribunal** or an application for judicial review. 2014, c. 9, Sched. 3, s. 14.
> **Resolution in accordance with Schedule**
> (4) The dispute shall be resolved in accordance with the *Statutory Accident Benefits Schedule*. 2014, c. 9, Sched. 3, s. 14.

VOLUME #2(T)(II)(b)(i): *My Evidence in relation to section 280 of the Insurance Act*

2. I affirm that I applied for resolution of the dispute between myself, as an "**Insured Person**" and SNIC (trade name ***TD Insurance Meloche Monnex***) on December 24, 2023. Prior to the final processing of my Appeal, the Tribunal requested that I include some of the "denial letters" from SNIC and I did so in mid-January 2024. On January 25, 2024, Karat emailed me wherein he confirmed that he was assigned as the "ADR" to handle this "LAT dispute" with his email stating "Representing The Security National Insurance Company [also defined herein as the "**SABS Insurer**"]" (see: **Affidavit #13, Exhibit "A"**). On January 25, 2024, Karat served me with the Purported SNIC Response and a cover letter that referenced the SNIC Markham address and "***TD Insurance Meloche Monnex***". On February 14, 2024, Karat served me with the "Karat COS"

VOLUME #2(T)(II): Section 281

163. I now quote from section 281 of the *Insurance Act* (Ontario):

> **Protection of benefits after Tribunal resolution**
> **281** (1) After the **Licence Appeal Tribunal** issues a decision, the insurer shall not reduce benefits to the **Insured Person** on the basis of an alleged change of circumstances, alleged new evidence or an alleged error except as provided under this section. 2014, c. 9, Sched. 3, s. 14.
> **When benefits may be reduced**
> (2) The insurer may reduce benefits if,
> (a) the **Insured Person** agrees;
> (b) the insurer is authorized to do so as a result of a successful appeal of the **Licence Appeal Tribunal**'s decision; or

6. I affirm that SNIC is the only insurer that issued the Insurance Policy that is denoted in the Appeal and the Impugned SNIC Response.

VOLUME #2(T)(V): Section 288 of the *Insurance Act* (Ontario)

167. Section 288 of the *Insurance Act* states:

INSURERS' PAYMENTS FOR LISTED EXPENSES — STATUTORY ACCIDENT BENEFITS

Listed expenses in connection with statutory accident benefits

288.1 (1) For the purposes of this Part, the following are listed expenses in connection with statutory accident benefits:

1. Amounts payable for such assessments, examinations, reports, forms or plans authorized or required by the *Statutory Accident Benefits Schedule* as may be prescribed for the purposes of this section and expenses relating to those assessments, examinations, reports, forms and plans.
2. Amounts payable for prescribed goods or services that relate to such medical benefits, rehabilitation benefits, attendant care benefits and other statutory accident benefits as may be prescribed for the purposes of this section. 2013, c. 2, Sched. 8, s. 14; 2014, c. 7, Sched. 14, s. 4.

Exceptions

(2) Despite subsection (1), the regulations may specify that certain types of amounts payable are not listed expenses in such circumstances as may be prescribed. 2013, c. 2, Sched. 8, s. 14.

Restrictions re payments for listed expenses

Payment by insurer

288.2 (1) An insurer is not permitted to make payments for listed expenses directly to a person or entity who does not hold a service provider's licence at the applicable time, as determined in accordance with the regulations. 2013, c. 2, Sched. 8, s. 15.

Exception

(2) The restriction imposed by subsection (1) does not apply with respect to payments to such persons or entities as may be prescribed, or in such circumstances as may be prescribed. 2013, c. 2, Sched. 8, s. 15.

Reimbursement of Insured Person

(3) An insurer is permitted to reimburse an Insured Person for a listed expense, whether or not the payment for which reimbursement is sought was made to the holder of a service provider's licence. 2013, c. 2, Sched. 8, s. 1

VOLUME #2(T)(V)(a): My evidence in relation to section 288 of the *Insurance Act* (Ontario)

168. I have sought reimbursement for a variety of listed expenses under *SABS* wherein I have not received reimbursement or indemnification for the same but they all have been from SNIC – even into 2024.

VOLUME #2(T)(VI): *Insurance Act*

169. I affirm that I believe that the statute under which this proceeding arose is the *Insurance Act* (Ontario) by virtue of my Appeal that I filed on December 24, 2023.

1023

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9. My position remains, since early February 2024, that the only "insurer" in this SNIC Proceeding is Security National Insurance Company [also defined herein as the "SABS Insurer"] with its insurance license number denoted previously. I have performed a key word search of the word "admissible" under the *Insurance Act* (see: section 280(2) of the *Insurance Act* upon which my Appeal was brought) and I now copy and paste the following sections herein.

VOLUME #2(T)(VI)(a): Section 268 of the *Insurance Act*

17. Section 268 of the *Insurance Act* reads:

Statutory accident benefits

268 (1) Every contract evidenced by a motor vehicle liability policy, including every such contract in force when the *Statutory Accident Benefits Schedule* is made or amended, shall be deemed to provide for the statutory accident benefits set out in the *Schedule* and any amendments to the *Schedule*, subject to the terms, conditions, provisions, exclusions and limits set out in that *Schedule*. 1991, c. 10, s. 26 (1).

Indexation

(1.4) Subject to subsection (1.5) and to the terms, conditions, provisions, exclusions and limits established by the *Statutory Accident Benefits Schedule*, the *Schedule* shall provide that, in respect of incidents involving the use or operation, after December 31, 1993 and before November 1, 1996, of an automobile,

(a) every continuing periodic amount payable by AN INSURER as an income replacement benefit, education disability benefit, caregiver benefit or loss of earning capacity benefit in accordance with the *Schedule* shall be revised, effective the 1st day of January in every year after 1994, using the indexation percentage published under subsection 268.1 (1); and

(b) every monetary amount set out in the *Schedule* shall be revised, effective the 1st day of January in every year after 1994, by adjusting the amount by the indexation percentage published under subsection 268.1 (1). 1993, c. 10, s. 26 (1); 1996, c. 21, s. 30 (2); 2020, c. 34, Sched. 7, s. 12.

No decrease in payments

(1.5) A continuing periodic amount payable by AN INSURER in accordance with the *Statutory Accident Benefits Schedule* shall not be reduced by the operation of the indexation percentage referred to in subsection (1.4). 1993, c. 10, s. 26 (1).

Liability to pay

(2) The following rules apply for determining who is liable to pay statutory accident benefits.

1. In respect of an occupant of an automobile,

i. the occupant has recourse against THE INSURER of an automobile in respect of which the occupant is an insured[25],

ii. if recovery is unavailable under subparagraph i, the occupant has recourse against THE INSURER of the automobile in which he or she was an occupant,

iii. if recovery is unavailable under subparagraph i or ii, the occupant has recourse against THE INSURER of any other automobile involved in the incident from which the entitlement to statutory accident benefits arose,

iv. if recovery is unavailable under subparagraph i, ii or iii, the occupant has recourse against the Motor Vehicle Accident Claims Fund.

2. In respect of non-occupants,

i. the non-occupant has recourse against THE INSURER of an automobile in respect of which the non-occupant is an insured,

ii. if recovery is unavailable under subparagraph i, the non-occupant has recourse against THE INSURER of the automobile that struck the non-occupant,

iii. if recovery is unavailable under subparagraph i or ii, the non-occupant has recourse against THE INSURER of any automobile involved in the accident from which the entitlement to statutory accident benefits arose,

iv. if recovery is unavailable under subparagraph i, ii or iii, the non-occupant has recourse against the Motor Vehicle Accident Claims Fund. R.S.O. 1990, c. I.8, s. 268 (2); 1993, c. 10, s. 1; 1996, c. 21, s. 30 (3, 4).

Liability

(3) An insurer against whom a person has recourse for the payment of statutory accident benefits is liable to pay the benefits. R.S.O. 1990, c. I.8, s. 268 (3); 1993, c. 10, s. 1.

Choice of insurer

(4) If, under subparagraph i or iii of paragraph 1 or subparagraph i or iii of paragraph 2 of subsection (2), a person has recourse against more than one insurer for the payment of statutory accident benefits, the person, in his or her absolute discretion, may decide THE INSURER from which he or she will claim the benefits. R.S.O. 1990, c. I.8, s. 268 (4); 1993, c. 10, s. 1.

Same

(5) Despite subsection (4), if a person is a named insured under a contract evidenced by a motor vehicle liability policy or the person is the spouse or a dependant, as defined in the *Statutory Accident Benefits Schedule*, of a named insured, the person shall claim statutory accident benefits against THE INSURER under that policy. 1993, c. 10, s. 26 (2); 1999, c. 6, s. 31 (9); 2005, c. 5, s. 35 (13).

Same

(5.1) Subject to subsection (5.2), if there is more than one insurer against which a person may claim benefits under subsection (5), the person, in his or her discretion, may decide THE INSURER from which he or she will claim the benefits. 1993, c. 10, s. 26 (2).

Same

(5.2) If there is more than one insurer against which a person may claim benefits under subsection (5) and the person was, at the time of the incident, an occupant of an automobile in respect of which the person is the named insured or the spouse or a dependant of the named insured, the person shall claim statutory accident benefits against THE INSURER of the automobile in which the person was an occupant. 1993, c. 10, s. 26 (2); 1999, c. 6, s. 31 (10); 2005, c. 5, s. 35 (14).

Excess insurance

(6) The insurance mentioned in subsection (1) is excess insurance to any other insurance not being automobile insurance of the same type indemnifying the injured person or in respect of a deceased person for the expenses. R.S.O. 1990, c. I.8, s. 268 (6).

Idem

(7) The insurance mentioned in subsection (1) is excess insurance to any other insurance indemnifying the injured person or in respect of a deceased person for the expenses. R.S.O. 1990, c. I.8, s. 268 (7).

Payments pending dispute resolution

(8) Where the *Statutory Accident Benefits Schedule* provides that THE INSURER will pay a particular statutory accident benefit pending resolution of any dispute between THE INSURER and an insured, THE INSURER shall pay the benefit until the dispute is resolved. R.S.O. 1990, c. I.8, s. 268 (8); 1993, c. 10, s. 1.

Particulars of insurance

269 (1) A person who is entitled to statutory accident benefits or his or her personal representative is entitled to particulars as to whether the owner or operator of any automobile against whom the person may have a claim has insurance that provides for statutory accident benefits and the name of the insurer, if any. R.S.O. 1990, c. I.8, s. 269 (1); 1993, c. 10, s. 1.

VOLUME #2(T)(VI)(6): My evidence in relation to section 268(1) of *SABS*: deemed to provide all of the benefits therein

172. I, through the filing of my **Appeal**, and the "**Respondent**" (see: LAT Rule, 2. ____) "**insurer**" (see *Insurance Act*, s. 1(1): "**insurer**" means the person who undertakes or agrees or offers to undertake a contract; ("**assureur**")), through Mr. Karat's signing, filing and serving of the **Purported SNIC Response** on January 25, 2024, referenced the "**Insurance Policy**" which I believe and submit was a "contract" (see: *Insurance Act*, s. 1(1): contract" means a contract of insurance, and includes a policy, certificate, interim receipt, renewal receipt, or writing evidencing the contract, whether sealed or not, and a binding oral agreement; ("contrat")). I believe and submit that said "**Insurance Policy**" or "**Insurance Contract**" (denied as: **Insurance Policy #**_____) was deemed to provide for the statutory accident benefits set out in the *Schedule* and any amendments to the *Schedule (see: section 268(1) of the Insurance Act)*.

VOLUME #2(T)(VII): (*Who is liable to pay the benefits under SABS?*)

173. On August 31, 2022, I was the "driver" of the "Insured Automobile" and I believe and submit I fell under the definition of "occupant" (see: *Insurance Act*, s. 1(1):

> "occupant" in respect of an automobile, means,
> (a) the driver,
> (b) a passenger, whether being carried in or on the automobile,
> (c) a person getting into or on or getting out of or off the automobile; ("personne transportée")

174. I now requote as the issue in NOM #4 is a matter of "who is liable to pay the IRB" based upon the scope of the pleadings and the admissions made therein:

> Liability to pay
>
> (2) The following rules apply for determining who is liable to pay statutory accident benefits:
>
> 1. In respect of an occupant of an automobile,
>
> i. the occupant has recourse against the insurer of an automobile in respect of which the occupant is an insured,

175. I again re-affirm the determination made by SNIC in September 2022 that I was an "insured person" and the definition of "**Insured Person**" under the *Insurance Act*

"insured" means a person insured by a contract whether named or not and includes every person who is entitled to statutory accident benefits under the contract whether or not described therein as an Insured Person, ("assuré")

176. Therefore, I have submitted and again re-submit to LAT that I am the "Occupant", "Insured Person", "Insured" and the "Insurer" was and is "Security National Insurance Company [also defined herein as the "SABS Insurer"]".

VOLUME #2(T)(VIII): *Who is NOT liable to pay?*

177. Mr. Karat is not liable in his personal capacity to pay the benefits of which I am entitled to under *SABS* in the amounts denoted as it relates to NOM #4. TD General Insurance Company is not liable to pay the benefits. Pembridge is not liable to pay the SABS benefits.

VOLUME #2(T)(IX): *Only One Entity that is liable to pay the benefits under SABS?*

178. I now quote from section 268

> Liability
> (3) An insurer against whom a person has recourse for the payment of statutory accident benefits is liable to pay the benefits. R.S.O. 1990, c. I.8, s. 268 (3); 1993, c. 10, s. 1.

179. I believe and submit that I am a person (individual) as per the Legislation Act (Ontario).

180. I exercised my rights of recourse against SNIC by its provision of the "accident benefits package" in September 2022 and my subsequent submitting of various documents including the particulars of my Beneficiary Bank Account.

181. SNIC has made multiple payments to me on account of *SABS* benefits in 2022 and 2023 to my Beneficiary Bank Account. I have never provided my "Beneficiary Bank Account" information and particulars, or consented to, "TD General Insurance Company" paying my benefits, seeking to hold it liable to pay benefits, and it would not have had consent to make such payments for said benefits under *SABS*.

182. I am exclusively seeking my benefits and payments from SNIC. SNIC is the only liable person for the payment of benefits to me.

VOLUME #2(T)(X): Choice of Insurers (see. section 268(4)

183. At no point did I have the ability to seek recourse for payment of benefits under *SABS* from "multiple insurers".

VOLUME #2(T)(XI): Section 268(5): my requirements therein

184. I note the following:

"Same

(5) Despite subsection (4), if a person is a named insured under a contract evidenced by a motor vehicle liability policy or the person is the spouse or a dependant, as defined in the *Statutory Accident Benefits Schedule*, of a named insured, the person shall claim statutory accident benefits against **THE INSURER** under **THAT POLICY**. 1993, c. 10, s. 26 (2); 1999, c. 6, s. 31 (9); 2005, c. 5, s. 35 (13)."

185. I believe and read the above section 268(5), as being the Spouse of the Individual Policyholder (my "Spouse") as requiring me ("the person shall claim *SABS* against **THE INSURER** under **THAT POLICY**). Although I did not know the name of "TD General Insurance Company" at the time of the DOL or thereafter and not until 2024, I would have never sought benefits against a "non-*SABS Insurer*" or "not the Insurer" under the Insurance Policy.

VOLUME #3: *SABS* (Further information): a regulation under *Insurance Act* (cannot be inconsistent with *Insurance Act*)

The word "Insurer"

186. *SABS* came into force on September 1, 2010.

"ONTARIO REGULATION 34/10
STATUTORY ACCIDENT BENEFITS SCHEDULE — EFFECTIVE SEPTEMBER 1, 2010"

7. The word "insurer" is referenced **360 times** under *SABS*.

188. I have selected what I believe to be relevant to the admissibility of the evidence and the liability of SNIC (*not TDGIC [NON-SABS INSURER]* for benefits et al):

Application and transition rules
2. (1) Except as otherwise provided, the benefits set out in this Regulation shall be provided under every contract evidenced by a motor vehicle liability policy in respect of accidents occurring on or after September 1, 2010. O. Reg. 34/10, s. 2 (1); O. Reg. 251/15, s. 1 (1).

[NB: consistency with section 268(2)]

(4) Benefits payable under this Regulation in respect of an Insured Person shall be paid by ***THE INSURER*** that is liable to pay under subsection 268 (2) of the Act. O. Reg. 34/10, s. 2 (4).

(5) Subject to Part VII, ***THE INSURER*** shall pay the benefits under this Regulation despite section 225, subsection 233 (1), section 240 and subsection 265 (3) of the Act. O. Reg. 34/10, s. 2 (5).

(8) If in a dispute described in subsection 280 (1) of the Act, the License Appeal Tribunal finds that an expense was not incurred because ***THE INSURER*** unreasonably withheld or delayed payment of a benefit in respect of the expense, the License Appeal Tribunal may, for the purpose of determining an Insured Person's entitlement to the benefit, deem the expense to have been incurred. O. Reg. 44/16, s. 1.

Eligibility criteria

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5. (1) THE INSURER shall pay an income replacement benefit to an Insured Person who sustains an impairment as a result of an accident if the Insured Person satisfies one or both of the following conditions:

Period of benefit

6. (1) Subject to subsection (2), an income replacement benefit is payable for the period in which the Insured Person suffers a substantial inability to perform the essential tasks of his or her employment or self-employment. O. Reg. 34/10, s. 6 (1).

(2) THE INSURER is not required to pay an income replacement benefit,

(a) for the first week of the disability; or

(b) after the first 104 weeks of disability, unless, as a result of the accident, the Insured Person is suffering a complete inability to engage in any employment or self-employment for which he or she is reasonably suited by education, training or experience. O. Reg. 34/10, s. 6 (2).

Insurer liable to pay benefits

14. Except as otherwise provided in this Regulation, AN INSURER is liable to pay the following benefits to or on behalf of an Insured Person who sustains an impairment as a result of an accident:

1. Medical and rehabilitation benefits under sections 15 to 17.
2. If the impairment is not a minor injury, attendant care benefits under section 19. O. Reg. 34/10, s. 14.

Medical benefits

15. (1) Subject to section 18, medical benefits shall pay for all reasonable and necessary expenses incurred by or on behalf of the Insured Person as a result of the accident for,

(h) other goods and services of a medical nature that THE INSURER agrees are essential for the treatment of the Insured Person, and for which a benefit is not otherwise provided in this Regulation. O. Reg. 34/10, s. 15 (1); O. Reg. 251/15, s. 5.

(2) Despite subsection (1), THE INSURER is not liable to pay medical benefits,

(a) for goods or services that are experimental in nature;

(b) for expenses related to goods and services described in subsection (1) rendered to an Insured Person that exceed the maximum rate or amount of expenses established under the Guidelines, other than for expenses related to the services described in clause (1) (g); or

(c) for transportation expenses other than authorized transportation expenses. O. Reg. 34/10, s. 15 (2); O. Reg. 14/13, s.

Rehabilitation benefits

16. (1) Subject to section 18,

(l) other goods and services that THE INSURER agrees are essential for the rehabilitation of the Insured Person, and for which a benefit is not otherwise provided in this Regulation, except,

(i) services provided by a case manager, and

(ii) housekeeping and caregiver services. O. Reg. 34/10, s. 16 (1); O. Reg. 251/15, s. 6.

(4) Despite subsection (1), THE INSURER is not liable to pay rehabilitation benefits,

Case manager services

(2) *THE INSURER* is not liable to pay expenses for case manager services that exceed the maximum rate or amount of expenses established under the Guidelines. O. Reg. 34/10, s. 17 (2).

Monetary limits re medical and rehabilitation benefits

(5) For the purposes of subsections (1) and (3), medical, rehabilitation and, where applicable, attendant care benefits payable in respect of an Insured Person include all fees and expenses for conducting assessments and examinations and preparing reports in connection with any benefit or payment to or for an Insured Person under this Regulation, other than,

(a) fees in connection with any examination required by *AN INSURER* under section 44; and

(b) expenses in respect of a report referred to in subsection 7 (4). O. Reg. 34/10, s. 18 (5); O. Reg. 251/15, s. 8 (3).

Cost of examinations

25. (1) *THE INSURER* shall pay the following expenses incurred by or on behalf of an Insured Person.

3. Reasonable fees charged by a health practitioner for reviewing and approving a treatment and assessment plan under section 38, including any assessment or examination necessary for that purpose, if any one or more of the goods, services, assessments or examinations described in the treatment and assessment plan have been,

i. approved by *THE INSURER*,

ii. deemed by this Regulation to be payable by *THE INSURER*, or

iii. determined to be payable by *THE INSURER* on the resolution of a dispute described in subsection 280 (1) of the Act.

PART VIII
PROCEDURES FOR CLAIMING BENEFITS

GENERAL

Notice to insurer and application for benefits

32. (1) A person who intends to apply for one or more benefits described in this Regulation shall notify *THE INSURER* of his or her intention no later than the seventh day after the circumstances arose that give rise to the entitlement to the benefit, or as soon as practicable after that day. O. Reg. 34/10, s. 32 (1).

(2) *THE INSURER* shall promptly provide the person with,

(a) the appropriate application forms;

(b) a written explanation of the benefits available;

(c) information to assist the person in applying for benefits; and

(d) information on the election relating to income replacement, non-earner and caregiver benefits, if applicable. O. Reg. 34/10, s. 32 (2).

(3) If *AN INSURER* that is subject to a Guideline referred to in subsection 64 (7) determines, acting reasonably, that there is a likelihood that the person may, in connection with the accident, deliver one or more documents referred to in that subsection, *THE INSURER* shall provide the following information to the central processing agency referred to in that subsection:

Application

36. (1) In this section and section 37,

"specified benefit" means an income replacement benefit, non-earner benefit, caregiver benefit or a payment for housekeeping or home maintenance services under section 23. O. Reg. 34/10, s. 36 (1).

(4) Within 10 business days after *THE INSURER* receives the application and completed disability certificate, *THE INSURER* shall,

TAB 50

TAB #21: ORAL COMPENDIUM: COURT FILE NO. DC-24-00000718-00JR

1180

This is the 34th Affidavit of Mr. Kevin A. McLean under TD Insurance (SNIC) ("Alumni Program") (Claim Number 035325790-3 ("the "Claim Number") ("TD Claim #3"), TD Insurance Policy Number #0010135111806 (the "Policy Number"), LAT File Number "23-015662/AA-HS" (the "LAT File Number" or "LAT Proceeding") and was finalized and made on August 16, 2024

Jurisdiction: Provincial (Ontario)
Governing Automobile Insurance Legislation: *Insurance Act, R.S.O. 1990, c. I.8 et seq ("Insurance Act" or "the Act")*
Governing Automobile Provincial Regulations: *SABS, Reg 283 and Reg 664*
Governing FSRA Rule: *Unfair Unregistered or Deceptive Practices Rule 2022 et seq* Unfair or Deceptive Acts or Practices Rule as amended by Deferred Sales Charge Amendment 2 Approved by Minister of Finance: January 30, 2024 *("UDAP Rule")*
Insurance Policy #: **#0010135111806 (the "Insurance Policy", "Insurance Contract" or "Insurance Policy #806")**
Insurance Program and Product: *Alumni and Professional Program (the "Alumni Program")*
Underwriter/Insurer: *Security National Insurance Company (FSRA Insurance Registration #197)*

- ***Combined Name with two distinct trademarks for two different insurance programs: "TD Insurance Meloche Monnex"***
- ***Trademark word holder of "TD Insurance": The Toronto-Dominion Bank ("TD Bank")***
- ***Trademark word holder of "Meloche Monnex": Meloche Monnex Inc. ("MMI"), a CBI Limited incorporated company***

"Broker": *Meloche Monnex Financial Services Inc. (the "Broker" or "Agent", or "MMFSI")*
"Named Insureds": *BMW Financial Services Inc. (A Division of BMW Canada Inc.) (referred as "BMW FS Inc."); and Nicole Imgrunden*

11. The 1st Affidavit of Mr. Kevin A. McLean under TD Insurance (SNIC: "Aviva Program") Claim Number 035325790-1 ("TD Claim #1") TD Insurance Policy Number 0001351486 (the "Policy Number"), LAT File Number "21-001463/AABS" (the "LAT File Number"), LAT Proceeding or Mediation Proceeding") under section 258(2) of the *Insurance Act* currently involving the sole respondent party (the "Sole Respondent Party") to Security National Insurance Company ("SNIC") with an FSRA Registration Number of 397 ("SNIC #397") and potentially involving the "First Insurer" to which my Completed Application on October 13, 2022 via my fax to the fax number of 416-774-3120 (the "North York Office Fax Number") at Floor 4650 Victoria Park Avenue Fax Number:

(B.A., M.A.) ("McLean Spouse" or "Individual Policyholder")
Insured Automobile: BMW 3 Series Xi Drive 2019 4DR AWD
Lessee: Nicole Arsuponlus
Lessor: BMW FS Inc.
Insured Person: Mr. Kevin A. McLean (B.A., J.D., CIM) ("Arsuponlus Spouse" "Insured Person", "Unnamed Insured Person", "Occupant", "Appellant", "Applicant", or "Claimant")
***Date of Loss:** August 31, 2022 ("DOL" or "Date Of Loss")*
***Location of Loss:** 320 to 360 Spadina Road (Northbound) (between Heath Rd and St Clair Avenue), Toronto, Ontario (multiple postal codes due to involuntary movement of Insured Automobile by force of heavy snow-crushed by the tortfeasor (insured by the non-insurer as Pembridge Insurance Company ("Pembridge" or "Tort Insurer")*
***Police File Number (North York Reporting Collision Centre):** Affidavit #3 Exhibit "A"*
TD Insurance Claim #:035325790
***TD Insurance Claim # for Appellant:** 035325790-3 ("TD Claim #3");*

Fictitious TD Insurance claim number for Appellant with fictitious "exposure number" (04) with Fictitious Insurer and Fictitious Respondent: 034325790-03 ("Fictitious TD Claim Number")."

BETWEEN:

KEVIN ALEXANDER MCLEAN

APPLICANT/APPELLANT

AND:

SECURITY NATIONAL INSURANCE COMPANY

(10)

1198 31st Affidavit of Mr. Kevin A. McLean under TD Insurance (SNIC "Alternate Program") Claim Number 0[illegible] ("TD Claim #") / ID Insurance Number 000[illegible]0006 (the "Policy Number"), LAT File Number "24-010662/AABS" (the "LAT File Number", "LAT Proceeding" or "SNIC Proceeding") under section 280(2) of the *Insurance Act* currently involving the sole responsive party (the "Sole Responsive Party" or "SNIC") Intact Insurance Company ("SNIC") with an FSRA Registration Number of 397 ("SNIC #397") and previously involving the "First Insurer" (receipt of my Completed Application on October 13, 2022 via my fax to the fax number of 416-774-3120 (the "North York Office Fax Number" "4th Floor-3600 Victoria Park Avenue Fax Number")

RESPONDENT

Affidavit #31 of Kevin A. McLean

Re: In a matter under the *Insurance Act*, RSO 1990, c I.8. (the "*Insurance Act*")

Re #2: In the matter of an "**Application of an Injured Person**" ("**Application**" or "**AIP**") filed by the **Applicant** with the **License Appeal Tribunal** ("**LAT**" or "**Tribunal**") Automobile Accident Services ("**AABS**") on December 24, 2023, and served on fax number 416-774-3120 (the or "**Victoria Park Building Fax Number**", "**North York Office Fax Number**", "**416-774 Fax Number**") and a **Response**[1] filed by **SNIC** with the **Tribunal** on January 25, 2024, all pursuant to subsection 280(2) of the *Insurance Act*, RSO 1990, c I.8., in relation (expressly or implicitly, or by inclusion or exclusion) to the following regulations thereunder:

i. *Statutory Accident Benefits Schedule*, O Reg 34/10 et seq ("*SABS*");
ii. *Automobile Insurance*, RRO 1990, Reg 664 et seq ("*Reg 664*"); and
iii. *Disputes Between Insurers*, O *Reg 283/95* et seq ("*Reg 283*")

I, **Kevin Alexander McLean, Disabled**[11] (B.A., J.D., CIM) of **Toronto, Ontario**, SWEAR THAT:

VOLUME #1: Introduction

1. I am the deponent or affiant (also defined as the "**Appellant**", "**Applicant**", "**Insured Person**", "**Disabled Individual**" and/or "**CAT Impaired Individual**") herein and I swear, under the pains and penalties of perjury, the following facts to be true. Where I have stated or sworn information on my belief(s), I have cited the source of my belief(s) by references, citations, end-noting or otherwise.

2. When I have used the expressions (including any permutations) of "in my view", "in my opinion", or "belief", I am not drawing or making any conclusion of law or swearing a conclusion of law but rather citing my position and opinions as a matter of fact. I adopt the definitions from my previously filed documents in the **LAT Proceeding** (also defined as the "**SNIC Proceeding**" and now the "**McLean Proceeding**" (see *infra* for explanation as to why) and they have the same meaning herein as they do therein unless expressly denoted otherwise. Where I have included annotations on the exhibit pages, I have done so for ease of reference and I adopt the same as my evidence. Where I have used "double underlining", the double underlining is mine and added to distinguish and delineate between my emphases of certain language.

3. I swear this affidavit in support of having my NOM #14 heard on an expedited basis by way of reference to the "dropdown menu" in **Tribunals Ontario** referring to "Request For an Expedited Hearing". My review of the LAT Rules leads me to believe that I will be required to file a motion with supporting evidence and submissions.

4. Attached hereto to this my affidavit and marked as Exhibit "A" is a copy of my four distinct document demands made on SNIC in the months of July 2024 and August 2024. SNIC has not responded to any of my document demands made pursuant to the SPPA and LAT Rules.

Page 1 of 11

(11)

1149 The 31st Affidavit of Mr. Kevin A. McLean under SD Insurance (SNIC "Alumni Program") Claim Number 6351[illegible]-34 (1) Claim #3 [illegible] Insurance Number 8801031 0806 (the "Policy Number"), LAT File Number "25-015462/AABS" (the "LAT File Number"), LAT Proceedings or Arbitration Proceeding") under section 280(2) of the *Insurance Act* currently involving the sole respondent party (the "Sole Respondent Party") Security National Insurance Company ("SNIC") with an FSRA Registration Number of 307 ("SNIC #307") and potentially involving the "First Insurer to receive my Completed Application" October 13, 2022 via my fax to the fax number of 416-778-3130 (the "North York Office Fax Number") 4th Floor-3600 Victoria Park Avenue, Fax Number)

5. Attached hereto to this my affidavit and marked as Exhibit "B" is a copy of Invoice 1(A) with its attachments which include the accounting and calculation therein by my current physiotherapist on behalf of TONP (the former physiotherapy company that submitted the Dhaliwal OCF-18, 2023 on April 6, 2023) and himself (Rehab Mechanics) regarding the partially approved amounts denoted therein on April 20, 2023

6. On May 2, 2024, SNIC (Mr. Karst) and TDGIC (Mr. Nieuwland) represented to myself and the Tribunal (Vice Chair Painchaund) that there had been "payment" of $2,850. As noted in my previous evidence, my previous physiotherapist sold his business at TONP and it was difficult to obtain any response from him through myself or Rehab Mechanics. I am not castigating him in any way but I am stating the facts and restating the same as of August 2024. After some further investigations and inquiries into the representation by Mr. Karst and Mr. Nieuwland regarding the representation that $2,850 had been paid to me or on my behalf, my current physiotherapist reviewed the file and did not see any evidence of any payment therein. After I obtained the HCAI submitted Dhaliwal OCF-18 through my PIPEDA request of HCAI, and learned of the Etobicoke East Mall Address therein, Rehab Mechanics was able to receive some return communication from TONP or a representative on behalf of TONP, and it was confirmed that no funds were received from SNIC (East Mall Address) or SNIC at all, or any other insurance company in relation to my TD Claim #3. As such, with that confirmation from a representative on behalf of TONP, I instructed Rehab Mechanics to prepare an invoice for the partially approved amounts therein as I, at the very least, did not wish to be liable for the partially approved amounts therein. I provided my affidavit therein as an attachment to assist Rehab Mechanics with the necessary factual and legal background regarding this issue of non-payment for the partially approved amounts regarding the Dhaliwal OCF-18, Part 13, and my receipt of the "As per A. Nurse" returned document purportedly on behalf of SNIC. I expressly adopt my evidence in that affidavit under Exhibit "B", pages 32 and onwards. Invoice 1(A) and its attachments were delivered to Ms. Nurse, Ms. Persaud and Ms. Michie pursuant to the Email Communication Protocol (January 23, 2024). Invoice 1(A) and its attachments were also delivered to the listed office address (as I could not find any evidence to support SNIC ever having a branch office at the East Mall Address and the East Mall Address is a construction site) with the FSRA to the attention of the accounting department for SNIC. Invoice 1(A) and its attachments were also delivered to the listed office address for TDHA with the FSRA to the attention of the accounting department as the only evidence that I could find related to the East Mall Address was that of TDHA being a former tenant or occupier therein on the 6th floor.

7. I believe that as a result of neither Mr. Karst, the sole signatory, filer and server of the SNIC Response, nor Mr. Nieuwland, at that time solely representing TDGIC, knowing the exact amounts that had been paid to me or on my behalf that this is further evidence that corroborates that neither SNIC nor TDGIC were the First Insurer to receive my Completed Application (October 13, 2022).

8. Attached hereto to this my affidavit and marked as Exhibit "C" are copies of the invoices 1(B) to 1(E), with attachments, relating to the relevant OCF-18's therein. Invoice 1(B) to (E) and its attachments were also delivered to the listed office address (as I could not find any evidence to support SNIC ever having a branch office at the East Mall Address and the East Mall Address is a construction site) with the FSRA to the attention of the accounting department for SNIC. Invoice 1(B) to (E) and its attachments were also delivered to the listed office address for TDHA with the FSRA to the attention of the accounting department as the only evidence that I could find related to the East Mall Address was that of TDHA being a former tenant or occupier therein on the 6th floor.

9. I filed Invoice 1(A) and its attachments, and Invoices 1(B) to (E) with its attachments with the Tribunal on August 16, 2024. I served SNIC with copies of the same on August 16, 2024. I also served TDHA with copies of the same on August 16, 2024.

(12)

1190 [illegible] 31st Affidavit of Mr. Kevin A. McLean under TD Insurance (SNIC "Alumni Program") Claim Number [illegible] OCF form 1) [illegible] Insurance Policy Number #00001351806 (the "Policy Number"), LAT File Number "21-015943/AABB" (the "LAT File Number") [illegible] LAT Proceeding" or "McLean Proceeding") under section 280(2) of the *Insurance Act* currently involving the sole respondent party (the "Sole Respondent Party") [illegible] Insurance Company ("SNIC") with an FSRA Registration Number of 397 ("SNIC #397") and generally [illegible] the First Insurer between on [illegible] October 13, 2022 via my fax to the fax number of 416-774-3120 (the "North York Office Fax Number" "9th Floor-3650 Victoria Park Avenue Fax Number")

10. One of my many reasons for advancing a request for an expedited hearing of NOM #14 is to ensure that I and all of my service providers (past, current and future) have the correct name of the First Insurer and an accurate address for the same along with an adjuster or claims advisor that is authorized to act for the First Insurer. At this stage, I have further OCF documents to be submitted through HCAI but I cannot do so at this stage and cannot instruct any service provider to do so considering that the "return address" on the HCAI forms is the "Etobicoke East Mall Address". As noted in my Tab 22 to my NOM #14, the Etobicoke East Mall Address is a construction site without any ability to send any invoices or forms, and or follow up with a "reviewer" or an "approver" for the files of invoices.

11. I have copied and pasted the information from the affidavits in support of my the invoices denoted above and included it as appendix hereto. I expressly adopt the facts therein as my evidence herein. I further expressly adopt the belief that I now hold, after investigations into the same, that the fax number of 416-774-3120 (which was provided to be by SNIC in September 2022 and represented as the sole fax number for SNIC for my OCF documents) is not only the landline of a fax number at the Victoria Park Building but it is (or was) the fax number of the tenant on the **FOURTH FLOOR** of 3650 Victoria Park Avenue, North, York, Toronto, Ontario, M2H 3P7 (defined herein as the "Victoria Park Building" or the "North York Office")

12. While I did not include the address or name of TDGIC in the SNIC Proceeding and nor did Mr. Kanat in the SNIC Response, both Mr. Kanat and I included the address of SNIC Markham (also defined as the "Markham McNabb Building").

13. Based upon my review, the Tribunal noted in one of the first orders to set my NRB motion hearing (NOM #4) that the address for TDGIC was the "9th floor" of 3650 Victoria Park Avenue, North, York, Toronto, Ontario, M2H 3P7. The Tribunal also included a phone number that of (416) 774-3629. Based upon my research, the tenant of the 9th floor at 3650 Victoria Park Avenue, North, York, Toronto, Ontario, M2H 3P7 would have obtained a fax number that would have been 416.774.36XX. Therefore, I believe that the 416-774-3120 fax number was more likely than not the fax number of TDHA.

14. Consistent with the public evidence explicitly referencing TDHA as having the 416-774-3120 fax number along with SNIC re-directing my TD Claim #3 to a previous branch office address of TDHA (see: Etobicoke East Mall Address), I believe, as I have not received any evidence to the contrary or denials by SNIC, TDGIC or TDHA, that the First Insurer to receive my Completed Application (along with my OCF-2, OCF-3, all OCF-4's and OCF-19's) was TDHA.

15. By way of summary, I note that SNIC has never represented to me via letter that it was located at either the Victoria Park Building or the Etobicoke East Mall Address. SNIC has represented to me, in letter, that it was located at the Burlington Address in addition to the SNIC Markham address. However, neither the Burlington Address nor the SNIC Markham Address have a 416 phone number or 416 fax number.

16. I believe that I would have received a denial from any of the representatives, agents, adjusters et al on behalf of SNIC, TDGIC or TDHA if I was incorrect in my analysis.

17. I reserve the right to rely upon this evidence for any further purposes that are lawful.

18. I swear this Affidavit #31 for no improper purpose.

Sworn before me at Toronto, Ontario
On this 16th day of August 2024

119 The 31st Affidavit of Mr. Kevin A. McLean under File Insurance (SNIC: "Alumni Program") Claim Number 0353357993-3 ("ID Claim #3"), ID Insurance Policy Number #08030311806 (the "Policy Number"), LAT File Number 24-015663/AA/BC (the "LAT File Number"), LAT Proceeding or Arbitration Proceeding") under section 280(3) of the Insurance Act currently involving the sole respondent party (the "Sole Respondent Party") as Security National Insurance Company ("SNIC") with an FSRA Registration Number of 397 ("SNIC #397") and personally involving the "First Insurer" insurance on Completed Applications on October 13, 2022 via my fax to the fax number of 416-374-2128 (the "North York Office Fax Number" "4th Floor-3680 Victoria Park Avenue Fax Number")

Mr. Kevin A. McLean (B.A., J.D., CIM)

Yuvik The Tran, Esq.

Appendices

1199 the 31st Affidavit of Mr. Kevin A. McLean under TD Insurance (SHIC: "Alumni Program") Claim Number 0352579[illegible] TD Claim #0[illegible] TD Insurance Policy Number #0010135[illegible] (the "Policy Number"), LAT File Number "23-015062/MARF" (the "LAT File Number"), "LAT Proceeding" or "LAT Case Proceeding") under section 280(2) of the Insurance Act against lawful sole respondent party the "Sole Respondent Party") Security National Insurance Company ("SNIC") with an FSRA Registration Number of 397 ("SNIC #397") and potentially involving the "First Insurer" to whom the Completed Application on October 13, 2022 via my fax to the fax number of 416-229-3128 (the "North York Office Fax Number" at 4[illegible] Yonge-Bay Victoria Park Avenue, Fax Number)

Appendix #1: The Material Particulars since the Date Of Loss

i. *Jurisdiction: Provincial (Ontario)*

ii. *Statute[1], regulations and rule particulars:*
   a. *Governing Automobile Insurance Legislation: Insurance Act, R.S.O., 1990, c I.8 et seq ("Insurance Act" or "Ins. Act")*
   b. *Governing Automobile Provincial Regulations: SABS, Reg 283, and Reg 664 (the "Governing Regulations")*
      i. *Governing FSRA Rule:* Unfair or Deceptive Acts or Practices Rule et seq (see, as amended by Deferred Sales Charge Amendment 2 Approved by Minister of Finance: January 30, 2024 *("UDAP Rule")*

iii. *Contractual particulars:*
   a. *"Named Insureds":*
      i. *BMW Financial Services Inc. (A Division of BMW Canada Inc.) (defined as "BMW FS Inc." and*
      ii. *Nicole Artopoulos (B.A., M.A.) ("McLean Spouse" or "Individual Policyholder")*
   b. *Insured Automobile: BMW 3 Series Xi Drive 2019 4Dr AWD*
   c. *Lessee: Ms. Nicole Artopoulos*
   d. *Lessor: BMW FS Inc.*
   e. *Insured Person[11] resident in Ontario (G Driver): Mr. Kevin A. McLean (B.A., J.D., CIM) ("McLean" "Artopoulos Spouse", "Insured Person", "Unnamed Insured Person", "Occupant", "Driver" "Appellant", Applicant", or "Claimant"[12]);*
   f. *"Broker": Meloche Monnex Financial Services Inc.[13] (the "Broker" or "Agent", or "MMFSI")*
   g. *Underwriter/Insurer ("contract of insurance" in the Insurance Policy)*
      i. *Security National Insurance Company (FSRA Insurance Registration #397").*
         1. *Head office: 50 Boulevard Crémazie O, Etage 12, Montreal, QC H2P 1B6, Canada:*
            a. *Underwriter address in Ontario: 101 McNabb Street, 7th Floor, Markham, Ontario, L3R 3H8*
   h. *Insurance[14] Policy #: #0010135111806 (the "Insurance Policy", "Insurance Contract"[15] or "Insurance Policy #806")*
   i. *Insurance Program and Product with TD Insurance Meloche Monnex: Alumni And Professional Program (the "Alumni Program")*
   j. *The Trade Name of "TD Insurance Meloche Monnex"*
      i. *Trademark word holder of "TD Insurance": The Toronto-Dominion Bank ("TD Bank")*
      ii. *Trademark word holder of "Meloche Monnex": Meloche Monnex Inc. ("MMI"), a (BC) incorporated company.*
   k. *Combined Name [not a corporation per se] with two distinct trademarks for two different insurance programs: "TD Insurance Meloche Monnex"*

iv. *The "Accident" or "MVA":*
   a. *Date of Loss: August 31, 2022 ("DOL" or "Date Of Loss")*
   b. *Location of Loss: 329 to 360 Spadina Road (Northbound) (between Heath Rd and St. Clair Avenue), Toronto, Ontario"*

1198 ...c 31st Affidavit of Mr. Kevin A. McLean under TD Insurance (SNIC: "Alumni Program") Claim Number 035325790-3 (the "TD Claim #3") under TD Insurance Policy Number #0048331806 (the "Policy Number"), LAT File Number "20-000602/AABS" (the "LAT File Number", "LAT Proceedings" or "Subject Proceeding") under section 280(2) of the *Insurance Act* currently involving the sole respondent party also "Sole Respondent Party") in Severity National Insurance Company ("SNIC") with an FSRA Registration Number of 399 ("SNIC #399") and proximity involving the "First Insurer" be receive by Completed Application October 13, 2022 via my fax to the fax number of 416-774-3120 (the "North York Office Fax Number" "4th Floor-3600 Victoria Park Avenue Fax Number"

c. ***Police File Number (North York Reporting Collision Centre): Affidavit #3, Exhibit "A"***

v. ***Information Provided by SNIC (but not necessarily SNIC's contact information) after Date Of Loss under SABS (including in pre-printed language return address in OCF forms):***

a. ***TD Insurance Claim based number: 035325790"***
   i. ***Exposure numbers known to Mr. McLean:***
      1. ***TD Insurance Claim # for Appellant: 035325790-3 ("TD Claim #3")***
         a. ***Undisclosed (until February 14, 2024) TD claim file number involving the Appellant: 035325790-3 (the "Undisclosed TD Claim Number" or "Fictious TD Claim Number")***
   ii. ***Policy number: same as above***
b. ***Insureds: Nicole Artopoulos and BM FS Inc.***
c. ***Sole Address: Security National Insurance Company, 101 McNabb Street, 3rd Floor Markham Ontario L3R 4H8 ("Markham McNabb Building" or "SNIC Markham")***
d. ***Telephone: 1-877-855-3767***
e. ***Sole Facsimile Number: 416.774.3120 (the "VP Building Fax Number", "North York Office Fax Number", "416-774 Fax Number", "416-774 Fax Number")***
f. ***Insurance adjuster or claims advisor: Ms. Alisha-Anne Nurse ("Ms. Nurse" or "Nurse").***
g. ***Website: www.melocheronnex.com***

vi. ***Reg 283:***
   a. ***Date of delivered Completed Application by McLean to the 416-774 Fax Number October 13, 2022:***
   b. ***Expiry date for the recipient insurer of the Completed Application to dispute its duty to respond and pay any and all benefits pursuant to SABS: January 10, 2023:***

vii. ***Material Particulars provided by McLean to TONP in signed OCF-18 of April 6, 2023 (the "Disputed OCF-18" (see: Invoice 1(A))***
   a. ***Address: Markham McNabb Building;***
   b. ***Fax number: 416-774 Fax Number:***

viii. ***Auto-populated or technologically unalterable information (April 6, 2023) provided by SNIC in HCAI, and other particulars:***
   a. ***Submitter: Manginder Dhaliwal, PT (college registration number: 11836)***
   b. ***Address: 304 The East Mall, Floor 6, Etobicoke, Toronto, Ontario, M9B 6E2 ("Etobicoke East Mall Address" or "Etobicoke Address")***

ix. ***The Fax Number for the East Mall Address (obsolete or defunct)***
   a. ***Fax Number (East Mall): 416-233-9171 (the "Etobicoke Office Fax Address")***

x. ***Return address in the letter and OCF-18, Part 13 form SNIC on April 20, 2023 and "adjuster" without her signature as language was printed as "As per A. Nurse":***
   a. ***Address: SNIC Markham;***
   b. ***Adjuster: Ms. Alisha-Anne Nurse;***
   c. ***Alleged signature under required field of OCF-18, Part 13: "As per A. Nurse" with "K. W" above;***

xi. ***Information provided by SNIC after the replacement of Alisha-Anne-Nurse (2023):***

(16)

1194 The 31st Affidavit of Mr. Kevin A. McLean under TD Insurance (SNIC "Aviator Program") Client Number 6353579[illegible] ("TD Client ID") + TD Insurance Policy Number 4981013511886 (the "Policy Number"), LAT File Number "LAT-015462/AABS" (the "LAT File Number") "LAT Proceedings" or "this case Proceeding") under section 280(2) of the *Insurance Act* currently involving the sole respondent party the "Sole Respondent Party") as Statutory Named Insurance Company ("SNIC") with an FSRA Registration Number of 307 ("SNIC #307") and potentially involving the "First Insurer" as soon as Completed Application on October 13, 2022 via my fax at the fax number of 416-774-3120 (the "North York Office Fax Number") 4th Floor-3650 Victoria Park Avenue, Fax Number

a. ***Address:*** 5045 South Service Road, Burlington, ON L7L 5Y7 ("*Burlington Address*");
b. ***New fax number:*** 905-315-1074 ("***905 Fax Number***") [nota bene: fax number regularly blocked or rejected faxes]

xii. ***The current evidence[11] involving the Victoria Park Building Fax Number (North York Office Fax Number) regarding the Appellant's Completed Application delivered to the North York Office Fax Number (Appellant relying on SNIC's representation that it was SNIC Markham fax number when it was not on October 13, 2022***

a. ***416 area code: Toronto;***
b. ***Prefix 774: Victoria Park Building (also known as the "Spark Building");***
c. ***Last four digits of 3120 (location in the Victoria Park Building): 4TH FLOOR;***
d. ***Telecommunications provider for the 416-774 Fax Number: Bell Canada Inc. (not Bell Mobility);***
e. ***Publicly listed user/owner of the 416-774 Fax Number from August 2022 to present: TD Home And Auto Insurance Company (TDHA) (FSRA Registration Number 1063);***
f. ***Physical Location of the grounded 416-774 Fax Number:*** *3650 Victoria Park Avenue, North York, Toronto, Ontario, M2H 3P7 (the "**Victoria Park Building**");*
g. ***VP Building:***
    i. ***Property manager:*** *Colliers International;*
h. *Listed "**Lead Tenants**" at the Victoria Park Building: "**TD Insurance**" (colloquial)*
    i. *[No reference to SNIC*
i. ***Current listed fax owner for the 416-774 Fax Number: TDHA***

xiii. ***Address provided by SNIC in the SNIC Response (January 23, 2024):***

a. ***Physical address: Markham McNabb Building;***
b. ***Signatory for SNIC: Mr. David Karat, ADR Specialist.***
c. ***Filer of SNIC Response: Mr. Karat;***
d. ***Server of the SNIC Response: Mr. Karat;***
e. ***Fax number: NONE;***

xiv. ***Address for TD General Insurance Company, FSRA registration number 353 ("TDGIC") at the LAT Proceeding prior to its removal after my successful motions[12]:***
a. ***Physical address: the Victoria Park Building (9th floor);***

xv. ***The precise location of the 416-774 Fax Number is the Victoria Park Building;***
xvi. ***As of 2007, the 416-774 Fax Number was listed as being grounded and situated (as a phone number (albeit for fax purposes) with Bell Canada Inc. on the 4th FLOOR of the Victoria Park Building (North York, Toronto, Ontario)***

1195 (1)

[illegible] 21st Affidavit of Mr. Kevin A. McKeag under TD Insurance (SNIC "Alumni Program") Claim Number 0[illegible]-1 ("TDI Claim #1"), Policy Number 4[illegible] (the "Policy Number"), LAT File Number "23-015962/AABS" (the "LAT File Number"), LAT Proceedings re: [illegible] Proceeding") under section 280(2) of the *Insurance Act* currently involving the sole respondent party the "Sole Respondent Party" in Scotia Insurance Company ("SNIC") with an FSRA Registration Number of 397 ("SNIC ID#") and potentially involving the "First Insurer" to receive an Completed Application on October 13, 2022 via my fax to the fax number of 416-774-3120 (the "Blank York Office Fax Number") of [illegible] Victoria Park Avenue, Fax Number "

ENDNOTES

[illegible]

[1]"Insurance" means the undertaking by one person to indemnify another person against loss or liability for loss in respect of a certain risk or peril to which the object of the insurance may be exposed, or to pay a sum of money or other thing of value upon the happening of a certain event, and includes life insurance (see: s.1(1) of the *UDAP Rule*);

[2]*UDAP Rule*, 1(1)(v)(c): "Contract of insurance" means:(c) for a contract of insurance not referred to in (a) or (b), has the meaning ascribed to "contract" in s. 1 of the Act; see: section 1(1) of Insurance Act (Ontario): "contract" means a contract of insurance, and includes a policy, certificate, interim receipt, renewal receipt, or writing evidencing the contract, whether sealed or not, and a binding oral agreement;

[3]See: *SPPA*, section 1(1) definition of license: registration or similar form of permission required by law;

[4]See: *Insurance Act*, ss. 279 (includes does not exclude); see: section 3(1) of SABS which includes the Spouse of the Individual Named Insured (Antopoulos)

[5]As defined under *UDAP Rule*, ss. 1(1): "Claimant": "means a person who claims statutory accident benefits or who otherwise claims any benefit, compensation or payment under a contract of insurance,

[6]See: SNIC Response on January 25, 2024

[7]The "file number provided in the Andy Geza response" that was approved by TDI Legal which denoted the incorrect file number which I swear is the "TDGIC internally denoted file number" which it had and has possession and control of the same

[8]I shall be relying on jurisprudence in any to be heard motions and this SNIC Proceeding or future proceedings between SNIC and I where other insurers have had "two files" (one authentic and another not as authentic or not part of the assigned claim number for an insured person or injured person)

[9]See: LAT Rules (effective August 21, 2023), "Response" means the response a respondent is required to provide in relation to an appeal or as may otherwise be specified by the Tribunal.

[10]Please see: submissions and affidavits by myself regarding the inapplicability or lack of compliance with it by TDHA or SNIC within 90 days since receipt of my OCF-1 and OCF-2 (on my behalf) (see: October 13, 2022). At no time did TDHA (or SNIC), as it appears to me that TDHA's fax number was 416-774-3120 and the East Mall Address was TDHA's prior to the demolition of the "Valhalla Executive Centre", represent to me that there was any dispute between it and any other insurer(s) pursuant to Reg 283. This affidavit #30 will be (if necessary) in support of my motion to add TDHA as a party and seek declaratory relief regarding TDHA being the "First Insurer" to receive my "Completed Application"

[11]One year after the Accident as determined by a physician (neurosurgeon) when reviewing the four different MRIs that I had since the Accident (please: Affidavits #1 to #4 which were attached to my filed pleading herein on December 24, 2023).

[12]See: SPPA,

[13]See: *Insurance Act*, ss. 279 (includes does not exclude); see: section 3(1) of SABS which includes the Spouse of the Individual Named Insured (Antopoulos)

[14]As defined under UDAP Rule, ss. 1(1): "Claimant": "means a person who claims statutory accident benefits or who otherwise claims any benefit, compensation or payment under a contract of insurance,

[15]Distinguished from Meloche Monnex Inc., which is a CBCA incorporated company with a registered and records office of Markham McNabb Building

[16]See: *SPPA*, section 1(1) definition of license: registration or similar form of permission required by law;

[17]"Insurance" means the undertaking by one person to indemnify another person against loss or liability for loss in respect of a certain risk or peril to which the object of the insurance may be exposed, or to pay a sum of money or other thing of value upon the happening of a certain event, and includes life insurance (see: s.1(1) of the UDAP Rule);

[18]UDAP Rule, 1(1)(v)(c): "Contract of insurance" means:(c) for a contract of insurance not referred to in (a) or (b), has the meaning ascribed to "contract" in s. 1 of the Act; see: section 1(1) of Insurance Act (Ontario): "contract" means a contract of insurance, and

1198 (18)

[illegible] 31st Affidavit of Mr. Kevin [illegible] under TD Insurance (SNIC "Abuse Program") Claim Number 035325790-3 | 154 Trim P3 | 10 Insurance Policy Number #004635611806 (the "Policy Number"), LAT File Number "23-002642/AABS" (the "LAT File Number") | LAT Proceeding [illegible] (the "LAT Proceeding") under section 280(2) of the *Insurance Act* currently involving the sole respondent party (the "Sole Responsible Party") Intact Insurance Company ("SNIC") with an FSRA Registration Number of 301 ("SNIC #302") and potentially involving the "First Insurer" to execute an Unsigned Application on October 13, 2022 via my fax to the fax number of 416-774-3120 (the "North York Office Fax Number") 4th Floor 3400 Victoria Park Avenue Fax Number

includes a policy, certificate, interim receipt, renewal receipt, or writing evidencing the contract, whether sealed or not, and a binding oral agreement;

[19] *(multiple #16 postal codes due to involuntary movement of Insured Automobile by force of being rear-ended by the tortfeasor (insured by the tort insurer in Pembridge Insurance Company ("Pembridge" or "Tort Insurer")*

[20] See: SNIC Response on January 25, 2024

[21] Abundance of caution whilst reserving all rights in fact and at law

[22] *(see: https://ontariobusinessdir.com/company.php?id=61237)*

[23] Motions in May 2024 and then decided in late June 2024 and a further motion to clarify any issues arising from said order amending the style of cause and any and all documents issued by the Tribunal since January 2024. I am not citing the LAT Proceedings as it is not relevant per se and at this time to the historic, ongoing and future obligations that arise from this affidavit to be tendered and exclusively delivered to SNIC (claims advisors) and the First Insurer (not denied to be TDIIA and subject to further evidence and admissions)

1197

(19 Affidavit #31 of LAT Proceedings 23-01566
re: Request for Expedited Hearing and Motion

THIS IS EXHIBIT "A" REFERRED TO IN THE
AFFIDAVIT OF Lauren A. McLeod
AFFIRMED BEFORE ME, THIS 16th DAY
OF August 20 24

[signature]
ER, ETC.

Vinh The Tran, Esq., LSUC #57761E
Lawyer, Notary, Oaths Commissioner
183-639 Dupont Street, Toronto, ON
M6G 1Z4, T: 647-209-7189
vinhtranlaw@hotmail.com

1282 ers only (19) TAB 21 350

Mr. Kevin A. McLean (B.A., J.D., CIM) (he/him)
(e): MCLEANSNICLAT@GMAIL.COM; (p): 647.513.1270; and (address for service for TD Claim #3 and SNIC Proceeding (see: Appeal): 410-775 King Street West, Toronto, Ontario, M5V 2K3

Disclaimer:

DUTY OF CONFIDENTIALITY: The contents of this email, and its attachments are confidential, solely for the specified purposes above, and intended for the recipient specified in message only; and DICTATION OF EMAIL or Assistance from Third Parties (no waiver of confidentiality or privilege): this email may have been created using voice recognition software and the author reserves the right to correct any spelling, grammar and wording upon further review;

Reservation of rights in fact and at law: out of an abundance of caution, and consistent with previous objections by Mr. McLean ("Claimant" or "Appellant") has not, is not and will not consent to any unauthorized collection, use or access ("CUA") of his PII, PHI, or SPI ("Confidential Information" or "CI") that is inconsistent with any OCF documents that he signed and delivered exclusively to the "Insurer" (see: *Insurance Act* (Ontario)), whom he had recourse against for SABS, ie Security National Insurance Company (the "SABS Insurer" or "SNIC") via secure fax to SNIC Markham (416.774.3120) and SNIC Burlington, and via email involving the LAT Proceeding.

Relevant particulars: : *Insurance Policy #: 00810351086 ; Insurance Program: "TD Insurance Meloche Monnex" (Home and Professional Program); Broker: Meloche Monnex Financial Services Inc.; Underwriter/Insurer: Security National Insurance Company; Named Insureds: BMW Financial Services Inc. (A Division of BMW Canada Inc.); and Nicole Aniopoulos (B.A., M.A.) ("McLean Spouse"), Insured Automobile: BMW 3 Series Xi Drive 2019; Insured Person/Applicant: Mr. Kevin A. McLean (B.A., J.D., CIM) ("Aniopoulos Spouse"); Date of Loss: August 31, 2022 ("DOL"); Location of Loss: Spadina Road (between Heath Rd and St. Clair Avenue), Toronto, Ontario; Police File Number (North York Reporting Collision Centre) (see affidavit #3); and TD Insurance Claim #: 836125790-1 ("TD Claim #3"); and AABS File Number: "19-445662(AABS (the "LAT Proceeding" or "SNIC Proceeding")*

***emails may be seen with 'scheduled send'**

Kevin McLean <mcleansniclat@gmail.com> Wed, Jul 31, 2024 at 10:40 AM
To: "Karst, David" <David.Karst@tdinsurance.com>, "Nieuwland, Matthew" <Matthew.Nieuwland@tdinsurance.com>
Cc: "Ortiz, Christiane C" <Christiane.Ortiz@tdinsurance.com>

July 31, 2024

Dear SNIC:

I write to confirm that the evidence is now overwhelming that the 416-774-3120 fax was NOT SNIC's fax number at the relevant and material times. As such, I have removed it as a correct contact for SNIC and from any further communication with it via that method. Would you kindly update on the above SNIC Document Demand #1?

Warm regards,

Mr. Kevin A. McLean (B.A. (MCL), J.D., CIM)

[Denied that he/she/it]

Kevin McLean <mcleansniclat@gmail.com> Tue, Aug 13, 2024 at 11:03 AM
To: "Karst, David" <David.Karst@tdinsurance.com>, "Nieuwland, Matthew" <Matthew.Nieuwland@tdinsurance.com>
Cc: "Ortiz, Christiane C" <Christiane.Ortiz@tdinsurance.com>

August 13, 2024

(40)

1219 ...ages ("CUA") of his file, and, or SPI ("Confidential Information" or "CI") that is inconsistent with any OCF ...uments that he signed and delivered exclusively to the "Insurer" (see: *Insurance Act* (Ontario)), whom he had recourse against for SABS, ie Security National Insurance Company (the "SABS Insurer" or "SNIC") via secure fax to SNIC Markham (416.774.3120) and SNIC Burlington, and via email involving this LAT Proceeding

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Relevant particulars: : *Insurance Policy #: 000403581906 ; Insurance Program: "TD Insurance Meloche Monnex" (Ultimate And Professional Program); Broker: Meloche Monnex Financial Services Inc.; Underwriter/Insurer: Security National Insurance Company; Named Insureds: BMW Financial Services Inc. (A Division of BMW Canada Inc.); and Nicole Arsenault (B.A., M.A.) ("McLean Spouse"); Insured Automobile: BMW 3 Series 30 Drive 2019; Insured Person/Appellant: Mr. Kevin A. McLean (B.A., J.D., CIM) ("Arsenault Spouse"); Date of Loss: August 31, 2022 ("DOL"); Location of Loss: Spadina Road (between Hirsch Rd and St. Clair Avenue), Toronto, Ontario; Police File Number (North York Reporting Collision Centre) (see: affidavit #3); and TD Insurance Claim #: 03033759-3 ("TD Claim #"); and AABS File Number "23-015662/AABS (the "LAT Proceeding" or "SNIC Proceeding")*

*** email is may be sent with "scheduled send" ***

Kevin McLean <mclaneaviat@gmail.com> Sat, Jul 27, 2024 at 3:27 PM
To: alisha.sane@tdinsurance.com, "Perreaud, Carol" <carol.perreaud@tdinsurance.com>, bev.michie@tdinsurance.com, "Karst, David" <David.Karst@tdinsurance.com>, "Newland, Matthew" <Matthew.Newland@tdinsurance.com>

July 27, 2024

Re: SNIC Document Demand #4

Dear SNIC:

I write regarding the above.

To confirm, this website (see: https://www.allareacodes.com/) confirms that the 416-774-3120 fax number is a landline and associated with Bell Canada (not Bell Mobility).

Any landline number that commenced with 416-774 was created on June 13, 2000.

As such, the landline had to be grounded at 3650 Victoria Park Avenue, North York, Toronto, Ontario. The only owner of that 416 Fax Number, at the material times, was TD Home And Auto Insurance Company.

This SNIC DD #4, and the position taken herein, is consistent with some of the historical issues including but not limited to:

1. Incorrect postal code for my application benefits package but not my Spouse;
2. The April 20, 2023, letter misrepresenting that there was no medical information on file (when I had faxed my MRI results on multiple occasions along with other medical evidence) to support my being outside of MIG;
3. Failures to pay the amounts allegedly approved in OCF-18s (to this date);
4. Adjusters not signing OCF-18's where required (April 20, 2023 and beyond);
5. SNIC not having control of all relevant records and personal information;
6. The SPAM Faxes (my definition) (see: Spring 2023);
7. The request for only email communications (see: March 2023);
8. The delays in SNIC responding to fax communications (see: from the Date of Loss to the time of my filing of the Appeal);
9. The failure of SNIC to respond at all to fax communications;
10. The attempt to switch to the 905 Fax Number (which was still not SNIC's fax number and located in Burlington and which I have just checked and they are some 91 km's apart);
11. The October 2023 email from "E-claims fax service" claiming that I had sent an email when I had not (and not consented at that time to email communications with SNIC until my PIPEDA request (at the time) was resolved to my satisfaction);

1219

12. The attempt to have my OCF-19 submitted through HCAI with reference to an "Appropriate 22
Ontario Health Practitioner" [sic];
13. Continued responses allegedly from SNIC to my faxing to the 416 Fax Number when I was in Europe along with the 905 Fax Number not receiving faxes or blocking the same;
14. Ms. Persaud being out of office for four months from September to December 2023;
15. Ms. Persaud apparently not having access to my AB File including documents like the UHN Notification for my Brain MRI;
16. Refusal to respond to my request for accounting, tax and payor information.
17. The SNIC Response that failed to identify, list and attach documents as required by said form;
18. The unauthorized participation by TDGIC in the SNIC Proceeding;
19. The conduct of Mr. Nieuwland in the SNIC Proceeding albeit on behalf of TDGIC;
20. The conduct of the Fictitious Legal Assistant in Ms. Moores for TDGIC;
21. The Fictitious TD Claim Number;
22. Mr. Karst offering the email communication protocol on January 23, 2024;
23. Perhaps, oddly correct, that Mr. Papadimitropoulos was NEVER involved in my claim for accident benefits and the SNIC Proceeding as he is located at SNIC Markham and the 416 Fax Number is in Toronto; and
24. Other particulars (known and unknown).

On a side note, this must have become a dispute resolution nightmare when I filed the Appeal and faxed the Appeal to the 416 Fax Number. I obviously, in relying on the representations of SNIC, thought that SNIC was receiving a copy of my Appeal.

While I did not know the issue with the 416 Fax Number until this week, the absence of compliance with the issues including but not limited to IRB, Med/Rehab Benefits, MIG, CAT Impairment, et al.

It appears what happened with the Tribunal was that it knew that the 416 Fax Number was NOT SNIC (and certainly not SNIC Markham) which is why it was so adamant to keep TDGIC therein as TDGIC was already set in the system (likely a clerical error between TDGIC and TDHA).

I look forward to SNIC disclosing and producing its customary fax number at the SNIC Markham from August 31, 2022 to present.

I trust that SNIC, as per its fiduciary duties to me, will disclose the same by no later than Monday, July 29, 2024.

I can confirm that a complaint has been delivered to SNIC's licensing complaint officer regarding this issue and I will close the same if you provide SNIC's Markham landline fax number by no later than Monday, July 29, 2024. To the extent that you fail to do so, I will draw this to the attention of the Tribunal and SNIC's licensing complaint officer.

Thank you.

Warm regards,

Mr. Kevin A. McLean (B.A. (MCL), J.D., CJM)

[Quoted text hidden]

Kevin McLean <mcleanmclaw@gmail.com> Tue, Aug 13, 2024 at 11:05 AM
To: alisha.anne@tdinsurance.com, "Persaud, Carol" <carol.persaud@tdinsurance.com>, bev.mackie@tdinsurance.com, "Karst, David" <David.Karst@tdinsurance.com>, "Nieuwland, Matthew" <Matthew.Nieuwland@tdinsurance.com>

3411

(43)

Gmail

Kevin McLean <mcleanmiclat@gmail.com>

SNIC's correct fax number for its office at SNIC Markham (see: 101 McNabb Street, 2nd Floor, Markham, Ontario)

3 messages

Kevin McLean <mcleanmiclat@gmail.com> Tue, Aug 6, 2024 at 7:56 AM
To: alisha.anne@tdinsurance.com, "Persaud, Carol" <carol.persaud@tdinsurance.com>, bev.nichle@tdinsurance.com

Dear Mesdames:

I write regarding the above. I affirm and reaffirm the Email Communication Protocol but for my records (and to amend my contact information for SNIC and others) I continue to request SNIC's correct fax number for its office at SNIC Markham which was referenced in my initial accident benefits package, pre-printed return address OCF forms et al. It is also referenced in the SNIC Response.

I provided fair notice to SNIC that if I did not receive its correct fax number I would be compelled to make a complaint to the licensing complaint officer for SNIC. I have done so. However, if you provide the correct fax number for SNIC Markham (also defined as the "Markham McNabb Building" or "McNabb Building"), I can review and check for its veracity. If it is correct, then I can close my request herein and with the licensing complaint officer.

Kindly revert back to me by the end of the business day. Thank you.

Yours truly,

Mr. Kevin A. McLean (B.A., J.D., CIM) (he/him)

(e): MCLEANSNICLAT@GMAIL.COM; (address for service in the LAT proceeding with file number 23-016662/AABS (the "LAT Proceeding" or "McLean Proceeding"); address for communications between Appellant and SNIC pursuant to, by way of consent between SNIC and Appellant, the Email Communication Protocol (January 23 2024)) and the Appellant and TDIA via the Appellant's consent given to TDIA for exclusive email communications]

Disclaimer

The contents of this email and its attachments are confidential, solely for the specified purposes above, and intended for the recipient specified in message only; and this email may have been created using voice recognition software (or assistance from third parties due to the Appellant's Disability and the author reserves the right to correct any spelling, grammar and syntax upon further review (emails may be sent with "scheduled send")

Reservation of rights in fact and at law: consistent with previous and continued objections by Mr. McLean ("Claimant" or "Appellant"), the Appellant has not, is not and will not consent to any unauthorized collection, use or access ("UNA CUA") or disclosure ("UNA Disclosure") of his PII, PHI, or BPI (collectively, "Confidential Information" or "CI") that is inconsistent with any pre-printed and unalienable language in the OCF documents that he signed (and any OCF documents dually signed by physicians and health care practitioners) and delivered via fax to the First Insurer at the fax number(s) of 416-774-3120 (the "416 Fax Number") and received by the First Insurer at the 416 Fax Number (or information submitted, on behalf of the Claimant or Appellant, through NCAI to the Insurer that was represented to the Appellant's health care practitioners as located (viz) at the East Mall Address)

Relevant particulars: Insurance Policy #: 8001013511805 ; Insurance Program: "TD Insurance Meloche Monnex (Hybrid And Professional Program); Broker: Meloche Monnex Financial Services Inc.; Underwriter/Insurer: Security National Insurance Company; Named Insureds: BMW Financial Services Inc. (A Division of BMW Canada Inc.); and Nicole Antipodote (B.A., M.A.) ("McLean Spouse"); Insured Automobile: BMW 3 Series Xi Drive 2019; Insured Person/Appellant: Mr. Kevin A. McLean (B.A., J.D., CIM) ("Antipodote Spouse"); Date of Loss: August 31, 2022 ("DOL"); Location of Loss: Spadina Road (between Heath Rd and St. Clair Avenue), Toronto, Ontario; Police File Number (North York Reporting Collision Centre) (see: affidavit #3); and TD Insurance Claim #: 0863126796-3 ("TD

1224

(47)

AFFIDAVIT #31 -> CAT -> 23-016662
Request Expedited Hearing -> Num #14

THIS IS EXHIBIT "1" REFERRED TO IN THE AFFIDAVIT OF Kevin P. McCann
AFFIRMED BEFORE ME, THIS 10th DAY OF August 20 24

..... , ETC.

Vinh The Tran, Esq., LSUC #57761C
Lawyer, Notary, Oaths Commissioner
188-639 Dupont Street, Toronto, ON
M6G 1Z4, T. 647-209-7189
vinhtranlaw@hotmail.com

1225 (48) SECURITY NATIONAL INSURANCE COMPANY 20
304 THE EAST MALL, FLOOR 6
ETOBICOKE, TORONTO, ON
M9B 6E2
ALEXANDER, ALISHA - ANNIE
OF PAK (TRANSLATED BY SNIC): 416 774 3120

Auto Insurance Standard Invoic (OCF-21

Claim Number: 03525790-3
Policy Number: 0010136611806
Date of Accident: 20220831

VIA EMAIL:
ALISHA.ANNIE@HOTMAIL.COM

Part 1 Applicant Information

1993/03/05			699-513-270
MCLEAN			
KEVIN		ALEXANDER	
715 KING ST WEST (UNIT 410)			
TORONTO	ON		M5V 2K3

Part 2 Insurance Company Information

SECURITY NATIONAL		ETOBICOKE (IN MLAI)	
NURSE	20080 20080	ALISHA - ANNIE	
		416-774-3120 (CONFIRMED FROM ... AND EMAIL)	
	PETROPOULOS	NICOLE	

Part 3 Invoice Information

For previously approved goods and services, please complete the following:

Assessment and Assessment Plan Work-Up	2022/04/01	N/A	$2000	0
Other Injury Guideline				

(IN MLAI FAX NUMBER)
NOTED) 416.774.3120 IS FAX NUMBER AT
3650 VICTORIA PARK AVENUE,
PUBLIC EVIDENCE NORTH YORK, TORONTO, ON
TDHA, FSRA #1003 (NOT SNIC) (NOT SNIC MANAGER)

NOTE(2): EAST MALL ADDRESS WAS NOT
BEEN OPERATIONAL SINCE LATE 2020/
2021 -> ONLY EVIDENCE FOUND
-> TDHA, FSRA #1003

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S. AMNA PHYSIOTHERAPY

S. AMNA PHYSIOTHERAPY PROFESSIONAL CORPORATION

68 ABELL ST UNIT 1

TORONTO ON M6J 0B6 N/A

N/A

ADM (N) @ REHAB MECHANICS.COM ; PHYSIO @ REHAB MECHANICS

TO THE INSURER TO WHOM THIS APPLICATION IS BEING SUBMITTED:

I UNDERSTAND that you and persons acting for you will collect, use and disclose personal and personal health information that is related to the applicant's claim for accident benefits arising out of the accident referenced in this invoice and that all such information will be collected directly from me or from any other person with my consent.

I ALSO UNDERSTAND that you and persons acting for you will collect information about the invoice prepared by me.

I ALSO UNDERSTAND that if I am the health service provider for the applicant that you, and persons acting for you, will collect information related to the claim that is provided by me on this invoice or any other auto insurance application form.

I ALSO UNDERSTAND that the information within this form will be collected and used only as reasonably necessary with the applicant's consent for the purposes of:

- Investigating the claims of the applicant and processing the claims of the applicant as required by law, including the Ontario Automobile Policy;
- Obtaining or verifying information relating to the applicant's claims in order to determine entitlement and the proper amount of payment;
- Recovering payment from insurers and others liable in law for amounts that you pay in connection with the applicant's claims;
- Identifying and analyzing the nature and costs of goods and services that are provided to automobile insurance claimants by health care providers;
- Preventing, detecting and suppressing fraud;
- Compiling anonymized statistics for government agencies; and
- Assessing underwriting risks and claims experience.

I ALSO UNDERSTAND that you, and persons acting for you, may disclose this information to the following parties or organizations who may collect and use this information only as reasonably necessary to enable you or them to carry out the purposes described above:

insurers, insurance adjusters, agents and brokers; employers; health care providers; hospitals; accountants; financial advisors; collectors;

organizations that consolidate claims and underwriting information for the insurance industry; fraud prevention organizations; other insurers;

companies; the police; databases or registers used by the insurance industry to analyze and check information provided against existing information; and any agents or representatives as designated by me from time to time.

I ALSO UNDERSTAND that you, and persons acting for you, may pool this information with information from other sources and may analyze this information for the limited purpose of preventing, detecting or suppressing fraud.

I CONSENT to you collecting, using and disclosing information relating to this claim form in the manner described above, which will be limited to information that is reasonably necessary to meet the legitimate purposes of such collection, use or disclosure.

I UNDERSTAND that if I have any questions about this consent I am free to consult with the insurance company representative or a legal advisor before signing this document.

I AM ALSO AWARE that you, and persons acting for you, may be required or permitted by law to disclose this information to others without my knowledge or consent.

I CERTIFY THAT THE INFORMATION PROVIDED IS TRUE AND CORRECT.

I UNDERSTAND THAT IT IS AN OFFENCE UNDER THE INSURANCE ACT to knowingly make a false or misleading statement or representation to an insurer under a contract of insurance. Regulated sectors may be subject to an examination or inquiry about matters in connection with a licence and or unfair or deceptive act or practice. Non-compliance with applicable regulations may result in enforcement actions ranging from an administrative monetary penalty to prosecution under the Provincial Offences Act.

I FURTHER UNDERSTAND THAT IT IS AN OFFENCE UNDER THE FEDERAL CRIMINAL CODE for anyone, by deceit, falsehood, or other dishonest act, to defraud or attempt to defraud an insurance company. This information will be used for processing payments of claims; identifying and analyzing the nature, effects and costs of goods and services that are provided to automobile accident victims, by health care providers; and PREVENTING, DETECTING AND SUPPRESSING FRAUD.

To obtain further information about privacy related issues please contact the Privacy Officer at the insurance company listed in Part 2.

To obtain further information about how your consent relates to pooling and data analytics to prevent and detect fraud please visit http://www.ibc.ca/en/privacy-terminology.asp

Name of Provider or Authorized Representative (print)
SANJAY NATWANI

Signature of Provider or Authorized Signature

Date of Service (yyyy/mm/dd)
2024/08/09

Court File No./N° du dossier du greffe : DC-24-00000718-00JR
Electronically filed / Déposé par voie électronique : 18-Feb-2025
Toronto Superior Court of Justice / Cour supérieure de justice

Injuries and Sequelae

Description	Code
Spinal injuries	S14.1
Lumbar segmental injury	S31.1
Post traumatic and some vestibular disorder	S07.2
	S.81
injury about several & head	S.09.0
Sprain / strain of SCF	S23.8

Providers

	Type	Last Name	First Name	Regulated College Registration Number	Occupation (if applicable, or blank)	Hourly Rate	For Assessor's Use
A	PT	Dhaliwal	Alaysinder	11951		$99.75	
B	PT	Ajwala	Sanjay	14675		$99.75	
C							
D							
E							
F							

Provider details are not required if they are the same as those on a previously approved claim

*Refer to the Clinic Manual at www.mcscs.jus.gov.on.ca for coding

Date of Service YYYY	MM	DD	Description	Code	Applicable	Provider Relationship	Quantity	Measure	Yes (✓)	Cost
2022	12	22	Initial AWAI Assessment	2.	22.02	A	1	HR		$85.57
2023	01	05	Rehab Session	S.22.PR		A	1	HR		$99.75
2023	01	12	Rehab Session	S.22.PR		A	1	HR		$99.75
2023	01	19	Rehab Session	S.22.PR		A	1	HR		$99.75
2023	02	02	Rehab Session	S.22.PR		A	1	HR		$99.75
2023	02	16	Rehab session	S.22.PR		A	1	HR		$99.75
2023	02	23	Rehab Session	S.22.PR		A	1	HR		$99.75
2023	03	02	Rehab Session	S.22.PR		A	1	HR		$99.75
2023	03	30	Rehab Session	S.22.PR		A	1	HR		$99.75
2023	04	06	Rehab Session	S.22.PR		A	1	HR		$99.75
2023	04	10	Rehab Session	S.22.PR		A	1	HR		$99.75
2023	04	14	Rehab Session	S.22.PR		B	1	HR		$99.75
2023	04	17	Rehab Session	S.22.PR		B	1	HR		$99.75
2023	04	21	Rehab Session	S.22.PR		B	1	HR		$99.75
2023	04	28	Rehab Session	S.22.PR		B	1	HR		$99.75
2023	05	05	Rehab Session	S.22.PR		B	1	HR		$99.75
2023	05	12	Rehab Session	S.22.PR		D	1	HR		$99.75
2023	06	09	Rehab Session	S.22.PR		B	1	HR		$99.75
2023	06	23	Rehab Session	S.22.PR		B	1	HR		$99.75
2023	06	30	Rehab Session	S.22.PR		B	1	HR		$99.75
2023	07	07	Rehab Session	S.22.PR		B	1	HR		$79.75
						B	1	HR		$99.75
										$99.75
			*Refer to the Clinic Manual at www.mcscs.jus.gov.on.ca for coding				Sub-Total			$2000.57

Send any attachment directly to Ministry

Court File No./N° du dossier du greffe : DC-24-00000718-00JR
Electronically filed / Déposé par voie électronique : 18-Feb-2025
Toronto Superior Court of Justice / Cour supérieure de justice

OTHER INSURANCE: I have made reasonable enquiries of the claimant and have determined that:

☒ NO There is no other insurance coverage identified for these goods and services ☐ YES There is other insurance coverage that is potentially available to substantially cover these goods and services

	MOH	Insurer 1	Insurer 2
	Is there Ministry of Health and Long-Term Care (MOH) coverage for goods and services included in this invoice? ☐ Yes ☒ No ☐ Not applicable		
Other Insurer 1		*Other Insurer's Policy Number: N/A	
		*Other Insurer's Identifier: N/A	
Other Insurer 2	*Other Insurer's Name: N/A	*Other Insurer's Policy Number: N/A	
	*Name of Plan Member: N/A	*Other Insurer's Identifier: N/A	

Other insurance details are not required if they are the same as those for a prior approved plan.

Other insurance (for goods and services on this invoice)	Enter amounts that have or will be paid by "other" insurers, which will be deducted from this invoice total. MOH	Insurer 1	Insurer 2	Enter amounts assigned to "other" insurers on prior invoices that were not paid. Amount will be added to this invoice total. Note: Auto insurers may request EOB for amounts added to invoice total. MOH	Insurer 1	Insurer 2
Chiropractic:						
Physiotherapy:						
Massage Therapy:						
*Other Service Type:	N/A	N/A		N/A	N/A	N/A
Total:						
*Please Specify Other Service Type:						

Assessment Activity since Last Invoice (# minutes being charged)	
*Prior Balance:	$0
*Payment Received from Auto Insurer:	$0
*Overdue Amount:	$2080.57
*The insurer shall pay interest on overdue outstanding balances determined by the Statutory Accident Benefits Schedule.	

Sub-Total:	$2080.57
MOH:	$0
Other Insurer 1:	$0
Tax (if applicable):	$0
Interest:	$334.91
Auto Insurer Total:	$2,415.48

(5)

Make cheque payable to: S. RAYMOND PHYSIOTHERAPY PROFESSIONAL CORPORATION

*Other Information: SEE ATTACHED (PART 4)

Are there any attachments? ☒ Yes ☐ No If yes, how many? 2

Send any attachments directly to the insurer.

(1) THIS VERSION B

(2) AFFIDAVIT OF APPLICANT

For insurer's use only

Reviewed By:	
Approved By:	
Payee Name:	
Payment Amount:	

4111

1229 This is the 1st and only affidavit (for said purposes) which it (instead below) of Mr. Kevin A. McLean, which is to be appended to an OCF-21 Form (4/10) (as amended by my current physiotherapy company, (SAPC DBA "Rehab Mechanics") in reference to TD Claim Number 0352579063 re: TD Claims 43.1 and TD Insurance Policy Number 0001013311886 (the "Policy Number") regarding the impugned or alleged failure of the correct and proper amount to pay the amounts apparently approved on April 28, 2023, purportedly by SHIC and allegedly by the printed name under the "mandatory field ("optional field" for Section 1 Name with the inscription of "KLW"

(52) 32

Affidavit of Kevin A. McLean

Re: In a matter under the *Insurance Act, Statutory Accident Benefits Schedule*, O Reg 34/10 ("SABS"), *Rule 4.1* and *UDAP Rule* and FSRA forms including requirements of insurers registered with HCAI

i. ***Jurisdiction:*** *Provincial (Ontario)*

ii. ***Statute[1], regulations and rule particulars:***

a. ***Governing Automobile Insurance Legislation:*** *Insurance Act, R.S.O. 1990, c I.8 et seq ("Insurance Act" or "Ins. Act")*

b. ***Governing Automobile Provincial Regulations:*** *SABS, Reg 283 and Reg 664*

i. ***Governing FSRA Rule:*** Unfair or Deceptive Acts or Practices Rule et seq (see: as amended by Deferred Sales Charge Amendment 2 Approved by Minister of Finance: January 30, 2024 *("UDAP Rule")*

iii. ***Contractual particulars:***

a. ***"Named Insureds":***

i. *BMW Financial Services Inc. (A Division of BMW Canada Inc.) (defined as "BMW FS Inc and*

ii. *Nicole Artopoulos (B.A., M.A.) ("McLean Spouse" or "Individual Policyholder")*

b. ***Insured Automobile:*** *BMW 3 Series Xi Drive 2019 4DR AWD*

c. ***Lessee:*** *Ms. Nicole Artopoulos*

d. ***Lessor:*** *BMW FS Inc.*

e. ***Insured Person[2] resident in Ontario (G Driver):*** *Mr. Kevin A. McLean (B.A., J.D., CIM) ("KAM") ("Artopoulos Spouse", "Insured Person", "Unnamed Insured Person", "Occupant", "Driver", "Appellant", Applicant", or "Claimant");*

f. ***"Broker":*** *Meloche Monnex Financial Services Inc.[3] (the "Broker" or "Agent", or "MMFSI")*

g. ***Underwriter/Insurer ('contract of insurance' in the Insurance Policy)***

i. *Security National Insurance Company (FSRA Insurance Registration #327[4]).*

ii. *Head office:* 50 Boulevard Crémazie O, Etage 12, Montreal, QC H2P 1B6, Canada;

iii. *Underwriter address in Ontario: 101 McNabb Street, 2nd Floor, Markham, Ontario L3R 3H8*

h. ***Insurance[5] Policy #:*** *0001013311886 (the "Insurance Policy", "Insurance Contract" or "Insurance Policy 0886")*

i. ***Insurance Program and Product with TD Insurance Meloche Monnex:*** *Affinity And Professional Program (the "AP Program")*

j. ***The Trade Name of "TD Insurance Meloche Monnex"***

i. ***Trademark word holder of "TD Insurance":*** *The Toronto-Dominion Bank ("TD Bank")*

ii. ***Trademark word holder of "Meloche Monnex":*** *Meloche Monnex Inc. ("MMI"), an "RCA" incorporated company.*

k. ***Combined Name with two distinct trademarks for two different insurance programs:*** *"TD Insurance Meloche Monnex"*

iv. ***The "Accident" or "MVA":***

a. ***Date of Loss:*** *August 31, 2022 ("DOL" or "Date Of Loss")*

b. ***Location of Loss:*** *320 to 360 Spadina Road (Northbound) (between Heath Rd and St. Clair Avenue), Toronto, Ontario[6]*

c. ***Police File Number (North York Reporting Collision Centre):*** *Affidavit #3, Exhibit "A"*

(53) 33

1288 [illegible] and entry authority (for said purpose) which is denoted below) of Mr. Kevin A. McLean, which is to be appended to an OCF-21 [illegible] to be completed by my current physiotherapy company, (BAPC DBA "Rehab Matters") as it relates to TD Claim Number 035325790-3 ("TD Claim #3") and the Insurance Policy Number 806301 331 6836 (the "Policy Number") regarding the impugned or alleged failure of the correct and proper owner or [illegible] apparently appointed on April 20, 2023, purportedly by SNIC and allegedly by the printed name under the "Unlisted" field ("Signature field") of "As Per A. Nurse" with the description of "N/A W".

vi. ***Information Provided by SNIC after Date Of Loss under SABS (including in pre-printed long page return address in OCF forms):***

a. ***TD Insurance Claim based number: 035325790***
   i. ***Exposure numbers known to Mr. McLean:***
      1. ***TD Insurance Claim # for Appellant: 035325790-3 ("TD Claim #3")***
         a. ***Undisclosed (until February 14, 2024) TD claim file number involving the Appellant: 035325790-3 (the "Undisclosed TD Claim Number" or "Multiple TD Claim Number")***
   ii. ***Policy number: same as above***
b. ***Insureds: Nicole Artopoulos and BM FS Inc.***
c. ***Sole Address: Security National Insurance Company, 101 McNabb Street, 2nd Floor, Markham (Ontario) L3R 4H8 ("Markham McNabb Building" or "SNIC Markham")***
d. ***Telephone: 1-877-855-5767***
e. ***Sole Facsimile Number: 416.774.3120;***
f. ***Insurance adjuster or claims advisor: Ms. Alisha-Anne Nurse;***
g. ***Website: www.melocharmonnex.com***

vi. ***Reg 283:***
a. ***Date of delivered Completed Application by McLean to the 416 Fax Number. October 13, 2022.***
b. ***Expiry date for the recipient insurer of the Completed Application to dispute its duty to respond and pay any and all benefits pursuant to SABS. January 10, 2023;***

vii. ***Material Particulars provided by McLean to TONP in signed OCF-18 of April 6, 2023 (the "Disclosed OCF-18"):***
a. ***Address: Markham McNabb Building;***
b. ***Fax number: 416 Fax Number;***

viii. ***Auto-populated or technologically unalterable information (April 6, 2023) provided by SNIC in HCAI, and other particulars:***
a. ***Submitter: Mangindar Dhaliwal, PT (college registration number: 11836)***
b. ***Address: 304 The East Mall, Floor 6, Etobicoke, Toronto, Ontario, M9B 6E2 ("Etobicoke East Mall Address" or "Etobicoke Address")***

ix. ***The Fax Number for the East Mall Address:***
a. ***Fax Number (East Mall): 416-233-9171 (the "Etobicoke Fax Address")***

x. ***Return address in the letter and OCF-18, Part 13 form SNIC on April 20, 2023 and "adjuster" informal but signature as language was printed as "As per A. Nurse"):***
a. ***Address: SNIC Markham;***
b. ***Adjuster: Ms. Alisha-Anne Nurse;***
c. ***Alleged signature under required field of OCF-18, Part 13: "As per A. Nurse" with "N/A W" above***

xi. ***Information provided by SNIC after the replacement of Alisha-Anne-Nurse (2023):***
a. ***Address: 5045 South Service Road, Burlington, ON L7L 5Y7 ("Burlington Address");***
b. ***New fax number: 905-315-1074 ("905 Fax Number") [note here: fax number regularly blocked or rejected faxes]***

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1291 the 9th and only affidavit (for said purpose) which is denoted below) of Mr. Kevin A. McLean, which is to be appended to an OCF-21 [illegible] submitted by my current physiotherapy company, (SARC DBA "Rehab Mechanic") as a retort to TD Claim Number 6[illegible] [illegible] Insurance Policy Number 4[illegible] (the "Policy Number") regarding the impugned as alleged failure of the correct and proper Insurer to pay the [illegible] apparently approved on April 20, 2023, purportedly by SNIC and allegedly by the printed name under the "Examiner" field ("Signature Field") of "Ka W" with the exception of "Ka W"

xii. ***The current evidence[2] involving the 416 Fax Number regarding the Completed Application (delivered to the 416 Fax Number (October 13, 2022):***

- a. ***416 area code: Toronto;***
- b. ***Prefix 774: Victoria Park Building (also known as the "Spark Building")***
- c. ***Last four digits of 3120 (location in the Victoria Park Building): 4th floor;***
- d. ***Telecommunications provider for the 416 Fax Number: Bell Canada Inc. (not Bell Mobility);***
- e. ***Publicly listed storefronter of the 416 Fax Number from August 2022 to present: TD Home And Auto Insurance Company (TDHA);***
- f. ***Physical Location of the grounded 416 Fax Number: 3630 Victoria Park Avenue, North York, Toronto Ontario, M2H 3P7 (the "Victoria Park Building");***
- g. ***VP Building:***
  - i. ***Property manager: Colliers International;***
- h. ***Listed "Local Tenants" at the Victoria Park Building: "TD Insurance" (colloquial)***
- i. ***Current listed fax owner for the 416 Fax Number: TDHA"***

xiii. ***Address provided by SNIC in the SNIC Response (January 25, 2024):***

- a. ***Physical address: Markham McNabb Building;***
- b. ***Signatory for SNIC: Mr. David Karat, ADR Specialist;***
- c. ***Filer of SNIC Response: Mr. Karat;***
- d. ***Server of the SNIC Response: Mr. Karat;***
- e. ***Fax number: NONE;***

xiv. ***Address for TD General Insurance Company, FSRA registration number 333 ("TDGIC") in the LAT Proceeding prior to its removal after my successful motion[1]:***

- a. ***Physical address: the Victoria Park Building (9th floor);***

xv. ***The precise location of the 416 Fax Number in the Victoria Park Building:***

- a. ***As of 2007, the 416 Fax Number was listed as being grounded and situated as a phone number (albeit for fax purposes) with Bell Canada Inc. on the 4th FLOOR of the Victoria Park Building (North York, Toronto Ontario;***

Re #3: OCF-21 submitted through HCAI regarding TD Claim #3 as per unpaid amounts approved in April 20, 2023, letter from SNIC (return address of SNIC Markham and the fax number of 416-774-3120 ("416 Fax Number") from the OCF-18 that I signed on April 6, 2023 (see: Exhibit "A") (the "Dhaliwal Signed OCF-18") and the HCAI submitted OCF-18 on April 6, 2023 (see: Exhibit "C") (the "Dhaliwal HCAI OCF-18")

I, Kevin Alexander McLean, Disabled[3] (B.A., J.D., CIM) of Toronto, Ontario, SWEAR THAT:

VOLUME #1: Introduction

1. I am the deponent or affiant (also defined as "Insured Person", "Disabled Individual" and/or "AT Impaired Individual") herein and I swear, under the pains and penalties of perjury, the following facts to be true.

(55) 35

1282 the 1st and only affidavit (for any purpose) which is deemed below of Mr. Kevin A. McLean, which is to be appended to an OCF-21 (Treatment/Assessment Plan) completed by my current physiotherapy company, (SAPC DBA "Rehab Mechanic") as it relates to TD Claim Number 8501279-1 (Ref Items #3 and 10 Insurance Policy Number #0018351 1006 (the "Policy Number") regarding the impugned or alleged failure of the correct and proper insurer (as per the statute) apparently appointed on April 30, 2022, purportedly by SNIC and allegedly by the printed name under the "mandatory Relief" signature field (ref Appx 1 Page 2 with the description of "XAW".

2. Where I have stated or sworn information on my belief(s), I have cited the source of my belief(s) by references, citations, end-noting or otherwise. When I have used the expressions (including any permutations) of "in my view", "in my opinion", or "belief", I am not drawing or making any conclusion of law or swearing a conclusion of law but rather citing my positions and opinions as a matter of fact.

3. Where I have included annotations on the exhibit pages, I have done so for ease of reference and I adopt the same as my evidence. Where I have used "double underlining", the double underlining is mine and added to distinguish and delineate between my emphases of certain language.

4. I adopt the information and evidence from the above after "Affidavit of Kevin McLean" herein as my sworn evidence whether by factual reference or based on information and belief. Where I have referenced a belief without a specific source per se, I have done so to protect the identities of certain individuals or persons and/or it is to be presumed by the reader that my beliefs are based upon my investigations or investigations on my behalf. I have provided the aforementioned evidence for clarity in my sworn evidence. Like all of my affidavits since the Date Of Loss and as a result of my impairments, which I have been found by physicians without any competing evidence despite my provision of the same to render me CAT impaired, I have dictated much of this affidavit and I reserve the right to correct any administrative, spelling, grammar, syntax or incorrect double negatives by subsequent affidavit.

5. My evidence herein, to be appended to the completed and signed OCF-21, is directed to the relevant accounting departments of the First Insurer, SNIC *et al* (where applicable).

6. The headings used herein are for reference and convenience of the recipient readers including but not limited to:

a. *Reviewer*; and
b. *Approver*

(see: OCF-21, "For insurer's use only").

Volume #1(A): Reservation of rights in fact and at law

7. In referencing SNIC herein, I am not admitting that it was the First Insurer per se but I reference SNIC as a matter of fact by its name in various documents that were provided to me by SNIC or by HCAI.

Volume #1(B): The Purpose of this Affidavit to be appended to an OCF-21

8. The purpose of my providing the above particulars, known to me, on August 8, 2024, is to, *inter alia*, avoid the following:

a. *reviewer*; and
b. *approver*,

of the "Auto Insurance Standard Invoice (OCF-21)" ("OCF-21")

Volume #1(C): SPPA, section 28 and Legislation Act, section 69: no intent to mislead or deviate from substance or contents of form, or for courtesy purposes, and purpose is for SNIC (or whomever the First Insurer was – due to passage of time) to pay that which it approved

9. While I believe that the OCF-21 is primarily purposed and required for impairments within the MIG, and the OCF-18 is for impairments outside of the MIG, and SNIC was required to pay the amounts it approved on

(40) 36

1288 the 1st and only affidavit (for any purpose) which is deemed below) of Mr. Kevin A. Mclean, which is to be appended to an OCF-21 claiming [illegible] submitted by my current physiotherapy company, (SAPC DBA "Rehab Mechanics") as it relates to TD Claim Number [illegible] TD Claim #3 and TD Insurance Policy Number [illegible] (the "Policy Number") regarding the engaged or alleged failure of the correct and proper insurer to pay the amounts apparently approved on April 20, 2023, purportedly by SNIC and allegedly by the printed name under the "mandatory field" signature field 3 of "As Per A. Nurse" with the inscription of "E) W"

April 20, 2023, by no later than the 11th business day after April 6, 2023, I, in instructing and assisting (where applicable) as Mr. Dhaliwal was my previous physiotherapist and I have first-hand knowledge of some aspects that he did not) my service provider (Mr. Attwala) regarding the completion and execution of the OCF-21 believed it was prudent to provide an invoice for a variety of particularized reasons herein.

10. I provide this affidavit to be appended to the OCF-21 which I and the physiotherapist in Mr. Sanjiv Attwala, PT intend to complete (where applicable) and provide to the adjuster or claims advisor at the time of my signed OCF-18 with Mr. Dhaliwal (April 6, 2023), HCA submitted Dhaliwal OCF-18, and the response from SNIC (SNIC Markham), dated April 20, 2023, wherein it partially approved the sum of $2080.5. I received the April 20, 2023 letter from SNIC (SNIC Markham) in May 2023. During the month of April 2023, I consented to Mr. Attwala taking over from Mr. Dhaliwal as I was informed by Mr. Dhaliwal on or around March 2023 that Mr. Attwala would be replacing him.

11. I, with full knowledge, consented to Mr. Attwala being transferred my files, records and documents from TONP. Mr. Attwala has been my physiotherapist since April 2023. I was very impressed with the approach, care and services of Mr. Dhaliwal of TONP and I have also been very impressed with all aspects of the treatment and services of Mr. Attwala of Rehab Mechanics. In my view, Mr. Attwala and I have taken incredible strides and made progress with my rehabilitation but I have, in my view, an extraordinarily long road ahead with all of my impairments which will, as per advice I have received from physicians, require various surgeries. I intend to rely on Mr. Attwala for the post-operation aspects of my and all surgeries and beyond.

Volume #1(B): further research and investigation: no evidence of Mr. Dhaliwal receiving payment for the $2080.57

12. At all relevant times, I had presumed that Mr. Dhaliwal, PT, had received the sum of $2080.57

13. Based upon my research, I now believe on this August 8, 2024, after five p.m. that my former physiotherapist in Mr. Dhaliwal, PT, of TONP never received any monies from the listed insurer therein (albeit with a different address than my originally signed OCF-18 on April 6, 2023) or any insurer for that matter with respect to the Dhaliwal OCF-18 (see: Exhibit "A" and Exhibit "B").[4]

14. While my position remains, as a matter of law, that the "As Per A. Nurse" (see: Exhibit "C") printed language is not an authorized and valid signature by an adjuster on behalf of SNIC, for the purposes herein, I have instructed my current physiotherapist, Mr. Attwala, to submit an OCF 21 for the amounts denoted in the cover letter and non-signed OCF-18, Part 13 by an adjuster on behalf of SNIC. It remains my position that whomever, on behalf of the correct insurer (or "First Insurer") as a matter of law, engages in the process of review and approval of the payment of the sums approved (and not denied *per se* i.e. partially approved) is required to be consistent with the HCAI submitted copy at the time (through no fault of myself or Mr. Dhaliwal).

15. Part of the purpose herein, I remain liable for the services performed upon me whom not approved by the correct and proper insurer. However, I confirm that I did receive the documents at Exhibit "C" and I had presumed that said amounts were paid as they were apparently approved. After further review and research of *SABS* and relevant jurisprudence, it became my position that not only were the purportedly or allegedly approved amounts in the sums of $1995.00 and $85.57 due and owing but the entire amount in the Dhaliwal OCF-18 was due and owing for failure by Ms. Nurse, on behalf of SNIC, to sign (and complete) the OCF-18. I do not take kindly to being liable for amounts that were approved by SNIC to its return address of SNIC Markham.

16. I rely on ss. 38(8) and 11 of *SABS* along with sections 66 and 67 of *SABS*.

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1234 the (" and only attending (by-and-patient) which a denoted below) of Mr. Kevin A. McLean, which is to be appended to an OCF-24 Affidavit in [illegible] completed by my current physiotherapy company, (SAPC DBA "Rehab Mechanics") as evidence in TD Claim Number [illegible] and TD Insurance Policy Number [illegible] (the "Policy Number") regarding the unsigned or alleged future of the correct and proper document to pay the amounts apparently approved on April 20, 2023, purportedly by SNIC and allegedly by the printed name under the "mandatory field" signature field [illegible] with the description of "Ex. H".

17. To the extent that the position of SNIC was that it required an invoice for an OCF-18, which is not a document for impairments outside of the MIG and which I disagree, I note that SNIC has 30 calendar days to pay such invoice. My position will always remain that SNIC (or the First Insurer depending on further evidence that is discovered or by way of admissions) was required to pay the $2080.57 on or around April 24, 2023. I note that SNIC knew the numbers that it approved on April 20, 2023, and the address for Mr. Dhaliwal, PI, and Mr. Atwala were the same.

> **Volume #1(E):** No attempt by Ms. Nurse to send a duly signed OCF-18, Part II after the ten business day period under section 38(8) and (11) of *SABS*

18. I swear under the penalty of perjury that I have never received another documents from SNIC or any insurer for that matter wherein Ms. Nurse attempted to or purported to sign in her name (or provide an amended document with her signature and not on her behalf albeit in her name) the OCF-18, Part II after April 20, 2023.

> **Volume #1(F):** My PIPEDA request to HCAI – on account of my current PT not having access to the HCAI of my previous PT – received on Tuesday, August 6, 2024, and ancillary evidence to [illegible]

19. Upon further review of my signed hard copy of the Dhaliwal OCF-18, and then OCF-18's with my current physiotherapist, I noted the address, in the HCAI submissions, of 304 The East Mall, Etobicoke, Toronto, Ontario M9B 6B7 (the "Etobicoke East Mall Address" or the "East Mall Address") as not being the address that I had for SNIC. When referencing the words of "*I had for SNIC*", the only addresses that I was provided by SNIC (claims advisor is Ms. Nurse) was, at that time, was the following:

a. **SNIC Markham; and**
b. **416 Fax Number.**

20. I believe that Markham does not have 416 area code numbers. Therefore, I do not believe that I was provided the correct fax number for SNIC at the Markham McNabb Building. As such, I believe that the 416 Fax Number at the Victoria Park Building in October 2022 was the fax number of the insurance company located on the 4th floor of the VP Building.

21. For accounting and taxation purposes and the relevant department of the First Insurer, I swear that at no time during our LAT proceeding did TD General Insurance Company, which attempted to be the sole respondent in substitution of SNIC, represent to me and the Tribunal that it was the "First Insurer". The representations made on behalf of TDGIC by its declared representative was that "TDGIC and SNIC" were "one and the same". I was able to disprove that representation by TDGIC and obtain an order to amend the incorrect style of cause from "TD General Insurance Company" to "Security National Insurance Company" (see, order of Adj. Morissette on June 21, 2024).

22. Further, I note again for the accounting department of the First Insurer and potentially the accounting department of SNIC for any reconciliation of amounts with the First Insurer, in accordance with *SABS* and *Reg 283*, I did not become aware of the address at the Victoria Park Building (which referenced the 9th floor) until it appeared in a motion order in the LAT Proceeding but exclusively for TD General Insurance Company, FSRA Registration Number #353. Based upon my research and communications with the concierge at the VP Building on July 21, 2024, when delivering documents to a non-party in TDGIC, TDGIC had left the Victoria Park Building about a year or so prior (i.e. July 2023). I further note for the relevant accounting department that I was advised by the concierge, whom I presumed was an agent for the property management company in Colliers International, at the Victoria Park Building, that TDGIC (not TDHA) had moved to the Markham McNabb Building. Neither the East Mall Address nor the Burlington Address are the same as the Markham

1295 the 1st and only affidavit (by told purports) which is directed to/sent of Mr. Kevin A. McKenna, which is to be appended to an OCF-21 (Primary MAI) to be filed by my current physiotherapy company, (SAPC DBA "Rehab Mechanics") as it relates to TD Claim Number [redacted]-1 ("TD Claim #3") and TD Insurance Policy Number [redacted] (the "Policy Number") regarding the misapplied or alleged failure of the control and proper insurer to pay the amounts apparently approved on April 20, 2023, purportedly by SNIC and allegedly by the person(s) under the mandatory field signature field 3 of 3 "As Per A. Nurse" with the inscription of "Ex W".

McNabb Building. I further swear that at no time has SNIC represented to me that it was located at the Victoria Park Building. Rather, SNIC has represented to me or by way of its unalterable address in HCAI that it was (or is) located at:

a. East Mall Address (Etobicoke);
b. Burlington Address; and
c. Markham (SNIC Markham).

23. I learned through my HCAI *PIPEDA* request that the East Mall Address was the only address in the HCAI database for my TD Claim #3, and it was set therein from after my Date Of Loss.

24. I will allow for the "reviewer" and "approver" to confirm which insurer it is so acting on behalf in relation to said East Mall Address and/or the 416 Fax Number. To the extent any address changes were to occur, I have provided notice to the claims advisors that any such changes will be at the time of the changes and I will rely upon on the documents in the exhibits as they then were.

25. I note the following:

a. TD insurance policy regarding limited inter-company transfer of personal information of policyholders and insured persons within the TDI Group (see: Insurance Policy); and
b. TD insurance policy regarding provision of fax numbers: only provided via "claims advisor" assigned to TD claim number (see: "As we have numerous offices across the country, typically our Insurance and Claims Advisors will provide you with the proper fax number to ensure your documents are received in a timely fashion"). [1] (the "**TD Assurance Group Fax Policy Protocol**")

26. I believe that the TDI Group Fax Policy Protocol is consistent with the amendments to *Reg 283* in 2010

Volume #1: Exhibits

Exhibit "A"

27. Now shown to me and marked as Exhibit "A" to this my affidavit, pages 1 to 10, is a copy of my originally signed OCF-18 on March 30, 2023 (Mr. Dhaliwal) and April 6, 2023 (myself).

Exhibit "B"

28. Now shown to me and marked as Exhibit "B" to this my affidavit, pages 11 to 18, is a copy of the HCAI submitted version of my OCF-18 that I obtained in this month of 2024 from the privacy division of HCAI. I note the discrepancies between my originally signed OCF-18 and the auto-population of language, addresses *et al* in the HCAI submitted version.

Exhibit "C": The SNIC (SNIC Markham) letter and OCF-18, Part 13 document (to be read as one document)

29. Now shown to me and marked as Exhibit "C" to this my affidavit, pages 19 to 21, is a copy of pages from the letter from SNIC, which did in fact reference the 416 Fax Number on one of the reverse pages, with the delineation of approvals and non-approvals in the letter therein and the "As Per A. Nurse" purported signature. I do not believe that said inscription was Ms. Nurse's signature. I continued to take the position that said form remains incomplete as a result of SNIC and Ms. Nurse's failures in this regard. However, I am content, for purposes herein while reserving my rights in fact and at law, to instruct Rehab Mechanics to

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1206 [illegible] and only affidavit (provided purposes) which is denoted below) of Mr. Kevin A. McLaren, which is to be appended as an [illegible] submitted by my counsel physiotherapy company, (SAPC DBA "Rehab Medicenter") as it relates to TD Claims Number [illegible] and TD Insurance Policy Number [illegible] (the "Policy Number") regarding the impugned or alleged failure of the correct and proper answer as per the [illegible] approved on April 26, 2023, prepared by SNIC and allegedly by the posted note under the "mandatory fields" options field text "As Per A. Nurse" with the exception of "RLW".

submit the OCF-21 (with reference only to the correct version (albeit discretionary per se) for impairments that are not within the MIG as the insurer name, address, amounts approved *et al* are consistent.

30. I have now copied and pasted the, in my view, relevant information for the "reviewer" and "approver". To the extent said reviewer and said approver are of the same view as myself that the "As Per A. Nurse" was not a valid signature in accordance with *SABS*. In this regard, I am determining whether a second and alternate invoice should be provided to the First Insurer and SNIC to provide two options for them. In the interim, I have only instructed one invoice. I have copied and pasted from a document of mine that was made in 2024 regarding due below [emphasis is mine]:

> "CLAIM FOR MEDICAL OR REHABILITATION BENEFITS
> **Claims for medical and rehabilitation benefits and for approval of assessments, etc.**
>
> **(8) Within 10 business days after it receives the treatment and assessment plan, the insurer shall give the insured person a notice that identifies the goods, services, assessments and examinations described in the treatment and assessment plan that the insurer agrees to pay for, any the insurer does not agree to pay for and the medical reasons and all of the other reasons why the insurer considers any goods, services, assessments and examinations, or the proposed costs of them, not to be reasonable and necessary. O. Reg. 34/10, s. 38 (8); O. Reg. 14/13, s. 5**
>
> **(11) If the insurer fails to give a notice in accordance with subsection (8) in connection with a treatment and assessment plan, the following rules apply:**
>
> **1. The insurer is prohibited from taking the position that the insured person has an impairment to which the Minor Injury Guideline applies.**
>
> **2. The insurer shall pay for all goods, services, assessments and examinations described in the treatment and assessment plan that relate to the period starting on the 11th business day after the day the insurer received the application and ending on the day the insurer gives a notice described in subsection (8). O. Reg. 34/10, s. 38 (11).**
>
> **[note bene: this section is somewhat analogous to the IRB [Specified Benefit] section regarding the within ten business days that an insured must give a section 44 notice or pay the specified benefit until it gives a compliant notice under section 36(4)(b)]**

Section 67 of *SABS*

When form is considered completed

67. (1) Any document that is required by section 66 to be in a form approved by the Chief Executive Officer [FSRA, Mr. Mark White] and to which subsection 64 (7) applies and any other document specified in a Guideline applicable [see https://www.fsrao.ca/media/46/download: OCF-18 guideline] for the purposes of this section is duly completed and includes all information required by this Regulation to be included in it if,

(a) every field not identified on the form as an optional field is completed in accordance with subsection (2); and

40

1287 the 1st and only Affiant) (for said purposes) which is denoted below) of Mr. Kevin A. McLean, which is to be appended to the OCF-21 (Invoice 0010) to be submitted by my current physiotherapy company, (SAFC DBA "Rehab Mechanics") as it relates to TD Claim Number [redacted] ("TD Claim #3") and TD Insurance Policy Number [redacted] (the "Policy Number") regarding the unpaid or delayed future of the current and proper manner to pay the amounts optionally approved on April 20, 2023, purportedly by SNIC and allegedly by the printed name under the "mandatory field" signature field (cell "A" Pg 1 Form with the exception of "K) 9"

(b) if any field on the form that is identified as an optional field is completed, it is completed in accordance with subsection (2). O. Reg. 34/10, s. 67 (1); O. Reg. 123/19, s. 9.

(2) If the form specifies the manner or the format in which a field is to be completed, completion of the field shall be in *that manner* and in *that format*. O. Reg. 34/10, s. 67 (2)

Exhibit "D"

31. Now shown to me and marked as **Exhibit "B"** to this my affidavit, pages 22 to 42 is a copy of my emails to the claims advisors or adjusters of SNIC (as represented to me) with my queries and requests for accounting, evidence, and correct contact information for *SNIC et al*. As of today's date, I still have not received a response to those emails and emails, in my view, that were similar by way of requests and demands therein

32. Now shown to me and marked as **Exhibit "E"** to this my affidavit, pages 43 and onwards is a copy of an **OCF-21** therein. I have instructed **Rehab Mechanics** to complete said form in accordance with the approved amounts therein as per an **OCF-18** (a non-MIG form) while reserving my rights in fact and at law.

33. As a result, I swear my belief yet again that I do not believe that my service providers denoted herein (**TONP** and **Rehab Mechanics**) (collectively defined herein as the "**Service Providers**") received any funds from **SNIC** or any insurer (see: **First Insurer** pursuant to *Reg 283*) in relation to the **Dhaliwal OCF-18**.

34. I confirm that **SNIC** (Mr. Kent) and I agreed and consented to an email communication protocol in January, 2024 for my communications for ongoing and day-to-day matters with Ms. Persaud (at the time"). I continue to honour and affirm the **Email Communication Protocol**.

Volume #3: Conclusion and Jurat

35. I swear that, under the penalties of perjury that I have solely drafted this affidavit and as any service provider to me is an "agent" and I am the "principal", I have instructed, within the boundaries of the law, to attach this affidavit, which contains the above exhibits (including any originally signed **OCF-18** with Mr. Dhaliwal, PT; the **HCAI** submitted **OCF-18** through the **HCAI** portal; and the letter from **SNIC** with the "non-signature" by Ms. Nurse *et al*).

36. To the extent that any monies were paid to Mr. Dhaliwal, PT (TONP) or Mr. Ahwinda, PT (**Rehab Mechanics**), I am content to accept the same so long as I am provided with supporting documentation of the same and the *approver and reviewer* may deduct whatever amounts were in fact sent via cheque (see: *Bills of Exchange Act*) and delivered (with proof) to whichever service provider said insurer delivered the same

37. While I note that the **OCF-21** is optional or discretionary for **OCF-18's** (i.e. Non-MIG related), I have instructed **Rehab Mechanics** to attach this affidavit to an **OCF-21** for the purposes of a *reviewer* and *approver* for payment of any and all amounts that were approved in the April 20, 2023 letter. I will await to see who reviews and approves the same and from which insurer per se as I have not received any response from the adjusters or advisors in this **TD Claim #3**.

38. As my *review* finds me to believe that the attachments cannot be uploaded into **HCAI**, I shall provide a copy of the attachments to the claims advisers (as represented to me) of **SNIC** via email pursuant to the **Email Communication Protocol**. I will then confirm the same with evidence to **Rehab Mechanics** that I had done so.

39. Out of respect for the accounting department(s) at **SNIC** and the **First Insurer**, I swear that I have received to my **Beneficiary Bank Account** (provided to the 416 Fax Number), the sum of $1400.98 as of April 6, 2023. As of August 8, 2024, I have not received any further payments from **SNIC** or any insurer.

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1218. The 1st and only affidavit (for said purposes which is detailed below) of Mr. Kevin A. McLean, which is to be appended as OCF-21 (Invoice Appeals Submitted by my current physiotherapy company, (SAPC DBA "Rehab Mechanics") as it relates to TD Claim Number 0301579042-104 Items #1 and 1B Insurance Policy Number 4869013511806 (the "Policy Number") regarding the unpaged or alleged failure of the correct and proper insurer to pay the amounts apparently approved on April 20, 2023, purportedly by SNIC and allegedly by the correct insurer under the "mandatory field" requirements (field 1 of the Part 3 "Insurer" with the exception of "(L) W".

40. While I believe that since SNIC's stated position was that I was in the MIG at the said time, I believe it was required to pay the full amount of the Mr. Dhaliwal full-body assessment. In this regard, I do not see any prohibition regarding paying more than the invoice will demand payment for (and there may be a dispute re the sum of the interest pursuant to section 51 of *SABS*), in accordance with *SABS*, but I note that there is a prohibition against paying less than the approved amounts by SNIC on April 20, 2023.

41. To the extent that the accounting department is of the view that SNIC did not comply with the requirements of *SABS* in providing me with a notice, which includes the completed required fields in the OCF-18, Part 13, then it or the First Insurer may pay the full amount in the OCF-18 with *SABS* interest to Mr. Ahwala, PT or by reference to the S. Ahwala Physiotherapy Professional Corporation which does business as "Rehab Mechanics" (defined as "SAPPC" or "Rehab Mechanics").

42. I wish to kindly, in my view, re-notify the claims advisors whether at SNIC or the First Insurer to amend the undeliverable address in HCAI to an address that is current and active. I attended the location of the Etobicoke Address on August 4, 2024, and it is under construction or a "construction site". I spoke with some residents in the area and I was informed that the Etobicoke Address has been inactive for years as it related to the former office building known as the "Valhalla Executive Suites". If SNIC is continuing to take the position that it was the First Insurer, then I request that SNIC amend, in HCAI, the address of the Etobicoke Address to the Markham McNabb Address.

43. I also request that the claims advisors, whether at SNIC or the First Insurer, provide me with the following for any of my (or on my behalf for current and future health care practitioners (whether in Ontario and outside of Ontario) day-to-day submissions, for HCAI or otherwise, the following for, *inter alia*, accounting, taxation and record keeping purposes:

a. SNIC Markham's fax number;
b. the legal name of the First Insurer;
c. the insurance companies that were tenants or occupiers at the Burlington Address from 2021 to January 2024;
d. the correct fax number for the First Insurer; and
e. copies of any signed OCF-18's (see: Part 13) by an adjuster on behalf of SNIC after the Dhaliwal OCF-18.

44. I appreciate that insurance companies move locations through their operational histories and I appreciate that SNIC moved to the Markham McNabb Building on or around 2018. I swear that belief based on my discussions with confidential sources and my own research. I swear that at no time did SNIC represent to me that it was located at the Victoria Park Building. I swear at no time did SNIC represent to me that it had a branch office situated at the Etobicoke East Mall Address. SNIC did represent to me, in 2021, that its office address had changed from SNIC Markham to the Burlington Address. While I had found that 905 Fax Number on numerous occasions, it was regularly blocked or disconnected during the "call".

45. During October 2023, an unknown author, purporting to be with e-claims service emailed an email account that I had not provided to SNIC, requesting that I upload information to some portal with "E-claims" (unknown entity). I did not respond to that email as I had not consented, at that time, to email communications, and I exclusively faxed to the 416 Fax Number (from September 2022 to October 2023) and then joint or semi-contemporaneous faxes to the 416 Fax Number (represented to me as SNIC Markham) and the 905 Fax Number (Burlington). On or around March 2023, I received a letter from SNIC asking for me to check a box, and consent to email communications along with the provision of an email address for said purposes. I did not consent.

(62) 42

1289 the 4th and only Affidavit (for said purpose) which is dated below) of Mr. Kevin A. McLean, which is to be appended as an [illegible] Claims (Appeals Handled by my current physiotherapy company, (SAPC DBA "Rehab Mechanics") as a result of its claim to TD (Claim Number 0350259-31 10 (Claim 4)) and TD Insurance Policy Number 0351 (the "Policy Number") regarding the unpaid or alleged failure of the correct and proper entities to pay my amounts apparently approved on April 20, 2023, purportedly by SNIC and allegedly by the printed name under the "mandatory Field ("signature field") of "As Per A [illegible] with the description of "[illegible]"

46. On or around April 2023, I received a variety of what I defined as "Spam Faxes" as they were from fax numbers that were not the 416 Fax Number (4th Floor of the Victoria Park Building), and I had to block, black-list and filter them to avoid any potential privacy breaches. One of the "Spam Faxes" read to me as coming from an unnamed and undisclosed insurance company in reference to my fax to the 416 Fax Number a few days prior. This afforementioned "Spam Fax" represented to me that it did not have any record of my TD claim number which I found appalling and concerning. Moreover, it appeared to direct me to other fax numbers for future faxes. I, in my view, promptly faxed the 416 Fax Number to the attention of Ms. Nurse (claims advisor) to alert SNIC and her of said issue. I continued to exclusively fax the 416 Fax Number until October 2023, when I returned from Europe to Canada (after obtaining MRI's examinations, assessments and reports that I could not obtain in Canada at all or until late December 2023 or early January 2024) which I jointly faxed the 905 Fax Number (Burlington Address) and the Fax Number.

47. For the benefit of the relevant accounting departments, as I have taken the position based on my investigations and discoveries, since July 2024 that the First Insurer was NOT SNIC, that I have never received a fax from the 416 Fax Number. Further, I have never received a fax from the 416 Fax Number that purported to be Ms. Nurse, Ms. Persaud or Ms. Michie.

48. After review of my documents, I swear that I have not received or found any documents from SNIC that has referenced the 416 Fax Number by SNIC or an authorized representative of SNIC since 2024

49. I swear that while I believe that Ms. Michie has represented that she was and is a claims advisor with SNIC at SNIC Markham, I am not aware of any documents in which she has referenced the 416 Fax Number for SNIC.

50. While I wished to remain consistent with the HCAI submitted copy, as a courtesy to the relevant "assessor" and "approver" of the OCF-21, by submitting via mail to the Etobicoke East Mall Address. I cannot in good conscience do so as I have knowledge that the *Valhalla Executive Suites* has been demolished. I believe any mailing of this affidavit, appended to the OCF-21, would not be receivable by the insurance company that was so located there prior to its inoperability and demolition. As such, I will email a copy of this affidavit and to be completed OCF-21, by Mr. Ahwale, PT, (regarding the approved amounts by SNIC (SNIC Markham) with reference to Ms. Nurse) of the same to Ms. Nurse with a copy to the Mesdames Persaud and Michie. I will also copy, via email, the chief agent for TDHA.

51. I will not send this affidavit and OCF-21 to the Burlington Address as I do not believe that was an address for SNIC per se. To the extent it was a branch office for TDHA, I will rely on email to the chief agent in Mr. Russell, to avoid any lost or stolen personal information of mine and that of Mr. Ahwale, PT and Rehab Mechanics.

52. I may fax a copy of the completed and executed OCF-21 and this affidavit to the 416 Fax Number while requesting a response. While only the Etobicoke East Mall Address is denoted in the HCAI submitted copy (see: Exhibit "B"), I note that Ms. Nurse's name is therein. I further note that the 416 Fax Number was included in my signed OCF-18 with Mr. Dhaliwal on April 6, 2023 (see: Exhibit "A").

53. I further swear that I, along with instructions and provision of current evidence to any and all service providers to me, am erring on the side of caution to avoid any imputation or allegation that I waived any rights. I swear under oath that I have NOT, am NOT and will NOT waive any rights on my behalf or others (where I have an interest therein) and any waiver from me (if applicable) will be signed, dated and witnessed.

54. I further swear that I have not found any evidence that SNIC had branch offices from the Date Of Loss to present at any of the following locations:

(63) 43

1210 the ("and only affidavit (for said purposes) which is denoted below) of Mr. Kevin A. McLean, which is to be appended to the (X) 20 [illegible] submitted by my certain physiotherapy company, dAFC DBA "Rehab Mechanics") as it relates to TD Claim Number [illegible] and TD Insurance Policy Number [illegible] (the "Policy Number") regarding the improper or alleged failure of the correct and proper insurer to pay the [illegible] expressly approved on April 26, 2023, purportedly by SNIC and allegedly by the person name under the "mandatory Solid Dispatch Solid Text" [illegible] with the description of "(X) 10".

a. **Etobicoke East Mall Address;**
b. **Burlington Address; and**
c. **Victoria Park Address.**

55. I do not dispute that TDHA had a branch office at the Etobicoke East Mall Address in 2020 and perhaps in 2021. I am still investigating and seeking the exact date as to when the City of Toronto council approved the demolition of the buildings situated at 304 The East Mall, Etobicoke, Toronto, Ontario but I believe it was in late 2020 based on my review of various news articles.

56. I do not dispute that public materials issued by Ontario Business Directory website that the Burlington Address has tenants or occupiers there in that received faxes to the 905 Fax Number. I do not believe that SNIC had a branch office, was an occupier or tenant of the Burlington Address in 2023. To the extent that SNIC did have a branch office at the Burlington Address in 2023, I do not believe that anything turns on that issue per se as the address that I provided to Mr. Dhaliwal for SNIC was SNIC Markham and the 416 Fax Number. I believe that the SNIC Markham address (McNabb Building) is 91 kilometres from the Burlington Address. I believe that the 416 Fax Number is grounded as a landline at the Victoria Park Building and it is not a landline that has been geographically delineated to either:

a. **Etobicoke East Mall Address;**
b. **Burlington Address; or**
c. **Markham McNabb Building.**

57. While I believe that Etobicoke and North York are both, as of 2022 to present, part of the "City of Toronto", and have certain residences and commercial buildings with 416 area codes, I do not believe that either Burlington or Markham have 416 area codes.

58. I believe that Burlington is part of the "Halton Region".

59. I believe that Markham is part of the "York Region". I believe that the area of North York in Toronto is distinct from the "York Region".

60. As the East Mall Address was set by an unknown individual(s) to me in the HCAI portal, which I cannot access per se, I further swear that I am unaware of any fax number associated or provided in relation to the **Etobicoke East Mall Address**. The fax number provided above in relation to the Etobicoke Address was provided to me by an individual that found a phone listing regarding the same.

61. I believe that SNIC has its operations, as the only out-of-town insurer in the TDI Group, in Markham Ontario and has had its operations in Markham, Ontario since on or around 2018.

62. I am not directing this evidence to one Mr. David Karat as he has represented to me that he was not the "adjuster" but "ADR Specialist".

63. I hereby confirm under oath that any and all interest under *SABS* and/or interest or penalties for any and all issues involving myself are to be paid directly to **Rehab Mechanics**.

64. I have, in my view, being comprehensive and extensive in particularizing the above so that SNIC and the **First Insurer**, along with the relevant accounting and taxation departments (internal and external) all of the necessary evidence to comply with their obligations on an individual and personal level along with those distinct insurance companies for whom or which they act on behalf. If any of the accounting departments of **SNIC** or the **First Insurer** require, for accounting or reconciliation purposes, supporting documents, further

(64) 41

1241 I am the 1st and only affiant (for said purposes) which is denoted below) of Mr. Kevin A. McLean, which is to be appended to as OCF-21 (Invoice [OA]) and is initiated by my current physiotherapy company, (SARC DBA "Rehab Mechanics") as a reliance to TU Claim Number [redacted] ("TU Claim Number") and TD Automotive Policy Number [redacted] (the "Policy Number") regarding the impugned or alleged failure of the correct and proper manner in per the amounts apparently approved on April 20, 2023, purportedly by SNIC and allegedly by the printed name under the "conditions field" signature field [illegible] with the assumption of "KLW"

particulars or further evidence under oath from me regarding amounts paid to me to my Beneficiary Bank Account, they may email me at mclean5NI@hotmail.com.

65. As I was born and raised in Vancouver, BC, then completed my undergraduate degree in Ohio, and then my law degree in Windsor, Ontario (albeit 519 area code from my best recall of the same) and returned to Vancouver in 2008 for ten years, I have had to spend time to investigate and educate myself regarding the different regions in Ontario along with area codes for phone numbers and faxes.

66. To the extent that, at any time, the First Insurer provides its legal name, address and fax number for myself and my service providers, I need not have any information about how SNIC and it are reconciling the numbers between them. However, I keep my demand and request in perpetuity that whichever the First Insurer was (and is) that whomever handles the information technology aspects for said First Insurer that do so shall provide current and accurate contact information therein including but not limited to:

a. Physical address;
b. Phone number;
c. Fax number; and
d. Name of adjuster(s)).

67. If SNIC believes and takes the position that it was the First Insurer, which I disagree but then I demand that it, at the very least, amend the address information therein to an active and current office for SNIC. To the extent that it requires SNIC, from an HCAI perspective, to have the name of the insurance company amended to TDIHA, along with any other required transferring of information therein, I consent to the same so long as it is in accordance with Reg 283 and SABS (i.e. that TDIHA was the First Insurer to receive my Completed Application). In this regard, I note that having to address all of these issues herein, with the historical investigations, is causing me further issues with receiving the necessary treatment along with planning and structuring the same.

68. I kindly remind each and every individual and insurance company of their obligations and to ensure that whomever reviews and approves (consistent with the approved amounts in the April 20, 2023 letter and the "As Per A. Nurse" OCF-18, Part 13 (April 20, 2023) the OCF-21 invoice that they must do so in accordance with SABS and Reg 283.

69. I will not further speculate as to why the 416 Fax Number was provided to me for, *inter alia*, my OCF-1 and the delivery of my Completed Application but it appears to me that SNIC was relying on a variety of antiquated forms, addresses, legal information *et al.* I note that in Exhibit "C", SNIC did not refer to the current and correct address for the License Appeal Tribunal (AABS) (see: Exhibit "C", page 20). Moreover, I note that SNIC was referring to an antiquated website for "forms" and "documents" for LAT (AABS). For precision purposes, I note that the address for the License Appeal Tribunal is denoted in all search engines as:

"15 Grosvenor St Ground Floor, Toronto, ON M7A 2G6" [not the addresses reference at Exhibit "C", page 20 by SNIC].

70. I will note that, not only for the benefit of myself but other insured persons with SNIC, that if it is relying on antiquated addresses in HCAI, I trust it will amend those as well in order to have them be current and accurate.

71. Whatever the reasons were for the errors in providing me with the 416 Fax Number, I do not need to know such reasons per se (as it relates to the issues herein). However, I again swear under oath that at no time during the 90 days from October 13, 2022 to January 10, 2023 (or even thereafter) did any other insurer besides SNIC or SNIC itself alert to me that issue and/or comply with Reg 283. I swear that I will object to any potential late notice provided by the First Insurer as it is now some 18 or 19 months since January 10, 2023. I provide

(65) 45

1282 the 1st and only affidavit (for said purposes) which is dated below) of Mr. Kevin A. McLean, which is to be amended to as (R.1.2) (hereafter referred to as "my") current physiotherapy company, SMPC (DBA "Rehab Mechanics") as it relates to TD Claim Number [redacted] and TD Insurance Policy Number [redacted] (the "Policy Number") regarding the impugned or alleged failure of the owner and payor, whether in part or in whole, to previously approved on April 20, 2023, purportedly by SNIC and allegedly by the attached more under the "mandatory fields" signature field [redacted] with the description of "K.A.M".

that evidence for the accounting department (accounts payable department: regarding amounts approved by an insurer in relation to an OCF-18) such that they have the relevant facts and evidence, and have direct knowledge that there is no such issue of concern in that regard.

72. I shall await the confirmation that Mr. Atwala, or the to be noted payee in the OCF-21 has been paid for the approved amounts in the OCF-18 by SNIC (April 20, 2023) with any associated interest under SABS, and I will then denote the absence of that amount of liability for myself.

(60) 46

12. [redacted] and only [redacted] for said purposes which is deemed Exhibit of Mr. Kevin A. McLean, which is to be appended to an OCF-21 (Answer to Application for Assessment by my current plaintiff attorney company, [redacted] ("Rehab Assistance") as it relates to TD Claim Number [redacted] ("TD Claim #3") and TD Insurance Policy Number [redacted] (the "Policy Number") regarding the impugned or alleged failure of the correct and proper manner in which the amounts repeatedly approved on April 30, 2023, purportedly by SNIC and allegedly by the printed name under the "mandatory field" signature field [redacted] with the exception of "K.M."

73. I swear that I am relying on strict compliance with all laws until I have received any and all benefits, in accordance with SABS and Reg 283, and that will remain until further notice from me in duly executed and witnessed form. I do not intend to waive my right to rely on strict compliance with the aforementioned Reg 283 and SABS. As such, SNIC and the First Insurer and any other relevant persons are again on notice of the same.

74. I swear this Affidavit for no improper purpose and to be attached to an OCF-21 to be submitted through HCAI under TD Claim #3 and the Insurance Policy denoted herein at the header.

Sworn before me at Toronto, Ontario
On this 8th day of August 2024

Mr. Kevin A. McLean (B.A., J.D., CIM)

Visit The Tree, Eat.

[redacted]
No Expiration.
No R.A. Provided.
Identification Confirmed.

(61) 47

1244. ... (" and any affiliates (for said purposes) which is denoted below) of Mr. Kevin A. McLean, which is to be appended to ... by any current physiotherapy company, (SAFC DBA "Rehab Mechanics") as it relates to TD Claim Number 8053257983 (TD Claim #) and TD Insurance Policy Number 0301013111804 (the "Policy Number") regarding the impugned or alleged Offset of the correct and proper income upon the amount ... apparently approved on April 28, 2023, purportedly by SNIC and allegedly by the printed name under the "mandatory field" signature field ... with the inscription of "Exhibit".

ENDNOTES

[1]See: SPPA, section ____.
[2]See: *Insurance Act*, ss. 279 (includes does not exclude); see: section 3(1) of SABS which includes the Spouse of the Individual Named Insured (Antoposlos)
[3]As defined under UDAP Rule, ss. 1(1): "Claimant": "means a person who claims statutory accident benefits or who otherwise claims any benefit, compensation or payment under a contract of insurance.
[4]Distinguished from Meloche Monnex Inc., which is a CBCA incorporated company with a registered and records office at Markham McNabb Building
[5]See: *SPPA*, section 1(1) definition of license: registration or similar form of permission required by law.
[6]"insurance" means the undertaking by one person to indemnify another person against loss or liability for loss in respect of a certain risk or peril to which the object of the insurance may be exposed, or to pay a sum of money or other thing of value upon the happening of a certain event, and includes life insurance (see: s. 1(1) of the UDAP Rule);
[7]UDAP Rule, 1(1)(v)(c): "Contract of insurance" means:(c) for a contract of insurance not referred to in (a) or (b), has the meaning ascribed to "contract" in s. 1 of the *Act*; see: section 1(1) of *Insurance Act* (Ontario): "contract" means a contract of insurance, and includes a policy, certificate, interim receipt, renewal receipt, or writing evidencing the contract, whether sealed or not, and a binding oral agreement;
[8]*(multiple 416 postal codes due to involuntary movement of Insured Automobile by force of being rear-ended by the tortfeasor (insured by the tort insurer in Pembridge Insurance Company ("Pembridge" or "Tort Insurer")*
[9]See: SNIC Response on January 25, 2024
[10]Abundance of caution while reserving all rights in fact and at law
[11]*(see: https://ontariolicensedfr.com/company.php?id=61237)*
[12]Motion in May 2024 and then decided in late June 2024 and a further motion to clarify any issues arising from said order including the style of cause and any and all documents issued by the Tribunal since January 2024. I am not citing the LAT Proceeding as it is not relevant per se and at this time to the historic, ongoing and future obligations that arise from this affidavit to be tendered and exclusively delivered to SNIC (claims advisers) and the First Insurer (not denied to be TDIIA and subject to further evidence and admission)
[13]One year after the Accident as determined by a physician (neurosurgeon) when reviewing the four different MRIs that I had since the Accident (please: Affidavit #1 to #4 which were attached to my filed pleading herein on December 24, 2023).
[14]note bene: for purposes of consistency, although there is an issue with the address in Exhibit "E" Dhaliwal OCF-18, the information therein, as it was unalterable, will be utilized as it was prior to the April 28, 2023 letter referencing Ms. Nurse of SNIC and the "As per A. Nurse" component of the OCF-18, Part 13, "Signature of Insurer" and the field for "Signature of Adjuster").
[15]https://tdinsurance.intellireponse.com/en/index.jsp?requestType=NormalRequest&source=4&id=1464&question=At+what+fax+number+can+I+reach+TD+Insurance+Meloche+Monnex
[16]Since that time, the Appellant was introduced to Ms. Michie of SNIC at SNIC Markham. The Appellant promptly put Ms. Michie on notice of an issue of conflict of interest and lack of independent pursuant to a variety of independent laws and legal grounds including the UDAP Rule by virtue of "AP" having his business office at SNIC Markham (McNabb Building)

Re: request – demand – correct address information in HCAI to a current and active address – including an addre... that corresponds with the correct and proper insurer [see: Reg 283 and SABS]

85

1281

Dear Sirs/Mesdames: (105)

1. I write regarding the above. I adopt my previous definitions and they have the same meaning, *mutatis mutandis*, as they do therein.

2. *Would you please update and amend the address on HCAI to the correct physical address for the correct and proper insurer as it relates to said address?*

3. Please do so by no later than 10 a.m. tomorrow (the "Deadline"). I have further submissions to make in HCAI on my behalf and as it currently stands, the physical address therein of the Etobicoke East Mall Address has been inactive since on or around December 2020 and perhaps earlier. The only public and independent evidence is that said East Mall Address was that of TDIA. If this email needs to be directed to the relevant[i] information technology department ("IT Department"), please forward it to the same so it can be corrected forthwith. If you are willing to do so, kindly provide me with the email of said IT Department so I can do so.

4. If this was exclusive to me, then kindly advise as well. However, I will presume that I am not the only individual, who was an insured person with SHIC, that has said East Mall Address contained in HCAI also incorrectly.

5. If I do not hear from you or from the relevant IT Department by the Deadline, then I will have to seek HCAI's assistance to have the name of the correct and proper insurer input thereon with its correct address along with a corresponding fax number therein. If this, in turn, means that some of the above claims advisors'[ii] are no longer authorized to advise, assist and guide me, then that will be the end of our discussions. If there is a new 'claims advisor' or 'adjuster' involving myself, kindly provide me with said name (i.e. his, her or "they").

6. Once the address has been amended, in accordance with the law, kindly send me a confirmation and screenshot of the same. I will have it checked by tomorrow to determine whether any changes occurred and in compliance with the law.

7. I confirm that this recent and reissued request falls under the Email Communication Protocol and operates independently of the LAT Proceeding (see: infra). However, I may rely on this correspondence and any response (or lack thereof) to the extent it becomes relevant to this LAT Proceeding or any future proceedings.

https://mail.google.com/mail/u/0/?ik=d0ce6888e1&view=pt&search=all&permthid=thread-a:r1047729110997281008&simpl=msg-a:r[illegible]

1282

(106)

Aff #31
23-0356
RE: REQUEST FOR EXPEDITED HEARING

THIS IS EXHIBIT "L" REFERRED TO IN THE AFFIDAVIT OF KEVIN A MCLEAN
AFFIRMED BEFORE ME, THIS 16 DAY OF August, 20 21
ETC.

Vinh The Tran, Esq., LSUC #57761C
Lawyer, Notary, Oaths Commissioner
188-639 Dupont Street, Toronto, ON
M6G 1Z4, T. 647-209-7389
vinhtranlaw@hotmail.com

1283 (107) OCT 2023 ENVOLE #1 (CB) 96

SECURITY NATIONAL INSURANCE COMPANY (ASSIGNEE)
304 THE EAST MALL, FLOOR 6
ETOBICOKE, ON, M9B 6E2

→ This address is a customer address
i.e. → not a corporate address

Auto Insurance Standard Invoice
OCF1

035325790-3
0010135118 BUD
20220831

Part 1 Applicant Information
AB83/03125
MCEWAN
KEVIN ALEXANDER
795 KING ST WEST (SUITE 410)
TORONTO ON M5V 2W6 647-513-1270

Part 2 Insurance Company Information
SECURITY NATIONAL INSURANCE ETOBICOKE
DERRICO CARA
905-315-1074 (CROWN ASSIGNMENT)
→ This fax # is for receipt of SIGS assignments
ATTENTION NICK

Part 3 Invoice Information
(CB)
For previously approved goods and services please complete the following

	N/A	N/A	$2080.57
			+ $324.91
			$2,415.48

→ missing HCAI submission date for cracking

Ms. Persaud apparently replaced Ms Nicole
Ms. Persaud was not located at same Markham.
Ms. Persaud did not have the fax number of the
First Insurer. First Insurer fax number was 416-777-3120
416 Fax Number located at 3650 Victoria Park Avenue
North York, Toronto, ON.
No Notice received in accordance with SS 38(8) of CAOS
No 'signed copy' by an adjuster on behalf of
on invoice within 10 business days
of July 1, 2023 revised OCF
refers to OCF-18, Part 13

1284

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97

Part 4
Payee Information

Corporation

S. ATTWAL PHYSIOTHERAPY PROFESSIONAL CORPORATION

S. ATTWAL PHYSIOTHERAPY PROFESSIONAL CORPORATION

66 ARGELL ST UNIT 1 N/A

BRAMPTON ON M6Y 0B4 N/A N/A

N/A

PHYSIO & REHABMECHANICS CLINIC

TO THE INSURER TO WHOM THIS APPLICATION IS BEING SUBMITTED

I UNDERSTAND that you and persons acting for you will collect, use, disclose and retain information about me for the purposes of determining my entitlement to the statutory benefits claimed in this application and for the purposes described below. This information may be collected directly from me or from any other person or organization, including a health information custodian as defined in the Personal Health Information Protection Act, 2004.

I ALSO UNDERSTAND that you and persons acting for you will disclose information about me to the health information custodian who provided or will provide services described in this application and to other persons or organizations for the following purposes, if reasonably necessary for the purposes listed below:

I ALSO UNDERSTAND that the information about me that may be collected, used or disclosed by you or persons acting for you includes information about my health history, including my physical and mental health, as well as information about my ability to perform the activities of daily living.

I CONSENT to the collection, use and disclosure of information about me for the purposes of

- Investigating the claims of the applicant and determining entitlement to benefits under the Statutory Accident Benefits Schedule – Effective September 1, 2010 (the "SABS") and the Automobile Policy.
- Obtaining or verifying information relating to the applicant's claims or payment of benefits, including the amount of payment.
- Recovering payment from insurers and others liable or who may be liable to pay benefits that you have paid or may pay in connection with the applicant's claims.
- Identifying and preventing the misuse and abuse of benefits or services provided or claimed to be provided by health care providers.
- Preventing, detecting and investigating fraud.
- Compiling anonymized statistical information about the cost of benefits.
- Maintaining underwriting data and claims experience.

I ALSO UNDERSTAND that you and persons acting for you may disclose information about me to the persons or organizations listed above.

Insurers, insurance adjusters, agents and brokers, witnesses, health practitioners and lawyers.

Organizations that conduct claims and underwriting activities for the insurance industry.

Companies, the police, databases, investigators, and other persons who may have information about my existing or previous claims, and any agents of these persons or companies.

I ALSO UNDERSTAND that you and persons acting for you may disclose information about me to the persons listed above for the limited purpose of investigating my claim.

I CONSENT to you collecting, using and disclosing information about me to the persons listed above for limited purposes that are reasonably necessary to meet the legal requirements of the SABS.

I UNDERSTAND that if I have any questions about this consent and the information I am providing, I should seek legal advice before signing the document.

I AM ALSO AWARE that you and persons acting for you may rely on this consent to the fullest extent possible without any knowledge or concern.

I CERTIFY THAT THE INFORMATION PROVIDED IS TRUE AND CORRECT.

I UNDERSTAND THAT IT IS AN OFFENCE UNDER THE INSURANCE ACT for a person to make a statement or representation to an insurer under a contract of insurance, knowing that it is false or misleading in connection with a claim, and for which no reasonable basis exists, or to fail to disclose fraud or an attempt at fraud in connection with a claim. Offences and enforcement actions ranging from an administrative monetary penalty to criminal charges.

I FURTHER UNDERSTAND THAT IT IS AN OFFENCE UNDER THE FEDERAL CRIMINAL CODE, the Insurance Act or other statutes for a person to defraud or attempt to defraud anyone by making a false or misleading statement in connection with a claim, destroying or destroying the proceeds of crime, effects and goods and services for the purpose of defrauding insurers by health care providers and PREVENTING, DETECTING AND SUPPRESSING FRAUD.

To obtain further information about privacy rights or issues, please contact the Insurance Bureau of Canada at 1-844-2ASK IBC.

To obtain further information about how your personal information is handled by your insurer, please contact the Chief Privacy Officer or other designated privacy contact person at your insurer.

SANJAM ATTWAL

Jan/08/25

1285

110

89

1286

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109

88

Sub-Total

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1287 (111) FEB 2021 INVOICE 1 (C) 90

SECURITY NATIONAL INSURANCE COMPANY
390 THE EAST MALL, TORONTO
ETOBICOKE, ON, M9A 6E2
(PLAINTIFF'S BOX)

Auto Insurance Standard Invo
OCF

Claim # 035325790-3
Policy # 0010135H B06
Date of Accident 2022 02 3?

1) FORMER OFFICE
2) NO LONGER USED

(Costs, Service Assessments, Examinations #CSAE)

Part 1 Applicant Information
1903075
McLEAN
KEVIN
4132 75 KING ST WEST
TORONTO ON M5V 2K3
647 513 1274

Part 2 Insurance Company Information
SECURITY NATIONAL INSURANCE COMPANY
PERSAUD CAROL
905-315-1071 (NOT SAME)
ADJUDICATOR NICOLE
ETOBICOKE (Allegedly)

Part 3 Invoice Information
INVOICE 1 (C)
For previously approved goods and services please complete the following
Type of Plan or Other Approval Number
Treatment and Assessment Plan
Approval Date
N/A
Amount Claimed
$1,000.00

Agreed Email Communication Produced January 28, 2025 by Security National Insurance Company

ASIDE THE DATE ON THE SIGNED TD ADJUSTER FOR SNIC WITHIN 10 BUS DAYS

Notice "TN2": SNIC did NOT provide any notice and signed by adjuster, OCF-18, Part 3, (last page

Ss. 38(11): If insurer fails to give notice in accordance with ss. 38(9) in connection with a treatment and assessment plan, the following rules apply

11(1.): Insurer prohibited from taking position that Insured Person has not complied with NIE applies

(2) The Insurer shall pay all "CSAE" recommended in the OCF-18

FEB 21, 2021 IN BIZ DAY NOT DECISION

Effective date (2016-10-01) | Queen's Printer for Ontario 2016
FSCO 13892 E

1299

(123)

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This is the 2nd affidavit made on August 13, 2024 relating to outstanding statutory due and owing to [illegible] (DBA Robb Mechanical Ltd.; Kevin A. McLean, which is to be appointed as an OCF-21 assessor to [illegible] company, (SAPC DBA "Robb Mechanical") as it relates to TD Claim Number 0183579[illegible] ("TD Claim #") and TD Insurance Policy Number [illegible] (the "Policy Number") regarding the Estate of [illegible] or the "First Insured" to provide a sworn and signed [illegible] Part II and

Affidavit of Kevin A. McLean

Re: In a matter under the *Insurance Act, Statutory Accident Benefits Schedule*, O Reg 34 [illegible] and *UDAP Rule* and FSRA Forms including requirements of insurers registered with HCAI

i. *Jurisdiction: Provincial (Ontario)*
ii. *Statute, regulations and rule particulars:*
   a. *Governing Automobile Insurance Legislation: Insurance Act, R.S.O., 1990 c I.8 et seq ("Insurance Act" or "Ins. Act")*
   b. *Governing Automobile Provincial Regulations: SABS, Reg 283 and Reg 664*
      i. *Governing FSRA Rule:* Unfair or Deceptive Acts or Practices Rule et seq (see [illegible] Deferred Sales Charge Amendment 2 Approved by Minister of Finance, January 30, 2024 *("UDAP Rule")*

iii. *Contractual particulars:*
   a. *"Named Insureds":*
      i. *BMW Financial Services Inc. (A Division of BMW Canada Inc.) ("Financier", "BMW FS Inc." and*
      ii. *Nicole Artopoulos (B.A., M.A.) ("McLean Spouse" or "Individual Policyholder")*
   b. *Insured Automobile: BMW 3 Series XI Drive 2019 4DR AWD*
   c. *Lessee: Ms. Nicole Artopoulos*
   d. *Lessor: BMW FS Inc.*
   e. *Insured Person[1] resident in Ontario (G Driver): Mr. Kevin A. McLean (B.A., J.D., LL.B.) ("McLean", "Artopoulos Spouse", "Insured Person", "Unnamed Insured Person", "Occupant", "Driver", "Appellant", Applicant", or "Claimant");*
   f. *"Broker": Meloche Monnex Financial Services Inc.[1] (the "Broker" or "Agent") or MMFS;*
   g. *Underwriter/Insurer ("contract of insurance" in the Insurance Policy)*
      i. *Security National Insurance Company (FSRA Insurance Registration #387)*
      ii. *Head office: 50 Boulevard Crémazie O, Suite 13, Montreal, QC H2P 1B6, Canada.*
      iii. *Underwriter address in Ontario: 101 McNabb Street, 2nd Floor, Markham, Ontario, L3R 4H8;*
   h. *Insurance[1] Policy #: #0010(351)1806 (the "Insurance Policy", "Insurance Contract" or "Insurance Policy 0806")*
   i. *Insurance Program and Product with TD Insurance Meloche Monnex: Human Intelligence Program (the "AP Program")*
   j. *The Trade Name of "TD Insurance Meloche Monnex"*
      i. *Trademark word holder of "TD Insurance": The Toronto-Dominion Bank ("TD Bank");*
      ii. *Trademark word holder of "Meloche Monnex": Meloche Monnex Inc. ("MMI") and its incorporated company.*
   k. *Combined Name with two distinct trademarks for two different insurance programs: "TD Insurance Meloche Monnex"*

iv. *The "Accident" or "MVA":*
   a. *Date of Loss: August 31, 2022 ("DOL" or "Date Of Loss")*
   b. *Location of Loss: 320 to 360 Spadina Road (Northbound (between Heath Rd and [illegible]) Toronto, Ontario[1]*
   c. *Police File Number (North York Reporting Collision Centre): Affidavit #3 Exhibit "A"*

TAB 51

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AABS File Number: "23-015662/AABS"

Jurisdiction: *Provincial (Ontario)*
Governing Automobile Insurance Legislation: *Insurance Act, R.S.O., 1990, c I.8 et seq ("Insurance Act" or "Ins. Act")*
Governing Automobile Provincial Regulations: *SABS and Reg 664*
Governing FSRA Rule: *Unfair Deceptive or Act Practices Rule 2022 et seq* Unfair or Deceptive Acts or Practices Rule as amended by Deferred Sales Charge Amendment 2 Approved by Minister of Finance: January 30, 2024 ***("UDAP Rule")***
Insurance[1] Policy #: **#0010135111806 (the "Insurance Policy", "Insurance Contract"[2] or "Insurance Policy #806")**
Insurance Program and Product: *Alumni And Professional Program*
Underwriter/Insurer: *Security National Insurance Company (**FSRA Insurance Registration #397**)*
- ***Combined Name with two distinct trademarks for two different insurance programs:*** *"TD Insurance Meloche Monnex"*
- ***Trademark word holder of "TD Insurance":*** *The Toronto-Dominion Bank ("TD Bank")*
- ***Trademark word holder of "Meloche Monnex":*** *Meloche Monnex Inc. ("MMI"), a CBCA incorporated company*

"Broker": *Meloche Monnex Financial Services Inc. (the "**Broker**" or "**Agent**", or "**MMFSI**")*
"Named Insureds"- *BMW Financial Services Inc. (A Division of BMW Canada Inc.) (defined as "**BMW FS Inc.**"; and Nicole Artopoulos (B.A., M.A.) ("**McLean Spouse**" or "**Individual Policyholder**")*
Insured Automobile: *BMW 3 Series X) Drive 2019 4DR AWD*
Lessee: *Nicole Artopoulos*
Lessor: ***BMW FS Inc.***
Insured Person[3]: *Mr. Kevin A. McLean (B.A., J.D., CIM) ("Artopoulos Spouse", "Insured Person", "Unnamed Insured Person", "Occupant", "Appellant", Applicant", or "Claimant"[3])*

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TAB 22 PAGE 57

***Date of Loss**: August 31, 2022 ("**DOL**" or "**Date Of Loss**")*
***Location of Loss**: 320 to 360 Spadina Road (Northbound) (between Heath Rd and St. Clair Avenue), Toronto, Ontario (multiple postal codes due to involuntary movement of Insured Automobile by force of being rear-ended by the tortfeasor (insured by the tort insurer in Pembridge Insurance Company ("**Pembridge**" or "**Tort Insurer**")*
Police File Number (North York Reporting Collision Centre): Affidavit #3, Exhibit "A"
TD Insurance Claim #:035325790
TD Insurance Claim # for Appellant: 035325790-3 ("TD Claim #3")

Fictitious TD Insurance claim number for Appellant with fictitious "exposure number" (4) (as opposed to the number "5") between the second digit "3" and fourth digit "3": 034325790-03 ("**Fictitious TD Claim Number**")

BETWEEN:

KEVIN ALEXANDER MCLEAN

APPELLANT

AND:

SECURITY NATIONAL INSURANCE COMPANY

RESPONDENT

Re: In a matter of an Appeal (also defined as "Application", "Application Of Injured Person" or "Application") by the Appellant (also defined as "Applicant", "Claimant" or "Beneficiary") under the *Insurance Act*, RSO 1990, c I.8 *et seq* (the "*Insurance Act*") in the above-noted AABS Claim Number (also defined as "SNIC Proceeding")

Re #2: NOM #14

Re: Written Argument for NOM #14

APPLICANT/APPELLANT (PARTY)	RESPONDENT PARTY

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Mr. Kevin A. McLean (B.A., J.D. CIM) 410-775 King Street West, Toronto, Ontario, M5V 2K3 **Telephone:** 647.513.1270 **Email:** **MCLEANSNICLAT@GMAIL.COM**	**Security National Insurance Company** **FSRA Registration Number #353** **Physical Address for Service in the SNIC Response** 101 McNabb Street, Markham, Ontario, L3R 4H8 **("SNIC Markham")**
	AND TO: **The Lawyer Licensee Representative for SNIC as of June 28, 2024** Mr. Matthew Nieuwland Barrister and Solicitor at TD Insurance Staff Legal 66 Wellington West Street Toronto, Ontario, Matthew.nieuwland@tdinsurance.com
	AND TO: **The sole signatory and filer of the SNIC Response** Mr. David Karat ADR Specialist for SNIC David.karat@tdinsurance.com

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Volume #1: Facts

1. The Appellant is a disabled individual residing in Toronto, Ontario. At the time of the **Accident**, he was 39 years old with a G2 license. At the time of these submissions, he is 41 years old with a G license.[9]

2. Security National Insurance Company ("**SNIC**") was incorporated under the *CBCA* in 1934, then continued under the federal Insurance Act with its head office in Montreal, Quebec. At the time of the **Accident**, **SNIC** was licensed with the **FSRA** to provide six (6) classes of insurance in Ontario and its **FSRA** registration number is 397. From 2018 to the time of the **Accident** and thereafter, **SNIC**'s Ontario office has been the **Markham McNabb Building** in Markham, Ontario (also defined as "**SNIC Markham**").[10] In October 2023, upon the Appellant's return to Canada after obtaining requisite[11] MRIs, examinations, assessments and reports, the Appellant learned that **SNIC** had *purported* to change its physical address and fax number to: (i) the **Burlington Address**; and (ii) **905 Fax Number**.[12] The "*Ontario Business Directory*"[13] lists the **Burlington Address** and **905 Fax Number** as being the business of "TD Insurance". The "*Ontario Business Directory*" also lists the 'head office' associated with the **Burlington Address** as the **Victoria Park Building**[14].[15] In the **SNIC Response**, **SNIC** did not list the **416 Fax Number** as a fax number for service. With the benefit of hindsight and labrythinian investigations, the only factual contact information that **SNIC** provided to the Appellant was its *mailing address* at the **Markham McNabb Building**. Neither the **416 Fax Number**[16] nor the **905 Fax Number** were fax numbers for **SNIC** as a recipient.[17]

Volume #1(A): TDHA

3. TD Home And Auto Insurance Company ("**TDHA**") is an insurance company that is licensed, by the **FSRA**, to provide three (3) classes of insurance including automotive insurance. **TDHA**'s **FSRA** registration number is 1063. At the time of the **Accident**, the lead tenant(s) at the **Victoria Park Building** were denoted as "TD Insurance" by the property manager at the **VP Building** in Colliers International. From 2018 to present, the "*Ontario Business Directory*" has listed the fax number of 416-774-3120 (the "**416 Fax Number**") as the fax number for **TDHA**. The **416 Fax Number** is a landline, owned by Bell Canada Inc., which is *grounded* at the **Victoria Park Building**. In the HCAI portal, the Appellant's TD

528 Claim #3, contrary to the information he provided in good faith, based on representations made to him by SNIC, to his physiotherapists as the *return mailing address* for SNIC, *prima facie*, sent to him by SNIC, auto-populated the name of different adjusters and a branch address for SNIC [sic] of 304 The East Mall, 6th floor, Etobicoke, Toronto, Ontario, M9B 6B7 (the "**Etobicoke East Mall Address**").[18] YELP, another online business directory, **EXCLUSIVELY** lists the **Etobicoke East Mall Address** as the address for one insurance company and one insurance company only: **TDHA.**[19] While **SNIC** never, in letter to the Appellant, represented that its address was the **Etobicoke East Mall Address**, it is now clear that said address was independent of **SNIC**, and an address for **TDHA**.

Volume #1(B): Other Relevant Facts

4. On or around September 1, 2022, the Appellant notified **SNIC** of his *intention* to apply for Accident benefits. Due to an immediate address error in his postal code by SNIC, the Appellant did not receive an application benefits package from **SNIC** until late September 2022. On October 13, 2022, the Appellant fax delivered his OCF-1 (also defined as "**Completed Application**") to the **416 Fax Number**. The Appellant also delivered the OCF-2, on his behalf by his employer, to the **416 Fax Number**. On November 3, 2022, his attending physician for his post-Accident impairments, completed and signed his portions of the **OCF-3**, and he [Prime Medical] faxed the completed OCF-3 to the **416 Fax Number** after the Appellant paid the *SABS*, section 25 expense. 90 days from October 13, 2022 was January 10, 2023. The Appellant did not receive any dispute notice, pursuant to *Reg 283*, from SNIC or any other insurance company by January 10, 2023. From January 11, 2023 to October 2023, the Appellant continued to fax the **416 Fax Number** with all confidential correspondence and other OCF forms regarding TD Claim #3. In October 2023, the Appellant attempted to fax some of his documents to the **905 Fax Number**, with a copy to the **416 Fax Number**, but the **905 Fax Number** would more regularly than the **416 Fax Number**, block his faxes. In November 2023, the Appellant fax delivered the completed **OCF-19** and the *letter response*, allegedly on behalf of SNIC, was that he was required [sic] to submit the OCF-19 through HCAI [sic][20] by an "*Appropriate Ontario Health Practitioner*" [sic][21] – which would have been received by **TDHA** at the **East Mall Address**. On December 24, 2023, the Appellant filed this Appeal and served

529 the duly signed Appeal to the **416 Fax Number**. For some context along the way, in March 2023, the Appellant received a request from **SNIC** via mail *wishing* to communicate exclusively via email. The Appellant faxed the **416 Fax Number** with his decline regarding the same with the reasons therein[22]. In April 2023, the Appellant received the **"Spam Faxes"** wherein an unknown person or company represented to him that it (after its receipt of faxes at the **416 Fax Number** and reference to the same but it did not send the "Spam Faxes" from the **416 Fax Number**) had *no record* of his **TD Claim #3**. The Appellant promptly faxed the **416 Fax Number** (attention: Ms. Nurse) to alert **SNIC** to the issue of the **"Spam Faxes"** and his dismay that the recipient at **416 Fax Number** had no record of his TD Claim #3. In early May 2023, the Appellant received the purported attempt by **SNIC** to partially approve and partially reject the **Dhaliwal OCF-18** (April 6, 2023) with the **Forged Nurse Signature**. After being successful in his **NOM #8**, by order on June 21, 2024 of the Tribunal, the Appellant filed his NOM #13 for non-party production and disclosure by the **Fictitious Respondent** (TDGIC) on July 9, 2024. On July 11, 2024, the Appellant hand-delivered the **NOM #13** hearing brief to the listed address, as it was, for the **Fictitious Respondent** in this **SNIC Proceeding** which was the **Victoria Park Building** - which only became known to the Appellant *allegedly* for TDGIC in February 2024[23]. He then learned that TDGIC had misrepresented its address to the Tribunal as it had not been a tenant or occupier at the **VP Building** for over a year [24] and it had moved to the **Markham McNabb Building**. The building manager for the **VP Building** did NOT represent that TDGIC had moved to any of the following addresses: (i) the **Burlington Address**; or the (ii) the **Etobicoke East Mall Address**. From July 26 to July 31, 2024, the Appellant provided notice to **TDHA**, with a copy to **SNIC**,[25] that the evidence was uncontroverted that the **416 Fax Number**, the **905 Fax Number**, the **Burlington Address**, and the **East Mall Address** were contact information *exclusively* for **TDHA**. Neither **TDHA** nor **SNIC** denied the same. From August 1 to 2, 2024, the Appellant sought the consent of **SNIC** and **TDHA** to add **TDHA** as a party, and neither **TDHA** nor **SNIC** responded. **TDHA** has *never* responded to the Appellant despite the Appellant sending faxes to the **416 Fax Number**, **905 Fax Number**, and through authorized submissions to **HCAI**, to the unalterable **East Mall Address** – albeit misrepresented to him as an address for **SNIC**.

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Volume #2: Issues

5. The questions of fact to be answered in NOM #14 are on a balance of probabilities:

> *(a) who was the owner of the 416 Fax Number, which is a landline grounded at the Victoria Park Building in Toronto, in October 2022? (b) was the address of 304 The East Mall, 6th Floor, Etobicoke, Toronto, Ontario (the "East Mall Address"), which is denoted by auto-population in HCAI after TD Claim #3 is inputted therein, an address for TDHA or SNIC? and (c) which insurance company holds the file (including all documents therein) for the Fictitious TD Claim Number?*

6. The issue of law to be answered in this NOM #14 on a balance of probabilities is:

> *whether **TDHA** was and is the **First Insurer** (i.e. the FSRA licensed insurance company, in the area of automotive insurance, to first receive the Appellant's **Completed Application** on October 13, 2022)?*

Volume #3: Argument

7. The substantial amendments to *Reg 283* became effective in September 2010. *Reg 283* is designed to keep priority disputes out of the courts.[26] *Reg 283* is also purposed to prevent *SABS* claims, including vital treatments and income benefits, from being delayed while insurers fight over priority dispute.[27] *SABS* and *Reg 283*, having undergone major amendments in 2010 after being submitted to industry consultations and draft amendments before proclamations, they reflect important policy choices to ensure order and stability in regulated industries.[28] As a matter of principle, there is NO difference between an insurer's failure to pay under section 2 of *Reg 283* and a failure to pay under any provision of *SABS* (see: *Zurich 2024*, paragraph 54). While a **First Insurer** may have never received insurance premiums from a claimant, it may seem *intuitively* wrong that the **First Insurer** is required to *respond* and pay benefits pending its section 3 notice but the Legislature and LGIC's intent must be respected.

8. The provisional "first insurer rule" (the "**First Insurer Rule**") under the regulation and priority regime under the statute operate *differently* (see: *Zurich 2024*, paragraph 8). As long as a claimant for accident benefits completes all required 'fields' (see: *SABS*, ss. 66 and 67), duly signs the OCF-1 and then sends via mail or fax, the **First Insurer** that *receives* an OCF-1 application MUST benefits in accordance with *SABS* (see: *Reg 283*, ss. 2.1(6)). If the **First Insurer** does not take any issue, within ten business days[29] of receipt of the **Completed Application**, the **First Insurer** has approximately 75 days from then to provide a notice of dispute that it is required to pay the benefits of the claimant in which it received a

531 **Completed Application**. Irrespective of whether the claimant is an "insured person" or not in the *subjective mind* of the **First Insurer**, the **First Insurer** must *respond* to the **Completed Application** and the claimant (see: *Reg 283*, ss. 2.1(6)). Acceptance during the 90-day period is merely provisional (see: *Zurich 2024*, paragraph 29). If the **First Insurer** does not dispute, within 90 days, its liability to pay any and all benefits, in accordance with *SABS*, of the claimant, there is no other process for the **First Insurer** to transfer, dispute and recover any paid or to be paid benefits to the claimant. A **First Insurer**'s calculus to not accept a claim for whatever subjective reason can turn out to be a costly and permanent mistake.[30]

9. As of 2015, in *Zurich 2015*, the SCC held that Chubb ought to have responded to the *SABS* claim immediately on a '*pay first and dispute later*' basis (see: *Zurich 2024*, paragraph 12). As long as the **Completed Application** by the claimant was <u>not</u> arbitrary, there is a "nexus" between the claimant and the **First Insurer** (i.e. the one to receive the **Completed Application**) (see: *Zurich 2024*, paragraph 14). In *Zurich 2015*, the SCC (see: 2015 SCC 19) restored Goldstein J's decision (ONSC (Divisional Court)) in adopting the dissent of Juriansz J.A.: *2014 ONCA 400*. A vague recollection about seeing an insurer's name at a rental car office was sufficiently non-arbitrary to require a '**First Insurer**' (Chubb in *Zurich 2015*)) to step into the shoes as a "**First Insurer**" for the purposes of section 2(1) of *Reg 283* (see: *Zurich 2024*, paragraph 15). As long as the **First Insurer** providers automobile insurance in Ontario at the time of receipt of the **Completed Application** there is a sufficient nexus between a claimant and the **First Insurer** (see: *Zurich 2024*, paragraph 16). The policy behind the inflexible rule that an insurer who fails to pay benefits and *fails* to put other insurers on notice after receipt of a **Completed Application**, when there is *SOME* nexus between the claimant and the **First Insurer**, being permanently responsible for the claimant's benefits is to *promote compliance* with the statutory and regulatory scheme.

Volume #4: Answers to the Issues of Fact and law; and Orders Sought

10. **TDHA**'s permanent liability to pay benefits was a self-inflicted consequence of its failure to adhere to the requirements of both sections 2 and s. 3 of *Reg 283*. The combination of provisions in *Reg 283* transformed **TDHA**'s provisional liability into a permanent one (see: *Zurich 2024*, paragraph 64). For **TDHA** to not be declared as the **First Insurer** would mean that there were no consequences for the conduct (or inaction)

532 of TDHA after receipt of the **Completed Application** and by continuing to have its former branch office address (**East Mall Address**) auto-populated in **HCAI**. It would defeat the legislation's public policy: *"pay now and dispute later"*.[31]

11. "**Arbitrary**" means: determined by impulse rather than reason; a random choice or personal whim. The Appellant faxed the **Completed Application** *for one reason only*: SNIC represented that *its* fax number was the **416 Fax Number** when it could not have been based on SNIC's physical location at **SNIC Markham**. Therefore, the Appellant did not make an "arbitrary decision" to fax his **Completed Application** to the **416 Fax Number**. Therefore, there was a "nexus" between the Appellant and **TDHA**.

12. "**Receipt**" means: "to get possession of". **TDHA** got possession of the **Completed Application** as the **First Insurer** on October 13, 2022. There is now no dispute that the **Spam Faxes**, which SNIC could not produce in the face of a demand (May 2, 2024) from the Appellant for the same, were *on behalf* (as per) of TDHA and its unlawful attempt to *steer* the Appellant away from the **416 Fax Number** and its representation that it **[TDHA]** had no record of his claim. **TDHA** would NOT have had a "record" of the Appellant's TD Claim #3 as it the TD Claim #3 was likely created by SNIC but when the Appellant faxed[32] the **Completed Application** to the **416 Fax Number**, **TDHA** became the **First Insurer**.

13. The **416 Fax Number** was the fax number for **TDHA** in September and October 2022. **TDHA** has been the *independent* (not "one and the same" as SNIC) adjusting insurance company, by reference to the **East Mall Address** which has been exclusively represented to the public as **TDHA**'s address since it was so denoted in the HCAI portal as such.[33]

14. Our ONSC in *Zurich 2024*, with the benefit of the SCC in *Zurich 2015*, has settled the law in the above regards as follows: (i) breach of section 2 of *Reg 283*, according to the case law, does not result in the recipient, at first instance, insurer being required to pay benefits to the claimant permanently: BUT, (ii) the failure *TO AVAIL* itself of section 3 of *Reg 283* does.

15. All of which is respectfully submitted on August 3, 2024:

Endnotes

[1]"Insurance" means the undertaking by one person to indemnify another person against loss or liability for loss in respect of a certain risk or peril to which the object of the insurance may be exposed, or to pay a sum of money or other thing of value upon the happening of a certain event, and includes life insurance (see: s.1(1) of the *UDAP Rule*).
[2]*UDAP Rule*, 1(1)(v)(a): "Contract of insurance" means (c) for a contract of insurance not referred to in (a) or (b), has the meaning ascribed to "contract" in s. 1 of the Act, see: section 1(1) of Insurance Act (Ontario): "contract" means a contract of insurance, and includes a policy, certificate, interim receipt, renewal receipt, or writing evidencing the contract, whether sealed or not, and a binding oral agreement;
[3]See: *SPPA*, section 1(1) definition of license: registration or similar form of permission required by law;
[4]See: *Insurance Act*, ss. 279 (includes does not exclude); see: section 3(1) of SABS which includes the Spouse of the Individual Named Insured (Artopoulos)
[5]As defined under *UDAP Rule*, ss. 1(1): "Claimant": "means a person who claims statutory accident benefits or who otherwise claims any benefit, compensation or payment under a contract of insurance.
[6]See: SNIC Response on January 25, 2024
[7]The "file number provided in the Andy Gans response" that was approved by TDI Legal which denoted the incorrect file number which I swear is the "TDGIC internally denoted file number" which it had and has possession and control of the same
[8]I shall be relying on jurisprudence in any to be heard motions and this SNIC Proceeding or future proceedings between SNIC and I where other insurers have had "two files" (one authentic and another not as authentic or not part of the assigned claim number for an insured person or injured person)
[9]The Appellant is the spouse of the individual insured (Nicole Artopoulos) and the Insured Automobile was leased from the lessor BMW Financial Services Inc. Since April 2018, the Appellant and Ms. Artopoulos have resided at 776 King Street West, Toronto, Ontario, M5V 2K3. Ms. Artopoulos, in Spring 2018, obtained an exclusive automotive insurance policy through SNIC as her being a University Of Toronto alumnus for a previous BMW leased vehicle. In October 2018, the same insurance policy was transferred to the Insured Automobile.
[10]The primary area code for phone and fax lines in Markham is "905". At the time of the Accident, SNIC provided the return mailing address of the Markham McNabb Building but, in error, provided a "416 area code" fax number. The head tenants at the Markham McNabb Building are: (i) TD Bank; and (ii) General Motors. SNIC and Primmum Insurance Company ("Primmum") (FSRA reg. #1396), by virtue of them not having "TD" in their corporate names, operate under the colloquial business name of "TD Insurance Meloche Monnex" under two licensed trademarks from TD Bank and Meloche Monnex Inc. in: (i) "TD Insurance"; and (ii) "Meloche Monnex". SNIC, through TDIMM, issues policies under the "Professionals and Alumni Program" and Primmum, through TDMM, issues polices under the "Employer Group Program".
[11]As it could not obtain a brain MRI in Canada until end of 2023 and early 2024
[12]The Burlington Address is 91 km from SNIC Markham (McNabb Building), where Meloche Monnex Inc. has its registered records office (and had since 2018).
[13](see: Tab 20, page 498 to 500 and Tab 18, page 285)
[14]See: Affidavit #30, Exhibit "C"; Tab 18, pages 294 to 309
[15](see: Affidavit #29, Exhibit "A", page 1 and 2)
[16](which is the material mistake as it relates to whom is the First Insurer)
[17]Also, the Burlington Address was not an physical address for receipt of documents for SNIC.
[18](see: Affidavit #21, Exhibit "A", page 20 to 22 for "branch names" as being "independent" of the licensed insurer).
[19](see: Tab 18, page 340 to 343).
[20]There is no requirement under SABS to submit an OCF-19 through HCAI because not all "physicians" or "neuropsychologists who have been registered to practise as such in Canada (not necessarily in Ontario) for five years" are registered with HCAI or even inclined to do so. Certainly, HCAI has its numerous efficiency and record keeping benefits (but for some of the factual issues caused by SNIC or some insurance company purporting to be SNIC) but there is no requirement for a physician to be registered with HCAI.
[21]An unknown legal test created by SNIC
[22](i.e. PIPEDA issues and absence of compliance by whom he presumed was SNIC)
[23](as it was not in the SNIC Response as an address for SNIC or previously).
[24](i.e. since on or around July 2023).
[25]See: Affidavit #30, Exhibit "A"; Tab 18, pages 236 to 282
[26](see: *Zurich 2024*, paragraph 6).
[27](see: *Zurich 2024*, paragraph 16).
[28](see: *Bristol-Myers Squibb v. Canada (AG)*, 2005 1 SCR 533 at paragraph 99-100)
[29]Approximately 15 calendar days
[30](see: *Zurich 2024*, paragraph 10)

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[31]Unless the amounts paid to the Appellant in his Beneficiary Bank Account statements were misrepresented or manipulated (i.e. not in fact "SNIC") and the amounts received by health practitioners, via cheque (under investigation still), were from TDHA, TDHA cannot pursue a priority dispute (see, Tab 5, page 56, Economical Insurance). Moreover, hypothetically speaking, TDHA could not meet the requirements for providing a notice under section 3 of Reg 283 past the 90 days from October 13, 2022 which was January 10, 2023

[32]as opposed to mailing it to SNIC Markham

[33]The 905 Fax Number and the Burlington Address were, at the material times post receipt of the Appellant's OCF-1, OCF-2, OCF-3, OCF-6's and OCF-18 (Dhaliwal), address for receipt of documents of the Appellant (albeit unbeknownst to him) by TDHA.

TAB 52

TAB #23: ORAL COMPENDIUM: COURT FILE NO. DC-24-00000718-00JR

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Tab 22

August 5, 2024
(see: pages 512 to 550)

Re: NOM #14 (additional evidence after the filing and serving of the hearing brief for NOM #14 (Tabs 1 to 22)

Re #2: Pictures from August 4, 2024 of: (i) 304 The East Mall, 6th floor, Etobicoke, Toronto, Ontario, M9B 6B7 (the "**East Mall Address**"); and (ii) surrounding area of the East Mall Address (the "**East Mall Address Pictorial Evidence**") (see: pages 512 to 547)

Re #3: Emails serving the following: (i) **SNIC**; and (ii) **TDHA**, with a copy of the **East Mall Address Pictorial Evidence** in said enumerated form for ease of reference (see: pages 548 to 550)

Re #4: unassailable evidence that the East Mall Address was only a physical address for TDHA (not SNIC). Unassailable external evidence and incontestable documentary evidence that TDHA was the **First Insurer** to receive the **Appellant's Completed Application** along with multiple pieces of affirmatory evidence, in the HCAI portal tied to the Appellant's TD Claim #3, that TDHA (although misnamed therein) was the **First Insurer**, absent any steps taken by it in accordance with Reg 283 to transfer, dispute and recover any paid or to be paid benefits to the claimant, by reference to the **East Mall Address** in OCF-18's from 2023 to present

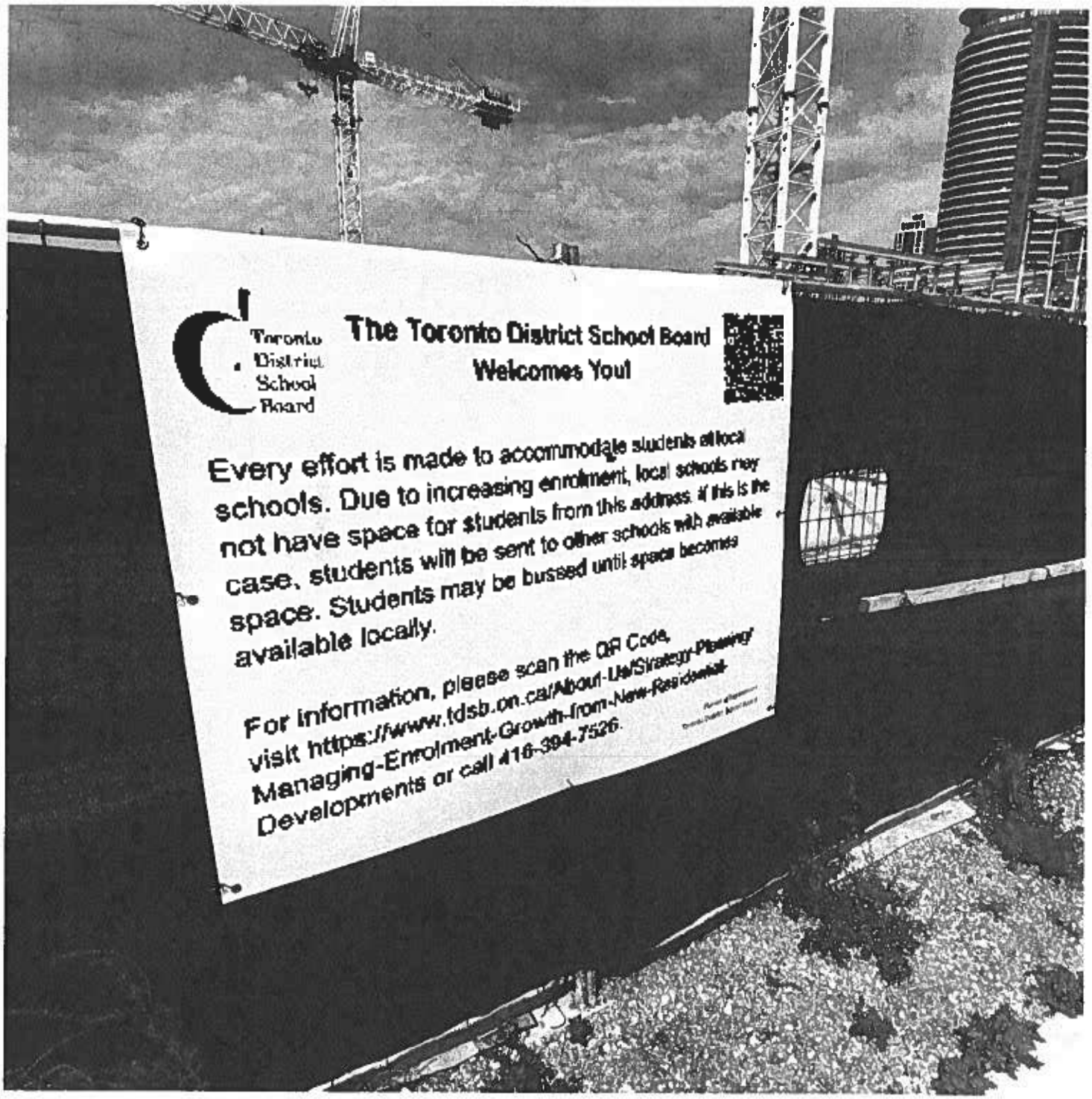
TAB 23

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page 404

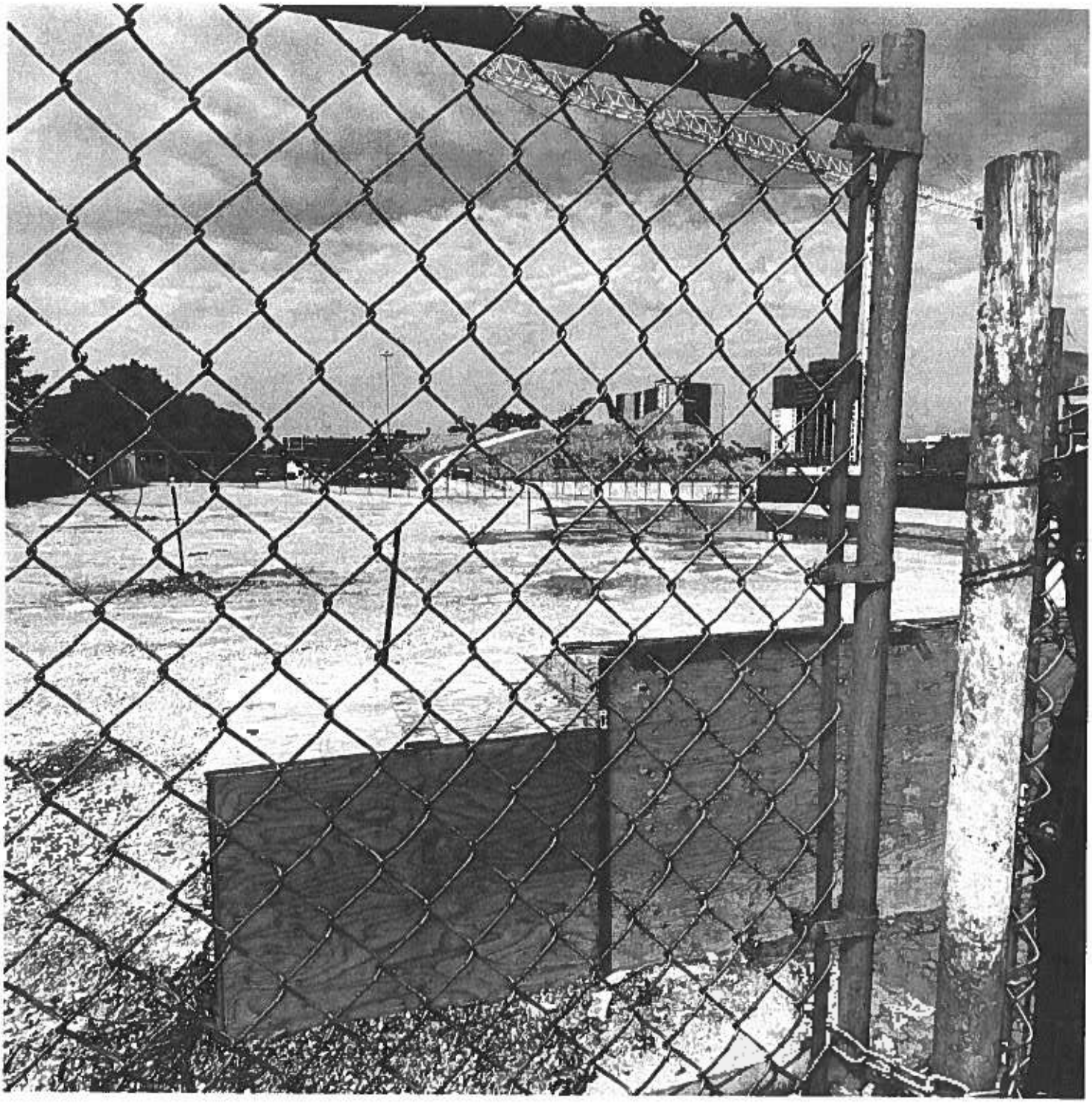


TAB 23


Toronto District School Board
The Toronto District School Board Welcomes You!
Every effort is made to accommodate students at local schools. Due to increasing enrolment, local schools may not have space for students from this address. If this is the case, students will be sent to other schools with available space. Students may be bussed until space becomes available locally.
For information, please scan the QR Code, visit https://www.tdsb.on.ca/About-Us/Strategy-Planning/Managing-Enrolment-Growth-from-New-Residential-Developments or call 416-394-7526.

543 pour 403 6

TAB 23



TAB 53

TAB #24 ORAL COMPENDIUM: COURT FILE NO. DC-24-00000718-00JR

TAB 23 PAGE 406

LAT File #: 23-015662/AABS

BETWEEN:

KEVIN ALEXANDER MCLEAN

APPELLANT

AND:

SECURITY NATIONAL INSURANCE COMPANY

RESPONDENT

Re: Motion Submissions for NOM #18 pursuant to the *SPPA*, ss. 21.1

APPLICANT/APPELLANT (PARTY)	RESPONDENT PARTY
Mr. Kevin A. McLean (B.A., J.D. CIM) 410-775 King Street West, Toronto, Ontario, M5V 2K3 **Telephone: 647.513.1270** **Email:** **MCLEANSNICLAT@GMAIL.COM**	**Security National Insurance Company** **FSRA Registration Number #353** 5045 South Service Road, Floor #5 Burlington, Ontario, L7L 5Y7 Fax: 905-315-1074 Attention: Mr. David Karat (ADR Specialist) (deemed representative pursuant to ss. 1(7) of the LSA as of January 25, 2024) (david.karat@tdinsurance.com) Mr. Matthew Nieuwland, lawyer licensee with the LSO (declared representative as of June 28, 2024) (matthew.nieuwland@tdinsurance.com) With a copy to Mr. Nieuwland's legal assistant. Ms. Christiana Ortiz (christiana.ortiz@tdinsurance.com)

TAB #1 401

Part I: Overview

1. The Appellant tenders these motion submissions to ensure that any technical deficiencies, calculation and typographical errors are corrected in accordance with the *SPPA* and the jurisprudence that has interpreted the same. While the Appellant does not agree with all of the findings, decisions and orders per se, this motion only addresses those errors which fall within the types of corrections that can be made under section 21.1 of the *SPPA*. As noted therein, the proposed changes are sought to be made "in substance" because it is not for the Appellant to write for the Tribunal but draw the actual facts to the attention of the Tribunal so it can ensure that the evidence and facts are historically accurate. The danger of not doing so is that a future decision maker will query the Appellant as to why he did not object or bring such a motion like this one.

2. With no intended disrespect to Vice Chair Morrissette he has abbreviated her title and last name to "VCM" purely for ease of reference.

3. The first correction is the "date of the order" as that is clearly incorrect considering that it was sent to the Appellant on Friday, September 13, 2024. The metadata is clear that the document was finally produced and last modified on September 13, 2024 (see: Order 1(A)). It is a simple innocent error but requires correction.

4. The Appellant was injured in an automobile accident on August 31, 2022. Ms. Nicole Artopoulos (Spouse) was the named individual insured person and BMW Financial Insurance Services Inc. was the corporate lessee – not the Appellant. The pleadings (by the Appellant and SNIC) which were in the hearing briefs and record are unequivocal in their language.

5. Contrary to some of the purported findings or so-called facts referenced by VCM, they are not in the record of proceeding and must be corrected so that the record of proceeding reflects the actualities and history of the same. While appreciating they are innocent mistakes with no intent to make an error, there are some errors, if not corrected that will impact the ability to have this LAT Proceeding conducted in the most expeditious, just and cost-effective manner.

6. The most significant correction order sought for future and general purposes that of the chronological sequence and the inclusion of case manager Mr. Grant's email that explains why he input TDGIC into the LAT database in the face of the denial letters referring to SNIC and not to any other insurance company in the TDI Group. The Appellant has provided the factual chronology in precise detail with reference to Mr. Grant's email of May 6, 2024, and Vice Chair Lake's reasons for decision on January 16, 2024, which VCM had omitted.

7. There are other typographical errors, calculation errors, and similar errors that require inclusions of matters that are revelations to the Appellant. In this regard, the Appellant was entirely unaware that the Tribunal had changed SNIC to TDGIC at some unknown time between January 30, 2024, and February 19, 2024. The date of when that occurred is an important as per a motion scheduling order that occurred during that month.

8. The second finding from VCM at paragraph 27, sentence #2 was not correct as a matter of the clear language in the Insurnace Policy, "The initial respondent, TDGIC, and the current respondent, SNIC *accepted priority over the applicant's insurance policy*". It was not the Applicant's insurance policy but that of his Spouse, Nicole Artopoulos (see: Order #1(M)).

9. There are references to the case management conference and the orders therein. SNIC did not file a case conference brief but the Appellant did and he named SNIC. It was a gamble per se but it was a gamble that was correct. It is imperative to make that distinction as a matter of the *SPPA* and who can attend case conferences (see: Order 1(B)).

VOLUME #2: ISSUE OF LAW

10. The statement of issues are:

    a. Is it more prudent to bring a section 21.1 of the *SPPA* motion, as opposed to a reconsideration motion, judicial review or appeal when considering the liberal construction of Act and rules made under the *SPPA* (see: ss. 2 of the *SPPA*)

in his first email to the Appellant, with Mr. Nieuwland copied, on January 23, 2024. Mr. Karat corrected the error in Vice Chair Lake's decision yet again in the SNIC Response on January 25, 2024. It is not factual that the issue commenced in late January 2024 per se (see: paragraph 23 of the VCM Reasons For Decision). It may be that the Tribunal changed it at some time between that time period but it is unclear where the evidence is to support the same considering this is a revelation to the Appellant. The Appellant cannot find any evidence of the same in his records. Perhaps, he is missing a document or email that explained the same.

18. The distinction between consenting and not opposing is trite in law. However, the reason it is important for this LAT Proceeding as Mr. Nieuwland for TDGIC confirmed in writing with the Appellant that he would oppose the Appellant's relief sought in relation to the substitution of TDGIC to SNIC. He then relented which is not to castigate him per se but the Appellant's position is that many unnecessary steps were taken as a result of the same. Further, it is best to be factual and not attributing something to TDGIC that it did not do (see: Order #1(D)).

19. Moreover, it is important to distinguish between when a party merely submits a fact and swear one (see: Order #1(F)). The Appellant has provided case law previously of this Tribunal that submissions are not evidence.

20. There is a distinction in law between retrospective and retroactive orders. The effect of section 21.1 of the *SPPA* orders and that of VCM, by receipt of that decision on June 21, 2024, was that each and every document, decision and order issued by the Tribunal refered to SNIC. However, as a matter of costs but also *Reg 664* (as delays remain ongoing), the "reasonableness" of those positions will be tested. The Appellant cannot challenge VCM's pure legal findings per se in this type of motion but the underlying facts must be correct. Appreciating that the likes of VCM are tireless jurists and decision makers, the Appellant appreciates her and all of the efforts of the Tribunal but inconsistent findings between decisions and revisionist history affect not only the Appellant's right but also those advance by SNIC in its pleadings.

21. For example, SNIC took the position, with a live issue as to whether that pleading is a nullity as LAT cannot condone violations of the LSA and the LSO by-laws (see: Mosa v. BelairDirect as per Vice Chair Maedel; and Dankha as per Vice Chair McGee).

22. There is no dispute that the Appellant has to seek leave to appeal NOM #13 and likely has to do so, unless he can obtain the same through privacy requests, because the documents sought since June 2024 were integral to his ability to discharge his burden. The Appellant was informed in July 2024 that NOM #13 would be heard in due course but contrary to LAT Rule 9.2.2, the Tribunal failed to extend the opportunity of submission to the non-party of TDGIC.

23. This appears to be predicated on VCM, on behalf of the Tribunal, informing the Appellant of what the Tribunal was informed to include TDGIC as the sole respondent. This is most sensical and probable considering Mr. Nieuwland's position on May 2, 2024, that TDGIC and SNIC were "one and the same" [sic]. While appreciating Mr. Grant's efforts, it is just not plausible that with his experience and acumen that he would have thought that the denial letters did not reference SNIC but instead referenced TDGIC.

24. Does this mean that Mr. Gant was being dishonest? Of course not. It means that mistakes happen and memories fade. For example, if any case manager is managing a 100 files and inputs 1 new case every three days, it is understandable when trying to refresh one's memory from four months prior that it is a best estimate and sometimes the best estimate is incorrect.

25. It is why the Appellant with this mild TBI commits his evidence to affidavits so when it is forgotten, there is a binder with it or a soft copy to be retrieved.

26. In relation to the case conference findings by Vice Chair Morrissette, this is the criticism of retroactive orders that when change the law to its best form can attach consequences for acts that no one knew at the time. The Appellant's identity has remained the same during this LAT Proceeding but the respondents have not. The Appellant has remained consistent and they have not. Only time will tell if that strategy will be effective but the facts need to be the facts and they cannot ignore events like Vice Chair Lake's decision inputting TD General Insurance Company as the sole Respondent. These apparent revelations that VCM

has made public and known to the Appellant, as they were not before, are most appreciated by the Appellant because they align with his previous predictions and theories. However, they should be supported by evidence and dates (where possible).

27. It is unfathomable to think that arguably the most consequential tribunal in this province and perhaps the country based on the size of Ontario and how many people drive (not to mention to the other divisions of LAT) would not know the date on which it (Tribunal) changed SNIC to TDGIC. Technology in this day and age is always leaving a footprint. One need look no further than HCAI and its technological abilities and retention of records. The Appellant was able to obtain an HCAI submission from his former physiotherapist therein within one business day with the time stamp at the top.

28. On a procedural and composition note, if it is the Tribunal's preference that affidavits are not to be single spaced, perhaps the LAT Rules can note the same so parties know where the boundaries are and to only double space. Further, the same can be said of costs submissions.

29. The Appellant appreciates the comments of VCM but for clarity and precision purposes, had Vice Chair Lake granted the order that he sought in NOM #5, this would have saved much time. The Appellant was assured NOM #4 would have been heard at the case conference and it was not. Moreover, if SNIC was the party from the outset, resources would not have been required to the same degree. Had Mr. Nieuwland filed a DOR on behalf of SNIC and not opposed for six months, motions would have not been required. The Appellant takes responsibility where it is warranted. That being said, the importance of having the accurate record is an important one so the Appellant does not need to raise it again.

30. For sake of comprehensiveness, the Appellant again confirms that he did not receive this decision but some 16 days ago.

31. All of which is respectfully submitted.

ENDNOTES

[1](see: 28.1 A tribunal may at any time correct a typographical error, error of calculation or similar error made in its decision or order. 1994, c. 27, s. 56 (36).

[2](see: *College of Physicians and Surgeons of Ontario v. Tan*, 2024 ONPSDT 9 *Tan*).

[3](see: *Ennis v. Impression Bridal Ltd.*, 2015 HRTO

[4]Even municipalities have alerted tribunals to an issue with the incorrect naming of a respondent by a 'claimant' – which is not at issue herein(public bodies under MPOIPPA (ON)). There is also a shorted limitation period for HRTO claims of one year as opposed to the Insurance Act, under automotive insurance claims under SABS being two years.

[5](see: *Oxley*).

[6]See: 2012 HRTO 1 (Grzesiak v. 1263699 Ontario Limited (formerly Dot Benefits Corp.): where a mistaken reference to corporate respondent's former legal name, while not a typographic error or an error of calculating was nonetheless found to be a "similar error".

[7](see: Shimoniki).

[8](see: 274, *Shimoniki* at paragraph 10); **TDIMM** and Primmum *are one and the same* under issued insurance policies by Primmum pursuant to its FSRA license certificate #1396, with respect to the "Employer Group Program"

[9](of which there are two previous decisions of Vice Chair Lake and others, or appealing such decisions)

[10](see: *P.J. v. Aviva*)

[11]While it is unknown what was the genesis or catalyst for the technical deficiency errors in the Vice Chair Lake decisions, it is not relevant as the obligatory amendments and alterations are jurisdictional requirements.

TAB 54

Electronically filed / Déposé par voie électronique : 18-Feb-2025
Toronto Superior Court of Justice / Cour supérieure de justice

TAB 25: ORAL COMPENDIUM: COURT FILE NO. DC-24-00000718-00JR

Licence Appeal Tribunal
15 Grosvenor Street, Ground Floor
Toronto, ON M7A 2G6
Telephone: 416-326-1356
Toll Free: 1-888-444-0240
TTY: 1-800-855-0511
Email: LATregistrar@ontario.ca
Website: tribunalsontario.ca/lat

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Disponible en français

How to Request a Reconsideration of a Final Decision

Under Rule 18, a party may request a reconsideration of a decision that finally disposes of an appeal within 21 days of the date of decision.

Rule 18 can be accessed here. The Tribunal's Practice Direction on requests for reconsideration can be accessed here.

A request for reconsideration from a party must be served on all other parties using this form and must include:

- All submissions and evidence in support of the request, which must specify the applicable criteria under Rule 18.2. The submissions must not exceed 10 double-spaced pages in length, exclusive of evidence and case law unless the Tribunal directs otherwise;
- Notification if the party is seeking judicial review or pursuing an appeal in relation to the decision; and
- Remedy or relief sought.

A party served with a request for reconsideration is not required to deliver a response until requested to do so by the Tribunal.

A request for reconsideration will not be granted unless one or more of the following criteria under Rule 18 are met:

- The Tribunal acted outside its jurisdiction or committed a material breach of procedural fairness;
- The Tribunal made an error of law or fact such that the Tribunal would likely have reached a different result had the error not been made; or
- There is evidence that was not before the Tribunal when rendering its decision, could not have been obtained previously by the party now seeking to introduce it, and would likely have affected the result.

Reconsideration decisions are published on CanLII.

The determination of the request for reconsideration will be considered on the basis of written submissions only.

Submissions must be 12 point, Arial or Times New Roman font, with 1.5 inch margins.

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Licence Appeal Tribunal
15 Grosvenor Street, Ground Floor
Toronto, ON M7A 2G6
Telephone: 416-326-1356
Toll Free: 1-888-444-0240
TTY: 1-800-855-0511
Email: LATregistrar@ontario.ca
Website: tribunalsontario.ca/lat

1446

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Information about your Request for Reconsideration

Are you the Applicant or Respondent? ☐ Applicant ☐ Respondent

Requestor Last Name	Requestor First Name
McLean	Kevin

Requestor Daytime Contact	Tribunal File Number	Date of Final Decision *(yyyy/mm/dd)*
647.513.1270	23-15662/AABS	2024/09/13

Reasons for your Request for Reconsideration

A request for reconsideration will not be granted unless one or more of the criteria outlined in Rule 18 are met. Please indicate which criteria you are relying on and attach your submissions and any relevant documentation to support your request, in keeping with the page limit set out in Rule 18:

☑ The Tribunal acted outside its jurisdiction or committed a material breach of procedural fairness,

☑ The Tribunal made an error of law or fact such that the Tribunal would likely have reached a different result had the error not been made, or

☑ There is evidence that was not before the Tribunal when rendering its decision, could not have been obtained previously by the party now seeking to introduce it, and would likely have affected the result.

Notice of Service

I have served a copy of this request for reconsideration on the other parties by:

☐ Regular Mail (last known address)

☐ Delivering it personally

☐ E-Mail

Name
Kevin McLean

Signature 

Date *(yyyy/mm/dd)*
2024/09/29

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AABS File Number: "23-015662/AABS"

BETWEEN:

KEVIN ALEXANDER MCLEAN

APPELLANT

AND:

SECURITY NATIONAL INSURANCE COMPANY

RESPONDENT

Re: Reconsideration Submissions pursuant to LAT Rule 18 regarding NOM #14 (which was a final decision between Appellant and TDHA and Appellam and SNIC

APPLICANT/APPELLANT (PARTY)	RESPONDENT PARTY
Mr. Kevin A. McLean (B.A., J.D. CIM) 410-775 King Street West, Toronto, Ontario, M5V 2K3 **Telephone**: 647.513.1270 **Email**: **MCLEANSNICLAT@GMAIL.COM**	**Security National Insurance Company** **FSRA Registration Number #353** **Tribunal decided address for service for SNIC:** SNIC Burlington Fax: Attention: Mr. David Karat, the deemed representative of SNIC pursuant to ss. 1(7) of the LSA by his, inter alia, filing, signing and serving of the SNIC Response (e): david.karat@tdinsurance.com Attention: Mr. Matthew Nieuwland, declared representative as of June 28, 2024 (e): matthew.nieuwland@tdinsurance.com

Volume #1: Facts[1]

Volume #1(A): Overview of the Reconsideration Requests

1. These are the Appellant's submissions for reconsideration of any decisions that "finally disposes" [not disposed] of an appeal. The Appellant is required to represent to the Tribunal whether he is pursuing a judicial review or appeal. He has not yet. However, there is a discrepancy in time between the 21 days to file a reconsideration request and the 30 days to file for an appeal or judicial review. While the errors herein are errors of law, to err on the safe side, the Appellant would proceed with a judicial review in the event that this reconsideration motion is not granted. As noted, somehow the Adjudicator incorrectly input the date of the decision as 7 days prior to when it was delivered. As such, the Appellant respectfully submits that such an error cannot deprive parties seeking reconsideration from doing so or within the 21-day period. It must be based on when it was received (i.e. when a party has notice). The adjudicator's signature is by the release date, so her decision was not technically official until she signed the same. The 416 Fax Number refers to the First Insurer's fax number (416.774.3120) which was neither SNIC's fax number nor TDGIC at the Material Time.

Volume #1(B)(III): One legal ground and one error – sufficient finding – corollary is that the TDHA is the First Insurer

2. This reconsideration can be disposed of on one legal ground and error, while there are broader errors in the VCM decisions in the First Insurer Motions which include the following statement: "[27] .....The initial respondent [sic][2], TDGIC, and the current respondent, SNIC accepted priority over the applicant's [sic] insurance policy. Therefore, if SNIC and TDGIC *accepted* priority of the Insurance Policy, as found by the Adjudicator, and the Appellant did not make any such offer to either for them to 'accept priority of the Insurance Policy' and/or neither SNIC nor TDGIC first received the Appellant's Completed Application, then TDGIC had to receive that offer of "priority" (as the Adjudicator puts it) from the "First Insurer".

Volume #1(B)(IV):): Could TDHA offer "priority" to SNIC and TDGIC?

The word "accept": Appellant had a right to challenge and refuse

3. It is the word "accept" that is conspicuous, marked and eye-catching. Whatever acceptance of priority of the applicant's [sic] insurance policy was and is of no consequence in law as per Reg 283, section 4(1), 5(1) and (2).The Appellant never received any notice of "assignment, sharing or transfer of priority". It is trite that TDGIC's fax was in the LAT orders as early of February 2024 and SNIC resiled from the 416.774.3120 fax number by no later than Summer of 2023. TDHA was the First Insurer and received the Completed Application at first instance, and all other OCF documents. It is understandable why certain adjusters at SNIC, and then Mr. Nieuwland for TDGIC, were so unfamiliar with the documents and claimed to be missing certain documents like MRI reports, Brain MRI UHN Notification and others. It may be the most clichéd phrase in the history of law: "offer, acceptance, consideration." Prior to the 'acceptance' by SNIC and TDGIC over the insurance policy, as found by the Adjudicator, there had to be an offer from another person. There are four automotive insurance companies in "TD Insurance", as per its public website and URL for "legal", which are: (i) SNIC; (ii) TDGIC; (iii) TDHAIC (TDHA); and (iv) Primmum. SNIC and Primmum, without any reference TD in their names, operate under the banner of two distinct yet combined trademarks which are: (i) TD Insurance," which is owned by "The TD Bank"; and (ii) "Meloche Monnex," which is owned by Meloche Monnex Inc. (not to be confused with Meloche Monnex Financial Services Inc. or other brokers or agents with permutations of the name). Ironically, TDGIC and TDHA do not have "TD Insurance" in their name as the "insurance" word comes after "General" and "Auto" sequencially for the aforementioned.

Volume #1(C): SNIC and TDGIC not "one and the same" and neither are the First Insurer

4. There is no dispute that SNIC was the Sole Underwriter of the Insurance Policy. SNIC delivered an accident benefits package to the Appellant in late September 2022. SNIC represented its address as the SNIC Markham Office with a fax number of 416.774.3120. On May 2, 2024,[3] in relation to **NOM #4** and **NOM #6**[4], Nieuwland (with Karat appearing as the ADR Specialist[5] for SNIC)[6] orally[7] represented, contrary the April 11 submissions (supra) solely on behalf of **TDGIC**.[8] that SNIC and **TDGIC** were and are "*one and the*

same". [9] [10] The Appellant objected and reserved his rights. [11] "***One And The Same***" is defined, by *Collins Dictionary* as "When two or more people or things are *thought* to be separate and you say that they are one and the same, you mean that they are *in fact* one single person or thing." [12] While there is no dispute what Nieuwland thought and meant on May 2, 2024, his thoughts and meanings, while unambiguous are contrary to the statute (*Ins. Act*) in which this SNIC Proceeding arose and FSRA Enforcement Decisions have found that the *SABS* Insurer (SNIC) and TDGIC are separate persons.[13] The now finding by the Tribunal that SNIC and TDGIC accepted priority over the insurance policy means that they agreed (which is possible in fact but not in law) to accept an offer from another regarding priority. This is not only the logical explanation for what transpired and why TDHA, an automotive insurer in Ontario which is the only required element for a non-underwriter of an insurance policy to be the provisional First Insurer and then potentially the permanent First Insurer, has not been responded and paid the benefits due and owing to the Appellant despite receipt of the same from the Appellant via fax. This also explains the Spam Fax in Spring 2023 which was nearly or identical to the August 2024 letter (see: Affidavits #34 and Affidavit #35).

Volume #1(D): Adjudicator Unfamiliar with the Facts
Identity swapping going on behind the scenes at the LAT
Unknown dates of identity changing

5. It is unfortunate, from an access to justice standpoint and for the benefit of the public, for the Adjudicator to rush this decision, as it was not available when the Appellant inquired on September 11, 2024, as to the date of the hearing for the NOM #13. With the greatest of respect, the Adjudicator was unfamiliar with the facts, which one can empathize with if she was new to this LAT proceeding but she granted the most consequential motion in this proceeding so far, and basic ones at that such as the first order in this proceeding of her fellow Vice Chair (VC Lake). Adjudicator Morrissette was of the mistaken view that the Tribunal changed, at some unknown time, the IDENTITY of SNIC to TDGIC after January 30, 2024 but some time before February 19, 2024. One can understand not being able to pinpoint an exact date when identities are changed or swapped in a cyber-attack or ransomware plot but the Adjudicator found that it was THE TRIBUNAL that changed the

Identity from SNIC to TDGIC. It appears that the Adjudicator was implying that an administrative individual employed by the License Appeal Tribunal in the AABS division somehow on off-time engaged in some administrative identity swapping without notice to the litigants in the proceeding. The Appellant is not attempting to be hyperbolic or histrionic in any way but the License Appeal Tribunal is one of 13 tribunals part of Tribunals Ontario and it is a division or sub-body within the office of the most important ministry as it pertains to the law: **THE MINISTRY OF ATTORNEY GENERAL**. *And the Appellant is merely finding out about this in September 2024?* This is beyond concerning and beyond the Appellant's immediate interest. Perhaps. Adjudicator Morrissette meant December 30, 2023 to January 19, 2024? This would make more sense in that an administrator or case manager would have review the Appeal and attached documents and countless references to TD SNIC and Security National Insurance Company and input SNIC as the respondent. Then, likely someone informed Mr. Grant to change the name from SNIC to TDGIC. This, of course, would have required such a change as the Appellant had already filed two motions by January 8, 2024. The Appellant only objected for six months and this appears to have been the strategy by SNIC and then TDGIC of which neither were First Insurers.

Volume #1(E): *Is statutory authority required to add the First Insurer when it becomes known to an injured person, through no fault of his own, and the Tribunal?*

6. A "Respondent" is a party in a LAT Proceeding. Legislative definitions are sometimes counter-intuitive and defy common sense. In Ontario, "legislation" includes "legislation and regulations" but a statute is distinct from a regulation.[14] [15] Section 5 of the *SPPA*[16]: "The parties to a proceeding SHALL be, (i) the persons specified as parties by/under the statute[17] under which the proceeding arises; OR, (ii) if not so specified, persons *entitled* **BY LAW**[18] to be parties to the proceeding[19]. One would have thought with the benefit of Adjudicator Morrissette who expressly dealt with a party issue in NOM #8, such a misstatement of law or query from her would have been obsolete. By law is an ambiguous phrase which is not to be confused with a municipal by-law. "Source law" is a definition under the Legislation Act 2006, and it includes regulations. Tribunals in Ontario and Canada have held that persons who are not expressly required by statute to be parties

may be added as parties pursuant to section 5 (*SPPA*) if s/he or it have a substantial and direct interest in the proceeding's outcome.[20 21]

Volume #2: Statement of Issues

7 The statement of issues are as follows:

a. *Were the decisions of the Adjudicator in NOM #14 ones that would have disposes of the appeal? Was the order #15, order #3, one that would "finally dispose of the appeal?*
b. *What is the standard review of the Adjudicator's to the errors in the decisions relating to NOM #14 and #15?*
c. *On a balance of probabilities, with the uncontroverted evidence that SNIC, through its brokers (MMFSI and TDIAI) by way of c/o, no longer utilized the 4th floor of the North York Office as a registered address as of 2016, the "lead tenants" were "TD Insurance" according to True North REIT and Colliers International from on or around 2017, and the Tribunal denoted TDGIC as being located on the 9th floor of the North York Office (VP Building), at the time (October 13, 2022) the Appellant delivered his Completed Application (OCF-1) from his fax to the VP Building 4th Floor Fax Number, was the recipient licensed automotive insurer, TD Home and Auto Insurance Company?*
d. *Whether TDHA was and is the First Insurer (i.e, the FSRA licensed insurance company, in the area of automotive insurance, to first receive the Appellant's Completed Application on October 13, 2022)?*

Volume #3: Legal Bases

Volume #3(A)(I): Final disposes of an Appeal

8. A final order disposes of the litigation, or finally disposes of **part of the litigation**: *Ball v. Donais* (1993), 1993 CanLII 8613 (ON CA), 13 O.R. (3d) 322 (C.A.). An interlocutory order disposes of the issue raised, most often a procedural issue, but the litigation proceeds: *Hendrickson v. Kallio*, 1932 CanLII 123 (ON CA), [1932] O.R. 675 (C.A.), at p. 678.The interlocutory order from which there is no appeal is an order which does not determine the real matter in dispute between the parties – the very subject matter of the litigation, but only some matter collateral (see: *Hendrickson v. Kallio*, 1932 CanLII 123 (ON CA), [1932] O.R. 675 (C.A.)

Volume #3(A)(I): Non-Party orders are final orders; orders dismissing a motion to add a party are final orders

9. In *Smerchanski v. Lewis* (1980), 1980 CanLII 1699 (ON CA), 30 O.R. (2d) 370 (C.A.), at para. 18: This Court has held that an order made in a contest between a party to an action and someone who is not a party is a final order, appealable without leave, if the order finally disposes of the rights of the parties in the issue raised between them. In M.E. v. Ontario, 2021 ONCA 718: We conclude that M.E. was seeking to add new causes of action. An order refusing leave to amend pleadings to plead a new cause of action is final: *Atlas Construction Inc. v. Brownstones Ltd.* (1996), 46 C.P.C. (3d) 67 (Ont. Gen. Div.). So is an order dismissing a motion to add a party, which M.E. also appears to have been trying to do: *Bryson v. Kerr* (1976), 1976 CanLII 867 (ON SC), 13 O.R. (2d) 672 (Ont. Div. Ct.). Accordingly, leave to appeal is not required and an appeal lies as of right to the Court of Appeal: *Courts of Justice Act*, R.S.O. 1990, c. C.43, s. 6(1)(b).

Volume #3(B): Standard of Review

10. In *Vavilov*, the SCC attempted to clear up complexities and uncertainty brought on by *Dunsmuir*.[22] The SCC cited three (3) non-exhaustive examples in *Vavilov* where the correctness standard must be applied by a review tribunal or court: (i) constitutional questions[23] [24] [25] (ii) general questions of law of central importance to the legal system as a whole;[26] and (iii) questions regarding jurisdictional boundaries between two or more administrative bodies.[27] [28]

VOLUME #3(C): Errors of Law: Correctness standard applies (no deference)

11. The Supreme Court in *Housen* found an error of law as *including* the: (i) application of an *incorrect* legal standard; (ii) a failure to *consider* a required *element* of a legal test; or (iii) the mischaracterization of the standard.[29]

VOLUME #3(C)(1)(a): Error of Law: ignoring relevant evidence

12. A tribunal errs in law when it improperly approaches the evidence such as by misapprehending evidence, ignoring relevant evidence or relying on irrelevant evidence or irrelevant factors in reaching its decision [30] (see: *Nguyen*). [31] [32] In *Dreuto Holdings v. MPAC*,[33] the ONSCJ (DC) cited its decision in *Vatan*[34] where, at

¶28, the Court confirmed a finding of fact *can constitute* an error of law: "is when a finding of fact on a material point is based on no evidence."[35]

VOLUME #3(C)(I)(b): an exercise of discretion – error of law herein

13. The failure to identify or consider the legal criteria that govern (the "**Identification Failure Governing Legal Criteria**") the *exercise of discretion* may constitute an error of law. [36]

VOLUME #3(C)(II): When there are no factual findings to consider

14. In *Gega*[37], the Divisional Court applied a novel yet functional determination of when an issue was one of law as *opposed* to one of 'mixed fact and law': "[19] This issue is a matter of law...argue this issue is a matter of mixed fact and law, but there are no factual findings that need to be made by me to consider this question."[38]

VOLUME #3(C)(III): Enactment Interpretation as an Error of law

15. In *Kawa Arab* [38] [39] the Divisional Court found an administrative decision *of statutory interpretation* as a matter of law.[40] At ¶ 19, *Tzimas J.*[41] found "[19]..... If an Adj. ignores evidence that the law requires to be considered to arrive at a DECISION[42], that would amount to an *error in law*."[43] [44]

VOLUME #3(C)(IV): *Misdirected that No Jurisdiction existed when it did*

16. In *Bassline*[45], VC Lamoreux found in 2018[46] at ¶ 20, "Therefore, I am satisfied that the *Tribunal erred* by determining that it had *no jurisdiction* to consider the issues raised in the Notice."[47]

VOLUME #3(C)(V): *Error in Approach to Statutory Framework – Exceed Jurisdiction –*

17. In *Lapcevich*[48], the ONSCJ[49] found: "We agree with the appellant, Registrar, that the Licence Appeal Tribunal *erred* in its approach to *the statutory framework* and exceeded its jurisdiction; and it did not make the necessary threshold determinations, as required by the statute."

VOLUME #3(C)(VI): Inconsistent Findings: Error of Law

18. In *Sparks*[50], the Divisional Court found that *inconsistent findings of facts* as "errors of law".[51 52]

VOLUME #3(C)(VI): Extricable Questions of Law: standard of review correctness

19. In *Glencore*[53], the FCA considered a second appeal wherein it stated the applicable **SOR** for extricable legal issues[54] in that *no deference* is owed to the **overall conclusion** (see: ¶ 22).[55]

VOLUME #3(C)(VII): Written Hearings

20. In *THMR*[56], ONCA found that when hearing below is *in writing* that the correctness standard applies.[57 58]

Volume #3(D): No statutory power

21. The case of *Faremea Rezaiezadeh v. State Farm Mutual Automobile Insurance Company*, 2016 ONFSCDRS 59 ("Reza") stands for the proposition below. The Appellant notes the case of *Reza* (for short) wherein, albeit under the FSCD, the arbitrator found the following: "The Appellant concedes there is no explicit procedure in the *Code* or the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22, as amended, to permit a party to continue a proceeding against a non-party." The "Dispute Resolution Code" is no longer applicable as it only applied with the FSCO. Even where State Farm Automobile Insurance Company was bought out by Certas and Desjardins regarding its Canadian operations. State Farm remained as the party as it was the underwriter *at the time* of the accident therein. Therefore, this is yet another reason that the decision of the Adjudicator and now the decision of the **Appellate Tribunal** (LAT) is one that finally disposes of the Appeal even when it is not in favour of the Appellant. If the Appellant does not have the First Insurer as the primary and liable party for the main issues between the Appellant and it (with SNIC only therein for costs as a result of it filing the sole Response (SNIC Response) to date but only as a result of the LAT Rules which is a distinction between present times and a case like Volfson), then all of the protections under SABS are illusory.

Volume #3(E): Reg 283 operates differently than the statutory regime

22. The provisional "first insurer rule" (the "**First Insurer Rule**") under the regulation and priority regime under the statute operate ***differently*** (see: *Zurich 2024*, paragraph 8). As long as a claimant for accident benefits completes all required "fields" (see: *SABS*, ss. 66 and 67), duly signs the OCF-1 and then sends via mail or fax, the **First Insurer** that *receives* an OCF-1 application MUST benefits in accordance with *SABS* (see: *Reg*

283, ss. 2.1(6)). If the **First Insurer** does not take any issue, within ten business days[59] of receipt of the **Completed Application**, the **First Insurer** has approximately 75 days from then to provide a notice of dispute that it is required to pay the benefits of the claimant in which it received a **Completed Application**. Irrespective of whether the claimant is an "insured person" or not in the *subjective mind* of the **First Insurer**, the **First Insurer** must *respond* to the **Completed Application** and the claimant (see: *Reg 283*, ss. 2.1(6)). Acceptance during the 90-day period is merely provisional (see: *Zurich 2024*, paragraph 29). If the **First Insurer** does not dispute, within 90 days, its liability to pay any and all benefits, in accordance with *SABS*, of the claimant, there is no other process for the **First Insurer** to transfer, dispute and recover any paid *or* to be paid benefits to the claimant. A **First Insurer's** calculus to not accept a claim for whatever subjective reason can turn out to be a costly and permanent mistake.[60] This is full answer to the Adjudicator's query about whether the Tribunal had authority to add the First Insurer to this LAT Proceeding, which is oddly required as a matter of law.

Volume #3(F): The issues transcend the Appellant

23. As of 2015, in *Zurich 2015*, the SCC held that Chubb ought to have responded to the *SABS* claim immediately on a *'pay first and dispute later'* basis (see: *Zurich 2024*, paragraph 12). As long as the **Completed Application** by the claimant was <u>not</u> arbitrary, there is a "nexus" between the claimant and the **First Insurer** (i.e. the one to receive the **Completed Application**) (see: *Zurich 2024*, paragraph 14). In *Zurich 2015*, the SCC (see: 2015 SCC 19) restored Goldstein J's decision (ONSC (Divisional Court)) in adopting the dissent of Juriansz J.A.: *2014 ONCA 400*. A vague recollection about seeing an insurer's name at a rental car office was sufficiently non-arbitrary to require a '**First Insurer**' (Chubb in *Zurich 2015*)) to step into the shoes as a "**First Insurer**" for the purposes of section 2(1) of *Reg 283* (see: *Zurich 2024*, paragraph 15). As long as the **First Insurer** providers automobile insurance in Ontario at the time of receipt of the **Completed Application** there is a sufficient nexus between a claimant and the **First Insurer** (see: *Zurich 2024*, paragraph 16). The policy behind the inflexible rule that an insurer who fails to pay benefits and *fails* to put other insurers on

notice after receipt of a **Completed Application**, when there is *SOME* nexus between the claimant and the First Insurer, being permanently responsible for the claimant's benefits is to *promote compliance* with the statutory and regulatory scheme.

Volume #4: Application of the Law to the Facts

Volume #4(A): The answer to Adjudicator Morrissette's question on statutory authority

24. No power to pursue a non-party under statute is answered above. As a matter of principle, there is NO difference between an insurer's failure to pay under section 2 of *Reg 283* and a failure to pay under any provision of *SABS* (see: *Zurich 2024*, paragraph 54). As the Tribunal is required to decide this LAT Proceeding in accordance with SABS as a matter of statute (see: section 280(4) of the Insurance Act), then it was not a matter of discretion for Adjudicator Morrissette but a requirement upon her to ensure that the Appellant had the correct and liable party (see also: Insurance Act, ss. 268(3)) before the Tribunal and in the future for not only himself but his service providers. While there is an ability of a party to "request an expedited hearing" in the dropdown menu of Tribunals Ontario e-filing portal, there is a dearth of jurisprudence regarding the same with LAT/AABS matters. As of 2010, the amendments to *Reg 283* led to an absence of listed fax numbers for insurance companies and for good reason: some unsavoury insured persons may deliberately manipulate the system by faxing their OCF-1's to an incorrect insurance company with no record of them as insured persons leading to those insurance companies in receipt of confidential information with an inability to dispute that they were not liable along with which insurance company may be liable. This could lead to an insurance company, who had not received premiums with no previous interaction with such an unsavoury insured person, being liable to respond and pay benefits to said unsavoury insured person.[61]

Volume #4(C): NOM #14: the actual relief sought at Order #5 and even a granting of Order #1 was a decision that finally disposes of the Appeal

25. It is important to note that the actual relief sought in the hearing record was slightly different in language but a distinction with a difference at Order #5: [5] Any further relief that is consistent with the above and in accordance with *Reg 283*, *SABS* and *Reg 664*. The issue of adding the party FDHA as the First Insurer is one that the Adjudicator was required to answer (see: Rio Tinto, SCC 2010 SCC 43). However, even if the Adjudicator had granted Order #1 that would have been sufficient as a decision (order, declaration, determination and/or finding) that would have finally disposes of the Appeal, as it was currently constituted on September 13, 2024.

Volume #4(D): NOM #15:

26. Moreover, had the Adjudicator determined the factual issue at Order #3 in NOM #15, this would have been a decision that finally disposes of the Appeal. In this regard, the Tribunal issued a Notice of Motion Scheduling Order on Thursday, September 12, 2024, that found that SNIC was located at the Burlington Office: "[3] preliminary finding, determination, or order, that the fax number 416-774-3120 was a landline phone number utilized as a fax number on the 4th floor of the building situated at the premises municipally known as 3650 Victoria Park Avenue, North York, Toronto, Ontario, M2H 3P7."

Volume #4(E): Final Orders Soughr in this Reconsideration Motion

27. This Appellant seeks the following orders pursuant to *LAT Rule* 18.4 as follows:

a. An Order cancelling the decisions and orders of the Adjudicator in NOM #14 and NOM #15;
b. An Order varying the decision of this Appellate Tribunal as follows:
    i. Grant the relief sought in NOM #14 (see: Hearing Record, Tab 1, page 3; see also: Appendix #1); and
    ii. Grant the relief in NOM #15, paragraph #3.

28. All of which is respectfully submitted on September 30, 2024



Appendices

Appendix # 1: Orders Sought in NOM #14

Appendix #1: The actual relief sought

The Appellant seeks the following orders, without consent of **SNIC** and **TDHA**, as follows:

Order #1: First Insurer Declaration

1. An Order, Declaration, determination and/or finding that TD Home And Auto Insurance Company, FSRA registration number 1063 ("**TDHA**" or "**TDHAIC**") was the **First Insurer** to receive, pursuant to *Reg 283*, the Appellant's fax delivered **Completed Application** (see: *Reg 283*, s. 1) to the fax number, provided to him by SNIC as a return address [sic] for SNIC, of 416-774-3120 (the "**416 Fax Number**") on October 13, 2022;

Order #2: East Mall Address (Branch Office): Determination of which licensed insurer carried on business at said branch office

2. An Order, Declaration, determination or finding the physical address, which is apparently denoted as a branch office of **SNIC** in **HCAI**, municipally known as 304 The East Mall, Floor 6, Etobicoke, Toronto, Ontario, M9B 6B7 (the "**Etobicoke East Mall Address**") was or is an address or branch office of **TDHA** and not **SNIC**;

Orders #3 and #4: Adding **TDHA** as a Party

3. An Order adding **TDHA** as a respondent party to this LAT proceeding herein;
4. An Order requiring **TDHA**, should it wish to oppose the relief sought in the **Appellant's Appeal**, file and serve a **Response** to the **Appellant's Appeal** within 14 days of the date of the orders herein;

Order #5: Ancillary Relief

5 Any further relief that is consistent with the above and in accordance with *Reg 283*, *SABS*, and *Reg 664*; and

Order #6: Costs

Costs against **SNIC** pursuant to section 17.1 of the *SPPA* and Rule 19 of the *LAT Rules*.

Appendix #2: Orders Sought in NOM #15

Schedule "A" for NOM #15

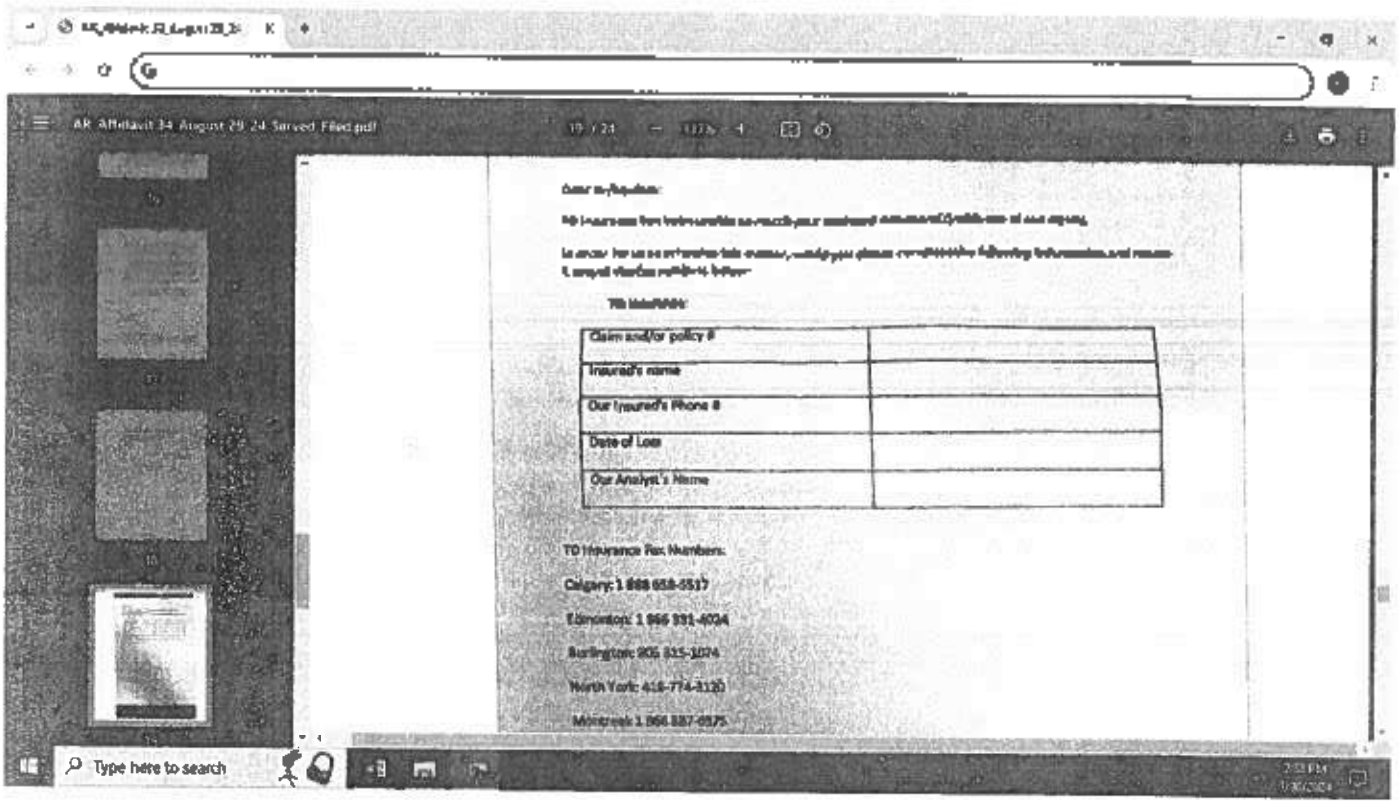
The Appellant seeks the following remedies, without the consent of SNIC, as follows:

1. An Order that NOM #14 is heard in an expedited fashion and by no later than August 28, 2024 or, in the alternative, at the earliest date available for a Vice-Chair or adjudicator to determine the same;
2. An Order that if the Respondent Party (SNIC), TDHA or any other non-party or interested person wishes to oppose NOM #14, it must provide notice, via filed letter, to the Tribunal by no later than Wednesday, August 21, 2024; and
3. A preliminary finding, determination, or order, that the fax number 416-774-3120 was a landline phone number utilized as a fax number on the 4th floor of the building situated at the premises municipally known as 3650 Victoria Park Avenue, North York, Toronto, Ontario, M2H 3P7;
    a. In the alternative, an order that said issue of fact is added to the hearing of NOM #14;
4. An Order that NOM #13 is set for hearing three (3) weeks after the final decision of the Tribunal in NOM #14; and
5. An Order that the Appellant shall tender his hearing brief for his potential motion regarding document production and disclosure from SNIC (the "SNIC Document Production Motion") *within one week* after the decision of NOM #14 with a notice of scheduled hearing date to be issued by the Tribunal regarding exchange of responsive and reply briefs;
6. An Order that NOM #13 (Non-Party production by TDGIC) and the SNIC Document Production Motion (if applicable) shall be heard together three weeks after the decision in NOM #14; and

Costs against SNIC for this motion herein if it opposes the same.

Appendix #3: August 28, 2024 – no insurance company in "TD Insurance" can match the Appellant's TD Claim #3 to any of its claims

Therefore, any potential remaining aspects to a claim with TDHA will not be contentious and any costs or Reg 664 awards can be determined by the inaction, half-truths and silence by TDHA and the principle of spoliation. Unsurprisingly, TDHA could not produce any documents and neither SNIC – their acceptance of priority of the applicant's [sic] insurance policy



Residual: END NOTES

[1]The Appellant repeats and relies upon the definitions at Appendix #1 and the chronology at Appendix #2.
[2]It had no right to be a party under the SPPA, s. 5. If TDGIC did not meet the test under the statute to be a party, it could not be a respondent as a matter of right at first instance before the Tribunal
[3]See: RB, Tab 1, page 4: the Appellant continues to rely on strict compliance with PIPEDA and the parameters of his consent in the OCF and confidential correspondence to SNIC. For TDGIC to remain as the sole respondent, and a "respondent" in the future will cause this LAT Proceeding to be run counter to the most-expeditious, just and cost-effective manner as the Appellant, the Tribunal and those receiving notice will be required at each step to address this issue. With the granting of this order herein, no such further wasted resources will be required.
[4]On May 2, 2024, NOM #4 and NOM #6 were to be heard, albeit insufficient time was available for the same, and NOM #4 was to be heard at the "hearing proper" and NOM #6 was relegated to a further preliminary or jurisdictional hearing.
[5](not claims adjuster)
[6] Mr. Karat corrected the Vice Chair who queried him at the outset if he was the "claims adjuster" [see. with Mr. Karat in controlling a seeming "document book" for SNIC to which Mr. Nieuwland referred to. with assistance from Mr. Karat, therein,)
[7](electronic hearing (telephone))
[8](with Karat in attendance as the admitted non-adjuster but "ADR Specialist" (not officer as Nieuwland would have it).
[9]The Appellant promptly notified the Tribunal, served SNIC (Karat) and TDGIC (Nieuwland), with his letters and evidence regarding his discovery of some of SNIC's FSRA license number being #397 along with each and every other distinct insurance company doing business in Ontario under the "TD Bank Group" having different FSRA insurance license numbers. FSRA does NOT even refer to SNIC, TDHA, TDGIC, and Primmum as "affiliates" but rather "related companies". Being "related" does not make SNIC and TDGIC "one and the same" but, bluntly and colloquially, like "family members" or "cousins" from different provinces.
[10]Thereafter, Appellant moved promptly with notice and NOM #8.
[11]While the Tribunal has the power to "reconsider on its own initiative", the issue of reconsideration per se would require a different test and span other decisions and orders that have timeline restrictions. The Appellant is also confirming that if this order is granted, he need not seek reconsideration of any of the Lake orders and decisions regarding the summonses and NOM #7.
[12](see: https://www.collinsdictionary.com/dictionary/english/one-and-the-same#:~:text=phrase,one%20and%20the%20same%20person)
[13](see: HB, Tab 5 to 7).
[14](see: section 1(1) of the Leg. Act., Part II and Part III therein)
[15]Bills receive "Royal Assent" and become "statutes" and "regulations" are filed. Acts and statutes have the same meaning.
[16]has been in force since 1990
[17](not a regulation)
[18]not a "by-law" passed by a municipality)
[19]Therefore, even if a "party" is referenced in a regulation regarding entitlement to be a party in a proceeding, section 5 of the *SPPA* has no applicability
[20]TDGIC has not substantial and direct interest in the outcome as it is not a party to the Insurance Policy, and not liable under SABS. TDGIC has not made any payments nor was it authorized to receive confidential information and make such payments (see: supra).
[21]In *Wentworth*[21], said PEI Tribunal
[22]In particular, it holds that "*Dunsmuir*'s promise of simplicity and predictability has not been fully realized", *Vavilov* attempted to shed light on the true meaning of "reasonableness", sets out what is required from the decision-maker, and how the reviewing Courts should be applying the standard of review.
[23](including those concerning the division of powers, the scope of Aboriginal rights, and the *Charter*)
[24]which require a determinate answer from the courts
[25]Para 55
[26]Para 59-60.
[27]Para 63–64.
[28]It is notable that the rights of injured persons, and particularly those with CAT Impairments (LMD one year after the Accident for this Applicant) are entrenched in consumer protection and are quasi-constitutional. There is no dispute that the questions of law or questions

of jurisdiction raised herein are of central importance to the legal system as a whole and the scope of legislative privilege afforded to a LAT decision maker of an Adjudicative Body (a VC no less).

[26]At paras. 36-37).

[27]*Filipaka et al v. Ministry of Community and Social Services*, et al., 2017 ONSC 5462, O.J. No. 4814, at para. 7.

[28]In Nguyen v Economical Mutual Insurance Company, 2023 ONSC 2541, the Divisional Court held that when a fact-finding was made *without evidence*, that it constituted an error of law

[29][17] Given this, I find that the LAT made two errors of law in its decision. First, it made a finding, without evidence, on a material fact, namely that Ms. Nguyen received the March 13 denial letter on its date.

[30]2023 ONSC 1466 (Div. Ct.).

[31]Notably, not "TDGIC"; see: HR Index, Tab 40

[32]The **Lake Order** relied on only a simulacrum of the Rule 24.1 and relied on an irrelevant factor or did not review the evidence presented by this **Applicant** in Affidavit #8, Exhibit "A", **Tab 2** which was an article on the substantial amendments between the Old LAT Rules and New LAT Rules.

[33] *Southam* at para. 39; 144 D.L.R. (4th) See also: British Columbia (Minister of Forests) v. Okanagan Indian Band, 2003 SCC 71 at para. ...43. Sandhu argues that its position is similar to the example cited in Housen at paragraph 27 and quoted from Canada (Director of Investigation and Research) v. Southam Inc., 1997 CanLII 385 (SCC), [1997] 1 S.C.R. 748, 144 D.L.R. (4th) 1 at para. 39: [I]f a decision-maker says that the correct test requires him or her to consider A, B, C, and D, but in fact the decision-maker considers only A, B, and C, then the outcome is as if he or she had applied a law that required consideration of only A, B, and C. If the correct test requires him or her to consider D as well, then the decision-maker has in effect applied the wrong law, and so has made an error of law.

[34]See: **HR Index, Tab 41**

[35] *(Kawa Arab v. Unica Insurance*, 2022 ONSC 5761 (Div. Court, 2022) (see: **HR Index, Tab 42**)

[36]*Kawa Arab v. Unica*: Adjudicator Nidhi Punyarthi of the License Appeal Tribunal dated January 24, 2020 and subsequent reconsideration decision of the Tribunal VC, Anil A. Farlam dated March 31, 2021

[37].[18] Section 11(6) of the *LAT Act* provides that an appeal from a decision of the Tribunal relating to a matter under the Insurance Act may only be on a question of law. Pursuant to *Vavilov*, 2019 SCC 65 (S.C.C.), where a court is hearing an appeal from an administrative decision, it would, in considering questions of law, including questions of statutory interpretation and those concerning the scope of a decision-maker's authority, apply the standard of correctness in accordance with *Housen v. Nikolaisen*, 2002 SCC 33.

[38]See: HR Index, Tab 42

[39]Emphasis on distinction between "Decision" OR "Order"

[40]see *Canada (Director of Investigation and Research) v. Southam Inc.*, 1997 CanLII 385 at para. 41

[41]**The Lake Order** does not even consider the volumes of evidence and cited a LAT Rule without engaging in any statutory interpretation of the enabling statutes. This, of course, is an error of law. By only citing one sentence of the *LAT Rules*, **Adjudicator Lake** failed to cite the second sentence of the very new LAT Rule 24.1 which is not permissive (like the first sentence: A party may be self-represented, or they may have a representative) but the requirements for "parties": "In keeping with Rule 2.20, representatives are **required** to be **authorized** under the *Law Society Act to represent a party* in the proceeding **AND** they **must** comply with the *Law Society Act*, applicable guidelines, and rules of professional conduct." Parenthetically, it is unclear what "applicable guidelines" mean but presuming they mean By-Laws, the Applicant takes no issue with the correctness of the second sentence of the New LAT Rule 24.1. **Adjudicator Lake** failed to cross-reference.

[42]*10502 v. Registrar of Alcohol, Gaming and Racing*, 2018 CanLII 129017 (ON LAT) ["Bassline"]

[43]Bassline notes that the Tribunal has jurisdiction under s. 5.1(1) of the *Licence Appeal Tribunal Act, 1999*, S.O. 1999, c. 12, Sch. G ("LAT Act") to determine "all questions of fact or law that arise in matters before it." Bassline argues that whether the Registrar exceeded its jurisdiction in requiring an 'all-or-nothing' settlement is a question of mixed fact and law that arises in the appeal. Bassline also notes that under s. 3(2) of the **LAT Act**, the Tribunal has "all the powers that are necessary or expedient for carrying out its duties." Bassline submits that the legislative intent was to give the Tribunal "broad jurisdiction and powers to oversee the conduct of the Registrar", which should not be limited to cases where there is an abuse of process.

[44]The decision on the motion would likely have been different had this error not been made, in that Bassline would have been permitted to put its arguments before the panel hearing the appeal on its merits."

[45]*Lopcevich v. Registrar, Real Estate & Business Brokers Act*, 2010 ONSC 1145 (see: **HR Index, Tab 44**)

[46]Justice (three division panel: **GREER, LEDERMAN AND SACHS JJ.**) (no dissent but unanimous)

[47]See: **HR Index, Tab 45**

[48]. [40] Here, the SBT appears to have inferred that Sparks could stop using marijuana but chose not to do so, and to have inferred that because of that choice his impairments were not substantial. This is stereotypical reasoning, inconsistent with SBT jurisprudence, and an error in law. **Issue 3: The SBT based its decision on contradictory determination** [41] This issue also arises from the manner in which the SBT dealt with the appellant's substance use disorder. At para. 19 of the SBT's decision, the tribunal found that Sparks' impairments were not "substantial ... because the Appellant was not in full compliance with treatment prescribed", i.e., to cease using marijuana as his physician had recommended. But at para. 22 of the decision, the SBT held that he was not substantially impaired because he was able to overcome an addiction to Percocet with the use of suboxone, leading to the conclusion, at para. 23, that Sparks' "extensive use of cannabis" weighed against a finding of substantial impairment. In other words, according to the SBT, Sparks' impairments were not substantial because he was not compliant with treatment for marijuana, and because he was compliant with treatment for Percocet. Such

inconsistent findings are an error of law: *R. v. R. (D.)*, 1996 CanLII 207 (SCC), [1996] 2 S.C.R. 291, at para. 30; *Trajkovich v. Ontario (Minister of Natural Resources)*, 2009 ONCA 898, O.J. No. 5466, at para. 18.

[52] Herein, Adjudicator Lake cited the incorrect motion number (as no notice of motion #6 had been filed) and did not turn her mind to the order of LAT regarding NOM #4 regarding this Applicant's JRB entitlement which is based on admissions in the Purported SNIC Response by the "unauthorized agent" for SNIC in the Purported SNIC Response.

[53] See: **HR Index**, Tab 46

[54] [22] Recently, the Supreme Court of Canada commented on the application of these standards of review in circumstances where the overall conclusion is based on an extricable error of law (*Ovens Knight Insurance Corp. v. Canada*, 2023 SCC 16 at para. 121).

[55] Adj. Lake's overall conclusion is predicated on not citing the full text of LAT Rule 24.1 which is explicitly cross-referenced in the Law Society Act.

[56] See: **HR Index**, Tab 47

[57] which is yet another legal authority for why the correctness standard applies in this **Reconsideration Motion**.

[58] : [21] This court is in as good a position as the application judge to deal with the issue of *remedy* because this case was argued on a paper basis without the involvement of live witnesses. Herein, the point is even more forceful and apropos considering that SNIC (or the Impugned Individuals with a focus on Kurat) did not even provide any evidence or submissions, or attempt to apply for motion relief to correct the improperly constituted **Purported SNIC Response**.

[59] Approximately 15 calendar days

[60] (see: *Zurich 2024*, paragraph 10).

[61]

The only evidence of a licensed insurance company in Ontario having ownership of the VP Building 4th Floor Fax Number, being utilized as a fax number on October 13, 2022, is that of TD Home And Auto Insurance Company, FSRA registration number 1063. The only evidence of the floor (4th) in which the **VP Building 4th Floor Fax Number** was so grounded and wired with Bell Canada Inc., as the telecommunications provider, is and was the 416-774-3120 fax number. Canada Post only lists two addresses above the third floor at the VP Building *as having* postal codes: (i) the 4th floor; and (ii) 9th floor. The most *rudimentary syllogism* evolves from the above: if TDHA and TDGIC were both tenants at the VP Building in October 2022, and the Tribunal, which would obviously have accurate contact information for insurance companies, denoted TDGIC as being on the 9th floor of the VP Building, then TDHA was on the 4th floor of the VP Building. As the 4th floor was the floor or level with the **VP Building 4th Floor Fax Number**, then TDHA was the **First Insurer** to receive the Appellant's **Completed Application**. Whether TDHA has moved since that time is of no consequence. The corroborating evidence, which SNIC never denied in HCAI, also points to TDHA as the First Insurer with the VP Building 4th Floor Fax Number. It must be recalled that in the FSRA Enforcement Decisions, all of the distinct insurers in the TDI Group claimed a "technological error" for the unlawful and without notice increasing of premiums of their customers. Perhaps, it was another technological error. It is also noted that in the "Right to Dispute The Insurance Company's Determination of your claim for SABS" provided by SNIC (SNIC Markham), it references an old address for the Tribunal which it is has not had for years. For context, had the Appellant delivered his Appeal to that no longer valid address for the Tribunal, would the Tribunal have considered that his Appeal was received and filed with it? The question answers itself. The same applies to SNIC's provision of a fax number that was not its fax number for some 6 or so years, and clearly a fax number of another insurance company as a tenant in the VP Building on the 4th floor with control of receipt of faxes sent to the VP Building 4th Floor Fax Number. Whatever "side deal" or "agreement" TDHA had with SNIC and TDGIC to accept priority over the applicant's [sic] insurance policy [sic] does not override the requirements under Reg 283. Frankly, it is beyond offensive that they would engage in that kind of conduct. It is disrespectful to the Legislature that empowered the LGIC to pass regulations and offensive to the whole regulatory infrastructure. While a **First Insurer** may have never received insurance premiums from a claimant, it may seem *intuitively* wrong that the **First Insurer** is required to *respond* and pay benefits pending its section 3 notice but the Legislature and LGIC's intent must be respected. In this example, TDHA has nothing to complain about after SNIC did not first receive the **Completed Application** and TDGIC's fax number was admitted by the Tribunal to be 416.774.3629 (not TDHA's fax number which was publicly listed as such by the Ontario Business Directory). There is no prejudice to TDHA and to the extent it disclosed the documents from it to those "accepting insurance companies", then they must be returned to TDHA. The reason it is so offensive that SNIC and TDHA would in any agree to accept priority over the applicant's insurance policy as Adjudicator put it, **TDHA**'s permanent liability to pay benefits was a self-inflicted consequence of its failure to adhere to the requirements of both sections 2 and s. 3 of *Reg 283*. The combination of provisions in *Reg 283* transformed **TDHA**'s provisional liability into a permanent one (see: *Zurich 2024*, paragraph 64). For **TDHA** to not be declared as the **First Insurer** would mean that there were no consequences for the conduct (or inaction) of **TDHA** after receipt of the **Completed Application** and by continuing to have its former branch office address (**East Mall Address**) auto-populated in **HCAI**. It would defeat the legislation's public policy. *"pay now and dispute later"*.[62] "**Arbitrary**" means: determined by impulse rather than reason, a random choice or personal whim. The Appellant faxed the **Completed Application** *for one reason only*: SNIC represented that *its* fax number was the **416 Fax Number** when it could not have been based on SNIC's physical location at SNIC **Markham**. Therefore, the Appellant did not make an "arbitrary decision" to fax his **Completed Application** to the **416 Fax Number**. Therefore, there was a "nexus" between the Appellant and **TDHA**. "**Receipt**" means: "to get possession of". **TDHA** got possession of the **Completed Application** as the **First Insurer** on October 13, 2022. There is now no dispute that the **Spam Faxes**, which SNIC could not produce in the face of a demand (May 2, 2024) from the Appellant for the same, were *on behalf* (as per) of **TDHA** and its unlawful attempt to *steer* the Appellant away from the **416 Fax Number** and its representation that it [**TDHA**] had no record of his claim. **TDHA** would NOT have had a "record" of the Appellant's TD Claim #3 as if the TD Claim #3 was likely created by SNIC but when the Appellant faxed[63] the **Completed Application** to the **416 Fax Number**, **TDHA** became

the **First Insurer The 416 Fax Number** was the fax number for **TDHA** in September and October 2022. **TDHA** has been the *independent* (not "one and the same" as SNIC) adjusting insurance company, by reference to the **East Mall Address** which has been exclusively represented to the public as **TDHA**'s address since it was so denoted in the HCAI portal as such [6] Our ONSC in *Zurich 2024*, with the benefit of the SCC in *Zurich 2013*, has settled the law in the above regards as follows: (i) breach of section 2 of *Reg 283*, according to the case law, does not result in the recipient, at first instance, insurer being required to pay benefits to the claimant permanently. BUT, (ii) the failure *TO AVAIL* itself of section 3 of *Reg 283* does.

TAB 55

TAB #26: ORAL COMPENDIUM: COURT FILE NO. DC-24-00000718-00JR

CanLII

Disputes Between Insurers, O Reg 283/95

Current version: in force since Jun 8, 2019

Link to the latest version : https://canlii.ca/t/rvj

Stable link to this version : https://canlii.ca/t/53mpn

Citation to this version: Disputes Between Insurers, O Reg 283/95, <https://canlii.ca/t/53mpn> retrieved on 2024-07-27

Currency: This regulation is current to 2019-12-08 according to the e-Laws site

Insurance Act
Loi sur les assurances

ONTARIO REGULATION 283/95

DISPUTES BETWEEN INSURERS

Consolidation Period: From June 8, 2019 to the e-Laws currency date

Last amendment: 126/19.

This Regulation is made in English only.

0.1 In this Regulation,

5

15 "application" means an application for accident benefits (OCF-1) approved by the Superintendent for the purposes of the Schedule;

NEW CCD of FSRA

"benefits" means statutory accident benefits as defined in subsection 224 (1) of the Act

"completed application" means a completed and signed application; RETURN ADDRESS PROVIDED BY INSURER

"Fund" means the Motor Vehicle Accident Claims Fund continued under subsection 2 (1) of the *Motor Vehicle Accident Claims Act*; → APPLICANT CANNOT RETURN

"Schedule" means, in respect of an accident, the *Statutory Accident Benefits Schedule* as defined in subsection 224 (1) of the Act that applies in respect of the accident. O. Reg. 38/10, s. 1.

1. All disputes as to which insurer is required to pay benefits under section 268 of the Act shall be settled in accordance with this Regulation. O. Reg. 283/95, s. 1.

416-777-3120 SEE CASES DEMOS:

2. (1) The first insurer that receives a completed application for benefits is responsible for paying benefits to an insured person pending the resolution of any dispute as to which insurer is required to pay benefits under section 268 of the Act. O. Reg. 283/95, s. 2. IF NO DISPUTE BETWEEN INSURERS → THEN RECIPIENT IS RESPONSIBLE

(2) Subsection (1) applies in respect of benefits that may be payable as a result of an accident that occurs before September 1, 2010. O. Reg. 36/10, s. 2.

2.1 (1) This section applies in respect of benefits that may be payable as a result of an accident that occurs on or after September 1, 2010. O. Reg. 36/10, s. 3. AUG 31, 2022

(2) An insurer shall promptly provide an application and any other appropriate forms in accordance with the Schedule to an applicant who notifies the insurer that he or she wishes to apply for benefits. O. Reg. 36/10, s. 3.

(3) The application provided by the insurer shall include the insurer's name, mailing address and telephone and facsimile numbers. O. Reg. 36/10, s. 3. NO DISCRETION 416-777-3120

(4) The applicant shall use the application provided by the insurer and shall send the completed application to only one insurer. O. Reg. 36/10, s. 3. THERE IS ONE WHO RECEIVED

(5) An insurer that provides an application under subsection (2) to an applicant shall not take any action intended to prevent or stop the applicant from submitting a completed application to the insurer and shall not refuse to accept the completed application or redirect the applicant to another insurer. O. Reg. 36/10, s. 3. REDIRECTION → PROHIBITED

(6) The first insurer that receives a completed application for benefits from the applicant shall commence paying the benefits in accordance with the provisions of the Schedule pending the resolution of any dispute as to which insurer is required to pay the benefits. O. Reg. 36/10, s. 3. SHALL = MUST

16(7) An insurer that fails to comply with this section shall reimburse the Fund or another insurer for any legal fees, adjuster's fees, administrative costs and disbursements that are reasonably incurred by the Fund or other insurer as a result of this non-compliance. O. Reg. 38/10, s. 3.

TDHA (416-774-3124)
→ REIMBURSE → SNIP
BUT SNIP MISNER

(8) In subsection (7),

"insurer" does not include the Fund. O. Reg. 38/10, s. 3.

3. (1) No insurer may dispute its obligation to pay benefits under section 268 of the Act unless it gives written notice within 90 days of receipt of a completed application for benefits to every insurer who it claims is required to pay under that section. O. Reg. 283/95, s. 3 (1).

TDHA PROHIBITED AS OF JANUARY 01, 2023

(1.1) If the dispute relates to an accident that occurred on or after September 1, 2010, a notice required under subsection (1) must also be given to the Fund if the insurer claims the Fund is required to pay benefits. O. Reg. 38/10, s. 4.

(2) An insurer may give notice after the 90-day period if,

(a) 90 days was not a sufficient period of time to make a determination that another insurer or insurers is liable under section 268 of the Act; and

(b) the insurer made the reasonable investigations necessary to determine if another insurer was liable within the 90-day period. O. Reg. 283/95, s. 3 (2).

TDHA KNEW → NO ATTEMPT WITHIN 90 DAYS

(2.1) If the dispute relates to an accident that occurred on or after September 1, 2010, the Fund may give a notice under subsection (1) after the 90-day period and is not required to comply with subsection (2). O. Reg. 38/10, s. 4.

(3) The issue of whether an insurer who has not given notice within 90 days has complied with subsection (2) shall be resolved in an arbitration under section 7. O. Reg. 283/95, s. 3 (3).

3.1 (1) This section applies to disputes relating to accidents occurring on or after September 1, 2010. O. Reg. 38/10, s. 5.

(2) Before giving a notice to the Fund under section 3, an insurer must,

(a) complete a reasonable investigation to determine if any other insurer or insurers are liable to pay benefits in priority to the Fund; and

(b) provide particulars to the Fund of the investigation and the results of the investigation. O. Reg. 38/10, s. 5.

4. (1) An insurer that gives notice under section 3 shall also give notice to the insured person using a form approved by the Chief Executive Officer. O. Reg. 283/95, s. 4; O. Reg. 305/96, s. 1; O. Reg. 128/19, s. 2.

NEVER RECEIVED FROM TDHA

(2) Despite subsection (1), if the insurer that gives notice under section 3 is the Fund, no notice shall be given to the insured person under subsection (1). O. Reg. 38/10, s. 6.

175. (1) An insured person who receives a notice under section 4 shall advise the insurer paying benefits in writing within 14 days whether he or she objects to the transfer of the claim to the insurers referred to in the notice. O. Reg. 283/95, s. 5 (1).

(2) If the insured person does not advise the insurer within 14 days that he or she objects to the transfer of the claim, the insured person is not entitled to object to any subsequent agreement or decision to transfer the claim to the insurers referred to in the notice. O. Reg. 283/95, s. 5 (2).

(3) Subject to subsection 7 (5), an insured person who has given notice of an objection is entitled to participate as a party in any subsequent proceeding to settle the dispute and no agreement between insurers as to which insurer should pay the claim is binding unless the insured person consents to the agreement or 14 days have passed since the insured person was notified in writing of an agreement and the insured person has not initiated an arbitration under the *Arbitration Act, 1991*. O. Reg. 283/95, s. 5 (3); O. Reg. 38/10, s. 7.

6. (1) The insured person shall provide the insurers with all relevant information needed to determine who is required to pay benefits under section 268 of the Act. O. Reg. 283/95, s. 6.

(2) Upon request by the first insurer that receives a completed application for benefits, the insured person shall submit to one examination under oath for the purpose of determining who is required to pay benefits under section 268 of the Act. O. Reg. 16/13, s. 1.

(3) No other insurer is entitled to require the insured person to submit to an examination under oath for the purpose of determining who is required to pay benefits under section 268 of the Act. O. Reg. 16/13, s. 1.

(4) The scope of the examination under oath is limited to matters that are relevant to determining who is required to pay benefits under section 268 of the Act. O. Reg. 16/13, s. 1.

(5) The insured person is entitled to be represented at his or her own expense at the examination under oath by such counsel or other representative of his or her choice as the law permits. O. Reg. 16/13, s. 1.

(6) The insurer shall make reasonable efforts to schedule the examination under oath for a time and location that are convenient for the insured person and shall give him or her reasonable advance notice of the following:

1. The date and location of the examination.
2. The insured person's entitlement to be represented in the manner described in subsection (5).
3. The reasons for the examination.
4. The fact that the scope of the examination is limited to matters that are relevant to determining who is required to pay statutory accident benefits under section 268 of the Act. O. Reg. 16/13, s. 1.

187. (1) If the insurers cannot agree as to who is required to pay benefits, the dispute shall be resolved through an arbitration under the *Arbitration Act, 1991* initiated by the insurer paying benefits under section 2 or 2.1 or any other insurer against whom the obligation to pay benefits is claimed. O. Reg. 36/10, s. 6.

(2) If an insured person was entitled to receive a notice under section 4, has given a notice of objection under section 5 and disagrees with an agreement among insurers that an insurer other than the insurer selected by the insured person should pay the benefits, the dispute shall be resolved through an arbitration under the *Arbitration Act, 1991* initiated by the insured person. O. Reg. 36/10, s. 6.

(3) The arbitration may be initiated by an insurer or by the insured person no later than one year after the day the insurer paying benefits first gives notice under section 3. O. Reg. 36/10, s. 6.

(4) Despite subsection (3), the arbitration may be initiated by the Fund at any time before or after the expiry of the time limit set out in subsection (3) if the Fund is paying benefits in respect of an accident that occurred on or after September 1, 2010. O. Reg. 36/10, s. 6.

(5) No insured person is entitled to initiate or participate as a party to an arbitration under this section if the insurer paying benefits is the Fund. O. Reg. 36/10, s. 6.

(6) If the dispute relates to an accident that occurred on or after September 1, 2010, the failure of an insurer other than the Fund to comply with section 2.1 or 3.1 may be the subject of a special award made by the arbitrator. O. Reg. 36/10, s. 6.

8. (1) Except as provided in this Regulation, the *Arbitration Act, 1991* applies to an arbitration under this Regulation. O. Reg. 283/95, s. 8 (1).

(2) The following rules apply with respect to an arbitration of a dispute relating to an accident that occurs on or after September 1, 2010:

1. If an insurer to whom a notice to initiate arbitration is delivered does not respond to the notice within 30 days, the insurer is deemed to have accepted the jurisdiction of the arbitrator proposed in the notice.
2. A pre-arbitration hearing must be scheduled and take place no later than 120 days after the appointment of the arbitrator.
3. Subject to paragraph 4, once a date for the arbitration is scheduled, the arbitration must be conducted on that day.
4. The arbitrator may grant an adjournment on such terms as the arbitrator considers appropriate, but only if there is cogent and compelling evidence of the reasons why the hearing cannot proceed on the scheduled day.
5. Unless consented to by all parties, the hearing of the arbitration must be completed within two years after the commencement of the arbitration. O. Reg. 36/10, s. 9.

(3) The decision of an arbitrator made under this Regulation must be made public. O. Reg. 36/10, s. 9.

(4) If the decision relates to an accident that occurred on or after September 1, 2010, the decision must be made public.

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19 (a) by the insurer that the arbitrator finds to be liable to pay the benefits; and

(b) in a manner and form specified by the Chief Executive Officer. O. Reg. 36/10, s. 9; O. Reg. 126/19, s. 2

9. (1) Unless otherwise ordered by the arbitrator or agreed to by all the parties before the commencement of the arbitration, the costs of the arbitration for all parties, including the cost of the arbitrator, shall be paid by the unsuccessful parties to the arbitration. O. Reg. 283/95, s. 9 (1).

(2) The costs referred to in subsection (1) shall be assessed in accordance with section 56 of the *Arbitration Act, 1991*. O. Reg. 283/95, s. 9 (2).

NONE FROM TDHA TO SNC

10. (1) If an insurer who receives notice under section 3 disputes its obligation to pay benefits on the basis that other insurers, excluding the insurer giving notice, have equal or higher priority under section 268 of the Act, it shall give notice to the other insurers. O. Reg. 283/95, s. 10 (1).

(2) This Regulation applies to the other insurers given notice in the same way that it applies to the original insurer given notice under section 3. O. Reg. 283/95, s. 10 (2).

(3) The dispute among the insurers shall be resolved in one arbitration. O. Reg. 283/95, s. 10 (3).

11. References in this Regulation to a form approved by the Chief Executive Officer are deemed to include the last form approved by the Superintendent for the purposes of the relevant provision prior to the day section 22 of Schedule 13 to the *Plan for Care and Opportunity Act (Budget Measures), 2018* came into force until the Chief Executive Officer approves a subsequent form for the purposes of the relevant provision. O. Reg. 126/19, s. 1

TDHA AND SNC
NOT ONE @ THE
SAME

TAB 56

TAB #27: ORAL COMPENDIUM: COURT FILE NO. DC-24-00000718-00JR

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(67)

Insurance Act

R.R.O. 1990, REGULATION 664

AUTOMOBILE INSURANCE

SETTLEMENTS — STATUTORY ACCIDENT BENEFITS

Could be 2 diff ins. from 2 diff insurers

9.1 (1) In this section,

"settlement" means an agreement between an insurer and an insured person that finally disposes of a claim or dispute in respect of the insured person's entitlement to one or more benefits under the *Statutory Accident Benefits Schedule*. O. Reg 780/93, s. 7. one or more

(2) The insurer shall give the insured person a written disclosure notice, signed by the insurer, with respect to the settlement. O. Reg. 483/01, s. 1.

(3) The disclosure notice shall be in a form approved by the Chief Executive Officer and shall contain the following information:

1. The insurer's offer with respect to the settlement.
2. A description of the benefits that may be available to the insured person under the *Statutory Accident Benefits Schedule*.
3. A statement that the insured person may, within two business days after the later of the day the insured person signs the disclosure notice and the day the insured person signs the release, rescind the settlement by delivering a written notice to the office of the insurer or its representative and returning any money received by the insured person as consideration for the settlement.
4. A description of the consequences of the settlement on the benefits described under paragraph 2 including,

i. a statement of the restrictions contained in the settlement on the insured person's right to apply to the Licence Appeal Tribunal under subsection 280 (2) of the Act or appeal from a decision of the Licence Appeal Tribunal,

ii. a statement that the tax implications of the settlement may be different from the tax implications of the benefits described under paragraph 2 and,

iii. a statement that the insured person may not apply to the Licence Appeal Tribunal under subsection 280 (2) of the Act with respect to benefits that were the subject of a settlement or a purported settlement unless the insured person has returned the money received as consideration for the settlement.

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(68)

5. A statement advising the insured person to consider seeking independent legal, financial and medical advice before entering into the settlement.

6. A statement for signature by the insured person acknowledging that he or she has read the disclosure notice and considered seeking independent legal, financial and medical advice before entering into the settlement. O. Reg. 483/01, s. 1; O. Reg. 43/16, s. 2 (1, 2); O. Reg. 190/19, s. 7.

(4) The insured person may rescind the settlement within two business days after the later of the day the insured person signs the disclosure notice and the day the insured person signs the release. O. Reg. 483/01, s. 1.

(5) The insured person may rescind the settlement after the period referred to in subsection (4) if the insurer has not complied with subsections (2) and (3). O. Reg. 483/01, s. 1.

(6) Subsections (4) and (5) do not apply with respect to a settlement that has been approved by a court under Rule 7 of the Rules of Civil Procedure (Parties under Disability). O. Reg. 483/01, s. 1.

(7) The insured person shall rescind a settlement under subsection (4) or (5) by delivering a written notice to the office of the insurer or its representative and returning any money received by the insured person as consideration for the settlement. O. Reg. 483/01, s. 1.

(8) No person may apply to the Licence Appeal Tribunal under subsection 280 (2) of the Act with respect to benefits that were the subject of a settlement or a purported settlement unless the person has returned the money received as consideration for the settlement. O. Reg. 483/01, s. 1; O. Reg. 43/16, s. 2 (3).

(9) If the insured person returns money to the insurer under subsection (7) or (8) and a dispute arises between the insurer and the insured person with respect to the validity of the purported settlement or the right of the insured person to rescind the settlement, the insurer shall hold the money in trust until the matter is determined, at which time the amount and any income on the amount,

(a) shall be paid to the insured, if it is determined or agreed that there was a valid settlement that was not rescinded; and

(b) shall be returned to the insurer, if it is determined or agreed that there was no settlement, or that the settlement was invalid or was rescinded. O. Reg. 483/01, s. 1.

(10) A restriction in a settlement on an insured person's right to apply to the Licence Appeal Tribunal under subsection 280 (2) of the Act or appeal from a decision of the Licence Appeal Tribunal is void unless the insurer complied with subsections (2) and (3) and one of the following conditions is satisfied:

(69)

1. The settlement is entered into on or after the first anniversary of the day of the accident that gave rise to the claim.

2. Before entering into the settlement,

i. the insured applied to the Licence Appeal Tribunal under subsection 280 (2) of the Act, and

ii. if there were applicable rules or procedures of the Licence Appeal Tribunal in respect of case conferences at the time of the settlement, a case conference was held in accordance with the rules or procedures. O. Reg. 43/16, s. 2 (4).

INDEMNIFICATION FOR STATUTORY ACCIDENT BENEFITS (SECTION 275 OF THE ACT)

9. (1) In this section,

FIRST PARTY INSURER

"first party insurer" means the insurer responsible under subsection 268 (2) of the Act for the payment of statutory accident benefits; ("assureur de première partie")

DISPUTE RESOLUTION (SECTION 280 OF THE ACT)

10. If the Licence Appeal Tribunal finds that an insurer has unreasonably withheld or delayed payments, the Licence Appeal Tribunal, in addition to awarding the benefits and interest to which an insured person is entitled under the Statutory Accident Benefits Schedule, may award a lump sum of up to 50 per cent of the amount to which the person was entitled at the time of the award together with interest on all amounts then owing to the insured (including unpaid interest) at the rate of 2 per cent per month, compounded monthly, from the time the benefits first became payable under the Schedule.

Tab 57

TAB #28: ORAL COMPENDIUM: COURT FILE NO. DC-24-00000718-00JR

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10 Affiliated Insurers

10(1) An agent, broker or insurer providing a quote or renewal for automobile insurance from an insurer, and not offering the lowest rate available from amongst that insurer and its affiliated insurers.

10(2) In this section "lowest rate available" is the lowest rate amongst an insurer and its affiliates which is reasonably available to be offered to an insured or potential insured, having regard to all of the circumstances, including but not limited to,

(i) each insurer's declination grounds,

(ii) each insurer's rates and risk classification systems,

(iii) each insurer's method of distribution, or

(iv) whether the insurers only recently became affiliated.

11 Deferred Sales Charges – New Individual Variable Insurance Contracts

11(1) An insurer issuing an individual variable insurance contract on or after June 1, 2023, under which a person can make an investment that may be subject to a deferred sales charge.

11(2) For the purposes of s. 11(1) of this Rule, an insurer is not considered to "issue" an individual variable insurance contract where a person has an existing individual variable insurance contract with the insurer and the insurer issues a replacement individual variable insurance contract on substantially similar terms and conditions, except any changes required by applicable tax or pension laws, including issuing a contract in connection with,

(i) converting a registered retirement savings plan to a registered retirement income fund contract,

(ii) converting a locked-in retirement account to a life income fund contract, or

(iii) transferring ownership of the individual variable insurance contract.

11(3) A replacement individual variable insurance contract is not substantially similar for the purposes of s. 11(2) of this Rule unless the calculation of each deferred sales charge on investments under the replacement individual variable insurance contract reflects the time the money was invested on a deferred sales charge basis under a replaced individual variable insurance contract, if any, rather than reflecting a period starting from the date on which the replacement individual variable insurance contract is issued.

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12 Deferred Sales Charges – All Individual Variable Insurance Contracts

12(1) An insurer amending an individual variable insurance contract, or exercising a right under an individual variable insurance contract, to add, withdraw or change a sales charge option on or after June 1, 2023, if, as a result,

(i) the individual variable insurance contract may permit or require an insured to pay a deferred sales charge, or

(ii) a reasonable person would believe a deferred sales charge under the individual variable insurance contract becomes less favourable to the insured, including any change that,

(a) increases the amount of the investment which is or may be subject to a deferred sales charge,

(b) increases the duration of a deferred sales charge,

(c) increases the amount payable in any given circumstances under a deferred sales charge, or

(d) extends the circumstances that trigger payment of a deferred sales charge.

12(2) An insurer accepting a deposit to an individual variable insurance contract that may be subject to a deferred sales charge if the insurer has the right under the terms of the individual variable insurance contract to remove deferred sales charge as a sales charge option and instead accept deposits under a different sales charge option.

12(3) Except as described in s. 12(4) or s. 12(7) of this Rule, an insurer applying a sales charge option other than the deferred sales charge option to a deposit to an individual variable insurance contract where the insurer and insured had previously agreed the deferred sales charge option would apply to the deposit.

12(4) Section 12(3) of this Rule does not prescribe that it is an unfair or deceptive act or practice for an insurer to apply a sales charge option to a deposit that is unequivocally better for the insured than the deferred sales charge if, before or promptly after the insurer first applies the new sales charge option, the insured receives written disclosure from the insurer that,

(i) informs the insured what sales charge option the insurer is applying,

(ii) explains how the sales charge option in s. 12(4)(i) of this Rule works,

(iii) informs the insured of the existence of other available sales charge options, if any, and

(iv) explains how the insured can obtain information about any other available sales charge options.

12(5) For the purpose of s. 12(4) of this Rule, a sales charge option is unequivocally better for an insured than the deferred sales charge it replaces only if,

(i) the percentage amount of any initial sales charge is no greater than in connection with the deferred sales charge,

(ii) the management expense ratio is no greater than in connection with the deferred sales charge,

(iii) no other fee or charge associated with the sales charge option is less favourable to the insured than under the deferred sales charge option, and

(iv) the sales charge option applied does not involve any new conflict between the interests of the insured and the interests of the insurer or an agent to the detriment of the insured.

12(6) For the purpose of s. 12(5) of this Rule, the advisor chargeback sales charge option is not unequivocally better than the deferred sales charge.

12(7) Section 12(3) of this Rule does not prescribe that it is an unfair or deceptive act or practice for an insurer to apply a sales charge option to a deposit if, before the insurer applies the sales charge option,

(i) the insured receives written disclosure from the insurer reasonably designed to help the insured choose a suitable sales charge option, which at a minimum includes,

(a) a list of sales charge options the insured may choose among,

(b) a description of how each applicable sales charge option works,

(c) the percentage amount of any initial sales charge under each applicable sales charge option,

(d) a description of the relevant management expense ratios, including,

(I) any different charges for different guarantee options,

(II) what the management expense ratios include, and

(III) how the management expense ratios affect the insured's returns on their investments, and

(ii) either,

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TAB 25 FOR NOM #13

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(a) the insured agrees to the new sales charge option applying to the deposit, or

(b) the insured is deemed to have agreed to the default sales charge option because a reasonable time elapses, during which the insured does not notify the insurer of the insured's choice of sales charge option, after the insurer

(i) provides the required disclosure,

(ii) notifies the insured of the default sales charge option, and

(iii) notifies the insured of the time until that default sales charge option will apply.

12(8) An insurer accepting a deposit to an individual variable insurance contract that may be subject to a deferred sales charge, unless the insured receives written disclosure from the insurer, before the insurer accepts the deposit, that is reasonably designed to help the insured understand the sales charge options available to them and whether making a deposit on a deferred sales charge basis is suitable for that insured.

13 Coming into Force

13(1) This Rule will come into force on the later of the date that section 1 of Schedule 5 of the *Protecting the People of Ontario Act (Budget Measures), 2021* comes into force and 15 days after the Rule is approved by the Minister.

2(2) For the purposes of determining what conduct, including inaction or omission, could be reasonably expected to result in the outcomes, events or circumstances set out in s. 3 through s. 12 of this Rule,

(i) if the action or conduct, including inaction or omission is committed by,

(a) an agent, broker, adjuster, insurer or any director, officer, employee or authorized representative of an agent, broker, adjuster or insurer, or

(b) any person, or any director, officer, employee or authorized representative of that person, who provides goods or services to a claimant which are fully or partially expected to be paid for through the proceeds of insurance, including for greater clarity and without limitation, automotive repair, towing and storage services,

then an outcome, event or circumstance will be deemed to be reasonably expected if it would be expected by a reasonable person in that person's business or profession with full knowledge of all and any facts and circumstances that person knew about or, with reasonable diligence under the circumstances, ought to, have known, or

(ii) if the action or conduct, including inaction or omission, is committed by a person not listed in (i) then an outcome, event or circumstance will be deemed to be reasonably expected if it would be expected by a reasonable person in that person's position with knowledge of all and any relevant facts and circumstances that person knew about or ought to, with reasonable diligence under the circumstances, have known.

2(3) S. 2(1) of this Rule does not apply to conduct by a lawyer or paralegal with respect to activities that constitute practising law or providing legal services, as the case may be, as authorized under the *Law Society Act* which results in the outcomes listed in in s. 6 of this Rule.

3 Non-Compliance with Law

3(1) The commission of any act prohibited under the Act, or under any regulation or Authority rule made under the Act.

3(2) Any provision of the Act, or a regulation or Authority rule made under the Act, not being complied with resulting in the unfair treatment or unfair discrimination of a person.

3(3) Non-compliance with any requirement under the Act or a regulation or Authority rule made under the Act, by the subject of an examination or purported examination.

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4 Unfair Discrimination

4(1) Any unlawful or unfair discrimination, including any contravention of the Ontario *Human Rights Code*, in the provision or administration of insurance, or goods or services related to insurance, including,

(i) between individuals of the same class and of the same expectation of life, in the amount or payment or return of premiums, or rates charged for contracts of life insurance or annuity contracts, or in the dividends or other benefits payable on such contracts or in the terms and conditions of such contracts, or

(ii) in any rate or schedule of rates between risks in Ontario of essentially the same physical hazards in the same territorial classification.

5 Unfair Claims Practices

5(1) Unreasonable or unfair resolution or delay in the adjudication, adjustment or settlement of any claim, including but not limited to,

(i) treating a claimant in an arbitrary, capricious or malicious manner,

(ii) not acting in good faith,

(iii) seeking a result which is inequitable or inconsistent with a claimant's rights under the contract,

(iv) imposing unreasonable or unfair costs or expenses on the (1) claims handling or dispute resolution processes, (2) goods or (3) services,

(v) communicating in an untimely manner or misrepresenting the rights of a claimant or obligations of an insurer under the contract, or

(vi) any adjuster or insurer not following fair, simple and accessible claims handling procedures or not providing a claimant timely, clear, comprehensive and accurate information about the status of its claim, the process for settling its claim or reasons for a decision made respecting its claim.

5(2) With respect to automobile insurance,

(i) non-compliance with the Schedule, including but not limited to,

(a) payment for goods or services not being made, or

(b) the cost of an assessment not being paid,

without reasonable cause, within the time period prescribed in the Schedule.

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(ii) the making of a statement by or on behalf of an insurer for the purposes of adjusting or settling a claim if that insurer knows or ought to know that the statement misrepresents or unfairly presents the findings or conclusions of a person who conducted an examination under section 44 of the Schedule, or

(iii) a conflict of interest not being disclosed to a person who claims statutory accident benefits.

6 Fraudulent or Abusive Conduct Related to Goods and Services Provided to a Claimant

6(1) Consideration being paid or sought for goods or services in connection with a claim under a contract of insurance which were not provided to a claimant or were provided in a substantially deficient manner.

6(2) A referral fee being solicited, demanded, paid or accepted in connection with goods or services provided to a claimant.

6(3) Unreasonable consideration being paid or sought for goods or services provided to a claimant.

6(4) With respect to automobile insurance, a claimant signing or being asked to sign, before it has been fully completed, any form or any other document that is required to be in a form approved by the Chief Executive Officer or any form or document that is specified in a guideline applicable for the purposes of the Schedule.

6(5) Information being communicated about the business, billing practices or licensing status of a person who provides or offers to provide goods or services to a claimant which a reasonable person who is in the position of the intended recipient would consider false, misleading or deceptive.

7 Incentives

7(1) Payment, rebate, consideration, allowance, gift or thing of value being offered or provided, directly or indirectly, to an insured or person applying for insurance,

(i) as an incentive or inducement for a person to take an action or make a decision relating to an insurance product which would not, considering the options generally available in the marketplace, be recommended as a suitable action or decision by a reasonable person licensed to sell such an insurance product,

(ii) which is otherwise prohibited by law,

(iii) in a manner which a reasonable person licensed to sell such a product would not consider to be clearly and transparently communicated to intended recipients or applied consistently,

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(iv) in a manner which involves unfair discrimination or contributes to an anti-competitive practice, including but not limited to, tied selling or predatory pricing,

(v) as an incentive or inducement to purchase, renew or retain an insurance product, which provides coverages within the classes of life or accident and sickness insurance, or

(vi) if related to automobile insurance, which is based, in whole or in part, on, or is calculated by reference to, prohibited factors.

7(2) For greater clarity, s. 7(1)(i) to 7(1)(v) of this Rule also apply to any payment, rebate, consideration, allowance, gift or thing of value being offered or provided, directly or indirectly, as an incentive or inducement to purchase, renew or retain automobile insurance.

7(3) An agreement being made or offered to be made, directly or indirectly, for a premium to be paid that is different from the premium set out in the contract of insurance.

7(4) For the purposes of this section, clear and transparent communication includes but is not limited to providing an explanation of how the amount or value of any payment, rebate, consideration, allowance, gift or thing of value is calculated.

7(5) For the purposes of this section, a gift or thing of value will not be considered an incentive or inducement if that gift or thing of value is a good or service reasonably related to reducing the risk insured by the contract of insurance to which it is related.

8 Misrepresentation

8(1) A person receiving information, promotional materials, or advice in any form, including audio, visual, electronic, written and oral means, which a reasonable person in the position of such recipient would consider to be inappropriate, inaccurate or misleading, respecting,

(i) the terms, benefits or advantages of any contract of insurance issued or to be issued,

(ii) an insurance claim, the claims process or whether a policy provides coverage, or

(iii) any comparison of contracts of insurance.

8(2) A person being charged for any premium or fee other than as stipulated in a contract of insurance.

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9 Prohibited Conduct in Automobile Insurance Quotations, Applications or Renewals

9(1) Unfair treatment by an agent, broker or insurer to a consumer with regard to any matter relating to quotations for automobile insurance, applications for automobile insurance, issuance of contracts of automobile insurance or renewals of existing contracts of automobile insurance, including but not limited to,

(i) variance of formal or informal processes and procedures which make it more difficult for certain persons to interact with an insurer, broker or agent for the purpose of discouraging or delaying such persons from applying for, renewing or obtaining automobile insurance,

(ii) using credit information or a prohibited factor,

(iii) asking or requiring a person to provide consent to the collection, use or disclosure of any credit information, other than for the sole purpose of considering whether to provide premium financing,

(iv) applying any other information in a manner that is subjective or arbitrary or that bears little or no relationship to the risk assumed or to be assumed by the insurer,

(v) misclassifying a person or vehicle under the risk classification system used by an insurer or that an insurer is required by law to use,

(vi) making the issuance or variation of a policy of automobile insurance conditional on an insured having or purchasing another insurance policy,

(vii) engaging in unfair discrimination,

(viii) treating a consumer in an arbitrary, capricious or malicious manner,

(ix) not acting in good faith or behaving in a way that causes consumers to have a reasonable apprehension of bias, or

(x) communicating in an untimely manner or misrepresenting the rights of a claimant or obligations of an insurer under the automobile insurance contract.

9(2) Credit information about a person being collected, used or disclosed in any manner in connection with automobile insurance, other than,

(i) for the limited purposes, if any, described in the form of application for insurance approved by the Chief Executive Officer under s. 227(1) of the Act, or

(ii) in accordance with the consent obtained in compliance with applicable privacy laws of the person to whom the information relates.

1093 TAB 25 FOR NUM 413 301

Unfair or Deceptive Acts or Practices

1 Interpretation

1(1) In this Rule,

(i) "Act" means the *Insurance Act*, R.S.O. 1990, c. I.8, as amended,

(i.1) "Advisor chargeback sales charge option" means any option under an individual variable insurance contract,

(a) in connection with which,

(i) an insurer pays compensation to an agent when the insured invests money in a segregated fund in the individual variable insurance contract, and

(ii) the agent that receives this payment may be required to repay all or part of this compensation to the insurer if, within a specified time, the insured withdraws money from the segregated fund or changes the sales charge option associated with the units in the segregated fund in which the insured invested, or

(b) that a reasonable insurer would consider to be an advisor chargeback sales charge option,

(ii) "Affiliated insurer" means an insurer that is considered to be affiliated with another insurer under s. 414(3) of the Act,

(iii) "Authorized representative" means a person who is authorized by another person to act on such person's behalf,

(iv) "Claimant" means a person who claims statutory accident benefits or who otherwise claims any benefit, compensation or payment under a contract of insurance,

(v) "Contract of insurance" means,

(a) for a contract of life insurance, has the meaning ascribed to such term in s. 171(1) of the Act,

(b) for a contract of accident and sickness insurance, has the meaning ascribed to such term in s. 290 of the Act, and

(c) for a contract of insurance not referred to in (a) or (b), has the meaning ascribed to "contract" in s. 1 of the Act,

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(x.1) "Segregated fund" has the meaning ascribed to such term in s. 1(1) of O. Reg. 132/97: VARIABLE INSURANCE CONTRACTS;

(xi) "Substantially deficient" means that the delivery of goods or services fell below the standard required in the oral or written agreement to provide those goods or services to an extent or in such a manner that a significant part or the whole of the goods or services was unfit for the purposes intended from the perspective of a reasonable person who is in the position of the intended recipient of those goods or services.

(xii) "Unreasonable consideration" means an amount being paid or sought for goods or services provided to a claimant that a reasonable person, in the position of the provider of those goods or services, would not charge or seek, or would not expect a reasonable person who is in the position of the recipient of the goods or services, to accept.

1(2) In addition to s. 1(1) of this Rule, if a term or phrase used in this Rule is defined in the Act, that definition shall apply for the purposes of this Rule.

1(3) For greater clarity, in determining what amounts to a reasonable person who is an insurer, the reasonable person will be deemed to have a level of knowledge and expertise commensurate to that insurer's nature, size, complexity, operations and risk profile.

1(4) If a person has committed an unfair or deceptive act or practice, then every director, officer, employee or authorized representative of that person shall be deemed to have committed an unfair or deceptive act or practice if that director, officer, employee or authorized representative,

(i) causes, authorizes, permits, acquiesces or participates in the commission of an unfair or deceptive act or practice by the person, or

(ii) fails to take all reasonable care in the circumstances to prevent the person from committing an unfair or deceptive act or practice.

1(5) References in this Rule to a form approved by the Chief Executive Officer are deemed to include the last form approved by the Superintendent for the purposes of the relevant provision prior to the day section 22 of Schedule 13 to the *Plan for Care and Opportunity Act (Budget Measures), 2018* came into force until the Chief Executive Officer approves a subsequent form for the purposes of this section.

2 Unfair or Deceptive Act or Practice

2(1) For the purposes of the definition of "unfair or deceptive act or practice" in section 438 of the Act, conduct, including inaction or omission, which results in, or could reasonably be expected to result in the outcomes, events or circumstances set out in s. 3 through s. 12 of this Rule is prescribed as an unfair or deceptive act or practice.

TAB 58

Electronically filed / Déposé par voie électronique : 18-Feb-2025
Toronto Superior Court of Justice / Cour supérieure de justice

TAB #29: ORAL COMPENDIUM: COURT FILE NO. DC-24-00000718-00JR

CanLII

(10)

Statutory Accident Benefits Schedule, O Reg 34/10

Current version: in force since Apr 11, 2022

Link to the latest version :	https://canlii.ca/t/8ms8
Stable link to this version :	https://canlii.ca/t/55fz9
Citation to this version:	Statutory Accident Benefits Schedule, O Reg 34/10. <https://canlii.ca/t/55fz9> retrieved on 2024-07-27
Currency:	This regulation is current to 2019-12-08 according to the e-Laws site

Insurance Act

ONTARIO REGULATION 34/10

STATUTORY ACCIDENT BENEFITS SCHEDULE — EFFECTIVE SEPTEMBER 1, 2010

Consolidation Period: From April 11, 2022 to the e-Laws currency date.

Last amendment: 292/22.

This is the English version of a bilingual regulation.

Citation

1. This Regulation may be cited as the *Statutory Accident Benefits Schedule — Effective September 1, 2010*. O. Reg. 34/10, s. 1.

Application and transition rules

2. (1) Except as otherwise provided, the benefits set out in this Regulation shall be provided under every contract evidenced by a motor vehicle liability policy in respect of accidents occurring on or after September 1, 2010. O. Reg. 34/10, s. 2 (1); O. Reg. 251/15, s. 1 (1).

(1.1) The following provisions, as they read immediately before O. Reg. 251/15 came into force, apply in respect of accidents occurring on or after September 1, 2010 and before June 1, 2016:

1. The definition of "neuropsychologist" in subsection 3 (1).
2. Subsections 3 (2) to (6).
3. Subsection 15 (1).
4. Subsection 16 (3).
5. Section 38.
6. Subsection 39 (2).
7. Subsection 40 (8).
8. Subsections 42 (11) and (15).
9. Subsections 45 (2) and (4). O. Reg. 251/15, s. 1 (2).

(1.2) The following provisions, as they read immediately before O. Reg. 251/15 came into force, apply in respect of contracts entered into or renewed on or after September 1, 2010 and before June 1, 2016:

1. Section 12.
2. Subsection 17 (1).
3. Subsections 18 (3) to (5).
4. Subsection 19 (3).
5. Section 20.
6. Subsections 28 (1), (5) and (6).

89 7. Subsections 30 (1) and (4) to (8).

8. Subsections 42 (12) and (16).

9. Subsection 50 (3).

10. Subsection 57 (4). O. Reg. 251/15, s. 1 (2); O. Reg. 251/15, s. 1 (2).

(2) Subsections 25 (1), (3), (4) and (5), Parts VIII and IX, other than subsections 50 (2) to (5), and Parts X, XI and XII, as they read immediately before Ontario Regulation 251/15 came into force apply with such modifications as are necessary in respect of benefits provided under the Old Regulation with respect to accidents that occurred on or after November 1, 1996 and before September 1, 2010 and, for that purpose, the following rules apply:

1. References in paragraph 2 of subsection 25 (1), subsections 38 (1), (5), (7), (9), (10), (11), (12) and (14), sections 40 and 41 and subsection 44 (3) to the Minor Injury Guideline shall be read as references to the *Pre-approved Framework Guideline* referred to in the Old Regulation that would apply.

2. An amount that would, but for subsection 3 (1.3) of the Old Regulation, be paid under the Old Regulation after August 31, 2010 shall be paid under this Regulation in the amount determined,

i. under the Old Regulation, other than under section 24 of that Regulation, or

ii. under subsections 25 (1), (3), (4) and (5).

3. An amount described in paragraph 2 that is paid under this Regulation shall not include any amount previously paid under the Old Regulation. O. Reg. 34/10, s. 2 (2); O. Reg. 251/15, s. 1 (3).

(3) The benefits set out in this Regulation shall be provided in respect of accidents that occur in Canada or the United States of America, or on a vessel plying between ports of Canada or the United States of America. O. Reg. 34/10, s. 2 (3).

(4) Benefits payable under this Regulation in respect of an insured person shall be paid by the insurer that is liable to pay under subsection 268 (2) of the Act. O. Reg. 34/10, s. 2 (4).

(5) Subject to Part VII, the insurer shall pay the benefits under this Regulation despite section 225, subsection 233 (1), section 240 and subsection 265 (3) of the Act. O. Reg. 34/10, s. 2 (5).

Definitions and interpretation

3. (1) In this Regulation,

"accident" means an incident in which the use or operation of an automobile directly causes an impairment or directly causes damage to any prescription eyewear, dentures, hearing aid, prosthesis or other medical or dental device; ("accident")

"authorized transportation expense" means, in respect of an insured person, expenses related to transportation,

(a) that are authorized by, and calculated by applying the rules set out in, the most recent transportation expense guideline published by the Financial Services Regulatory Authority of Ontario, and

92 "self-employed person" means a person who, (15)

(a) engages in a trade, occupation, profession or other type of business as a sole proprietor or as a partner, other than a limited partner, of a partnership, or

(b) is a controlling mind of a business carried on through one or more private corporations some or all of whose shares are owned by the person; ("travailleur indépendant")

"self-employment" means a trade, occupation, profession or other type of business the essential tasks of which are carried on by a self-employed person; ("travail indépendant")

"spouse" has the same meaning as in Part VI of the Act. ("conjoint")

"sprain" means an injury to one or more tendons or ligaments or to one or more of each, including a partial but not a complete tear. ("entorse")

"strain" means an injury to one or more muscles, including a partial but not a complete tear; ("foulure")

"subluxation" means a partial but not a complete dislocation of a joint; ("subluxation")

"whiplash associated disorder" means a whiplash injury that,

(a) does not exhibit objective, demonstrable, definable and clinically relevant neurological signs, and

(b) does not exhibit a fracture in or dislocation of the spine. ("entorse cervicale")

"whiplash injury" means an injury that occurs to a person's neck following a sudden acceleration-deceleration force. ("coup du fouet cervical") O. Reg. 34/10, s. 3 (1); O. Reg. 269/10, s. 1 (1); O. Reg. 261/15, s. 2 (1); O. Reg. 123/19, s. 1 (1-4).

(2) The reference in clause (a) of the definition of "authorized transportation expense" to the transportation expense guideline published by the Financial Services Regulatory Authority of Ontario is deemed to include the last Transportation Expense Guideline published by the Financial Services Commission of Ontario prior to the day section 22 of Schedule 13 to the *Plan for Care and Opportunity Act (Budget Measures), 2018* came into force until the Financial Services Regulatory Authority of Ontario publishes a subsequent transportation expense guideline. O. Reg. 123/19, s. 1 (5).

(3) For the purposes of the definitions of "Guideline" and "Minor Injury Guideline", references to a guideline issued by the Chief Executive Officer are deemed to include the last guideline issued by the Superintendent for the purposes of the relevant definition prior to the day section 22 of Schedule 13 to the *Plan for Care and Opportunity Act (Budget Measures), 2018* came into force until the Chief Executive Officer issues a subsequent guideline for the purposes of the relevant definition. O. Reg. 123/19, s. 1 (5).

(4) For the purpose of the definition of "Guideline", the reference to a guideline published by the Financial Services Regulatory Authority of Ontario is deemed to include the last guideline published by the Financial Services Commission of Ontario for the purposes of that definition prior to the day section 22 of Schedule 13 to the *Plan for Care and Opportunity Act (Budget Measures), 2018* came into force until the Financial Services Regulatory Authority of Ontario publishes a subsequent guideline for the purposes of that definition. O. Reg. 123/19, s. 1 (5).

(5), (6) Revoked: O. Reg. 261/15, s. 2 (2).

(7) For the purposes of this Regulation,

93 (a) a person suffers a complete inability to carry on a normal life as a result of an accident if, as a result of the accident, the person sustains an impairment that continuously prevents the person from engaging in substantially all of the activities in which the person ordinarily engaged before the accident;

(b) a person is a dependant of an individual if the person is principally dependent for financial support or care on the individual or the individual's spouse;

(c) an aide or attendant for a person includes a family member or friend who acts as the person's aide or attendant, even if the family member or friend does not possess any special qualifications;

(d) payments for loss of income under an income continuation benefit plan are deemed to include,

(i) payments of disability pension benefits under the *Canada Pension Plan*,

(ii) periodic payments of insurance, irrespective of whether the contract for the insurance provides for a waiting period, deductible amount or similar limitation or restriction and irrespective of whether the contract is paid for in whole or in part by the employer, if the insurance is offered by the insurer,

(A) to persons who are employed while the contract for the insurance is in effect, and

(B) only on the basis that the maximum benefit payable is limited to an amount calculated with reference to the insured person's income from employment;

(e) subject to subsection (6), an expense in respect of goods or services referred to in this Regulation is not incurred by an insured person unless,

(i) the insured person has received the goods or services to which the expense relates,

(ii) the insured person has paid the expense, has promised to pay the expense or is otherwise legally obligated to pay the expense, and

(iii) the person who provided the goods or services,

(A) did so in the course of the employment, occupation or profession in which he or she would ordinarily have been engaged, but for the accident, or

(B) sustained an economic loss as a result of providing the goods or services to the insured person;

(f) an individual who is living and ordinarily present in Ontario is deemed to be the named insured under the policy insuring an automobile at the time of an accident if, at the time of the accident,

(i) the insured automobile is being made available for the individual's regular use by a corporation, unincorporated association, partnership, sole proprietorship or other entity, or

(ii) the insured automobile is being rented by the individual for a period of more than 30 days, and

(g) an individual who is not living and ordinarily present in Ontario is deemed to be the named insured under the policy insuring an automobile at the time of an accident if, at the time of the accident,

(i) the insured automobile is being made available for the individual's regular use by a corporation, unincorporated association, partnership, sole proprietorship or other entity, and

(ii) the individual, his or her spouse or any dependant of the individual or spouse is an occupant of the insured automobile. O. Reg. 34/10, s. 3 (7); O. Reg. 283/10, s. 1 (3); O. Reg. 194/11, s. 1

(8) If in a dispute described in subsection 280 (1) of the Act the Licence Appeal Tribunal finds that an expense was not incurred because the insurer unreasonably withheld or delayed payment of a benefit in respect of the expense, the Licence Appeal Tribunal may, for the purpose of determining an insured person's entitlement to the benefit, deem the expense to have been incurred. O. Reg. 44/16, s. 1.

Catastrophic Impairment

3.1 (1) For the purposes of this Regulation, an impairment is a catastrophic impairment if an insured person sustains the impairment in an accident that occurs on or after June 1, 2016 and the impairment results in any of the following:

1. Paraplegia or tetraplegia that meets the following criteria:

90 (b) that, unless the insured person sustained a catastrophic impairment as a result of the accident, relate to transportation expenses incurred only after the first 50 kilometres of a trip; ("frais de transport autorisés")

"business day" means a day that is not,

(a) Saturday, or

(b) a holiday within the meaning of section 88 of the *Legislation Act, 2006*, other than Easter Monday and Remembrance Day; ("jour ouvrable")

"chiropractor" means a person authorized by law to practise chiropractic; ("chiropraticien")

"dentist" means a person authorized by law to practise dentistry; ("dentiste")

"disability certificate" means, in respect of a person, a certificate from a health practitioner of the person's choice that states the cause and nature of the person's impairment and contains an estimate of the duration of the disability in respect of which the person is making or has made an application for a benefit described in this Regulation; ("certificat d'invalidité")

"*Guideline*" means,

(a) a guideline, including the Minor Injury Guideline, issued by the Chief Executive Officer under subsection 268.3 (1) of the Act and published in *The Ontario Gazette*,

(b) a guideline that is included in the professional fee guidelines or the *Optional Indexation Benefit Guidelines*, as published in *The Ontario Gazette* by the Financial Services Regulatory Authority of Ontario, or

(c) a guideline published in *The Ontario Gazette* that is an amended version of a guideline referred to in clause (a) or (b); ("directive")

"health practitioner" means, in respect of a particular impairment,

(a) a physician,

(b) a chiropractor, if the impairment is one that a chiropractor is authorized by law to treat,

(c) a dentist, if the impairment is one that a dentist is authorized by law to treat,

(d) an occupational therapist, if the impairment is one that an occupational therapist is authorized by law to treat,

(e) an optometrist, if the impairment is one that an optometrist is authorized by law to treat,

(f) a psychologist, if the impairment is one that a psychologist is authorized by law to treat,

(g) a physiotherapist, if the impairment is one that a physiotherapist is authorized by law to treat,

(h) a registered nurse with an extended certificate of registration, if the impairment is one that the nurse is authorized by law to treat, or

(i) a speech-language pathologist, if the impairment is one that a speech-language pathologist is authorized by law to treat; ("praticien de la santé")

"impairment" means a loss or abnormality of a psychological, physiological or anatomical structure or function; ("déficience")

"insured automobile" means, in respect of a particular motor vehicle liability policy, an automobile covered by the policy; ("automobile assurée")

"insured person" means, in respect of a particular motor vehicle liability policy,

(a) the named insured, any person specified in the policy as a driver of the insured automobile and, if the named insured is an individual, the spouse of the named insured and a dependant of the named insured or of his or her spouse,

(i) if the named insured, specified driver, spouse or dependant is involved in an accident in or outside Ontario that involves the insured automobile or another automobile, or

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(a) if the named insured, specified driver, spouse or dependant is not involved in an accident but suffers psychological or mental injury as a result of an accident in or outside Ontario that results in a physical injury to his or her spouse, child, grandchild, parent, grandparent, brother, sister, dependant or spouse's dependant,

(b) a person who is involved in an accident involving the insured automobile, if the accident occurs in Ontario, or

(c) a person who is an occupant of the insured automobile and who is a resident of Ontario or was a resident of Ontario at any time during the 60 days before the accident, if the accident occurs outside Ontario; ("personne assurée")

"minor injury" means one or more of a sprain, strain, whiplash associated disorder, contusion, abrasion, laceration or subluxation and includes any clinically associated sequelae to such an injury; ("blessure légère")

"Minor Injury *Guideline*" means a guideline,

(a) that is issued by the Chief Executive Officer under subsection 268.3 (1.1) of the Act and published in *The Ontario Gazette*, and

(b) that establishes a treatment framework in respect of one or more minor injuries; ("Directive sur les blessures légères")

"neuropsychologist" means a psychologist authorized by law to practise neuropsychology who has been registered to practice as a neuropsychologist in Canada for a minimum of five years; ("neuropsychologue")

"occupational therapist" means a person authorized by law to practise occupational therapy; ("ergothérapeute")

"Old Regulation" means Ontario Regulation 403/96 (Statutory Accident Benefits Schedule — Accidents on or After November 1, 1996), made under the Act; ("ancien règlement")

"person in need of care" means, in respect of an insured person, another person who is under 16 years of age or who requires care because of physical or mental incapacity; ("personne ayant besoin de soins")

"personal and vocational characteristics" include,

(a) employment history,

(b) education and training,

(c) vocational aptitudes,

(d) vocational skills,

(e) physical abilities,

(f) cognitive abilities, and

(g) language abilities; ("caractéristiques personnelles et professionnelles")

"physician" means a person authorized by law to practise medicine; ("médecin")

"physiotherapist" means a person authorized by law to practise physiotherapy; ("physiothérapeute")

"private corporation" means a corporation whose shares are not publicly traded and that is not controlled by one or more corporations whose shares are publicly traded; ("société fermée")

"psychologist" means a person authorized by law to practise psychology; ("psychologue")

"registered nurse with an extended certificate of registration" means a person authorized by law to practise nursing who holds an extended certificate of registration under the *Nursing Act, 1991*; ("infirmière autorisée ou infirmier autorisé titulaire d'un certificat d'inscription supérieur")

"regulated health profession" means a profession governed by a College as defined in the *Regulated Health Professions Act, 1991* or the Ontario College of Social Workers and Social Service Workers under the *Social Work and Social Service Work Act, 1998*; ("profession de la santé réglementée")

"regulated health professional" means a member of a regulated health profession; ("professionnel de la santé réglementé")

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i. The insured person's neurological recovery is such that the person's permanent grade on the ASIA Impairment Scale, as published in Marino, R.J. et al, *International Standards for Neurological Classification of Spinal Cord Injury*, Journal of Spinal Cord Medicine, Volume 26, Supplement 1, Spring 2003, can be determined.

ii. The insured person's permanent grade on the ASIA Impairment Scale is or will be

A. A, B or C, or

B. D, and

i. the insured person's score on the Spinal Cord Independence Measure, Version III, item 12 (Mobility Indoors), as published in Catz, A., Itzkovich, M., Tesio L. et al, *A multicentre international study on the Spinal Cord Independence Measure, version III: Rasch psychometric validation*, Spinal Cord (2007) 45, 275-291 and applied over a distance of up to 10 metres on an even indoor surface is 0 to 5,

2. the insured person requires urological surgical diversion, an implanted device, or intermittent or constant catheterization in order to manage a residual neuro-urological impairment, or

3. the insured person has impaired voluntary control over anorectal function that requires a bowel routine, a surgical diversion or an implanted device.

2. Severe impairment of ambulatory mobility or use of an arm, or amputation that meets one of the following criteria:

i. Trans-tibial or higher amputation of a leg.

ii. Amputation of an arm or another impairment causing the total and permanent loss of use of an arm.

iii. Severe and permanent alteration of prior structure and function involving one or both legs as a result of which the insured person's score on the Spinal Cord Independence Measure, Version III, item 12 (Mobility Indoors), as published in Catz, A., Itzkovich, M., Tesio L. et al, *A multicentre international study on the Spinal Cord Independence Measure, version III: Rasch psychometric validation*, Spinal Cord (2007) 45, 275-291 and applied over a distance of up to 10 metres on an even indoor surface is 0 to 5.

3. Loss of vision of both eyes that meets the following criteria:

i. Even with the use of corrective lenses or medication,

A. visual acuity in both eyes is 20/200 (6/60) or less as measured by the Snellen Chart or an equivalent chart, or

B. the greatest diameter of the field of vision in both eyes is 20 degrees or less.

ii. The loss of vision is not attributable to non-organic causes.

4. If the insured person was 18 years of age or older at the time of the accident, a traumatic brain injury that meets the following criteria:

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i. The injury shows positive findings on a computerized axial tomography scan, a magnetic resonance imaging or any other medically recognized brain diagnostic technology indicating intracranial pathology that is a result of the accident, including, but not limited to, intracranial contusions or haemorrhages, diffuse axonal injury, cerebral edema, midline shift or pneumocephaly.

ii. When assessed in accordance with Wilson, J., Pettigrew, L. and Teasdale, G., Structured Interviews for the Glasgow Outcome Scale and the Extended Glasgow Outcome Scale: Guidelines for Their Use, Journal of Neurotrauma Volume 15, Number 8, 1998, the injury results in a rating of,

A. Vegetative State (VS or VS*), one month or more after the accident,

B. Upper Severe Disability (Upper SD or Upper SD*) or Lower Severe Disability (Lower SD or Lower SD*), six months or more after the accident, or

C. Lower Moderate Disability (Lower MD or Lower MD*), one year or more after the accident.

5. If the insured person was under 18 years of age at the time of the accident, a traumatic brain injury that meets one of the following criteria:

i. The insured person is accepted for admission, on an in-patient basis, to a public hospital named in a Guideline with positive findings on a computerized axial tomography scan, a magnetic resonance imaging or any other medically recognized brain diagnostic technology indicating intracranial pathology that is a result of the accident, including, but not limited to, intracranial contusions or haemorrhages, diffuse axonal injury, cerebral edema, midline shift or pneumocephaly.

ii. The insured person is accepted for admission, on an in-patient basis, to a program of neurological rehabilitation in a paediatric rehabilitation facility that is a member of the Ontario Association of Children's Rehabilitation Services.

iii. One month or more after the accident, the insured person's level of neurological function does not exceed category 2 (Vegetative) on the King's Outcome Scale for Childhood Head Injury as published in Crouchman, M. et al. *A practical outcome scale for paediatric head injury*, Archives of Disease in Childhood, 2001; 84: 120-124.

iv. Six months or more after the accident, the insured person's level of neurological function does not exceed category 3 (Severe disability) on the King's Outcome Scale for Childhood Head Injury as published in Crouchman, M. et al. *A practical outcome scale for paediatric head injury*, Archives of Disease in Childhood, 2001; 84: 120-124.

v. Nine months or more after the accident, the insured person's level of function remains seriously impaired such that the insured person is not age-appropriately independent and requires in-person supervision or assistance for physical, cognitive or behavioural impairments for the majority of the insured person's waking day.

6. Subject to subsections (2) and (5), a physical impairment or combination of physical impairments that, in accordance with the American Medical Association's Guides to the Evaluation of Permanent Impairment, 4th edition, 1993, results in 55 per cent or more physical impairment of the whole person.

96 7. Subject to subsections (2) and (5) a mental or behavioural impairment, excluding traumatic brain injury, determined in accordance with the rating methodology in Chapter 14, Section 14.5 of the American Medical Association's *Guides to the Evaluation of Permanent Impairment*, 6th edition, 2008, that when the impairment score is combined with a physical impairment described in paragraph 6 in accordance with the combining requirements set out in the Combined Values Table of the American Medical Association's *Guides to the Evaluation of Permanent Impairment*, 4th edition, 1993, results in 55 percent or more impairment of the whole person.

8. Subject to subsections (3) and (5), an impairment that, in accordance with the American Medical Association's *Guides to the Evaluation of Permanent Impairment*, 4th edition, 1993 results in a class 4 impairment (marked impairment) in three or more areas of function that precludes useful functioning or a class 5 impairment (extreme impairment) in one or more areas of function that precludes useful functioning, due to mental or behavioural disorder. O. Reg. 251/15, s. 3; O. Reg. 116/16, s. 1.

(2) Paragraphs 6 and 7 of subsection (1) do not apply in respect of an insured person who sustains an impairment as a result of an accident unless,

(a) two years have elapsed since the accident; or

(b) an assessment conducted by a physician three months or more after the accident determines that,

(i) the insured person has a physical impairment or combination of physical impairments determined in accordance with paragraph 6 of subsection (1), or a combination of a mental or behavioural impairment and a physical impairment determined in accordance with paragraph 7 of subsection (1) that results in 50 per cent or more impairment of the whole person, and

(ii) the insured person's condition is unlikely to improve to less than 55 per cent impairment of the whole person. O. Reg. 251/15, s. 3.

(3) Paragraph 8 of subsection (1) does not apply in respect of an insured person who sustains an impairment as a result of the accident unless,

(a) two years have elapsed since the accident; or

(b) a physician states in writing that the insured person's impairment is unlikely to improve to less than a class 4 impairment (marked impairment) in three or more areas of function that precludes useful functioning, due to mental or behavioural disorder. O. Reg. 251/15, s. 3.

(4) Subsection (5) applies to an insured person who was under the age of 18 at the time of the accident and whose impairment is not a catastrophic impairment within the meaning of subsection (1). O. Reg. 251/15, s. 3.

(5) If the insured person's impairment can reasonably be believed to be a catastrophic impairment for the purposes of paragraph 6, 7 or 8 of subsection (1), the impairment shall be deemed to be the impairment referred to in paragraph 6, 7 or 8 of subsection (1) that is most analogous to the impairment, after taking into consideration the developmental implications of the impairment. O. Reg. 251/15, s. 3.

PART II

INCOME REPLACEMENT, NON-EARNER AND CAREGIVER BENEFITS

Interpretation

4. (1) In this Part,

"gross employment income" means salary, wages and other remuneration from employment, including fees and other remuneration for holding office, and any benefits received under the *Employment Insurance Act* (Canada), but excludes any retiring allowance within the meaning of the *Income Tax Act* (Canada) and severance pay that may be received; ("revenu brut d'emploi")

"gross weekly employment income" means, in respect of an insured person, the amount of the person's gross annual employment income, as determined under subsection (2), divided by 52; ("revenu brut hebdomadaire d'emploi")

"other income replacement assistance" means, in respect of an insured person who sustains an impairment as a result of an accident,

(a) the amount of any gross weekly payment for loss of income that is received by or available to the person as a result of the accident under the laws of any jurisdiction or under any income continuation benefit plan, other than,

(i) a benefit under the *Employment Insurance Act* (Canada),

(ii) a payment under a sick leave plan that is available to the person but is not being received, and

(iii) a payment under a workers' compensation law or plan that is not being received by the person because the person has elected under the workers' compensation law or plan to bring an action and is not entitled to the payment, and

(b) the amount of any gross weekly payment for loss of income, other than a benefit or payment described in subclauses (a) (i) to (iii) that may be available to the person as a result of the accident under the laws of any jurisdiction or under any income continuation benefit plan but is not being received by the person and for which the person has not made an application. ("autre assistance au titre du remplacement du revenu") O. Reg. 34/10, s. 4 (1).

(2) The gross annual employment income of an insured person is determined as follows:

1. In the case of a person referred to in subparagraph 1 i of subsection 5 (1) who was not a self-employed person at any time during the four weeks before the accident, the person's gross annual employment income is whichever of the following amounts the person designates:

   i. The person's gross employment income for the four weeks before the accident, multiplied by 13.

   ii. The person's gross employment income for the 52 weeks before the accident.

2. Subject to paragraph 3, the person's gross annual employment income is his or her gross employment income for the 52 weeks before the accident if,

   i. the person qualifies for a benefit under subparagraph 1 i of subsection 5 (1) and was a self-employed person at any time during the four weeks before the accident, or

   ii. the person qualifies for a benefit under subparagraph 1 ii of subsection 5 (1).

3. If the person described in subparagraph 2 i was self-employed for at least one year before the accident, the person may designate as his or her gross annual employment income the amount of his or her gross employment income during the last fiscal year of the business that ended on or before the day of the accident. O. Reg. 34/10, s. 4 (2); O. Reg. 370/10, s. 1.

(80)

98(3) A self-employed person's weekly income or loss from self-employment at the time of the accident is the amount that is equal to be 1/52 of the amount of the person's income or loss from the business for the last completed taxation year as determined in accordance with Part I of the *Income Tax Act* (Canada). O. Reg. 34/10, s. 4 (3).

(4) A self-employed person's loss from self-employment after an accident is determined in the same manner as losses from the business in which the person was self-employed would be determined under subsection 9 (2) of the *Income Tax Act* (Canada) without making any deductions for,

(a) any expenses that were not reasonable or necessary to prevent a loss of revenue,

(b) any salary expenses paid to replace the self-employed person's active participation in the business, except to the extent that the expenses are reasonable in the circumstances; and

(c) any non-salary expenses that are different in nature or greater than the non-salary expenses incurred before the accident except to the extent that those expenses are reasonable in the circumstances and necessary to prevent or reduce any losses resulting from the accident. O. Reg. 34/10, s. 4 (4).

(5) If, under the *Income Tax Act* (Canada) or legislation of another jurisdiction that imposes a tax calculated by reference to income, a person is required to report the amount of his or her income, the person's income before an accident shall be determined for the purposes of this Part without reference to any income the person has failed to report contrary to that Act or legislation. O. Reg. 34/10, s. 4 (5).

(6) The amount of a person's gross annual employment income and the amount of the person's income or loss from self-employment may be adjusted for the purposes of this Part to reflect any subsequent change in the amount determined by the Canada Revenue Agency under the *Income Tax Act* (Canada) or by the relevant government or agency under the legislation of another jurisdiction that imposes a tax calculated by reference to income. O. Reg. 34/10, s. 4 (6).

Eligibility criteria

5. (1) The insurer shall pay an income replacement benefit to an insured person who sustains an impairment as a result of an accident if the insured person satisfies one or both of the following conditions:

1. The insured person,

   i. was employed at the time of the accident and, as a result of and within 104 weeks after the accident, suffers a substantial inability to perform the essential tasks of that employment, or

   ii. was not employed at the time of the accident but,

   A. was employed for at least 26 weeks during the 52 weeks before the accident or was receiving benefits under the *Employment Insurance Act* (Canada) at the time of the accident,

   B. was at least 16 years old or was excused from attending school under the *Education Act* at the time of the accident, and

   C. as a result of and within 104 weeks after the accident, suffers a substantial inability to perform the essential tasks of the employment in which the insured person spent the most time during the 52 weeks before the accident

99 2. The insured person,

i. was a self-employed person at the time of the accident, and

ii. suffers, as a result of and within 104 weeks after the accident, a substantial inability to perform the essential tasks of his or her self-employment. O. Reg. 34/10, s. 5 (1).

(2) Despite subsection (1), an insured person is not eligible to receive income replacement benefits if he or she is eligible to receive and has elected under section 35 to receive either a non-earner benefit or a caregiver benefit under this Part. O. Reg. 34/10, s. 5 (2).

Period of benefit

6. (1) Subject to subsection (2), an income replacement benefit is payable for the period in which the insured person suffers a substantial inability to perform the essential tasks of his or her employment or self-employment. O. Reg. 34/10, s. 6 (1).

(2) The insurer is not required to pay an income replacement benefit,

(a) for the first week of the disability; or

(b) after the first 104 weeks of disability, unless, as a result of the accident, the insured person is suffering a complete inability to engage in any employment or self-employment for which he or she is reasonably suited by education, training or experience. O. Reg. 34/10, s. 6 (2).

Amount of weekly income replacement benefit

7. (1) The weekly amount of an income replacement benefit payable to an insured person who becomes entitled to the benefit before his or her 65th birthday is the lesser of "A" and "B" where,

"A" is the weekly base amount determined under subsection (2) less the total of all other income replacement assistance, if any, for the particular week the benefit is payable, and

"B" is $400 or, if an optional income replacement benefit referred to in section 28 has been purchased and applies to the person, the amount fixed by the optional benefit. O. Reg. 34/10, s. 7 (1).

(2) For the purposes of subsection (1), the weekly base amount in respect of an insured person is determined as follows:

1. Determine whichever of the following amounts is applicable:

i. 70 per cent of the amount, if any, by which the sum of the insured person's gross weekly employment income and weekly income from self-employment exceeds the amount of the insured person's weekly loss from self-employment, if the weekly income replacement benefit is for one of the first 104 weeks of disability, or

ii. the greater of the amounts determined for the purposes of subparagraph i and $185, if the weekly income replacement benefit is for a week for which the person is entitled to receive an income replacement benefit after the first 104 weeks of disability.

2. To the amount determined under paragraph 1, add 70 per cent of the amount of the insured person's weekly loss from self-employment that he or she incurs as a result of the accident. O. Reg. 34/10, s. 7 (2).

(3) The insurer may deduct from the amount of an income replacement benefit payable to an insured person,

100 (a) 70 per cent of any gross employment income received by the insured person as a result of being employed after the accident and during the period in which he or she is eligible to receive an income replacement benefit, and

(b) 70 per cent of any income from self-employment earned by the insured person after the accident and during the period in which he or she is eligible to receive an income replacement benefit. O. Reg. 34/10, s. 7 (3).

(4) The insurer shall pay an expense incurred by or on behalf of an insured person for the preparation of a report for the purpose of calculating the person's income from employment or self-employment if all of the following conditions are satisfied:

1. The insured person is applying for an income replacement benefit under this Part that is based on the employment or self-employment considered in the report.
2. The report is prepared by a member of a designated body within the meaning of the *Public Accounting Act, 2004*.
3. The expense is reasonable and necessary for the purpose of determining the insured person's entitlement to an income replacement benefit. O. Reg. 34/10, s. 7 (4); O. Reg. 268/10, s. 2.

(5) The insurer is not required to pay more than a total of $2,500 for the preparation of one or more reports under subsection (4) in respect of an insured person. O. Reg. 34/10, s. 7 (5).

Adjustment after age 65

8. (1) If a person is receiving an income replacement benefit immediately before his or her 65th birthday, the weekly amount of the benefit is adjusted, on the later of the day of the person's 65th birthday and the second anniversary of the day the person began receiving the benefit, to the amount determined in accordance with the following formula:

$$C = 0.02 \times D$$

in which,

"C" is the weekly amount of the income replacement benefit that the person was entitled to receive immediately before the adjustment, before any deductions permitted by subsection 7 (3).

"D" is the lesser of,

(a) 35, and

(b) the number of years during which the person qualified for the income replacement benefit before the adjustment is made.

O. Reg. 34/10, s. 8 (1).

(2) Despite section 6, an income replacement benefit that has been adjusted under subsection (1) is payable, without any deductions under clause 7 (3) (a) or (b), until the person dies. O. Reg. 34/10, s. 8 (2).

If entitlement first arises on or after 65th birthday

9. (1) If an insured person becomes entitled to receive an income replacement benefit on or after his or her 65th birthday,

(a) subject to clause 6 (2) (a) and despite clause 6 (2) (b), the insured person is entitled to an income replacement benefit for not more than 208 weeks after becoming entitled to the benefit; and

101 (b) the weekly amount of the benefit is the weekly amount of the income replacement benefit otherwise determined under section 7 before any deductions permitted by subsection 7 (3), multiplied by the factor set out in Column 2 of the Table to this subsection opposite the number of weeks that have elapsed since the person became entitled to receive the benefit.

TABLE

Column 1 Number of weeks since Entitlement Arose	Column 2 Factor
Less than 52 weeks	1.0
52 weeks or more but less than 104 weeks	0.8
104 weeks or more but less than 156 weeks	0.6
156 weeks or more but less than 208 weeks	0.3

O. Reg. 34/10, s. 9 (1).

(2) No deduction may be made under clause 7 (3) (a) or (b) from an income replacement benefit determined under subsection (1). O. Reg. 34/10, s. 9 (2).

No violation of *Human Rights Code*

10. The age distinctions in sections 8 and 9 apply despite the *Human Rights Code*. O. Reg. 34/10, s. 10.

Temporary return to employment

11. A person receiving an income replacement benefit may return to or start employment or self-employment at any time during the first 104 weeks for which he or she is receiving the benefit without affecting his or her entitlement to resume receiving any benefits to which he or she is entitled under this Part if, as a result of the accident, he or she is unable to continue the employment or self-employment. O. Reg. 34/10, s. 11.

NON-EARNER BENEFITS

Non-earner benefit

12. (1) The insurer shall pay a non-earner benefit to an insured person who sustains an impairment as a result of an accident if the insured person satisfies any of the following conditions:

1. The insured person suffers a complete inability to carry on a normal life as a result of and within 104 weeks after the accident and does not qualify for an income replacement benefit.
2. The insured person suffers a complete inability to carry on a normal life as a result of and within 104 weeks after the accident and,
   i. was enrolled on a full-time basis in elementary, secondary or post-secondary education at the time of the accident, or

102 ii. completed his or her education less than one year before the accident and was neither employed nor a self-employed person after completing his or her education and before the accident, in a capacity that reflected his or her education and training. O. Reg. 34/10, s. 12 (1).

(2) The amount of a non-earner benefit is $185 for each week during the period that the insured person suffers a complete inability to carry on a normal life, less the total of all other income replacement assistance, if any, for the same week. O. Reg. 34/10, s. 12 (2); O. Reg. 251/15, s. 4 (1).

(3) The insurer is not required to pay a non-earner benefit,

(a) for the first four weeks after the onset of the complete inability to carry on a normal life;

(b) before the insured person is 16 years of age;

(c) for more than 104 weeks after the accident; or

(d) if the insured person is eligible to receive and has elected under section 35 to receive either an income replacement benefit or a caregiver benefit under this Part. O. Reg. 251/15, s. 4 (2).

(4). (3) Revoked. O. Reg. 251/15, s. 4 (2).

CAREGIVER BENEFITS

Caregiver benefit

13. (1) The insurer shall pay a caregiver benefit to or for an insured person who sustains a catastrophic impairment as a result of an accident if, as a result of and within 104 weeks after the accident, the insured person suffers a substantial inability to engage in the caregiving activities in which he or she was engaged at the time of the accident and if, at the time of the accident,

(a) the insured person was residing with a person in need of care; and

(b) the insured person was the primary caregiver for the person in need of care and did not receive any remuneration for engaging in caregiving activities. O. Reg. 34/10, s. 13 (1).

(2) The caregiver benefit shall pay for reasonable and necessary expenses incurred as a result of the accident in caring for a person in need of care, but shall not exceed,

(a) $250 per week for the first person in need of care; and

(b) $50 per week for each additional person in need of care. O. Reg. 34/10, s. 13 (2).

(3) Despite subsection (1), no caregiver benefit is payable to an insured person if he or she is eligible to receive and has elected under section 35 to receive either an income replacement benefit or a non-earner benefit under this Part. O. Reg. 34/10, s. 13 (3).

(4) Despite subsection (1), no caregiver benefit is payable for any period longer than 104 weeks of disability unless, as a result of the accident, the insured person is suffering a complete inability to carry on a normal life. O. Reg. 34/10, s. 13 (4).

PART III (86)

MEDICAL, REHABILITATION AND ATTENDANT CARE BENEFITS

Insurer liable to pay benefits

14. Except as otherwise provided in this Regulation, an insurer is liable to pay the following benefits to or on behalf of an insured person who sustains an impairment as a result of an accident:

1. Medical and rehabilitation benefits under sections 15 to 17.

2. If the impairment is not a minor injury, attendant care benefits under section 19. O. Reg. 34/10, s. 14.

Medical benefits

15. (1) Subject to section 18, medical benefits shall pay for all reasonable and necessary expenses incurred by or on behalf of the insured person as a result of the accident for,

(a) medical, surgical, dental, optometric, hospital, nursing, ambulance, audiometric and speech-language pathology services;

(b) chiropractic, psychological, occupational therapy and physiotherapy services;

(c) medication;

(d) prescription eyewear;

(e) dentures and other dental devices;

(f) hearing aids, wheelchairs or other mobility devices, prostheses, crutches and other assistive devices;

(g) transportation for the insured person to and from treatment sessions, including transportation for an aide or attendant; and

(h) other goods and services of a medical nature that the insurer agrees are essential for the treatment of the insured person and for which a benefit is not otherwise provided in this Regulation. O. Reg. 34/10, s. 15 (1); O. Reg. 251/15, s. 5.

(2) Despite subsection (1), the insurer is not liable to pay medical benefits,

(a) for goods or services that are experimental in nature;

(b) for expenses related to goods and services described in subsection (1) rendered to an insured person that exceed the maximum rate or amount of expenses established under the Guidelines, other than for expenses related to the services described in clause (1) (g); or

(c) for transportation expenses other than authorized transportation expenses. O. Reg. 34/10, s. 15 (2); O. Reg. 14/13, s. 1.

Rehabilitation benefits

16. (1) Subject to section 18, rehabilitation benefits shall pay for all reasonable and necessary expenses incurred by or on behalf of the insured person in undertaking activities and measures described in subsection (3) that are reasonable and necessary for the purpose of reducing or eliminating the effects of any disability resulting from the impairment or to facilitate the person's reintegration into his or her family, the rest of society and the labour market. O. Reg. 34/10, s. 16 (1).

(2) Measures to reintegrate an insured person into the labour market are considered reasonable and necessary, taking into consideration the person's personal and vocational characteristics, if they enable the person to,

(a) engage in employment or self-employment that is as similar as possible to the employment or self-employment in which he or she was engaged at the time of the accident; or

(b) lead as normal a adult life as possible. O. Reg. 34/10, s. 16 (2).

(3) The activities and measures referred to in subsection (1) are,

104 (a) life skills training;

(b) family counselling;

(c) social rehabilitation counselling;

(d) financial counselling;

(e) employment counselling;

(f) vocational assessments;

(g) vocational or academic training;

(h) workplace modifications and workplace devices, including communications aids, to accommodate the needs of the insured person;

(i) home modifications and home devices, including communications aids, to accommodate the needs of the insured person, or the purchase of a new home if it is more reasonable to purchase a new home to accommodate the needs of the insured person than to renovate his or her existing home;

(j) vehicle modifications to accommodate the needs of the insured person, or the purchase of a new vehicle if it is more reasonable to purchase a new vehicle to accommodate the needs of the insured person than to modify an existing vehicle;

(k) transportation for the insured person to and from counselling and training sessions, including transportation for an aide or attendant; and

(l) other goods and services that the insurer agrees are essential for the rehabilitation of the insured person, and for which a benefit is not otherwise provided in this Regulation, except,

(i) services provided by a case manager; and

(ii) housekeeping and caregiver services. O. Reg. 34/10, s. 16 (3); O. Reg. 251/15, s. 6.

(4) Despite subsection (1), the insurer is not liable to pay rehabilitation benefits,

(a) for expenses related to goods and services described in subsection (3) rendered to an insured person that exceed the maximum rate or amount of expenses established under the Guidelines, other than for expenses related to the services described in clause (3) (k);

(b) for expenses incurred to renovate the insured person's home if the renovations are only for the purpose of giving the insured person access to areas of the home that are not needed for ordinary living;

(c) for the purchase of a new home in excess of the value of the renovations to the insured person's existing home that would be required to accommodate the needs of the insured person;

(d) for expenses incurred to purchase or modify a vehicle to accommodate the needs of the insured person that are incurred within five years after the first expenses incurred for that purpose in respect of the same accident;

(e) for the purchase of a new vehicle in excess of the amount by which the cost of the new vehicle exceeds the trade-in value of the existing vehicle;

(f) for transportation expenses other than authorized transportation expenses. O. Reg. 34/10, s. 16 (4); O. Reg. 14/13, s. 2.

Case manager services

17. (1) Subject to subsection (2), medical or rehabilitation benefits shall pay for all reasonable and necessary expenses incurred by or on behalf of an insured person as a result of the accident for services provided by a qualified case manager in accordance with a treatment and assessment plan under section 38.

(a) if the insured person sustains a catastrophic impairment as a result of the accident; or

(b) if the optional medical, rehabilitation and attendant care benefit referred to in paragraph 4 of subsection 28 (1) or the catastrophic impairment benefit referred to in paragraph 5 of subsection 28 (1) is available to the insured person. O. Reg. 34/10, s. 17 (1); O. Reg. 251/15, s. 7.

(89)

105) The insurer is not liable to pay expenses for case manager services that exceed the maximum rate or amount of expenses established under the Guidelines. O. Reg. 34/10, s. 17 (2).

(3) In this section,

"qualified case manager" means a person who provides services related to the co-ordination of goods or services for which payment is provided by a medical, rehabilitation or attendant care benefit. O. Reg. 34/10, s. 17 (3); O. Reg. 299/10, s. 3

Monetary limits re medical and rehabilitation benefits

18. (1) The sum of the medical and rehabilitation benefits payable in respect of an insured person who sustains an impairment that is predominantly a minor injury shall not exceed $3,500 plus the amount of any applicable harmonized sales tax payable under Part IX of the *Excise Tax Act (Canada)* for accidents that occur on or after June 3, 2019 for any one accident, less the sum of all amounts paid in respect of the insured person in accordance with the Minor Injury Guideline. O. Reg. 34/10, s. 18 (1); O. Reg. 123/19, s. 2 (1).

(2) Despite subsection (1), the limit in that subsection does not apply to an insured person if his or her health practitioner determines and provides compelling evidence that the insured person has a pre-existing medical condition that was documented by a health practitioner before the accident and that will prevent the insured person from achieving maximal recovery from the minor injury if the insured person is subject to the limit or is limited to the goods and services authorized under the Minor Injury Guideline. O. Reg. 34/10, s. 18 (2); O. Reg. 347/13, s. 1; O. Reg. 123/19, s. 2 (2).

(3) The sum of the medical, rehabilitation and attendant care benefits paid in respect of an insured person who is not subject to the financial limit in subsection (1) shall not exceed, for any one accident,

(a) $65,000 plus the amount of any applicable harmonized sales tax payable under Part IX of the *Excise Tax Act (Canada)* for accidents that occur on or after June 3, 2019; or

(b) if the insured person sustained a catastrophic impairment as a result of the accident, $1,000,000 plus the amount of any applicable harmonized sales tax payable under Part IX of the *Excise Tax Act (Canada)* for accidents that occur on or after June 3, 2019. O. Reg. 251/15, s. 6 (1); O. Reg. 123/19, s. 2 (3, 4).

(4) The maximum amounts set out in subsection (3) apply unless modified by any optional benefits that are available under paragraph 3, 4 or 5 of subsection 28 (1). O. Reg. 34/10, s. 18 (4); O. Reg. 251/15, s. 6 (2).

(5) For the purposes of subsections (1) and (3), medical, rehabilitation and, where applicable, attendant care benefits payable in respect of an insured person include all fees and expenses for conducting assessments and examinations and preparing reports in connection with any benefit or payment to or for an insured person under this Regulation, other than,

(a) fees in connection with any examination required by an insurer under section 44; and

(b) expenses in respect of a report referred to in subsection 7 (4). O. Reg. 34/10, s. 18 (5); O. Reg. 251/15, s. 6 (3).

Attendant care benefit

19. (1) Attendant care benefits shall pay for all reasonable and necessary expenses.

106 (a) that are incurred by or on behalf of the insured person in pursuit of the accident for service provided by an aide or attendant or by a long-term care facility, including a long-term care home under *the Fixing Long-Term Care Act, 2021* or a chronic care hospital, and

(b) that, to the extent any of the expenses referred to in clause (a) are for transportation, are authorized transportation expenses for which no medical benefit described in clause 15 (1) (g) is payable, no rehabilitation benefit described in clause 16 (3) (b) is payable and no amount is payable under subsection 25 (4).

O. Reg. 34/10, s. 19 (1); O. Reg. 282/22, s. 1.

(2) Subject to subsection (3), the amount of a monthly attendant care benefit is determined in accordance with the version of the document entitled "Assessment of Attendant Care Needs" that is required to be submitted under section 42 and is calculated by,

(a) multiplying the total number of hours per month of each type of attendant care listed in the document that the insured person requires by an hourly rate that does not exceed the maximum hourly rate, as established under the Guidelines, that is payable in respect of that type of care; and

(b) adding the amounts determined under clause (a), if more than one type of attendant care is required. O. Reg. 34/10, s. 19 (2).

(3) The amount of the attendant care benefit payable in respect of an insured person shall not exceed the amount determined under the following rules:

1. If the optional medical, rehabilitation and attendant care benefit referred to in paragraph 4 of subsection 28 (1) or the catastrophic impairment benefit referred to in paragraph 5 of subsection 28 (1) has not been purchased and does not apply to the insured person, the amount of the attendant care benefit payable in respect of the insured person shall not exceed,

   i. $3,000 per month plus the amount of any applicable harmonized sales tax payable under Part IX of the *Excise Tax Act (Canada)* for accidents that occur on or after June 3, 2019, if the insured person did not sustain a catastrophic impairment as a result of the accident, or

   ii. $6,000 per month plus the amount of any applicable harmonized sales tax payable under Part IX of the *Excise Tax Act (Canada)* for accidents that occur on or after June 3, 2019, if the insured person sustained a catastrophic impairment as a result of the accident.

2. If the optional medical, rehabilitation and attendant care benefit referred to in paragraph 3 of subsection 28 (1) has been purchased and applies to the insured person, the amount of the attendant care benefit payable in respect of the insured person shall not exceed the amount set out in subparagraph 1 i.

3. If the optional medical, rehabilitation and attendant care benefit referred to in paragraph 4 of subsection 28 (1) or the catastrophic impairment benefit referred to in paragraph 5 of subsection 28 (1) has been purchased and applies to the insured person, the amount of the attendant care benefit payable in respect of the insured person shall not exceed the monthly limit under subsection 28 (7).

(90)

107 4. Despite paragraphs 1, 2 and 3, if a person who provided attendant care services (the "attendant care provider") to or for the insured person did not do so in the course of the employment, occupation or profession in which the attendant care provider would ordinarily have been engaged for remuneration, but for the accident, the amount of the attendant care benefit payable in respect of that attendant care shall not exceed the amount of the economic loss sustained by the attendant care provider during the period while, and as a result of, providing the attendant care.

5. Despite paragraphs 1, 2 and 3, if a person who provided attendant care services (the "attendant care provider") to or for the insured person did so for remuneration, and the actual expenses incurred in respect of the attendant care services are lower than the amount of the monthly attendant care benefit as determined under subsection (2), the insurer shall only be liable for payment of the incurred expenses. O. Reg. 251/15, s. 9; O. Reg. 123/19, s. 3.

Duration of medical, rehabilitation and attendant care benefits

20. (1) Subject to subsection (2), no medical, rehabilitation and attendant care benefit is payable for expenses incurred,

(a) more than 260 weeks after the accident, in the case of an insured person who was at least 18 years of age at the time of the accident; or

(b) after the insured person's 26th birthday, in the case of an insured person who was under 18 years of age at the time of the accident. O. Reg. 251/15, s. 10.

(2) The time limits set out in subsection (1) do not apply in respect of an insured person,

(a) who sustains a catastrophic impairment as a result of the accident; or

(b) who is entitled to optional medical, rehabilitation and attendant care benefits under paragraph 4 of subsection 28 (1) or catastrophic impairments benefits under paragraph 6 of subsection 26 (1). O. Reg. 251/15, s. 10.

PART IV

PAYMENT OF OTHER EXPENSES

Lost educational expenses

21. (1) The insurer shall pay for up to $15,000 for lost educational expenses incurred by or on behalf of an insured person who sustains an impairment as a result of an accident if,

(a) at the time of the accident, the insured person was enrolled in a program of elementary, secondary, post-secondary or continuing education; and

(b) as a result of the accident, the insured person is unable to continue the program. O. Reg. 34/10, s. 21 (1).

(2) The insurer may require a person who applies for or is receiving benefits under this section to furnish a disability certificate as often as is reasonably necessary. O. Reg. 34/10, s. 21 (2).

(3) If an insurer requires a disability certificate, the person shall furnish a new disability certificate, completed as of a date after the date of the insurer's request, within 15 business days after receiving the insurer's request. O. Reg. 34/10, s. 21 (3).

(4) If the person fails to comply with subsection (3), no amount is payable for lost educational expenses until the person furnishes the completed disability certificate. O. Reg. 34/10, s. 21 (4).

(5) In this section,

108 "post educational expenses" means expenses incurred before the accident for tuition, books, equipment or room and board in respect of the program term or program year in which the insured person was enrolled at the time of the accident, if the expenses are related to the program that the insured person is unable to continue. O. Reg. 34/10, s. 21 (5).

Expenses of visitors

22. (1) If an insured person sustains an impairment as a result of an accident, the insurer shall pay for reasonable and necessary expenses incurred not more than 104 weeks after the accident by the following persons as a result of the accident in visiting the insured person during his or her treatment or recovery.

1. The spouse, children, grandchildren, parents, grandparents, brothers and sisters of the insured person.
2. An individual who was living with the insured person at the time of the accident.
3. An individual who has demonstrated a settled intention to treat the insured person as a child of the individual's family.
4. An individual whom the insured person has demonstrated a settled intention to treat as a child of the insured person's family. O. Reg. 34/10, s. 22 (1).

(2) The time limit of 104 weeks does not apply if the insured person sustained a catastrophic impairment as a result of the accident. O. Reg. 34/10, s. 22 (2).

Housekeeping and home maintenance

23. The insurer shall pay up to $100 per week for reasonable and necessary additional expenses incurred by or on behalf of an insured person as a result of an accident for housekeeping and home maintenance services if, as a result of the accident, the insured person sustains a catastrophic impairment that results in a substantial inability to perform the housekeeping and home maintenance services that he or she normally performed before the accident. O. Reg. 34/10, s. 23.

Damage to clothing, glasses, hearing aids, etc.

24. The insurer shall pay for all reasonable expenses incurred by or on behalf of an insured person in repairing or replacing the following:

1. Clothing worn by the insured person at the time of the accident that was lost or damaged as a result of the accident.
2. Prescription eyewear, dentures, hearing aids, prostheses and other medical or dental devices that were lost or damaged as a result of the accident. O. Reg. 34/10, s. 24.

Cost of examinations

25. (1) The insurer shall pay the following expenses incurred by or on behalf of an insured person:

1. Reasonable fees charged for preparing a disability certificate if required under section 21.36 or 37, including any assessment or examination necessary for that purpose.
2. Fees charged in accordance with the Minor Injury Guideline by a person authorized by the Guideline for preparing a treatment confirmation form and for conducting an assessment or examination and preparing a report as authorized by the Guideline.
3. Reasonable fees charged by a health practitioner for reviewing and approving a treatment and assessment plan under section 38, including any assessment or examination necessary for that purpose, if any one or more of the goods, services, assessments or examinations described in the treatment and assessment plan have been

   i. approved by the insurer,

   ii. deemed by this Regulation to be payable by the insurer, or

109 is determined to be payable by the insurer on the resolution of a dispute described in subsection 280 (1) of the Act. (92)

4. Reasonable fees charged by an occupational therapist or a registered nurse for preparing an assessment of attendant care needs under section 42, including any assessment or examination necessary for that purpose.

6. Reasonable fees charged for preparing an application under section 45 for a determination of whether the insured person has sustained a catastrophic impairment, including any assessment or examination necessary for that purpose. O. Reg. 34/10, s. 25 (1); O. Reg. 44/16, s. 2.

(2) Despite subsection (1), an insurer is not required to pay for an assessment or examination conducted in the insured person's home unless the insured person has sustained an impairment that is not a minor injury. O. Reg. 34/10, s. 25 (2).

(3) The insurer is not liable under subsection (1) for expenses related to professional services rendered to an insured person that exceed the maximum rate or amount of expenses established under the Guidelines. O. Reg. 34/10, s. 25 (3); O. Reg. 14/13, s. 3.

(4) The insurer shall pay reasonable expenses incurred by or on behalf of an insured person for authorized transportation expenses incurred in transporting the insured person to and from an assessment or examination referred to in subsection (1), including transportation expenses for an aide or an attendant. O. Reg. 34/10, s. 25 (4).

(5) Despite any other provision of this Regulation, an insurer shall not pay,

(a) more than a total of $2,000 plus the amount of any applicable harmonized sales tax payable under Part IX of the *Excise Tax Act (Canada)* for accidents that occur on or after June 3, 2019 in respect of fees and expenses for conducting any one assessment or examination and for preparing reports in connection with it, whether it is conducted at the instance of the insured person or the insurer; or

(b) any amount in respect of fees for preparing a future care plan, a life care plan or a similar plan or for any assessment or examination conducted in connection with the preparation of the plan. O. Reg. 34/10, s. 25 (5); O. Reg. 289/10, s. 4; O. Reg. 123/19, s. 4.

PART V
DEATH AND FUNERAL BENEFITS

Death benefit

26. (1) The insurer shall pay a death benefit in respect of an insured person who dies as a result of an accident,

(a) within 180 days after the accident, or

(b) within 156 weeks after the accident, if during that period the insured person was continuously disabled as a result of the accident. O. Reg. 34/10, s. 26 (1).

(2) The death benefit shall provide the following payments:

1. A payment to the insured person's spouse of,

i. $25,000, or

110 ii. if the optional death and funeral benefit referred to in section 28 has been purchased and is applicable to the insured person, the amount fixed by the optional benefit.

2. A payment to each of the insured person's dependents and to each person to whom the insured person had an obligation at the time of the accident to provide support under a domestic contract or court order of,

i. $10,000, or

ii. if the optional death and funeral benefit referred to in section 28 has been purchased and is applicable to the insured person, the amount fixed by the optional benefit.

3. If no payment is required by paragraph 1, an additional payment to the insured person's dependants and the persons, other than a former spouse of the insured person, to whom the insured person had an obligation at the time of the accident to provide support under a domestic contract or court order, to be divided equally among the persons entitled, of,

i. $25,000, or

ii. if the optional death and funeral benefit referred to in section 28 has been purchased and is applicable to the insured person, the amount fixed by the optional benefit.

4. A payment of $10,000 to each former spouse of the insured person to whom the insured person was obligated at the time of the accident to provide support under a domestic contract or court order.

5. A payment of $10,000 to,

i. a person in respect of whom the insured person was a dependant at the time of the accident,

ii. the spouse of a person in respect of whom the insured person was a dependant at the time of the accident, if the spouse was the insured person's primary caregiver at the time of the accident and the person in respect of whom the insured person was a dependant at the time of the accident dies before the insured person or within 30 days after the insured person, or

iii. the dependants of a person in respect of whom the insured person was a dependant at the time of the accident, if no payment is required by subparagraph i or ii, to be divided equally among the persons entitled. O. Reg. 34/10, s. 26 (2).

(3) No payment shall be made under this section to a person who dies before the insured person or within 30 days after the insured person. O. Reg. 34/10, s. 26 (3).

(4) If at the time of the accident the insured person had more than one spouse who is entitled to a payment under this section the payment shall be divided equally among them. O. Reg. 34/10, s. 26 (4).

(5) If at the time of the accident the insured person was a dependant in respect of more than one person who is entitled to a payment under this section, the payment shall be divided equally among the persons in respect of whom the insured person was a dependant. O. Reg. 34/10, s. 26 (5).

(6) If requested by the insurer, a person who conducts an autopsy of the insured person shall provide a copy of his or her report to the insurer. O. Reg. 34/10, s. 26 (6).

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Funeral benefit

27. (1) The insurer shall pay a funeral benefit in respect of an insured person who dies as a result of an accident. O. Reg. 34/10, s. 27 (1).

(2) The funeral benefit shall pay for funeral expenses incurred in an amount not exceeding,

(a) $6,000; or

(b) if the optional death and funeral benefit referred to in section 28 has been purchased and is applicable to the insured person, the amount fixed by the optional benefit. O. Reg. 34/10, s. 27 (2).

PART VI
OPTIONAL BENEFITS

Description of optional benefits

28. (1) Every insurer shall offer the following optional benefits:

1. An optional income replacement benefit that increases the maximum weekly amount of $400 referred to in the definition of "B" in subsection 7 (1) to $600, $800 or $1,000, as selected by the named insured under the policy.

2. An optional caregiver, housekeeping and home maintenance benefit that,

   i. provides caregiver benefits payable in the circumstances described in section 13 if, as a result of and within 104 weeks after the accident, the insured person suffers a substantial inability to engage in the caregiving activities in which he or she engaged at the time of the accident even if the impairment sustained by the insured person is not a catastrophic impairment, but not for any period longer than 104 weeks of disability unless, as a result of the accident, the insured person is suffering a complete inability to carry on a normal life, and

   ii. provides a housekeeping and home maintenance benefit payable in the circumstances described in section 23 even if the impairment sustained by the insured person is not a catastrophic impairment, but not for expenses incurred more than 104 weeks after the onset of the disability.

3. An optional medical, rehabilitation and attendant care benefit of up to $130,000 plus the amount of any applicable harmonized sales tax payable under Part IX of the *Excise Tax Act (Canada)* for accidents that occur on or after June 3, 2019 in respect of an insured person for any one accident in which the impairment sustained by the insured person is not a catastrophic impairment, instead of the maximum amount specified in clause 18 (3) (a).

4. An optional medical, rehabilitation and attendant care benefit of up to the following maximum amounts plus the amount of any applicable harmonized sales tax payable under Part IX of the *Excise Tax Act (Canada)* for accidents that occur on or after June 3, 2019, instead of the maximum amount specified in subsection 18 (3), and that does not limit the period of time for which expenses are to be paid by the insurer for medical, rehabilitation and attendant care benefits:

   i. $1,000,000 if the insured person did not sustain a catastrophic impairment as a result of the accident.

   ii. $2,000,000 if the insured person sustained a catastrophic impairment as a result of the accident.

(95)

112 5 An optional catastrophic impairment benefit for medical, rehabilitation and attendant care benefits of up to $ 1,000,000 plus the amount of any applicable harmonized sales tax payable under Part IX of the *Excise Tax Act (Canada)* for accidents that occur on or after June 3, 2019 if the insured person sustained a catastrophic impairment as a result of the accident.

6. An optional death and funeral benefit that

i. fixes the amount payable under paragraph 1 of subsection 26 (2) at $50,000, instead of the amount specified in subparagraph 1 i of subsection 26 (2),

ii. fixes the amount payable under paragraph 2 of subsection 26 (2) at $20,000, instead of the amount specified in subparagraph 2 i of subsection 26 (2),

iii. fixes the amount payable under paragraph 3 of subsection 26 (2) at $50,000 instead of the amount specified in subparagraph 3 i of subsection 26 (2), and

iv. fixes the maximum payment for funeral expenses at $8,000 instead of the amount specified in clause 27 (2) (a).

7. An optional dependent care benefit, as described in section 29.

8. An optional indexation benefit, as described in section 30. O. Reg. 34/10, s. 28 (1); O. Reg. 251/15, s. 11 (1); O. Reg. 123/19, s. 6 (1-3).

(2) The optional benefits referred to in subsection (1) are applicable only to,

(a) the named insured;

(b) the spouse of the named insured;

(c) the dependants of the named insured and of the named insured's spouse; and

(d) the persons specified in the policy as drivers of the insured automobile. O. Reg. 34/10, s. 28 (2).

(3) An optional benefit may be purchased at any time before an accident in respect of which an application for benefits is made. O. Reg. 34/10, s. 28 (3).

(4) If a person purchases an optional benefit referred to in subsection (1), the insurer shall issue to the person the endorsement set out in Ontario Policy Change Form 47 (OPCF 47), as approved by the Commissioner of Insurance on December 3, 1996 under section 227 of the Act. O. Reg. 34/10, s. 28 (4).

(5) For the purposes of paragraphs 3, 4 and 5 of subsection (1), the medical, rehabilitation and attendant care benefits payable in respect of an insured person include all fees and expenses for conducting assessments and examinations and preparing reports in connection with any benefit or payment to or for an insured person under this Regulation, other than,

(a) fees in connection with any examination required by an insurer under section 44, and

113 (b) expenses in respect of a report referred to in subsection 7 (4). O. Reg. 251/15, s. 11 (2).

(6) For the purposes of paragraphs 3, 4 and 5 of subsection (1), no attendant care benefit is payable if the insured person's impairment is a minor injury. O. Reg. 251/15, s. 11 (2).

(7) For the purposes of paragraphs 4 and 5 of subsection (1),

(a) the maximum monthly attendant care benefit payable in respect of an insured person shall not exceed $6,000 plus the amount of any applicable harmonized sales tax payable under Part IX of the *Excise Tax Act (Canada)* for accidents that occur on or after June 3, 2019; and

(b) the medical and rehabilitation benefits payable in respect of an insured person include any amount paid in respect of the insured person for services provided by a qualified case manager as authorized under section 17. O. Reg. 251/15, s. 11 (2); O. Reg. 123/19, s. 5 (4).

Optional dependent care benefit

29. (1) The optional dependent care benefit shall pay for reasonable and necessary additional expenses incurred by or on behalf of an insured person as a result of an accident in caring for the insured person's dependants, if the insured person satisfies the following conditions:

1. The insured person sustained an impairment as a result of the accident.
2. The insured person was employed at the time of the accident.
3. The insured person is not receiving a caregiver benefit. O. Reg. 34/10, s. 29 (1).

(2) Despite subsection (1), the amount of optional dependent care benefits shall not exceed $75 per week for the first dependant and $25 per week for each additional dependant, to a maximum amount of $150 per week. O. Reg. 34/10, s. 29 (2).

(3) No optional dependent care benefit is payable in respect of an expense incurred after the insured person dies. O. Reg. 34/10, s. 29 (3).

Optional indexation benefit

30. (1) The optional indexation benefit shall provide that the following amounts are subject to annual indexation in accordance with subsections (2) and (3):

1. The weekly amount of any income replacement or non-earner benefit payable under this Regulation, determined without regard to any other income replacement assistance, within the meaning of subsection 4 (1), that is received by the insured person.
2. The following amounts:
   i. The amounts specified in the definition of "B" in subsection 7 (1).
   ii. The amounts specified in subsections 12 (2) and (3).
   iii. The amounts specified in subsection 13 (2).

iv. The amounts specified in paragraphs 1 and 3 of subsection 19 (3)

3. If the optional medical, rehabilitation and attendant care benefit referred to in paragraph 3 of subsection 28 (1) was purchased and is applicable to the insured person, the outstanding balance with respect to medical, rehabilitation and attendant care benefits, as calculated under subsection (4).

4. If the optional medical, rehabilitation and attendant care benefit referred to in paragraph 4 of subsection 28 (1) was purchased and is applicable to the insured person, the outstanding balance with respect to medical, rehabilitation and attendant care benefits, as calculated under subsection (5).

5. If the optional catastrophic impairment benefit referred to in paragraph 5 of subsection 28 (1) was purchased and is applicable to the insured person, the outstanding balance with respect to medical, rehabilitation and attendant care benefits, as calculated under subsection (6).

6. If paragraphs 3, 4 and 5 do not apply, the outstanding balance with respect to medical, rehabilitation and attendant care benefits, as calculated under subsection (7). O. Reg. 34/10, s. 30 (1); O. Reg. 251/15, s. 12 (1).

(2) The indexation shall be performed on January 1 of every year following an accident to which the optional indexation benefit applies by adjusting the amount to be indexed by the percentage change in the Consumer Price Index for Canada (All Items), as published by Statistics Canada under the authority of the *Statistics Act* (Canada), for the period from September in the year immediately preceding the previous year to September of the previous year. O. Reg. 34/10, s. 30 (2).

(3) Subsection (2) is subject to the Optional Indexation Benefit Guidelines published in *The Ontario Gazette* by the former Ontario Insurance Commission or the Financial Services Commission of Ontario, as they may be amended from time to time by the Financial Services Regulatory Authority of Ontario, except that those guidelines shall not provide an adjustment of the amount to be indexed by a percentage greater than the percentage change in the applicable Consumer Price Index. O. Reg. 34/10, s. 30 (3); O. Reg. 123/19, s. 6.

(4) For the purpose of paragraph 3 of subsection (1), the outstanding balance with respect to medical, rehabilitation and attendant care benefits is the amount calculated using the formula,

E – F

in which,

"E" is the indexation balance for the year equal to,

(a) the amount specified in paragraph 3 of subsection 28 (1), if the year is the first year the optional indexation benefit applies, or

(b) the outstanding balance for the previous year as calculated under this subsection and indexed under subsection (2), if the year is the second or a subsequent year the optional indexation benefit applies, and

"F" is the total of medical, rehabilitation and attendant care benefits paid by the insurer in the year preceding January 1 of the year to which the optional indexation benefit applies.

O. Reg. 251/15, s. 12 (2).

(5) For the purpose of paragraph 4 of subsection (1), the outstanding balance with respect to medical, rehabilitation and attendant care benefits is calculated using the formula,

115 which,

"G" is the indexation balance for the year equal to,

(a) the amount specified in subparagraph 4 i or ii, as the case may be, of subsection 28 (1), if the year is the first year the optional indexation benefit applies, or

(b) the outstanding balance for the previous year as calculated under this subsection and indexed under subsection (2), if the year is the second or a subsequent year the optional indexation benefit applies, and

"H" is the total of medical, rehabilitation and attendant care benefits paid by the insurer in the year preceding January 1 of the year to which the optional indexation benefit applies.

O. Reg. 251/15, s. 12 (2).

(6) For the purpose of paragraph 5 of subsection (1), the outstanding balance with respect to medical, rehabilitation and attendant care benefits is calculated using the formula

I – J

in which,

"I" is the indexation balance for the year equal to,

(a) the amount specified in paragraph 5 of subsection 28 (1), if the year is the first year the optional indexation benefit applies, or

(b) the outstanding balance for the previous year as calculated under this subsection and indexed under subsection (2), if the year is the second or a subsequent year the optional indexation benefit applies, and

"J" is the total of medical, rehabilitation and attendant care benefits paid by the insurer in the year preceding January 1 of the year to which the optional indexation benefit applies.

O. Reg. 251/15, s. 12 (2).

(7) For the purpose of paragraph 6 of subsection (1), the outstanding balance with respect to medical, rehabilitation and attendant care benefits is calculated using the formula,

K – L

in which,

"K" is the indexation balance for the year equal to,

(a) the amount specified in clause 18 (3) (a) or (b), as the case may be, if the year is the first year the optional indexation benefit applies, or

(b) the outstanding balance for the previous year as calculated under this subsection and indexed under subsection (2), if the year is the second or a subsequent year the optional indexation benefit applies, and

"L" is the total of medical, rehabilitation and attendant care benefits paid by the insurer in the year preceding January 1 of the year to which the optional indexation benefit applies.

O. Reg. 251/15, s. 12 (2).

(8) Revoked: O. Reg. 251/15, s. 12 (2).

116 (c) the person is charged with an offence under section 254 of the *Criminal Code* (Canada), as it read before December 18, 2018, of failing to comply with a lawful demand to provide a breath sample or a sample of a bodily substance, perform physical coordination tests or submit to an evaluation in connection with the accident. O. Reg. 34/10, s. 31 (3); O. Reg. 444/18, s. 1 (3, 4).

(4) On the final disposition of all charges described in clause (3) (a) or (b), the amounts and any income on the amounts described in subsection (3),

(a) shall be returned to the insurer, if the person is found guilty of the offence or an included offence; or

(b) shall be paid to the person entitled to the payment, if the person is not found guilty of the offence and an included offence. O. Reg. 34/10, s. 31 (4).

(5) In this section,

"criminal offence" means,

(a) operating an automobile while the ability to operate the automobile is impaired by alcohol or a drug or a combination of alcohol and a drug,

(b) operating an automobile while the concentration of alcohol or drug in the operator's blood exceeds the limit permitted by law,

(c) failing to comply with a lawful demand to provide a breath sample or a sample of a bodily substance, perform physical coordination tests or submit to an evaluation, or

(d) any other criminal offence, whether or not the offence is related to the operation of an automobile. O. Reg. 444/18, s. 1 (5).

PART VIII
PROCEDURES FOR CLAIMING BENEFITS

General

Notice to insurer and application for benefits

32. (1) A person who intends to apply for one or more benefits described in this Regulation shall notify the insurer of his or her intention no later than the seventh day after the circumstances arose that give rise to the entitlement to the benefit, or as soon as practicable after that day. O. Reg. 34/10, s. 32 (1).

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(2) The insurer shall promptly provide the person with,

(a) the appropriate application forms;

(b) a written explanation of the benefits available;

(c) information to assist the person in applying for benefits; and

(d) information on the election relating to income replacement, non-earner and caregiver benefits, if applicable. O. Reg. 34/10, s. 32 (2).

(3) If an insurer that is subject to a Guideline referred to in subsection 64 (7) determines, acting reasonably, that there is a likelihood that the person may, in connection with the accident, deliver one or more documents referred to in that subsection, the insurer shall provide the following information to the central processing agency referred to in that subsection:

1. The name, address, gender and date of birth of the person.

2. The date of the accident.

(109)

117). Particulars of the automobile insurance policy under which the person asserts he or she is entitled to a benefit or benefits, including,

i. the name of the insurer,

ii. the policy number, and

iii. the name of the person to whom the policy was issued.

4. The claim number assigned by the insurer.

5. Any other information reasonably required by the central processing agency to enable it to carry out its obligations to the insurer under this Regulation. O. Reg. 34/10, s. 32 (3).

(4) An insurer's obligation to provide the information referred to in subsection (3) may be discharged by,

(a) providing the information to the central processing agency, or

(b) confirming, correcting or supplementing the information previously provided to the central processing agency. O. Reg. 34/10, s. 32 (4).

(5) The applicant shall submit a completed and signed application for benefits to the insurer within 30 days after receiving the application forms. O. Reg. 34/10, s. 32 (5).

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(6) If an insurer receives an incomplete or unsigned application, the insurer shall notify the applicant within 10 business days after receiving the application and shall advise the applicant of the missing information that is required or that the applicant's signature is missing, as appropriate. O. Reg. 34/10, s. 32 (6).

(7) The insurer shall not give a notice under subsection (6) unless, IDHR → DID Not

(a) the insurer, after a reasonable review of the incomplete application, is unable to determine, without the missing information, whether a benefit is payable; or

(b) the application has not been signed by the applicant. O. Reg. 34/10, s. 32 (7).

(8) If subsection (6) applies in respect of an incomplete application, no benefit is payable before the applicant provides the missing information or signs the application, as the case may be. O. Reg. 34/10, s. 32 (8).

(9) If an applicant is required by an insurer to submit an additional application in respect of a benefit that the applicant is receiving or may be eligible to receive, the applicant shall submit the additional application to the insurer within 30 days after receiving the additional application forms from the insurer. O. Reg. 34/10, s. 32 (9).

(10) Despite any shorter time limit in this Regulation, if an applicant fails without a reasonable explanation to notify an insurer under subsection (1) within the time required under that subsection, the insurer may delay determining if the applicant is entitled to a benefit and may delay paying the benefit until the later of,

(a) 45 days after the day the insurer receives the completed and signed application; or

(b) 10 business days after the day the applicant complies with any request made by the insurer under subsection 33 (1) or (2). O. Reg. 34/10, s. 32 (10).

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118 **Duty of applicant to provide information**

33. (1) An applicant shall, within 10 business days after receiving a request from the insurer, provide the insurer with the following:

1. Any information reasonably required to assist the insurer in determining the applicant's entitlement to a benefit.
2. A statutory declaration as to the circumstances that gave rise to the application for a benefit.
3. The number, street and municipality where the applicant ordinarily resides.
4. Proof of the applicant's identity. O. Reg. 34/10, s. 33 (1).

(2) If requested by the insurer, an applicant shall submit to an examination under oath, but is not required,

(a) to submit to more than one examination under oath in respect of matters relating to the same accident; or

(b) to submit to an examination under oath during a period when the person is incapable of being examined under oath because of his or her physical, mental or psychological condition. O. Reg. 34/10, s. 33 (2).

(3) An applicant is entitled to be represented at his or her own expense at an examination under oath by such counsel or other representative of his or her choice as the law permits. O. Reg. 34/10, s. 33 (3).

(4) The insurer shall make reasonable efforts to schedule the examination under oath for a time and location that are convenient for the applicant and shall give the applicant reasonable advance notice of the following:

1. The date and location of the examination.
2. That the applicant is entitled to be represented in the manner described in subsection (3).
3. The reason or reasons for the examination.
4. That the scope of the examination will be limited to matters that are relevant to the applicant's entitlement to benefits.

O. Reg. 34/10, s. 33 (4).

(5) The insurer shall limit the scope of the examination under oath to matters that are relevant to the applicant's entitlement to benefits described in this Regulation. O. Reg. 34/10, s. 33 (5).

(6) The insurer is not liable to pay a benefit in respect of any period during which the insured person fails to comply with subsection (1) or (2). O. Reg. 34/10, s. 33 (6).

(7) Subsection (6) does not apply in respect of a non-compliance with subsection (2) if,

(a) the insurer fails to comply with subsection (4) or (5); or

(b) the insurer interferes with the applicant's right to be represented as described in subsection (3). O. Reg. 34/10, s. 33 (7).

(8) If an applicant who failed to comply with subsection (1) or (2) subsequently complies with that subsection, the insurer,

(a) shall resume payment of the benefit, if a benefit was being paid; and

(b) shall pay all amounts that were withheld during the period of non-compliance, if the applicant provides a reasonable explanation for the delay in complying with the subsection. O. Reg. 34/10, s. 33 (8).

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11(3) Clause (2) (a) shall not be interpreted as prohibiting an additional examination of the applicant under oath. under Ontario Regulation 283/95 (Disputes Between Insurers) made under the Act, at the insurer's request that is conducted for the purpose of determining who is liable under section 268 of the Act to pay statutory accident benefits in respect of the accident. O. Reg. 14/13, s. 4.

Result if fail to comply with time limits

34. A person's failure to comply with a time limit set out in this Part does not disentitle the person to a benefit if the person has a reasonable explanation. O. Reg. 34/10, s. 34.

Election of income replacement, non-earner or caregiver benefit

35. (1) If an application indicates that the applicant may qualify for two or more of the income replacement benefit, the non-earner benefit and the caregiver benefit under Part II, the insurer shall, within 10 business days after receiving the application, give a notice to the applicant advising the applicant that he or she must elect, within 30 days after receiving the notice, the benefit he or she wishes to receive. O. Reg. 34/10, s. 35 (1).

(2) If an applicant is determined to have sustained a catastrophic impairment as a result of an accident, the insurer shall, within 10 business days of the date of the determination, give a notice to the applicant advising the applicant that, despite any election previously made under subsection (1), he or she may elect, within 30 days after receiving the notice, to receive a caregiver benefit if the applicant would otherwise qualify for a caregiver benefit. O. Reg. 34/10, s. 35 (2).

(3) The applicant's election under subsection (1) is final, regardless of any change in circumstances, and can be subsequently changed only if permitted under subsection (2). O. Reg. 34/10, s. 35 (3); O. Reg. 347/13, s. 3.

CLAIM FOR INCOME REPLACEMENT BENEFIT, NON-EARNER BENEFIT, CAREGIVER BENEFIT OR PAYMENT FOR HOUSEKEEPING OR HOME MAINTENANCE SERVICES

Application

36. (1) In this section and section 37,

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"specified benefit" means an income replacement benefit, non-earner benefit, caregiver benefit or a payment for housekeeping or home maintenance services under section 23. O. Reg. 34/10, s. 36 (1).

(2) An applicant for a specified benefit shall submit a completed disability certificate with his or her application under section 32. O. Reg. 34/10, s. 36 (2).

(3) An applicant who fails to submit a completed disability certificate is not entitled to a specified benefit for any period before the completed disability certificate is submitted. O. Reg. 34/10, s. 36 (3).

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(4) Within 10 business days after the insurer receives the application and completed disability certificate, the insurer shall,

(a) pay the specified benefit,

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120 (b) give the applicant a notice explaining the medical and any other reasons why the insurer does not believe the applicant is entitled to the specified benefit and, if the insurer requires an examination under section 44 relating to the specified benefit, advising the applicant of the requirement for an examination; or

(c) send a request to the applicant under subsection 33 (1) or (2). O. Reg. 34/10, s. 36 (4).

(5) If the insurer sends a request to the applicant under subsection 33 (1) or (2), the insurer shall, within 10 business days after the applicant complies with the request,

(a) pay the specified benefit; or

(b) give the applicant a notice described in clause (4) (b). O. Reg. 34/10, s. 36 (5).

(6) If the insurer fails to comply with subsection (4) or (5) within the applicable time limit, the insurer shall pay the specified benefit for the period starting on the day the insurer received the application and completed disability certificate and ending, if the insurer subsequently gives a notice described in subsection (4) (b), on the day the insurer gives the notice. O. Reg. 34/10, s. 36 (6).

(7) If the insurer requires the applicant to undergo an examination under section 44, the insurer shall, within 10 days after receiving the report of the examination,

(a) give a copy of the report to the applicant and to the person who completed the disability certificate submitted with the application; and

(b) provide the applicant with a notice indicating the amount, if any, that the insurer agrees to pay in respect of the specified benefit, the amount, if any, the insurer refuses to pay in respect of the specified benefit and the medical and any other reasons for the insurer's decision. O. Reg. 34/10, s. 36 (7).

(8) Within 10 business days after delivering the notice under clause (7) (b), the insurer shall pay the amount, if any, that the insurer agrees to pay in respect of the specified benefit. O. Reg. 34/10, s. 36 (8).

(9) Every income replacement benefit, non-earner benefit or caregiver benefit shall be paid at least once every second week, subject to any prepayment of the benefit by the insurer. O. Reg. 34/10, s. 36 (9).

Determination of continuing entitlement to specified benefits

37. (1) If an insurer wishes to determine if an insured person is still entitled to a specified benefit, the insurer may, but not more often than is reasonably necessary,

(a) request that the insured person submit, within 15 business days, a new disability certificate completed as of a date on or after the date of the request;

(b) notify the insured person that the insurer requires an examination under section 44; or

(c) do both. O. Reg. 34/10, s. 37 (1).

(2) An insurer shall not discontinue paying a specified benefit to an insured person unless,

(a) the insured person fails or refuses to submit a completed disability certificate if requested to do so under subsection (1);

(b) the disability certificate submitted on behalf of the insured person does not support the insured person's continuing entitlement to the benefit;

(105)

121 (c) the insurer has received the report of the examination under section 44, if the insurer required an examination under that section, and has determined that the insured person is not entitled to the benefit;

(d) the insurer is entitled under subsection (7) to refuse to pay the specified benefit;

(e) the insured person has resumed his or her pre-accident employment duties;

(f) the insurer is no longer required to pay the specified benefit by reason of subsection (7), paragraph 2 of subsection 28 (1), subsection 33 (6) or section 57 or 58; or

(g) the insured person is not entitled to the specified benefit for a reason unrelated to whether he or she has an impairment that entitles the insured person to receive the specified benefit. O. Reg. 34/10, s. 37 (2).

(3) If an insured person fails to submit a completed disability certificate as required under subsection (1), no specified benefits are payable for the period commencing the 15th business day after the day the insured person received the insurer's request and ending, if the insured person subsequently submits a completed disability certificate, the day the insurer receives the completed disability certificate. O. Reg. 34/10, s. 37 (3).

(4) If the insurer determines that an insured person is not entitled or is no longer entitled to receive a specified benefit on any one or more grounds set out in subsection (2), the insurer shall advise the insured person of its determination and the medical and any other reasons for its determination. O. Reg. 34/10, s. 37 (4).

(5) Within 10 business days after receiving the report of an examination under section 44, the insurer shall give a copy of the report to the insured person and to the person who completed the disability certificate, if one was provided in accordance with subsection (1). O. Reg. 34/10, s. 37 (5).

(6) Within 10 business days after receiving the report of an examination under section 44, the insurer shall provide the insured person with a notice of determination setting out,

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(a) the specified benefits the insurer agrees to pay;

(b) the specified benefits the insurer refuses to pay;

(c) the medical and any other reasons for the insurer's decision; and

(d) if the insurer determines that the insured person is not entitled to a specified benefit, the date that payment of the benefit will be stopped. O. Reg. 34/10, s. 37 (6).

(7) If the insured person fails or refuses to comply with subsection 44 (9), the insurer may,

(a) make a determination that the insured person is no longer entitled to the specified benefit; and

(b) refuse to pay specified benefits relating to the period after the insured person failed or refused to comply with that subsection and before the insured person complies with that subsection. O. Reg. 34/10, s. 37 (7).

(8) If the insured person subsequently complies with subsection 44 (9), the insurer shall,

(a) reconsider the insured person's entitlement to the specified benefit; and

(b) if the insurer determines that the insured person is still entitled to the specified benefit,

(i) resume payment of the specified benefit, and

(ii) pay all amounts, if any, that were withheld during the period of non-compliance if the insured person provides not later than the 90th business day after the failure or refusal to comply, or as soon as practicable after that day, a reasonable explanation for not complying with that subsection. O. Reg. 34/10, s. 37 (8).

(106)

Claims for medical and rehabilitation benefits and for approval of assessments, etc.

36. (1) This section applies to,

(a) medical and rehabilitation benefits other than benefits payable in accordance with the Minor Injury Guideline; and

(b) all applications for approval of assessments or examinations. O. Reg. 34/10, s. 36 (1).

(2) An insurer is not liable to pay an expense in respect of a medical or rehabilitation benefit or an assessment or examination that was incurred before the insured person submits a treatment and assessment plan that satisfies the requirements of subsection (3) unless,

(a) the insurer gives the insured person a notice under subsection 39 (1) stating that the insurer will pay the expense without a treatment and assessment plan;

(b) the expense is for an ambulance or other goods or services provided on an emergency basis not more than five business days after the accident to which the application relates;

(c) the expense is reasonable and necessary as a result of the impairment sustained by the insured person for,

(i) drugs prescribed by a regulated health professional, or

(ii) goods referred to in clauses 15 (1) (d) to (f) and 16 (3) (h) to (j) with a cost of $250 or less per item, or

(d) the insurer agrees that the expense is essential for the treatment or rehabilitation of the insured person for goods or services referred to in clause 15 (1) (h) or 16 (3) (i) with a cost of $250 or less per item or service, as the case may be. O. Reg. 34/10, s. 36 (2); O. Reg. 251/15, s. 13 (1, 2).

(3) A treatment and assessment plan must,

(a) be signed by the insured person unless the insurer waives that requirement;

(b) be completed and signed by a regulated health professional; and

(c) include a statement by a health practitioner approving the treatment and assessment plan and stating that he or she is of the opinion that the goods, services, assessments and examinations described in the treatment and assessment plan and their proposed costs are reasonable and necessary for the insured person's treatment or rehabilitation and,

(i) stating, if the treatment and assessment plan is in respect of an accident that occurred on or after September 1, 2010,

(A) that the insured person's impairment is not predominantly a minor injury, or

(B) that the insured person's impairment is predominantly a minor injury but, based on compelling evidence provided by the health practitioner, the insured person does not come within the Minor Injury Guideline because the insured person has a pre-existing medical condition that was documented by a health practitioner before the accident and that will prevent the insured person from achieving maximal recovery from the minor injury if the insured person is subject to the limit or is limited to the goods and services authorized under the Minor Injury Guideline, or

(ii) stating, if the treatment and assessment plan is in respect of an accident that occurred before September 1, 2010, that the expenses contemplated by the treatment and assessment plan are reasonable and necessary for the insured person's treatment or rehabilitation. O. Reg. 34/10, s. 36 (3); O. Reg. 34/13, s. 4; O. Reg. 251/15, s. 13 (3); O. Reg. 123/19, s. 7.

(4) A claim for dental goods or services completed and signed by a dentist and in the form approved by the Ontario Dental Association is deemed to be a treatment and assessment plan that satisfies the requirements of subsection (3). O. Reg. 34/10, s. 36 (4).

(107)

123 (5) An insurer may refuse to accept a treatment and assessment plan if the plan describes goods or services to be received or an assessment or examination to be conducted in respect of any period during which the insured person is entitled to receive goods or services under the Minor Injury Guideline in respect of the impairment. O. Reg. 34/10, s. 38 (5).

(6) An insurer's refusal to accept a treatment and assessment plan under subsection (5) is final and is not subject to review. O. Reg. 34/10, s. 38 (6).

(7) Nothing in subsection (5) prevents an insured person, while receiving goods or services under the Minor Injury Guideline, from submitting a treatment and assessment plan applicable to a period other than the period for which the insured person is receiving goods or services under the Minor Injury Guideline. O. Reg. 34/10, s. 38 (7).

(8) Within 10 business days after it receives the treatment and assessment plan, the insurer shall give the insured person a notice that identifies the goods, services, assessments and examinations described in the treatment and assessment plan that the insurer agrees to pay for, any the insurer does not agree to pay for and the medical reasons and all of the other reasons why the insurer considers any goods, services, assessments and examinations, or the proposed costs of them, not to be reasonable and necessary. O. Reg. 34/10, s. 38 (8); O. Reg. 14/13, s. 5.

(8.1) If the insurer has not agreed that the goods and services referred to in clause 15 (1) (h) or 16 (3) (i) are essential, the notice under subsection (8) must so advise the insured person. O. Reg. 251/15, s. 13 (4).

(9) If the insurer believes that the Minor Injury Guideline applies to the insured person's impairment, the notice under subsection (8) must so advise the insured person. O. Reg. 34/10, s. 38 (9).

(10) If the insurer has not agreed to pay for all goods, services, assessments and examinations described in the treatment and assessment plan or believes that the Minor Injury Guideline applies to the insured person's impairment, the notice under subsection (8) may notify the insured person that the insurer requires the insured person to undergo an examination under section 44. O. Reg. 34/10, s. 38 (10).

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(11) If the insurer fails to give a notice in accordance with subsection (8) in connection with a treatment and assessment plan, the following rules apply:

1. The insurer is prohibited from taking the position that the insured person has an impairment to which the Minor Injury Guideline applies.
2. The insurer shall pay for all goods, services, assessments and examinations described in the treatment and assessment plan that relate to the period starting on the 11th business day after the day the insurer received the application and ending on the day the insurer gives a notice described in subsection (9). O. Reg. 34/10, s. 38 (11).

(12) If an insurer advises an insured person that the Minor Injury Guideline applies, the insured person may submit a treatment confirmation form under section 40 and, pending the insurer's determination, may receive goods and services in accordance with the Minor Injury Guideline. O. Reg. 34/10, s. 38 (12).

(13) Within 10 business days after receiving the report of an examination conducted under section 44 for the purpose of the treatment and assessment plan, the insurer shall give a copy of the report to the insured person and to the regulated health professional who prepared the treatment and assessment plan. O. Reg. 34/10, s. 38 (13).

1244) Within 10 business days after receiving the report, the insurer shall.

(a) provide the insured person with a notice indicating the goods and services described in the treatment and assessment plan that the insurer agrees to pay for, the goods and services the insurer refuses to pay for and the medical and any other reasons for the insurer's decision; or

(b) if the insurer determines that the Minor Injury Guideline applies, advise the insured person that the Minor Injury Guideline applies to the insured person's impairment and provide medical and any other reasons for the insurer's determination. O. Reg. 34/10, s. 38 (14).

(15) The insurer shall pay for goods and services the insurer agreed to pay for in the notice under subsection (5) or (14) or is required to pay for under this section within 30 days after receiving an invoice for them. O. Reg. 34/10, s. 38 (15).

If no treatment and assessment plan required

39. (1) This section applies to a claim for a medical or rehabilitation benefit or an application for approval of an assessment or examination under section 38 if the insurer gives the insured person a notice informing the insured person that the insurer will pay the expenses without the submission of a treatment and assessment plan under that section. O. Reg. 34/10, s. 39 (1).

(2) If the insurer gives the insured person a notice under subsection (1),

(a) the notice must describe the expenses that the insurer will pay without the submission of a treatment and assessment plan and shall specify,

(i) the types of expenses,

(ii) any restrictions on the amount of the expenses, and

(iii) any restrictions on when the expenses are to be incurred.

(b) the insurer shall comply with the requirements set out in any applicable Guideline if the notice is given in connection with a proposal, recommendation or suggestion that the insured person receive goods or services from a person named by the insurer;

(c) the insurer shall pay expenses described in the notice within 30 days after receiving an invoice for them; and

(d) the insurer shall, if there is a dispute described in subsection 280 (1) of the Act about whether for the purposes of subsection 15 (1) or 16 (3) an expense described in the notice is reasonable or necessary, or whether for the purposes of clause 15 (1) (b) or 16 (3) (i) an expense described in the notice is essential, pay the expense pending resolution of the dispute. O. Reg. 34/10, s. 39 (2); O. Reg. 44/16, s. 3.

CLAIM FOR MEDICAL OR REHABILITATION BENEFITS TO WHICH MINOR INJURY GUIDELINE APPLIES

Minor Injury Guideline

40. (1) This section applies to a person if,

(a) the person sustains, as a result of an accident, a minor injury to which the Minor Injury Guideline applies; and

(b) the person submits or intends to submit an application under section 32 for medical or rehabilitation benefits. O. Reg. 34/10, s. 40 (1).

(2) The person shall submit, within the time specified in the Minor Injury Guideline, a treatment confirmation form that satisfies the following requirements:

125 (109) 1. The treatment confirmation form must be prepared and signed by a health practitioner,

i. who is authorized by law to treat the impairment that is the subject of the form,

ii. who is authorized under the Minor Injury Guideline to complete the treatment confirmation form, and

iii. who will be the health practitioner responsible for providing the goods and services described in the treatment confirmation form.

2. The treatment confirmation form must contain details concerning the impairment and specify the provisions of the Minor Injury *Guideline that apply.*

3. The treatment confirmation form must be signed by the person claiming benefits, unless the insurer waives this requirement. O. Reg. 34/10, s. 40 (2).

(3) Within five business days after receiving a treatment confirmation form, the insurer shall send a notice to the person claiming benefits and to the health practitioner.

(a) acknowledging receipt by the insurer of the treatment confirmation form; and

(b) advising if the person claiming benefits is an insured person with respect to the accident. O. Reg. 34/10, s. 40 (3).

(4) If the person also submits a completed and signed application under section 32 and the insurer accepts the claim for benefits, the insurer shall, within 30 days of receipt, pay every invoice for goods and services described in section 15 or 16 that are provided in accordance with the Minor Injury Guideline. O. Reg. 34/10, s. 40 (4).

(5) An insured person shall submit an amended treatment confirmation form if, during the course of treatment under the Minor Injury Guideline, he or she changes the health practitioner who is responsible for providing goods and services described in the treatment confirmation form. O. Reg. 34/10, s. 40 (5).

(6) The insurer is liable to pay for goods and services described in an amended treatment confirmation form only to the extent the goods and services have not already been provided in accordance with the Minor Injury Guideline. O. Reg. 34/10, s. 40 (6).

(7) If goods or services available under the Minor Injury Guideline are not provided within the times specified in that Guideline, the insured person shall submit a treatment and assessment plan under section 38 if he or she wishes to obtain medical or rehabilitation benefits to which the Minor Injury Guideline would otherwise apply. O. Reg. 34/10, s. 40 (7).

(8) If it is determined, in any dispute described in subsection 280 (1) of the Act about an insured person's entitlement to medical or rehabilitation benefits or related assessments or examinations, that the Minor Injury Guideline applies to an insured person and the insured person received benefits or underwent assessments or examinations under that Guideline,

(a) the benefits are deemed to be reasonable and necessary, or essential, as the case may be, for the purposes of sections 15 and 16; and

(b) the assessments and examinations are deemed to have been reasonably required for the purposes of section 25.

O. Reg. 34/10, s. 40 (8); O. Reg. 251/15, s. 15; O. Reg. 44/16, s. 4.

(110)

Treatment confirmation form not required

41. (1) This section applies to a claim for medical or rehabilitation benefits under section 40 in respect of a minor injury.

(a) if the insurer gives the insured person a notice informing the insured person that the insurer offers to pay for the goods and services described in the Minor Injury Guideline without the submission of a treatment confirmation form; and

(b) if the insured person accepts the insurer's offer and does not submit a treatment confirmation form in accordance with section 40 or a treatment and assessment plan in accordance with section 38 after receiving the notice described in clause (a). O. Reg. 34/19, s. 41 (1).

(2) If this section applies, the following rules apply.

1. If the notice is given in connection with a proposal, recommendation or suggestion that the insured person receive goods or services from a person named by the insurer, the insurer shall also comply with any applicable Guideline.

2. After the insured person submits an application under section 32 to the insurer, the insurer shall pay the expenses described in the notice within 30 days after receiving an invoice for them. O. Reg. 34/19, s. 41 (2).

CLAIM FOR ATTENDANT CARE BENEFITS

Application for attendant care benefits

42. (1) Subject to subsection (2), an application for attendant care benefits for an insured person must be,

(a) in the form of and contain the information required to be provided in the version of the document entitled "Assessment of Attendant Care Needs" that is approved by the Chief Executive Officer for use in connection with the claim; and

(b) prepared and submitted to the insurer by an occupational therapist or a registered nurse. O. Reg. 34/10, s. 42 (1); O. Reg. 123/19, s. 9.

(2) If a Guideline issued for the purpose of this section specifies conditions, restrictions or times with respect to the preparation of an assessment of attendant care needs, the assessment of attendant care needs must be prepared in accordance with the Guideline. O. Reg. 34/10, s. 42 (2).

(3) Within 10 business days after receiving the assessment of attendant care needs, the insurer shall give the insured person a notice that specifies the expenses described in the assessment of attendant care needs the insurer agrees to pay, the expenses the insurer refuses to pay and the medical and any other reasons for the insurer's decision. O. Reg. 34/10, s. 42 (3).

(4) A notice under subsection (3) may require the insured person to undergo an examination under section 44 if the insurer has not agreed to pay all expenses described in the assessment of attendant care needs. O. Reg. 34/10, s. 42 (4).

(5) An insurer may, but is not required to, pay an expense incurred before an assessment of attendant needs that complies with this section is submitted to the insurer. O. Reg. 34/10, s. 42 (5).

(6) The insurer shall begin payment of attendant care benefits within 10 business days after receiving the assessment of attendant care needs and, pending receipt by the insurer of the report of any examination under section 44 required by the insurer, shall calculate the amount of the benefits based on the assessment of attendant care needs. O. Reg. 34/10, s. 42 (6).

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127) If an insurer wants to determine if an insured person is still entitled to attendant care benefits, wants to determine if the benefits are being paid in the appropriate amount or wants to determine both, the insurer shall give the person a notice requesting that a new assessment of attendant care needs for the insured person be prepared in accordance with this section and submitted to the insurer within 15 business days after the insured person receives the notice. O. Reg. 34/10, s. 42 (7).

(8) Subject to subsection (12), a notice under subsection (7) may also advise the insured person that the insurer requires an examination under section 44. O. Reg. 34/10, s. 42 (8).

(9) Subject to subsection (12), new assessments of attendant care needs may be submitted to an insurer at any time there are changes that would affect the amount of the benefits. O. Reg. 34/10, s. 42 (9).

(10) If a new assessment of attendant care needs indicates that it is appropriate to increase the amount of the attendant care benefits and the insurer has not already advised the insured person that the insurer requires an examination under section 44, the insurer may give a notice to the insured person advising that the insurer requires an examination under that section. O. Reg. 34/10, s. 42 (10).

(11) If a new assessment of attendant care needs is required under subsection (7) or the insurer requires an examination under section 44, the insurer shall, subject to subsection 18 (3) and section 20, continue to pay the insured person attendant care benefits at the same rate until the insurer receives the assessment of attendant care needs or the report of the examination, as applicable. O. Reg. 34/10, s. 42 (11); O. Reg. 251/15, s. 16 (1).

(12) If more than 104 weeks have elapsed since the accident, the insurer shall not require an examination under section 44 to determine the insured person's entitlement to attendant care benefits and the insured person shall not submit nor be required to submit an assessment of attendant care needs to the insurer unless at least 52 weeks have elapsed since the last examination under section 44 relating to entitlement to attendant care benefits. O. Reg. 251/15, s. 16 (2).

(13) Within 10 business days after receiving the report of an examination under section 44, the insurer shall,

(a) give a copy of the report to the person who prepared the assessment of attendant care needs; and

(b) provide the insured person with a notice specifying the benefits and expenses the insurer agrees to pay, the benefits and expenses the insurer refuses to pay and the medical and any other reasons for the insurer's decision. O. Reg. 34/10, s. 42 (13).

(14) If an insured person fails or refuses to comply with subsection 44 (9), the insurer may,

(a) make a determination that the insured person is not entitled to attendant care benefits; and

(b) refuse to pay attendant care benefits relating to the period after the person failed or refused to comply with that subsection and before the insured person submits to the examination and provides the material required by that subsection. O. Reg. 34/10, s. 42 (14).

(15) If an insured person subsequently complies with subsection 44 (9), the insurer shall,

128 (a) reconsider the application and make a determination under this section;

(b) subject to the new determination, subsection 18 (3) and section 20, resume payment of attendant care benefits, and

(c) pay all amounts, if any, that were withheld during the period of non-compliance, if the insured person provides, not later than the 10th business day after the failure or refusal to comply, or as soon as practicable after that day, a reasonable explanation for not complying with that subsection. O. Reg. 34/10, s. 42 (15); O. Reg. 251/15, s. 16 (3).

(16) If an insurer determines that an insured person is not entitled by reason of section 20 to attendant care benefits for expenses incurred more than 260 weeks after the accident, the insurer shall give the insured person a notice of its determination, with reasons, not less than 15 business days before the last payment of attendant care benefits. O. Reg. 34/10, s. 42 (15); O. Reg. 251/15, s. 16 (4).

OTHER TYPES OF BENEFITS

Parts IV and V expenses and benefits

43. (1) If a person is entitled to a death benefit, a funeral benefit or a benefit under Part IV, the insurer shall pay the benefit within 30 days after the insurer receives an application for the benefit. O. Reg. 34/10, s. 43 (1).

(2) If the insurer refuses to pay a benefit referred to in subsection (1), the insurer shall give the person a notice of the refusal and the medical and any other reasons for the refusal within 30 days after the insurer receives the application for the benefit. O. Reg. 34/10, s. 43 (2).

(3) In the case of a benefit for housekeeping and home maintenance services under section 23, subsections (1) and (2) are subject to sections 36 and 37. O. Reg. 34/10, s. 43 (3).

ADDITIONAL MATTERS

Examination required by insurer

44. (1) For the purposes of assisting an insurer to determine if an insured person is or continues to be entitled to a benefit under this Regulation for which an application is made, but not more often than is reasonably necessary, an insurer may require an insured person to be examined under this section by one or more persons chosen by the insurer who are regulated health professionals or who have expertise in vocational rehabilitation. O. Reg. 34/10, s. 44 (1).

(2) Despite subsection (1), if a Guideline specifies conditions, restrictions or limits with respect to the determination of whether an impairment is a catastrophic impairment and the purpose of the examination is to determine whether the insured person has sustained a catastrophic impairment, the determination must be made in accordance with those conditions, restrictions and limits. O. Reg. 34/10, s. 44 (2).

(3) Subsection (1) does not apply with respect to,

(a) a benefit payable in accordance with the Minor Injury Guideline; or

(b) a funeral benefit or death benefit. O. Reg. 34/10, s. 44 (3).

(4) Subject to subsection (7), an examination under this section may be limited by the insurer to an examination of material provided under subsection (9) in respect of the insured person without requiring the attendance of the insured person. O. Reg. 34/10, s. 44 (4).

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12(9) If the insurer requires an examination under this section, the insurer shall arrange for the examination at its expense and shall give the insured person a notice setting out,

(a) the medical and any other reasons for the examination;

(b) whether the attendance of the insured person is required at the examination;

(c) the name of the person or persons who will conduct the examination, any regulated health profession to which they belong and their titles and designations indicating their specialization, if any, in their professions; and

(d) if the attendance of the insured person is required at the examination, the day, time and location of the examination and, if the examination will require more than one day, the same information for the subsequent days. O. Reg. 34/10, s. 44 (5).

(6) If the attendance of the insured person is required at the examination, the insurer shall give the notice required under subsection (5) not less than five business days before the examination, unless the insured person and the insurer mutually agree otherwise. O. Reg. 34/10, s. 44 (6).

(7) If the notice under subsection (5) indicates that the attendance of the insured person is not required at the examination and it is subsequently determined by the person conducting the examination that the insured person should be in attendance and personally examined, the insurer shall give a notice to the insured person at least five business days before the examination,

(a) notifying the insured person of the change;

(b) requiring the attendance of the insured person at the examination; and

(c) setting out the day, time and location of the examination and, if the examination will require more than one day, setting out the same information for the subsequent days. O. Reg. 34/10, s. 44 (7).

(8) A notice under subsection (5) or (7) may be verbal if a written confirmation is given as soon as practicable afterwards. O. Reg. 34/10, s. 44 (8).

(9) The following rules apply in respect of the examination:

1. If the attendance of the insured person is not required, the insured person and the insurer shall, within five business days after the day the notice under subsection (5) is received by the insured person, provide to the person or persons conducting the examination such information and documents as are relevant or necessary for the review of the insured person's medical condition.
2. If the attendance of the insured person is required,
   i. the insurer shall make reasonable efforts to schedule the examination for a day, time and location that are convenient for the insured person,
   ii. the insured person and the insurer shall, not later than five business days before the day scheduled for the examination, provide to the person or persons conducting the examination such information and documents as are relevant or necessary for the review of the insured person's medical condition, and
   iii. the insured person shall attend the examination and submit to all reasonable physical, psychological, mental and functional examinations requested by the person or persons conducting the examination.
3. If the examination relates to an application for attendant care benefits, the report of the examination must include an assessment of attendant care needs prepared in accordance with section 42. O. Reg. 34/10, s. 44 (9).

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Determination of catastrophic impairment

45. (1) An insured person who sustains an impairment as a result of an accident may apply to the insurer for a determination of whether the impairment is a catastrophic impairment. O. Reg. 34/10, s. 45 (1).

(2) The following rules apply with respect to an application under subsection (1):

1. An assessment or examination in connection with a determination of catastrophic impairment shall be conducted only by a physician but the physician may be assisted by such other regulated health professionals as he or she may reasonably require.
2. Despite paragraph 1, if the impairment is a traumatic brain impairment only, the assessment or examination may be conducted by a neuropsychologist who may be assisted by such other regulated health professionals as he or she may reasonably require.
3. If a Guideline specifies conditions, restrictions or limits with respect to the determination of whether an impairment is a catastrophic impairment, the determination must be made in accordance with those conditions, restrictions and limits.

O. Reg. 34/10, s. 45 (2); O. Reg. 286/10, s. 5; O. Reg. 251/15, s. 17 (1).

(3) Within 10 business days after receiving an application under subsection (1) prepared and signed by the person who conducted the assessment or examination under subsection (2), the insurer shall give the insured person,

(a) a notice stating that the insurer has determined that the impairment is a catastrophic impairment; or

(b) a notice stating that the insurer has determined that the impairment is not a catastrophic impairment and specifying the medical and any other reasons for the insurer's decision and, if the insurer requires an examination under section 44 relating to whether the impairment is a catastrophic impairment, so advising the insured person. O. Reg. 34/10, s. 45 (3).

(4) If an application is made under this section not more than 260 weeks after the accident and, immediately before the application was made, the insured person was receiving attendant care benefits,

(a) the insurer shall continue to pay attendant care benefits to the insured person during the period before the insurer makes a determination under this section; and

(b) the amount of the attendant care benefits for the period referred to in clause (a) shall be determined on the assumption that the insured person's impairment is a catastrophic impairment. O. Reg. 34/10, s. 45 (4); O. Reg. 251/15, s. 17 (2).

(5) Within 10 business days after receiving the report of an examination under section 44, the insurer shall,

(a) give a copy of the report to the insured person and to the person who prepared the application under this section; and

(b) provide the insured person with a notice stating that the insurer has determined that the impairment is a catastrophic impairment or is not a catastrophic impairment and setting out the medical and any other reasons for the insurer's determination. O. Reg. 34/10, s. 45 (5).

(6) If an insured person is determined to have sustained a catastrophic impairment as a result of an accident, the insured person is entitled to payment of all expenses incurred before the date of the determination and to which the insured person would otherwise be entitled to payment under this Regulation by virtue of having sustained a catastrophic impairment. O. Reg. 34/10, s. 45 (6).

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13 Determination of catastrophic impairment — certain traumatic brain injuries

45.1 If an insured person who is under 18 years of age at the time of the accident sustains a traumatic brain injury that meets the criteria in subparagraph 5 i or 5 ii of subsection 3.1 (1) and that was caused by an accident that occurs on or after June 1, 2016, the person may submit an application under subsection 45 (1) and subsections 45 (2) to (5) do not apply, and the impairment is deemed to be a catastrophic impairment for the purposes of subsection 45 (6). O. Reg. 251/15, s. 16.

Conflict of interest re referrals by insurer

46. (1) This section applies if an insurer intends to refer an insured person to a person with whom the insurer has a potential conflict of interest and the referral is for the purpose of,

(a) the insured person obtaining any goods or services referred to in section 15 or 16 from the person recommended by the insurer; or

(b) the insured person being examined or assessed, other than under section 44, by the person recommended by the insurer. O. Reg. 34/10, s. 46 (1).

(2) The insurer shall not refer the insured person to the person unless the insurer has first given the insured person a notice that satisfies the following and the insured person gives a written consent to obtain the goods or services from or be examined or assessed by the person.

1. The notice must specify the nature of the relationship between the insurer and the person, including the terms of remuneration of the person.
2. The notice must specify the nature, amount and duration, if applicable, of the goods or services or the assessment or examination.
3. The notice must inform the insured person that he or she is free to decline the proposed referral, or to revoke any consent given at any time, and that doing so will not prejudice or adversely affect the insured person's entitlement to benefits.
4. The notice must inform the insured person that he or she is free to choose from whom the insured person prefers to receive the goods and services, or by whom the insured person prefers to be assessed or examined, in accordance with this Regulation, and that doing so will not prejudice or adversely affect the insured person's entitlement to benefits under this Regulation.
5. The notice must inform the insured person of his or her rights and responsibilities with respect to the goods, services, assessments and examinations. O. Reg. 34/10, s. 46 (2).

(3) In this section, an insurer is deemed to have a potential conflict of interest with a person if

(a) the insurer may receive a financial benefit, directly or indirectly, as a result of the provision of goods or services by, on behalf of, or under the authority or supervision of the person; or

(b) goods or services will be provided by, on behalf of, or under the authority or supervision of the person,

(i) pursuant to a subsisting arrangement with the insurer under which goods or services referred to in this Regulation are or will be provided at the insurer's expense, or

(ii) as a result of the insurer's referral, recommendation or suggestion of the person to the insured person. O. Reg. 34/10, s. 46 (3).

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PART IX
PAYMENT OF BENEFITS

Definition — provider

46.1 In this Part,

"provider" means,

(a) a person who submits an invoice to an insured person or insurer for payment under this Regulation for goods or services, whether the goods or services were provided by the person or by another person, and

(b) a person, other than the person who submits the invoice described in clause (a), who provided any of the goods or services referred to in the invoice. O. Reg. 194/11, s. 2.

Duty of provider to provide information

46.2 (1) An insurer may request any of the following information from a provider:

"AN INSURER" VS "THE INSURER"

1. Any information required to assist the insurer, acting reasonably, to determine its liability for the payment, including access to inspect and copy the originals of any treatment confirmation form, treatment and assessment plan, assessment of attendant care needs and other documents giving rise to the claim for payment.

2. A statutory declaration as to the circumstances that gave rise to the invoice, including particulars of the goods and services provided.

3. In the case of a provider described in clause (a) of the definition of "provider" in section 46.1,

i. the name and full municipal business address of the provider and of every provider described in clause (b) of that definition, and

ii. proof of the provider's identity and of the identities of every provider described in clause (b) of that definition. O. Reg. 194/11, s. 2.

(2) The provider shall give the insurer the information requested under subsection (1) within 10 business days after receiving the request. O. Reg. 194/11, s. 2.

(3) For the purpose of section 51, the amount payable by an insurer under an invoice is not overdue and no interest accrues on it during any period during which a provider fails to comply with subsection (2). O. Reg. 194/11, s. 2.

Duty of insured person to provide information

46.3 (1) An insurer may request any of the following information from an insured person who submits an invoice to the insurer for payment for goods or services under this Regulation, or from an insured person on whose behalf such an invoice is submitted:

1. Confirmation in writing that the goods or services were provided to the insured person.

2. A statutory declaration as to the circumstances that gave rise to the invoice, including particulars as to when, where and by whom the goods or services were provided. O. Reg. 14/13, s. 8.

(2) The insured person shall give the insurer the information requested under subsection (1) within 10 business days after receiving the request. O. Reg. 14/13, s. 8.

(3) For the purpose of section 51, the amount payable by an insurer under an invoice is not overdue and no interest accrues on it during any period during which an insured person fails to comply with subsection (7). O. Reg. 14/13, s. 6.

Deduction of collateral benefits

47. (1) The insurer may deduct the following amounts from the amount payable to an insured person as an income replacement or non-earner benefit under this Regulation:

1. Any temporary disability benefits being received by the insured person in respect of a period following the accident and in respect of an impairment that occurred before the accident.
2. Any other periodic benefit being received by the insured person in respect of a period following the accident and in respect of an impairment that occurred before the accident, if the insured person was receiving that other periodic benefit at the time he or she first qualified for the income replacement or non-earner benefit and, at that time, the other periodic benefit was a temporary disability benefit. O. Reg. 34/10, s. 47 (1).

(2) Payment of a medical, rehabilitation or attendant care benefit or a benefit under Part IV is not required for that portion of an expense for which payment is reasonably available to the insured person under any insurance plan or law or under any other plan or law. O. Reg. 34/10, s. 47 (2).

(3) In this section,

"temporary disability benefit" means,

(a) an income replacement or non-earner benefit paid under this Regulation or the Old Regulation, unless the benefit is paid more than 104 weeks after the onset of the disability,

(b) a caregiver benefit paid under this Regulation or the Old Regulation,

(c) benefits paid under Part III or IV or section 32 of Ontario Regulation 776/93,

(d) benefits paid under section 37, subsection 43 (9) or subsection 147 (2) of the pre-1997 Act as defined in Part IX of the *Workplace Safety and Insurance Act, 1997*, in respect of injuries that occurred before January 1, 1998, including benefits paid under those provisions as those provisions are deemed to have been amended by Part IX of the *Workplace Safety and Insurance Act, 1997*,

(e) benefits paid under subsection 43 (3) of the *Workplace Safety and Insurance Act, 1997* in respect of injuries that occurred after December 31, 1997, or

(f) any other periodic temporary benefit paid under an income continuation benefit plan or law, other than,

(i) benefits under the *Employment Insurance Act* (Canada),

(ii) a non-earner benefit paid under this Regulation or the Old Regulation more than 104 weeks after the onset of the disability,

(iii) benefits paid under Part V of Ontario Regulation 776/93 for more than 104 weeks,

(iv) benefits paid under Part IV of Regulation 672 of the Revised Regulations of Ontario, 1990 for more than 156 weeks, or

(v) benefits paid under Part II of Subsection 2 of Schedule C to the *Insurance Act* as it existed before June 22, 1990 that have been paid for more than 104 weeks. O. Reg. 34/10, s. 47 (3).

Method of payment

48. (1) An insurer shall pay a benefit under this Regulation,

(a) by mailing or delivering a cheque payable to the person entitled to the benefit to the address where the person ordinarily resides; or

(b) with the consent of the person entitled to the benefit, by electronic funds transfer to an account in the name of the person. O. Reg. 34/10, s. 48 (1).

(2) Despite subsection (1),

(a) an insurer may arrange to be invoiced directly and to pay directly for goods or services provided in respect of an insured person;

(b) an insurer may pay a benefit into court under section 271 of the Act; or

(c) if the person entitled to the benefit has so directed in writing, an insurer shall pay the benefit directly to the person who submitted an invoice in respect of the benefit to a central processing agency in accordance with section 49.

O. Reg. 34/10, s. 48 (2); O. Reg. 370/10, s. 2.

Amounts payable under a Guideline

49. (1) Despite any other provision of this Regulation, if a benefit that would otherwise be payable by an insurer is payable in respect of an expense for goods or services specified in a Guideline that applies for the purposes of this section, an insurer to whom the Guideline applies shall not pay the benefit unless an invoice for the expense, in the form approved by the Chief Executive Officer and including all of the information required by the form,

(a) is delivered to the insurer, if neither of paragraph 2 or 3 of subsection 64 (7) applies, or

(b) is deemed to be received by the insurer under subsection 64 (8) or (9), if paragraph 2 or 3 of subsection 64 (7) applies. O. Reg. 34/10, s. 49 (1); O. Reg. 123/13, s. 9.

(2) An insurer shall not waive the submission of an invoice for goods or services to which subsection (1) applies. O. Reg. 34/10, s. 49 (2).

(3) If an insurer to whom a Guideline referred to in subsection (1) applies receives an invoice that complies with subsection (1), the insurer shall, in the circumstances set out in the Guideline, report the following to the central processing agency in the manner and within the time required by the Guideline:

1. The date or dates on which the goods or services referred to in the invoice were delivered or rendered.
2. The names, addresses and professional college registration numbers, if applicable, of each provider of goods or services referred to in the invoice.
3. Particulars of the goods or services referred to in the invoice.
4. Particulars of the injury or injuries in respect of which the goods or services were delivered or rendered.
5. The amount, if any, paid in respect of the goods or services referred to in the invoice by any person other than the insurer.
6. The amount paid by the insurer in respect of the invoice.
7. The amount paid by the insurer in respect of each separately described component of the invoice.
8. The date on which a decision was made on payment or other disposition of the invoice.
9. Any other disposition of the invoice.

135 10. The information referred to in subsection 32 (3) (119)

11. Such additional information as may be specified in the Guideline, if the invoice is in respect of expenses described in a notice given by the insurer under subsection 39 (1) or 41 (1). O. Reg. 34/10, s. 49 (3); O. Reg. 227/14, s. 1.

Amounts payable under a Guideline — unlicensed provider

49.1 If an insured person receives goods or services specified in a Guideline that applies for the purposes of section 49 from a provider who does not hold a licence issued under subsection 288.5 (3) of the Act, the following rules apply in addition to the requirements of section 49:

1. The provider shall deliver an invoice for the expense, in the form approved by the Chief Executive Officer and including all of the information required by the form, to the insured person to whom the goods or services related to in the invoice were delivered or rendered.
2. The insured person to whom the goods or services were delivered or rendered shall deliver the invoice described in paragraph 1 to the insurer. O. Reg. 227/14, s. 2; O. Reg. 123/19, s. 9.

Explanation of benefit amounts

50. (1) When a benefit is first paid or the amount of a benefit is subsequently changed, the insurer shall provide the insured person with a written explanation of how the amount of the benefit was determined. O. Reg. 34/10, s. 50 (1).

(2) While medical, rehabilitation or attendant care benefits are being claimed by or are being paid to or on behalf of an insured person, the insurer shall deliver benefit statements to the insured person in accordance with this section. O. Reg. 34/10, s. 50 (2).

(3) A benefit statement required under subsection (2) shall include a statement of,

(a) the amount paid to the date of the benefit statement in respect of medical, rehabilitation and attendant care benefits;

(b) the additional amount remaining in respect of medical, rehabilitation and attendant care benefits, taking into account the applicable maximum limits referred to in sections 18 and 28, if the insured person were to be entitled to payment of those benefits;

(c) the amount paid to the date of the benefit statement in respect of attendant care benefits;

(d) the amount paid to the date of the benefit statement in respect of medical and rehabilitation benefits;

(e) the amount paid by the insurer to the date of the benefit statement in respect of examinations conducted under section 44; and

(f) if the Chief Executive Officer approves a benefit statement form for the purposes of this section, such other information as may be required by the approved form. O. Reg. 34/10, s. 50 (3); O. Reg. 14/13, s. 7; O. Reg. 251/15, s. 18; O. Reg. 123/19, s. 9.

(4) Subject to subsection (5), the benefit statements must be delivered at the following times:

1. If it has been determined that the insured person has sustained a catastrophic impairment as a result of the accident, a benefit statement must be delivered at least once a year, commencing not later than 12 months after the date the insured person was determined to have sustained the catastrophic impairment.
2. In any other case, a benefit statement must be delivered at least once every two months, commencing not later than two months after the application for the benefit was first made. O. Reg. 34/10, s. 50 (4).

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136) Despite subsection (2), an insurer is not required to deliver a benefit statement if all of the amounts referred to in subsection (3) are unchanged from the amounts set out in the most recent benefit statement delivered in accordance with this section. O. Reg. 34/10, s. 50 (5).

Overdue payments

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51. (1) An amount payable in respect of a benefit is overdue if the insurer fails to pay the benefit within the time required under this Regulation. O. Reg. 34/10, s. 51 (1).

(2) If payment of a benefit under this Regulation is overdue, the insurer shall pay interest on the overdue amount in accordance with this section for each day the amount is overdue. O. Reg. 236/14, s. 1.

(3) Interest is payable at the rate of 1 per cent per month, compounded monthly, from the date on which the amount becomes overdue until the earlier of the following dates:

1. The date on which the overdue amount is paid.
2. The date, if any, on which interest becomes payable in accordance with subsection (4). O. Reg. 236/14, s. 1.

(4) In case of a dispute in respect of an insured person's entitlement to statutory accident benefits or in respect of the amount of statutory accident benefits to which an insured person is entitled, interest on the benefits in dispute is calculated at the prejudgment interest rate described in subsection 128 (3) of the *Courts of Justice Act* that is used for past pecuniary loss, and is payable for the period that begins on the date on which an application to the Licence Appeal Tribunal is brought under subsection 280 (2) of the Act and ends on the date a settlement is reached or a decision is issued that finally disposes of the dispute. O. Reg. 236/14, s. 1; O. Reg. 44/16, s. 5.

(5) Despite subsection (3), if payment of the benefit is overdue on December 31, 2014, interest is payable on the overdue amount at the rate of 1 per cent per month, compounded monthly, from the date on which the amount became overdue until the date on which the overdue amount is paid. O. Reg. 236/14, s. 1.

Repayments to insurer

52. (1) Subject to subsection (3), a person is liable to repay to the insurer,

(a) any benefit described in this Regulation that is paid to the person as a result of an error on the part of the insurer, the insured person or any other person, or as a result of wilful misrepresentation or fraud;

(b) any income replacement or non-earner benefit under Part II that is paid to the person if he or she, or a person in respect of whom the payment was made, was disqualified from receiving the benefit under Part VII; or

(c) any income replacement, non-earner or caregiver benefit under Part II or any benefit under Part IV, to the extent of any payments received by the person that are deductible under this Regulation from the amount of the benefit. O. Reg. 34/10, s. 52 (1).

(2) If a person is liable to repay an amount to an insurer under this section,

(a) the insurer shall give the person notice of the amount that is required to be repaid; and

(b) the insurer may, if the person is receiving an income replacement or caregiver benefit, give the person notice that the insurer intends to collect the amount by reducing each subsequent payment of the benefit by up to 20 per cent of the amount that would otherwise be the amount of the benefit. O. Reg. 34/10, s. 52 (2).

137. (7) If the notice required under subsection (2) is not given within 12 months after the payment of the amount that is to be repaid, the person to whom the notice would have been given ceases to be liable to repay the amount unless it was originally paid to the person as a result of wilful misrepresentation or fraud. O. Reg. 34/10, s. 52 (3).

(4) An insurer that has given a notice referred to in clause (2) (b) may obtain repayment in the manner described in the notice. O. Reg. 34/10, s. 52 (4).

(5) The insurer may charge interest on the outstanding balance of the amount to be repaid for the period starting on the 15th day after the notice is given under subsection (2) and ending on the day repayment is received in full, calculated at the bank rate in effect on the 15th day after the notice under subsection (2) is given. O. Reg. 34/10, s. 52 (5).

(6) In subsection (5),

"bank rate" means the bank rate established by the Bank of Canada as the minimum rate at which the Bank of Canada makes short term advances to the banks listed in Schedule I to the *Bank Act* (Canada). O. Reg. 34/10, s. 52 (6).

Termination of benefits for material misrepresentation

53. An insurer may terminate the payment of benefits to or on behalf of an insured person,

(a) if the insured person has wilfully misrepresented material facts with respect to the application for the benefit; and

(b) if the insurer provides the insured person with a notice setting out the reasons for the termination. O. Reg. 34/10, s. 53.

Notice of right to dispute insurer's refusal to pay or reduction of benefits

54. If an insurer refuses to pay a benefit or reduces the amount of a benefit that a person is receiving, the insurer shall provide the person with a written notice advising the person of his or her right to dispute the refusal or reduction. O. Reg. 34/10, s. 54.

Restriction on proceedings

55. (1) Subject to subsection (2), an insured person shall not apply to the Licence Appeal Tribunal under subsection 280 (2) of the Act if any of the following circumstances exist:

1. The insured person has not notified the insurer of the circumstances giving rise to a claim for a benefit or has not submitted an application for the benefit within the times prescribed by this Regulation.
2. The insurer has provided the insured person with notice in accordance with this Regulation that it requires an examination under section 44, but the insured person has not complied with that section.
3. The issue in dispute relates to the insurer's denial of liability to pay an amount under an invoice on the grounds that,
   i. the insurer requested information from a provider under subsection 46.2 (1), and
   ii. the insurer is unable, acting reasonably, to determine its liability for the amount payable under the invoice because the provider has not complied with the request in whole or in part. O. Reg. 44/16, s. 6.

(2) The Licence Appeal Tribunal may permit an insured person to apply despite paragraph 2 or 3 of subsection (1). O. Reg. 44/16, s. 6.

(122)

138. The Licence Appeal Tribunal may impose terms and conditions on a permission granted under subsection (2). O. Reg. 44/16, s. 6.

Time limit for proceedings

56. An application under subsection 280 (2) of the Act in respect of a benefit shall be commenced within two years after the insurer's refusal to pay the amount claimed. O. Reg. 44/16, s. 6.

IDHA REQUIRES → REVIEW OF

PART X

RESPONSIBILITY TO OBTAIN TREATMENT, PARTICIPATE IN REHABILITATION AND SEEK EMPLOYMENT OR SELF-EMPLOYMENT

Treatment and rehabilitation

57. (1) This section applies to an insured person if compliance with subsection (2) would not be detrimental to his or her treatment or recovery. O. Reg. 34/10, s. 57 (1).

(2) An insured person who is entitled to an income replacement, non-earner or caregiver benefit shall obtain such treatment and participate in such rehabilitation as is reasonable, available and necessary to,

(a) permit the insured person to engage in employment or self-employment in accordance with the criteria set out in subsection (3), in the case of an insured person entitled to an income replacement benefit; or

(b) shorten the period during which the benefit is payable, in any other case. O. Reg. 34/10, s. 57 (2).

(3) The criteria referred to in clause (2) (a) are:

1. The essential tasks of the employment or self-employment are of a type that the insured person,

   i. is able and qualified to perform, or

   ii. would be able and qualified to perform if the insured person obtained treatment and participated in rehabilitation that is reasonable, available and necessary to permit the person to engage in the employment or self-employment.

2. The place of employment or self-employment is in the area in which the insured person lives or it is reasonable for the insured person to engage in the employment or self-employment in that area.

3. The employment or self-employment is of a type in which it would be reasonable to expect the insured person to engage, having regard to the possibility of deterioration in the insured person's impairment and to the insured person's personal and vocational characteristics. O. Reg. 34/10, s. 57 (3).

(4) If the insured person is still receiving medical, rehabilitation and attendant care benefits and fails to obtain treatment or participate in rehabilitation in accordance with subsection (2), the insurer may notify the insured person that the insurer intends to stop payment of the income replacement, non-earner or caregiver benefit in accordance with subsection (5). O. Reg. 34/10, s. 57 (4); O. Reg. 251/15, s. 20.

(5) If at least 10 business days have elapsed after a notice is given under subsection (4) and the insured person has not complied with subsection (2), the insurer may stop payment of the benefit. O. Reg. 34/10, s. 57 (5).

(6) Section 37 does not apply in respect of a stoppage of benefits, or proposed stoppage of benefits, under this section. O. Reg. 34/10, s. 57 (6).

(123)

139) If, after the stoppage of benefits under subsection (5), the insured person subsequently complies with subsection (2), the insurer shall resume payment of the benefit for periods after the insured person complied. O. Reg. 34/10, s. 57 (7).

Employment and self-employment

58. (1) This section applies to an insured person who is entitled to an income replacement benefit if,

(a) returning to employment or to self-employment would not be detrimental to his or her treatment or recovery; and

(b) he or she is not participating in a vocational rehabilitation program. O. Reg. 34/10, s. 58 (1).

(2) The insured person shall make reasonable efforts to,

(a) return to the employment or self-employment in which he or she was engaged at the time of the accident;

(b) obtain employment for which he or she is reasonably suited by education, training or experience; or

(c) engage in self-employment for which he or she is reasonably suited by education, training or experience. O. Reg. 34/10, s. 58 (2).

(3) If the insured person fails to make reasonable efforts to comply with subsection (2), the insurer may notify the insured person that the insurer intends to stop payment of the benefit in accordance with subsection (4). O. Reg. 34/10, s. 58 (3).

(4) If at least 10 business days have elapsed after a notice is given under subsection (3) and the insured person has not complied with subsection (2), the insurer may stop payment of the benefit. O. Reg. 34/10, s. 58 (4).

(5) Section 37 does not apply in respect of a stoppage of benefits, or proposed stoppage of benefits, under this section. O. Reg. 34/10, s. 58 (5).

(6) If, after the stoppage of benefits under subsection (4), the insured person subsequently complies with subsection (2), the insurer shall resume payment of the benefit for periods after the insured person complies. O. Reg. 34/10, s. 58 (6).

PART XII
INTERACTION WITH OTHER SYSTEMS

Accidents outside Ontario

59. (1) This section applies if,

(a) as a result of an accident in another province or territory of Canada or a jurisdiction in the United States of America, a person insured in that jurisdiction within the meaning of subsection (4) dies or sustains an impairment or incurs an expense described in section 15, 16 or 19; and

(b) no benefits are received under the law of the jurisdiction in which the accident occurred. O. Reg. 34/10, s. 59 (1).

(2) The person, or the person claiming benefits in respect of him or her, may elect to receive either of the following, but not both:

1. The benefits described in the Regulation, other than the benefits referred to in paragraph 2.
2. Benefits in the same amounts and subject to the same conditions as if the person was a resident of the jurisdiction in which the accident occurred and was entitled to payments under the law of that jurisdiction. O. Reg. 34/10, s. 59 (2).

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140(3) If an election is made under subsection (2), the insurer shall pay benefits in accordance with the election. O. Reg. 34/10, s. 59 (3).

(4) For the purpose of this section, a person is insured in the jurisdiction in which the accident occurred if, at the time of the accident,

(a) the person was authorized by law to be or to remain in Canada and was living and ordinarily present in Ontario;

(b) the person met the criteria prescribed for recovery under the law of the jurisdiction in which the accident occurred;

(c) the person was not an owner, driver or occupant of an automobile registered in the jurisdiction in which the accident occurred; and

(d) the person,

(i) was an occupant of the insured automobile,

(ii) was the named insured, a person specified in the policy as a driver of the insured automobile, the spouse of the named insured or a dependant of the named insured or spouse and was an occupant of an automobile,

(iii) was the named insured, his or her spouse or a dependant of the named insured or spouse and was struck by an automobile while not an occupant of an automobile,

(iv) was struck by the insured automobile while not an occupant of an automobile,

(v) if the named insured is a corporation, unincorporated association, partnership or sole proprietorship, was a person for whose regular use the insured automobile was supplied, his or her spouse or a dependant of the person or spouse and suffered an impairment while being the occupant of an automobile or suffered an impairment caused by an automobile of which he or she was not an occupant, or

(vi) was struck by an automobile that was driven by a person described in subclause (i), (ii) or (v). O. Reg. 34/10, s. 59 (4).

Social assistance payments

60. The insurer shall pay benefits described in this Regulation even though the insured person is entitled to or has received social assistance or similar payments, services or benefits under an Act of the Legislative Assembly or under similar legislation in another jurisdiction. O. Reg. 34/10, s. 60.

Workplace Safety and Insurance Act, 1997

61. (1) The insurer is not required to pay benefits described in this Regulation in respect of any insured person who, as a result of an accident, is entitled to receive benefits under the Workplace Safety and Insurance Act, 1997 or any other workers' compensation law or plan. O. Reg. 34/10, s. 61 (1).

(2) Subsection (1) does not apply in respect of an insured person who elects to bring an action referred to in section 30 of the *Workplace Safety and Insurance Act, 1997* if the election is not made primarily for the purpose of claiming benefits under this Regulation. O. Reg. 34/10, s. 61 (2).

(3) If a person is entitled to receive benefits under this Regulation as a result of an election made under section 30 of the *Workplace Safety and Insurance Act, 1997*, no income replacement, non-earner or caregiver benefit is payable under this Regulation to the person in respect of any period of time before the person makes the election. O. Reg. 34/10, s. 61 (3).

(123)

14(4) If a person who would be entitled to benefits under this Regulation in the absence of subsection (1) elects to bring an action referred to in section 30 of the *Workplace Safety and Insurance Act, 1997* and there is a dispute concerning the insurer's liability to pay an expense for a vocational rehabilitation program the person was attending at the time of the election and continues to attend, the insurer shall pay the expense pending resolution of the dispute. O. Reg. 34/10, s. 61 (4).

(5) Despite subsection (1), if there is a dispute about whether subsection (1) applies to a person, the insurer shall pay full benefits to the person under this Regulation pending resolution of the dispute if,

(a) the person makes an assignment to the insurer of any benefits under any workers' compensation law or plan to which he or she is or may become entitled as a result of the accident; and

(b) the administrator or board responsible for the administration of the workers' compensation law or plan approves the assignment. O. Reg. 34/10, s. 61 (5).

PART XII

MISCELLANEOUS

Assignment of benefits

62. (1) Except as otherwise provided by subsection (2), the assignment of a benefit under this Regulation is void. O. Reg. 44/16, s. 7 (1).

(2) The following assignments are not void:

1. An assignment under section 267.8 of the Act.

2. An assignment of a benefit to,

   i. the Ministry of Community and Social Services,

   ii. a delivery agent under the *Ontario Disability Support Program Act, 1997* or the *Ontario Works Act, 1997*, or

   iii. the Minister of Finance under subsection 6.1 (4) of the *Motor Vehicle Accident Claims Act*. O. Reg. 34/10, s. 62 (2).

(3) If the assignment of a benefit to a person is void,

(a) subsection 280 (2) of the Act does not apply; and

(b) subsection 280 (3) of the Act does apply to the person, but the exception in that subsection, which permits bringing a proceeding, does not apply to the person. O. Reg. 44/16, s. 7 (2).

Copies of this Regulation

63. On request, the insurer shall provide a copy of this Regulation without charge to a named insured or a person entitled to benefits under this Regulation. O. Reg. 34/10, s. 63.

Notices and delivery

64. (1) Except as otherwise permitted by this Regulation, all notices required or permitted under this Regulation, other than a notice under subsection 32 (1) or (6), must be in writing. O. Reg. 34/10, s. 64 (1).

(2) Any document, including a notice in writing, required or permitted under this Regulation to be given to a person may be delivered,

(a) by faxing the document to the person or to the solicitor or authorized representative, if any, of the person in accordance with subsection (19);

(b) by leaving a copy of the document with the solicitor or authorized representative, if any, of the person, or with an employee in the office of the solicitor or authorized representative;

(c) by personal delivery to the person;

(c.1) by prepaid courier if there is a record by the person who has delivered it that the document has been sent;

(d) by ordinary or registered mail,

(i) in the case of an insurer, addressed to the insurer or its chief executive officer at the insurer's head office in Ontario as identified in the records of the Chief Executive Officer,

(ii) in the case of a person other than an insurer, addressed to the person at his or her last known address, or

(e) by electronic means, if the intended recipient of the document consents to delivery by electronic means. O. Reg. 34/10, s. 64 (2); O. Reg. 123/19, s. 9; O. Reg. 705/21, s. 1 (1).

(3) For the purposes of clauses (2) (a) and (b), but subject to subsection (4), an authorized representative may include a regulated health professional if the document is a notice under subsection 38 (8) or 44 (5) or (7) or a report prepared under section 44. O. Reg. 34/10, s. 64 (3).

(4) Subsection (3) does not apply unless,

(a) the insured person is not represented at the relevant time by a solicitor or another authorized representative;

(b) the insured person gives to the insurer a signed authorization and direction specifying which documents listed in subsection (3) that the insurer is authorized and directed to give to the regulated health professional;

(c) the signed authorization and direction is given to the insurer before the document is given to the regulated health professional; and

(d) the regulated health professional has agreed to act in accordance with the authorization and direction. O. Reg. 34/10, s. 64 (4).

(5) Despite clause (2) (d), any notice or other document that must be given within fewer than five business days shall not be delivered by ordinary mail. O. Reg. 34/10, s. 64 (5).

(6) The functional equivalency rules set out in sections 4 to 13 of the *Electronic Commerce Act, 2000* apply in the case of the delivery of a document by electronic means under clause (2) (e). O. Reg. 34/10, s. 64 (6).

(127)

(7) Despite subsection (2), but subject to subsection (15), the following rules apply in the circumstances specified in a Guideline issued for the purposes of this section to a document that is listed in section 66, is specified in the Guideline and is required under this Regulation to be delivered to an insurer to whom the Guideline applies:

1. Subject to paragraphs 2 and 3, the document and any attachments to it shall be delivered to the insurer only in a manner specified in the Guideline.
2. If the Guideline specifies that a document, exclusive of attachments to it, is to be delivered to a central processing agency on behalf of the insurer,
   i. the document shall be delivered not to the insurer but only to the central processing agency specified in the Guideline and only in a manner specified in the Guideline, and
   ii. attachments to the document shall be delivered not to the central processing agency but only to the insurer in a manner specified in the Guideline.
3. If the Guideline specifies that a document, together with attachments to it, is to be delivered to a central processing agency on behalf of the insurer, the document and the attachments shall be delivered not to the insurer but only to the central processing agency specified in the Guideline and only in a manner specified in the Guideline.
4. A document referred to in paragraph 1, 2 or 3 shall be deemed not to have been received by the insurer to whom it is addressed, if it is delivered to the insurer otherwise than as specified in the Guideline. O. Reg. 34/10, s. 64 (7)

(8) A document referred to in paragraph 2 of subsection (7) is deemed to be received by the insurer to whom it is addressed on the later of, FAX NUMBER 416-774-3120 → ADDRESS

(a) the date on which the document, delivered in a manner specified in the Guideline to the central processing agency on behalf of an insurer to whom the Guideline applies, is determined by the central processing agency to be duly completed and to contain all information required by this Regulation to be included in it; and

(b) the date on which the last of any attachments is received by the insurer. O. Reg. 34/10, s. 64 (8). TO BE DELIVERED

(9) A document referred to in paragraph 3 of subsection (7) is deemed to be received by the insurer to whom it is addressed when the document and any attachments to it are delivered in a manner specified in the Guideline to the central processing agency on behalf of an insurer to whom the Guideline applies and the document is determined by the central processing agency to be duly completed and to contain all information required by this Regulation to be included in it. O. Reg. 34/10, s. 64 (9).

(10) For the purposes of subsections (8) and (9), the central processing agency shall be deemed to have determined, on the day the document was delivered to the central processing agency in a manner specified by the Guideline, that the document is duly completed and contains all information required by this Regulation to be included in it unless the central processing agency notifies the sender, in a manner specified in the Guideline and not later than the second business day after the document was delivered to the central processing agency, that the document is not duly completed or does not contain all information required by this Regulation to be included in it. O. Reg. 34/10, s. 64 (10).

(11) A notice under subsection (10) must include sufficient particulars to enable the sender to remedy the deficiency. O. Reg. 34/10, s. 64 (11).

(12) The central processing agency shall, as soon as practicable, make the contents of the document available to the insurer to whom the document is addressed. O. Reg. 34/10, s. 64 (12).

14(3) An insurer that is deemed by subsection (8) or (9) to have received a document, other than an invoice to which **subsection 49 (1)** applies, shall in the manner and within the time required by the Guideline provide the central processing agency with the following information, which may include personal information.

1. Particulars of the goods or services referred to in the document for which the insurer agrees to pay and the amount the insurer agrees to pay in respect of such goods or services.
2. Particulars of the goods or services referred to in the document for which the insurer does not agree to pay. O. Reg. 34/10, s. 64 (13).

(14) Following receipt of the last of any attachments to a document in accordance with paragraph 2 of subsection (7), an insurer shall notify the central processing agency for the purpose of the application of clause (8) (b), in the manner and within the time required by the Guideline. O. Reg. 34/10, s. 64 (14).

(15) Subsections (7) to (14) do not apply to a document if the insurer has waived the requirement that the document be submitted to the insurer in circumstances permitted by the Regulation. O. Reg. 34/10, s. 64 (15).

(16) Nothing in this Regulation prohibits any person from delivering a document to which subsection (7) applies to the central processing agency on behalf of a person otherwise required to deliver it. O. Reg. 34/10, s. 64 (16).

(17) If an attempt is made to personally deliver a document to a person at his or her place of residence and, for any reason, it is not possible to personally deliver the document to the person, the document may be delivered by leaving a copy, in a sealed envelope addressed to the person, at the person's place of residence with anyone who appears to be an adult member of the same household. O. Reg. 34/10, s. 64 (17).

(18) In the absence of evidence to the contrary, a person is deemed to receive anything delivered by ordinary mail under clause (2) (d) on the fifth business day after the day the document is mailed in accordance with clause (2) (d). O. Reg. 34/10, s. 64 (18).

(19) A document that is delivered by fax must include a cover page indicating,

(a) the sender's name, address and telephone number;

(b) the name of the person for whom the document is intended;

(c) the date of the accident to which the document relates;

(d) the name, address and telephone number of the person to whom the document relates;

(e) the date and time the fax is sent;

(f) the total number of pages faxed, including the cover page;

(g) the telephone number from which the document is faxed; and

(h) the name and telephone number of a person to contact in the event of transmission problems with the fax. O. Reg. 34/10, s. 64 (19).

(20) A document delivered in accordance with clause (2) (a), (b), (c), (c.1) or (d) after 5 p.m. local time of the recipient shall be deemed to be delivered on the next business day. O. Reg. 34/10, s. 64 (20); O. Reg. 705/21, s. 1 (2).

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14(31) Despite subclause (2) (d) (i) and subsections (18) and (20), if the insurer provides the name and address of a contact person to whom documents are to be delivered, anything delivered to the insurer that is not addressed to the attention of the contact person at that address shall not be considered to have been delivered to the insurer until it is received by the contact person. O. Reg. 34/10, s. 64 (21).

(22) Subject to subsection (20), subsection 22 (3) of the *Electronic Commerce Act, 2000* applies to determine when a document delivered in accordance with clause (2) (e) is deemed to be delivered to the recipient. O. Reg. 34/10, s. 64 (22).

(23) If subsection (8) or (9) applies, the recipient for the purposes of subsection (22) is the central processing agency. O. Reg. 34/10, s. 64 (23).

(24) A reference in this Regulation to a number of days between two events shall be read as excluding the day on which the first event happens and including the day on which the second event happens. O. Reg. 34/10, s. 64 (24).

(25) Subject to subsection (26), if any provision of this Regulation requires a person to do anything within a time period expressed in days or business days, the time period is deemed to expire on the last day of the time period at 5 p.m. local time. O. Reg. 34/10, s. 64 (25).

(26) If a time period in which a person is required to do anything expires on a day that is not a business day, the time period is deemed to expire on the next day that is a business day at 5 p.m. local time. O. Reg. 34/10, s. 64 (26).

(27) For the purposes of subsections (25) and (26), if the person delivering a document or notice and the person to whom the document or notice is to be delivered are in different time zones, references to 5 p.m. local time shall be read as references to the time when it is 5 p.m. in one time zone and after 5 p.m. in the other time zone. O. Reg. 34/10, s. 64 (27).

(28) A regulated health professional who receives a document under the authority of subsection (3) shall immediately notify the insured person by telephone of the substance of the document and send a copy of the document to the insured person. O. Reg. 34/10, s. 64 (28); O. Reg. 705/21, s. 1 (3).

(29) An insurer shall not deliver documents to a regulated health professional in reliance on an authorization under subsection (4) unless the documents are expressly specified in the authorization referred to in that subsection. O. Reg. 34/10, s. 64 (29).

(30) In this section,

"personal information" means information that is personal information for the purposes of the *Personal Information Protection and Electronic Documents Act* (Canada) or personal health information for the purposes of the *Personal Health Information Protection Act, 2004*. O. Reg. 34/10, s. 64 (30).

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Substitute decision-makers

65. Any consent, notice or other thing to be given by or to an insured person under this Regulation may be given by or to a person exercising a power of decision on behalf of the insured person under the authority of the *Substitute Decisions Act, 1992* or as authorized under the *Health Care Consent Act, 1996*. O. Reg. 34/10, s. 65.

Forms

66. Each of the following documents shall be in a form approved by the Chief Executive Officer:

1. An application form referred to in clause 32 (2) (a).
2. A disability certificate under section 21, 36 or 37.
3. A notice under section 35.
4. A treatment and assessment plan referred to in section 38.
5. A treatment confirmation form under section 40.
6. A notice under subsection 40 (3).
7. An application for attendant care benefits under section 42 (Assessment of Attendant Care Needs).
8. An application under subsection 45 (1).
9. An invoice in respect of an expense for goods or services specified in a Guideline applicable for the purposes of section 49. O. Reg. 34/10, s. 66; O. Reg. 123/19, s. 9.

When form is considered completed

67. (1) Any document that is required by section 66 to be in a form approved by the Chief Executive Officer and to which subsection 64 (7) applies and any other document specified in a Guideline applicable for the purposes of this section is duly completed and includes all information required by this Regulation to be included in it if,

(a) every field not identified on the form as an optional field is completed in accordance with subsection (2); and

(b) if any field on the form that is identified as an optional field is completed, it is completed in accordance with subsection (2).
O. Reg. 34/10, s. 67 (1); O. Reg. 123/19, s. 9.

(2) If the form specifies the manner or the format in which a field is to be completed, completion of the field shall be in that manner and in that format. O. Reg. 34/10, s. 67 (2).

Transition re forms

67.1 References in this Regulation to a form approved by the Chief Executive Officer are deemed to include the last form approved by the Superintendent for the purposes of the relevant provision prior to the day section 22 of Schedule 13 to the *Plan for Care and Opportunity Act (Budget Measures), 2018* came into force until the Chief Executive Officer approves a subsequent form for the purposes of the relevant provision. O. Reg. 123/19, s. 6.

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PART XIII

TRANSITIONAL PROVISIONS

Transitional, optional benefits

68. (1) Despite any other provision of this Regulation and unless otherwise agreed in writing by the named insured and the insurer, subsection (2) applies to every motor vehicle liability policy that is in effect on September 1, 2010 until the earlier of,

(a) the first expiry date under the motor vehicle liability policy; and

(b) the day on which the motor vehicle liability policy is terminated by the insurer or the insured, if the policy is terminated before the day referred to in clause (a). O. Reg. 34/10, s. 68 (1).

(2) The following benefits are deemed to be included in the motor vehicle liability policy and are applicable to an insured person in respect of the motor vehicle liability policy:

1. The optional caregiver, housekeeping and home maintenance benefit referred to in paragraph 2 of subsection 28 (1).

2. The optional medical and rehabilitation benefit referred to in paragraph 3 of subsection 28 (1), as it read immediately before Ontario Regulation 251/15 came into force.

3. The optional attendant care benefit referred to in paragraph 4 of subsection 28 (1), as it read immediately before Ontario Regulation 251/15 came into force.

4. All optional benefits referred to in subsection 27 (1) or section 28 or 29 of the Old Regulation that were purchased and still in effect on September 1, 2010. O. Reg. 34/10, s. 68 (2); O. Reg. 251/15, s. 21.

Application of Regulation 672, O. Reg. 776/93 and O. Reg. 403/96

68.1 For greater certainty, the following rules apply with respect to accidents that occurred before September 1, 2010:

1. Regulation 672 of the Revised Regulations of Ontario, 1990 (Statutory Accident Benefits Schedule — Accidents before January 1, 1994), as it read immediately before it was revoked by Ontario Regulation 346/20, continues to apply in respect of accidents occurring before January 1, 1994.

2. Ontario Regulation 776/93 (Statutory Accident Benefits Schedule — Accidents after December 31, 1993 and before November 1, 1996), as it read immediately before it was revoked by Ontario Regulation 347/20, continues to apply in respect of accidents occurring after December 31, 1993 and before November 1, 1996.

3. Ontario Regulation 403/96 (Statutory Accident Benefits Schedule — Accidents on or after November 1, 1996), as it read immediately before it was revoked by Ontario Regulation 348/20, continues to apply in respect of accidents occurring on or after November 1, 1996 and before September 1, 2010. O. Reg. 349/20, s. 1.

PART XIV (OMITTED)

69. Omitted (provides for coming into force of provisions of this Regulation). O. Reg. 34/10, s. 69.

TAB 59

Electronically filed / Déposé par voie électronique : 18-Feb-2025
Toronto Superior Court of Justice / Cour supérieure de justice

TAB #30: ORAL COMPENDIUM: COURT FILE NO. DC-24-00000718-00JR

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CITATION: Chubb Insurance Co. of Canada v. Zurich Insurance Company, 2024 ONSC 2929
COURT FILE NO.: CV-22-00686871-0000
DATE: 20240523

ONTARIO

SUPERIOR COURT OF JUSTICE

IN THE MATTER of the Insurance Act, R.S.O. 1990, c. I.8, Section 268 and Regulation 283/95 made under the Insurance Act
AND IN THE MATTER of the Arbitration Act, 1991, S.O. 1991, c.17
AND IN THE MATTER of an Arbitration

BETWEEN:	
CHUBB INSURANCE COMPANY OF CANADA Appellant	Kadey B.J. Schultz and Colin MacDonald, for the Appellant
– and –	
ZURICH INSURANCE COMPANY Respondent	Eric K. Grossman and Rebecca J. Brown Greer, for the Respondent
	HEARD: May 14, 2024

AKAZAKI J.

REASONS FOR DECISION

[1] The anomalous situation giving rise to this arbitration appeal arose from Zurich Insurance Company and Chubb Insurance Company of Canada both being the primary motor vehicle liability insurer of Sukhvinder Singh's Statutory Accident Benefits (SABS), even though one issued a policy and the other did not.

[2] Zurich insured the rental Ford Windstar minivan in the typical way, by selling a policy of fleet insurance to the rental company. After the rental company refused to provide insurance particulars to Ms. Singh's lawyer, she instructed her lawyer to submit the SABS application to Chubb, whom she mistakenly assumed was the automobile insurer. The Supreme Court of Canada ultimately held, after appeals from one arbitration decision, that this misdirected application made Chubb an insurer for the purpose of Ms. Singh's SABS claim.

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[3] A second arbitrator then concluded that Chubb was solely liable to pay Ms. Singh 's SABS benefits and that it must reimburse Zurich $998,368.99. Chubb appeals from that decision and contends that Zurich should have been found solely responsible.

[4] I have determined that the second arbitrator's decision was in error by omitting analysis of the interplay between the automobile insurance legislation and the insurance priority dispute regulation. However, the error does not lead to the reversal of fortunes sought by Chubb. Instead, correction of the error leads to the conclusion that the two insurers were equal in priority and must share liability 50/50. The exception to that equitable remedy is that each insurer must be responsible for the 2% compound interest sanction provided in the SABS regulation, in respected of delay intervals attributable to each insurer.

THE ISSUES

[5] The priority regime under s. 268 of the *Insurance Act*, R.S.O. 1990, c. I.8. is designed to pick one insurer among several that may have issued a motor vehicle liability policy to various parties injured in a traffic accident. It makes sure that no one is left without recourse to a minimum level of insurance. If there is no automobile insurance, the state-funded Motor Vehicle Accident Claims Fund appears at the bottom of the list as the insurer of last resort. Were it not for the rental company's misdirection, Zurich would have been the priority insurer and Chubb would never have been involved.

[6] The regulation for resolving priority, O. Reg. 283/95, allows the injured party to apply for benefits from any of the available insurers and to expect adjustment and payment of benefits immediately. The regulation then imposes the burden on the chosen insurer to notify another insurer within 90 days that the other insurer is higher in priority and therefore obligated to assume coverage. In the absence of grounds to extend that period, the chosen insurer cannot deny its liability to the claimant after it expires. By litigating instead of putting Zurich on notice, Chubb, too became a priority insurer on a permanent basis. Apart from these features, O. Reg. 283/95 is really intended to provide for private arbitration and to keep priority disputes out of the courts.

[7] The second arbitrator sanctioned Chubb for its initial refusal to accept the claim by treating it as the priority insurer *instead* of Zurich. The fact that Chubb ended up shouldering an insurance claim for which Zurich received the premium may seem intuitively wrong. However, the path to the result on appeal requires following several analytical steps:

1. Origin of Claim and Outcome of the First Arbitration and Appeals
2. Second Arbitral Award
3. Grounds of Appeal and Standard of Review
4. Interaction of O. Reg. 283/95 and s. 268 of the *Insurance Act*

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5. Sanction for Breach of O. Reg. 283/95

ORIGIN OF CLAIM AND OUTCOME OF THE FIRST ARBITRATION AND APPEALS

[8] The first arbitration, after all three appeals, resulted in a determination that there was a sufficient nexus between the claim for accident benefits and Chubb to make it an "insurer" for the responsibility to pay accident benefits under s. 2 of Reg. 283/95 and s. 268 of the *Insurance Act*, even though it did not insure the vehicle rented by the driver. The rationale for inserting of Chubb into a regime for requiring an automobile insurer to pay benefits pending a priority dispute will have a bearing on the outcome of the appeal, because the provisional first-insurer rule under the regulation and the priority regime under the statute operate differently.

[9] The driver, Ms. Singh, was involved in a single-vehicle accident on September 23, 2006. She returned the damaged rental car on September 25 to Wheels 4 Rent. The rental company tried several times to contact her, without success. The branch manager submitted a "records only" claim for reporting purposes, because the company's automobile policy with Zurich did not provide collision coverage. He submitted that report to McLarens, the insurance adjusting company administering the fleet coverage on behalf of Zurich. Wheels 4 Rent considered the matter closed and wrote off the damage.

[10] Several weeks later, Ms. Singh started experiencing upper body pain and decided to pursue a SABS claim. To do this, her lawyer needed to know the name of the insurance carrier and policy number. The client's recollection was that the rental agency offered coverage with Chubb. She did not know that this was only a policy of optional accidental death and dismemberment insurance which she had not purchased. Her lawyer, Murray Tkatch, telephoned Wheels 4 Rent to obtain the insurance particulars. After receiving no response, he sent a letter on November 6, 2006, to Gerry Weintraub at Wheels 4 Rent's corporate headquarters. On November 7, Ernest Weintraub, the president of the company, wrote back that it was not required to release the requested information because it was unaware of any accident. On November 9, 2006, Mr. Tkatch submitted an already-prepared OCF-1 Application for Accident Benefits to Chubb. The covering letter specifically stated that he was submitting the claim to Chubb because the rental company refused to provide information about the insurer. Chubb refused to accept the claim because it did not insure the automobile. It also failed to assist the claimant by contacting the insurance broker who also placed the Zurich fleet automobile insurance. This turned out to be a costly mistake.

[11] Chubb later argued that the November 7 letter amounted to a wrongful deflection of the accident benefits claim away from Zurich, because Mr. Weintraub was a sophisticated insured. As the second arbitrator found, the refusal to provide the insurance particulars amounted to the rental agency's violation of s. 269 of the *Insurance Act*, R.S.O. 1990, c. I.8. However, the arbitrator also declined to find that this amounted to a deflection of the SABS claim by Zurich, since Zurich did not find out about the claim until June 3, 2008. This came about after Chubb refused to accept Ms. Singh's claim and after further inquiries by Mr.

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Tkatch. Had Mr. Weintraub provided the insurance information instead of refusing to provide it, there is no doubt that Ms. Singh's lawyer would have submitted the OCF-1 to Zurich instead of Chubb.

[12] The other side of the deflection argument was that, as the second arbitrator found, Chubb could easily have ascertained that Zurich was the automobile insurer. Had Chubb done so, it could have set up an undisputable redirection of the claim to the proper insurer within the 90-day period under s. 3 of O. Reg. 283/95. Counsel for Chubb argued that, in 2006, the legal landscape was different than in 2015, after the Supreme Court of Canada held that Chubb ought to have responded to the SABS claim immediately on a 'pay first and dispute later' basis. I agree that this court should be cautious about superimposing current conduct expectations on decade-old circumstances. Nor does this court possess the jurisdiction to revisit the Supreme Court decision that determined the legal relations of the parties in 2006.

[13] The lengthy trajectory to that 2015 decision and its outcome can be summarized very briefly. After being notified of the claim, Zurich began to adjust and pay the claim on a without-prejudice basis in 2009. This halted the mediation-arbitration proceedings pending before the Financial Services Commission of Ontario (FSCO), the adjudicative body at the time. Zurich started an arbitration with Chubb under s. 7 of O. Reg. 283/95 under the *Insurance Act*. The issues on the arbitration were threefold:

1. Whether Chubb was an 'insurer' for the purposes of s. 268 of the *Insurance Act* and O. Reg. 283/95;

2. if Chubb was an 'insurer' for such purposes, whether it complied with O. Reg. 283/95; and

3 the amounts, if any, was Chubb responsible for indemnifying Zurich.

[14] The first arbitrator held that Chubb was not an 'insurer' because there was no nexus between it and the SABS claim. On appeal to this court, Goldstein J. set aside the arbitral award to Chubb on the basis that the claim submission to Chubb, albeit remote, was not arbitrary: 2012 ONSC 6063. Chubb appealed successfully to the Court of Appeal, subject to the dissenting opinion of Juriansz J.A.: 2014 ONCA 400. The Supreme Court then restored Goldstein J.'s decision, by adopting that dissent: 2015 SCC 19.

[15] In a nutshell, Ms. Singh's vague recollection about seeing Chubb's name at the rental office was sufficiently non-arbitrary to require Chubb to step into the shoes of the "first insurer" for the purposes of s. 2(1) of the regulation:

> 2.(1) The first insurer that receives a completed application for benefits is responsible for paying benefits to an insured person pending the resolution of any dispute as to which insurer is required to pay benefits under section 268 of the Act. O. Reg. 283/95, s. 2.

[16] As described in the prevailing appellate decisions, the purpose of this regulation was to prevent SABS claims, including vital treatments and income benefits, from being delayed

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while insurers fought over priority under s. 268(2) of the *Insurance Act*. In adopting para. 34 of Juriansz J.A.'s dissent, the Supreme Court also accepted that there would have been no nexus if Chubb did not provide automobile insurance in Ontario. Because it did write such policies, it qualified as an 'insurer' who first received the OCF-1, albeit mistakenly.

[17] After six years, the above process answered question #1 of the arbitration agreement by restoring para. 35 of Goldstein J.'s decision:

> The Application is allowed and the Arbitrator's decision is set aside. The matter is remitted back to the Arbitrator to determine the remaining issues on the priority dispute arbitration.

[18] Chubb then took over the adjustment of the claim from Zurich. The two insurers proceeded to the arbitration of the remaining two issues.

SECOND ARBITRAL AWARD

[19] The arbitration could not continue with the original arbitrator, due to his passing. The insurers could not agree on an arbitrator. On May 16, 2018, Dow J. appointed the Hon. Douglas Cunningham as the arbitrator for the remaining issues in dispute: 2018 ONSC 1907. Since the first arbitrator's decision is no longer a factor on this appeal, I will refer to the second one, Mr. Cunningham, henceforth as "the arbitrator."

[20] On August 5, 2022, the arbitrator awarded Zurich $998,368.99, plus prejudgment interest and costs, to be paid by Chubb. In answering the third question in the arbitration, he appears to have concluded that Chubb bore sole liability for the SABS claim by also finding against Chubb on the second question, *viz.* that it breached O. Reg. 283/95.

[21] The first nineteen paragraphs of the award set out the chronology of events and steps up to the 2015 Supreme Court ruling. At para. 20, he stated:

> The Supreme Court having determined a nexus existed between Chubb and Ms. Singh, the issue squarely before me is to determine which insurer is liable to pay statutory accident benefits to Ms. Singh as the priority insurer.

[22] I pause to observe that this question was not before the arbitrator. Neither of the second and third questions in the arbitration agreement required him to assign priority in this way.

[23] In paras. 21-22, he went on to describe the obligation of the first insurer recipient of an OCF-1 form to assume responsibility to adjust and pay appropriate accident benefits, as well as the 90-day period, subject to extension in certain circumstances, to dispute its obligation by providing notice to every insurer who it claims is required to pay under s. 268 of the *Insurance Act*. (The arbitrator incorrectly cited the provisions applicable to accidents after 2010, but nothing turns on this because the operative wording is similar.)

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[24] In paras. 23 to 43 of the award, the arbitrator considered whether Zurich could have been deemed to have received a completed OCF-1 application in November 2006. This analysis included inferences that could have been drawn from various communications and reports among Ms. Singh's lawyer, the rental company's representatives, and the insurance adjuster for Zurich. He considered the company's breach of s. 269 in failing to provide insurance particulars to the lawyer, as well as the question whether the company and the adjuster had reason to believe that Ms. Singh intended to file a SABS claim with Zurich. Thus, at para. 43, the arbitrator found that "nothing that could be considered an accident benefits claim ever made its way to Zurich until sometime after June 3, 2008." after the lawyer discovered that Zurich was the actual automobile insurer. He found, in paras. 44-49, that Chubb could easily have identified Zurich at the outset and avoided the whole problem, instead of waiting for 18 months.

[25] The arbitrator then concluded, in paras. 50-62, that Chubb was the first recipient of the OCF-1 and should have begun investigating, adjusting, and paying benefits. It was then incumbent on Chubb to try to discover who the real automobile insurer was and to put that insurer on notice. He found, at para. 57, that Ms. Singh, who had pre-existing mental health issues, deteriorated dramatically during the period of delay.

[26] Counsel for Chubb urged at the appeal hearing that the implication that Chubb was responsible for the delay was contrary to his earlier finding, at para. 42, that the claimant's condition only began to deteriorate in 2009. Chubb further argued that if such deterioration could be due to delay in treatment or payments, it occurred after Zurich's without-prejudice undertaking to take over the claim in 2009.

[27] While I appreciate the apparent contradiction between paras. 42 and 57 on this point, the arbitrator's reasons could well have meant to explain that the 2006-09 period without treatment could have led to the deterioration after 2009. The evidence behind the curtain consisted of information from the claim and not any forensic etiology of the course of Ms. Singh's impairments. I take the arbitrator's commentary in these paragraphs to mean only that if Chubb had responded properly to the claim in 2006 and handed over responsibility to Zurich within 90 days, Ms. Singh would have had the full benefit of the Ontario SABS benefit scheme for whatever chance she had to avoid deterioration of her pre-existing condition. I did not read them as attributing cause and effect in the manner of a tort claim. In this light, there was no real contradiction between the paragraphs.

[28] Starting at para. 63, the arbitrator explored "the impact of Chubb failing to give notice within 90 days, let alone its failure to investigate at all ... given Zurich's argument that Chubb ought to be entirely responsible for the payment of Ms. Singh's accident benefits." Chubb's argument was that it could not be the priority insurer because Zurich was the actual motor vehicle insurer.

[29] The arbitrator considered the Court of Appeal's decisions in *Kingsway General Insurance Company v. Ontario*, 2007 ONCA 62, as well as *Wawanesa Mutual Insurance Company v. Lombard Canada*, 2010 ONCA 383, as requiring the court to sanction an insurer for having failed to accept a claim at least provisionally under s. 2 of O. Reg. 283/95. He also explored

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the consequences of such an insurer's failure to give notice to other insurer(s) within 90 days under s. 3. The arbitrator also observed that the Court of Appeal considered the breach of s. 2 to be serious but not automatically leading to permanent liability for the claim.

[30] He then considered *Kingsway General Insurance Co. v. West Wawanosh Insurance Co.*, 2002 CanLII 14202, 58 O.R. (3d) 251, in which the Court of Appeal considered whether the first-recipient insurer gave notice under s. 3 under O. Reg. 283/95 or whether the 90-day period should be extended.

[31] Finally, the arbitrator cited para. 62 from the decision of Strathy J. (as he then was) in *Lombard Canada Ltd. v. Royal & SunAlliance Insurance Co.* (2008), 94 O.R. (3d) 62 (Ont. S.C.J.). For the sake of completeness, I add and italicize the final two sentences omitted from para. 82 of the award:

> 62 In my view, there is much to be said for an inflexible rule that an insurer who fails to pay benefits and fails to put other insurers on notice on receipt of an application, with which there is some nexus, should be found permanently responsible for the claimant's benefits. This promotes compliance with the statutory scheme. It is no more inequitable than fixing permanent responsibility on the first insurer, who initially pays the claim but fails to give timely notice to the other insurer under subsection 3(2). *It is not necessary, in this case, to decide whether the rule should be inflexible. It is sufficient to say that I agree with the Arbitrator's decision on the facts of this particular case.*

[32] The arbitrator distilled these decisions as follows, before concluding that Chubb, not Zurich, was liable to pay Ms. Singh's benefits as the priority insurer:

> 83. One sees a steady trajectory in the reasoning from Sharpe JA in *West Wawanosh* to Laskin JA in *Kingsway* to Sharpe J [*sic*] in *Lombard*. For there not to be consequences would be to defeat the legislation's public policy: pay now and dispute later. A policy that ensures the provision of accident benefits in a timely manner such that claimants do not end up in the middle of disputes between insurers. As Sharpe JA noted in *West Wawanosh*: "Insurers subject to this regulation are sophisticated litigants who deal with these disputes on a daily basis." And those comments were made over 20 years ago.

GROUNDS OF APPEAL AND STANDARD OF REVIEW

[33] There was no dispute over the appellate standard of review in a general sense.

[34] Pursuant to s. 7 of O. Reg 283/95, the arbitration was to be conducted pursuant to the *Arbitration Act, 1991*, S.O. 1991, c. 17 (*Arbitration Act*). The jurisdiction to hear the appeal from an arbitration lies to this court under s. 45 of the *Arbitration Act*. The standard of review under the arbitration agreement in this case was already determined by Goldstein J. in the

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appeal from the first arbitration: *Zurich Insurance v. Chubb Insurance*, 2012 ONSC 6363, at para. 8:

> The arbitration agreement between the parties provides for an appeal to a judge of the Superior Court of Justice on a question of law or a question of mixed fact and law. The arbitration agreement itself sets out that the standard of review on a question of law is correctness. On a question of mixed fact and law, the standard of review is reasonableness.

[35] The arbitration agreement did not provide for appeals on questions of fact alone.

[36] The notice of appeal cited numerous grounds, including various grounds embedded in the prayer for relief. These included assertions that the arbitrator inflexibly sanctioned Chubb by deeming it the sole insurer when a flexible approach was required, insufficiency of reasons, disregard for the reality that it was Zurich's dispute and not Chubb's, incorrect interpretation of the applicable legal standards, and failing to provide procedural fairness. I will not consider various grounds characterized as failures to consider evidence, because the arbitral agreement provided no appeal on questions of fact alone.

[37] The notice of appeal did not expressly state the arbitrator's recasting of the two remaining questions in the arbitration, although this has to be an integral element of considering grounds such as the employment of an inflexible legal test or the lapse in procedural fairness. The two questions deal with the legal consequences of the determination in the first arbitration that Chubb was an insurer for the purposes of the statute and the regulation.

[38] Appellate review of the second arbitral award therefore needs to start with the arbitrator's appreciation of the interaction of the statute and the regulation before concluding that Chubb was in breach and imposing the sanction for that breach. This statutory interpretation exercise, obviously an issue to be settled on a correctness standard of appellate review, requires the appellate court to begin with the conclusion it would have made in the lower tribunal's place: *Canada (Minister of Citizenship and Immigration) v. Vavilov*, [2019] 4 S.C.R. 653, at para. 15.

[39] The appellate review of the decision to impose on Chubb sole responsibility as if it were the priority insurer under s. 268 is a question of mixed fact and law because it requires application of the appropriate legal framework on the facts. The sanction, framed as an indemnity claimed by Zurich in the third question in the arbitration, can therefore save the arbitral award even if this court finds an error of statutory interpretation on the correctness standard, if the decision comes within a range of reasonable outcomes when the correct law is applied to the facts. The reasonableness standard for questions of mixed fact and law requires the appellate court to focus on the actual decision under review and a tracing of the decision maker's reasoning without fatal flaws in the overarching logic, including "analysis, inference and judgment" (*Vavilov*, para. 102).

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INTERACTION OF O. REG. 283/95 AND S. 268 OF THE *INSURANCE ACT*

(a) Positions of the Parties

[40] Chubb's principal position on the appeal was that Zurich improperly deflected the whole claim to Chubb. Had the rental company, as a sophisticated insured, responded to Ms. Singh's lawyer properly, Zurich would have had to respond as the s. 268 priority insurer, insofar as Chubb became liable to Ms. Singh under s. 2 of the regulation. Chubb's position was that s. 2 did not impose permanent liability on Chubb and the arbitrator failed to follow the court precedents requiring a flexible approach.

[41] The arbitrator rightly analyzed Chubb's point on deflection to have been a counterfactual argument and not as grounds for finding that the rental company's misconduct should attract liability on Zurich's part. Zurich agreed with that finding and contended that the arbitrator was correct in concluding that Chubb became the sole insurer on the claim. Zurich maintained that Chubb's failure to dispute priority within the 90 days disentitled Chubb from taking the position that Zurich should be liable for the claim.

[42] In staking out their respective positions, the parties forcefully pointed the finger at the other based on Zurich's liability under the statute and Chubb's under the regulation. I could see how they may have driven the arbitrator into error by requiring him to choose between such opposed views when, in plain sight, the solution was that they were both equally on the hook for the claim by operation of the separate legislative provisions

(b) Interpreting O. Reg. 283/95 in the Context of s. 268 of the Insurance Act

[43] The overarching logic of the arbitrator's award started with the Supreme Court's ruling that there was a sufficient nexus between Ms. Singh and Chubb that it was an insurer for the purposes of s. 268 of the *Insurance Act* and O. Reg. 283/95 and concluded by imposing as a sanction that Chubb be the priority insurer solely liable for the payment of the SABS benefits. He explained how Chubb's breach of ss. 2 and 3 of O. Reg. 283/95 made it sanctionable and incapable of disputing its obligation to pay benefits. However, his award did not reveal consideration of the effect of deeming Chubb an automobile insurer for the purposes of s. 268. The award referred to s. 268 several times without examining how it settled the insurers' competing positions. In the absence of this statutory analysis, the appellate court is required to start afresh.

[44] O. Reg. 283/95 is a regulation made under the *Insurance Act*. The modern approach to interpretation requires the application of two principles. First, the regulation has to be read in the context of the enabling act as a whole. Second, because regulations are submitted to industry consultations and amendments before proclamation, they tend to reflect important policy choices "to ensure order and stability in regulated industries." See: *Bristol Myers Squibb Co. v. Canada (Attorney General)*, [2005] 1 SCR 533, at paras. 99-100. With these two interpretive principles in mind, I turn first to s. 1 of the regulation

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1. All disputes as to which insurer is required to pay benefits under section 268 of the Act shall be settled in accordance with this Regulation. O. Reg. 283/95, s. 1.

[45] In particular, s. 268(2) of the *Insurance Act* provides a hierarchy of insurers whose policies could be available for a claim. The insurers are ranked based on contractual proximity to the insured person. Thus, the priority insurer for no-fault benefits is one's own insurance carrier, followed by the insurer of the automobile without regard to insured status, followed by the insurer of any other automobile involved, followed by the provincial fund as the insurer of last recourse. The clear intent is to make sure no one is left without coverage and to distribute underwriting risk based on closeness to the claimant, notably the claimant's occupancy of the vehicle in which she suffered the injury:

Liability to pay

(2) The following rules apply for determining who is liable to pay statutory accident benefits:

1. In respect of an occupant of an automobile,

i. the occupant has recourse against the insurer of an automobile in respect of which the occupant is an insured.

ii. if recovery is unavailable under subparagraph i, the occupant has recourse against the insurer of the automobile in which he or she was an occupant.

iii. if recovery is unavailable under subparagraph i or ii, the occupant has recourse against the insurer of any other automobile involved in the incident from which the entitlement to statutory accident benefits arose.

iv. if recovery is unavailable under subparagraph i, ii or iii, the occupant has recourse against the Motor Vehicle Accident Claims Fund.

Liability

(3) An insurer against whom a person has recourse for the payment of statutory accident benefits is liable to pay the benefits. R.S.O. 1990, c. I.8, s. 268 (3); 1993, c. 10, s. 1

[46] These subsections first limit the claimant's recourse to the insurer with the highest ranking on the priority list and then affix liability on that insurer.

[47] There are situations where an injured party might have recourse against more than one insurer of equal priority. For example, a driver of a company car could be insured by the employer's insurance and also by one's personal automobile insurer. In such instances, the claimant is entitled to choose the insurer:

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Choice of insurer

(4) If, under subparagraph i or ii of paragraph 1 or subparagraph i or ii of paragraph 2 of subsection (2), a person has recourse against more than one insurer for the payment of statutory accident benefits, the person, in his or her absolute discretion, may decide the insurer from which he or she will claim the benefits. R.S.O. 1990, c. L8, s. 268 (4); 1993, c. 10, s. 1

[48] Priority most frequently becomes an issue when the injured party is not an operator of the involved vehicle and does not own a vehicle. For example, a pedestrian struck by another's vehicle after parking his or her car will have recourse to the insurer of the parked car and not that of the driver of the vehicle causing the collision. But another pedestrian who does not own a vehicle would have recourse against the insurer of the vehicle that struck him or her. In these typical scenarios, the list in s. 268(2) imposes priority only because it does not allow the claimant to apply for benefits from an insurer lower in the list. In this case, it was not disputed that Zurich was the priority insurer because Ms. Singh did not have her own car insurance and she was injured while driving the rental agency's vehicle. If it had been a two-vehicle collision, she did not have recourse against the insurer of the other vehicle.

[49] The priority rules under the *Insurance Act* have supplanted the doctrine of equitable contribution otherwise applicable to duplicate insurance. In instances of multiple insurers of equal priority, the claimant's election determines priority under s. 268(2), provided the election is informed one, in the sense that the claimant is aware of multiple policies and the right to choose: *Jevco Insurance Co. v. Pilot Insurance Co.*, 2003 CanLII 5265 (ON SC), at para. 7, and *Intact Insurance v. Economical Mutual*, 2021 ONSC 7750, at para. 70-75.

[50] In this case, however, there was no informed election. At paras. 38-40 of his award, the arbitrator found that the claimant's lawyer submitted her OCF-1 to Chubb because of the rental company's breach of s. 269 in refusing to provide insurance particulars. Indeed, the rental company's response failed to disabuse Mr. Tkatch of the stated belief that Chubb was the insurer. There was no decision, in the sense of the claimant's discretion under s. 268(4).

[51] The first arbitration, after appeals, concluded with the determination that Chubb was an insurer for the purposes of s. 268 and the regulation. The entry point for that "nexus" determination was s. 2 of O. Reg. 283/95:

2. (1) The first insurer that receives a completed application for benefits is responsible for paying benefits to an insured person pending the resolution of any dispute as to which insurer is required to pay benefits under section 268 of the Act. O. Reg. 283/95, s. 2.

(2) Subsection (1) applies in respect of benefits that may be payable as a result of an accident that occurs before September 1, 2010. O. Reg. 38/10, s. 2.

[52] The Supreme Court adopted Juriansz J.A.'s "nexus" analysis to answer the first question in the arbitration in the affirmative. In the second arbitration, the arbitrator made a factual

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finding that Chubb was the "first insurer" to receive a completed application. The unassailable reasoning was that Chubb did receive such an application in November 2006, and Zurich did not. He did not accept Chubb's assertion that Zurich "deflected" the claim to Chubb, because Zurich itself had no knowledge of it until months later. I need not consider that deflection argument, repeated on appeal, except that the rental company's violation of s. 269, although having no bearing on Zurich, was part of the factual matrix of the case.

[53] As a matter of legislative and regulatory purpose, the arbitrator correctly cited the public policy decision to require an automobile insurer to start a claim under s. 2 even if the priority insurer were another insurer. This relieved the claimant from having to wait, sometimes for months, while insurers fought over priority. The *provisional* liability of the "first insurer" under s. 2 of the regulation is subject to the priority dispute under s. 268. That means the "first insurer" wording does not mean that it is a priority insurer. To consider the wording as importing any form of priority under s. 268 defies the logic of the interaction between the regulation and the statute. It is s. 268, and s. 268 alone, that determines priority.

[54] I observe, in passing, that the sanctions described in the case law cited by the arbitrator, including those at the Court of Appeal, are judge-made sanctions. As a matter of principle, there is no difference between an insurer's failure to pay under s. 2 and a failure under any provision of the SABS, which was in this case O. Reg. 403/96. Under that pre-2010 regime, the main disincentive for an insurer to delay adjustment and payment of benefits was compound interest of 2% per month under s. 46. Given that the regulation defined the penalty for an insurer's breach of the obligation to pay, the "sanction" described in the case law seems very close to the "nominate tort of statutory breach" rejected by the Supreme Court in *The Queen (Can.) v. Saskatchewan Wheat Pool*, [1983] 1 SCR 205, at 225. Since the Court of Appeal decisions are more directly on point, I am obliged to follow them and leave it to these or other parties to test the theory at a higher level of court than mine. That said, in the circumstances of this case, the 2% provision should be a factor in imposing on the appropriate insurer the sanction that was, in fact, codified by regulation.

[55] Section 2 of the regulation therefore imposes a clear obligation on the first insurer to receive a completed application for SABS benefits to start adjusting and paying the claim, "pending the resolution of any dispute as to which insurer is required to pay benefits under section 268 of the Act." Before returning to s. 268, I refer to s. 3(1), which reads:

> 3. (1) No insurer may dispute its obligation to pay benefits under section 268 of the Act unless it gives written notice within 90 days of receipt of a completed application for benefits to every insurer who it claims is required to pay under that section. O. Reg. 283/95, s. 3 (1).

[56] I heard Chubb's extensive argument that Zurich deflected the claim and deprived Chubb of the opportunity to give notice within the 90-day period. The arbitrator correctly held, and I have no appellate jurisdiction to overturn, that Chubb made no investigation to determine the actual automobile insurer, as required under clause 3(2)(b), to justify an extension of the 90-day period. Both Chubb's death and dismemberment policy and Zurich's automobile policy were brokered by the same insurance broker. Instead of denying the claim, it ought to have

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started the claim and inquired with the broker about the automobile insurance carrier. There is no basis to disturb the arbitrator's findings that Chubb was the first recipient of the OCF-1 application and that it allowed the 90-day period to lapse.

[57] The statutory estoppel in s. 3 of the regulation precludes an insurer from starting a dispute of the obligation to pay benefits under s. 268 of the *Insurance Act*. The issue of whether the insurer can have the 90 days extended can be part of an arbitration under s. 7. Since the purpose of the regulation is to govern disputes between insurers under s. 268 of the statute, the plain reading of s. 3 is to preclude an insurer whose obligation a claimant has triggered by submitting a claim, perhaps to the wrong insurer in priority, under s. 2, from starting a priority dispute. Priority is the only issue among insurers under s. 268. In most instances, s. 268 operates mechanically and there should be no dispute as such.

[58] To complete the dispute-resolution framework, s. 10 of the regulation provides for insurers notified under s. 3 to notify other insurers, as contemplated in multi-vehicle or multi-policy situations (including insurers of equal priority, per italics added):

> 10. (1) If an insurer who receives notice under section 3 disputes its obligation to pay benefits on the basis that other insurers, excluding the insurer giving notice, have *equal* or higher priority under section 268 of the Act, it shall give notice to the other insurers. O. Reg. 283/95, s. 10 (1).

[59] The above provisions in O. Reg. 283/95 therefore provide a logical framework for orderly resolution of priority disputes, including the preclusion of disputes contesting the first insurer's obligation to pay benefits under s. 268. Section 268, however, provides for liability based on the priority of insurers and, among insurers of the same priority, a choice by the claimant to choose. Beyond that claimant's choice, there is no statutory provision picking the responsible insurer for the purpose of adjusting and paying the claim. The estoppel under s. 3 of the regulation precludes a dispute by the "first insurer" of "its obligation." Usually, that means that it is the priority insurer and that no other insurer is ahead of it.

[60] The use of the word "equal" in s. 10 is also significant because it creates an estoppel by insurers further down the notice chain. However, s. 3 does not contemplate a notice by the s. 2 "first insurer" to an insurer of equal priority, and the only dispute precluded by a failure to give notice under s. 3 is the first insurer's obligation.

(c) The Law of Duplicate or Overlapping Insurance

[61] It is a fundamental principle of insurance law that, in cases of overlapping or duplicate coverage for the same risk, the insured may recover only the value of the actual loss but has the absolute right to select the insurer from whom to seek recovery. The selected insurer has a right to obtain equitable contribution pro rata from the other insurer(s): *Family Insurance Corp. v. Lombard Canada Ltd.*, [2002] 2 S.C.R. 695, at para. 14. I need not consider whether the "choice of insurer" provisions in s. 268, such as s. 268(4), preclude a claim for equitable contribution based on that principle, as the *Jevco* and *Intact* decisions appear to have held by settling priority based on the informed choice made by the claimant.

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[62] Nevertheless, in observing that the "choice of insurer" provisions only codify, for the purpose of clarity, the equitable doctrine that the insured always has the choice between insurers of the same risk, the legislation is silent as to what is to happen where there are two or more insurers at the same level of priority, where there has been no informed choice. Indeed, the issue here must be determined against the backdrop, not of deflection by Zurich, but of the mistaken belief of the claimant that Chubb was the automobile insurer.

[63] Reading the regulation in the context of s. 268 of the statute, it is evident that it was intended to provide a framework for allowing claimants to submit applications for SABS benefits while leaving automobile insurers to dispute priority. By inserting into this regime an insurer who did not provide automobile insurance to any of the involved parties or vehicles, the effect of the Supreme Court's decision was to insert Chubb into priority position with Zurich. That was the effect of the answer to the first question in the arbitration.

(d) Equal Priority in this Case

[64] The consequences of Chubb's breaches of ss. 2 and 3 of the regulation must follow the regulation and the statute. The immediate consequence was that Chubb had an obligation to pay benefits as the first insurer to receive the OCF-1. The second consequence, 90 days later after it performed no investigation of the proper recipient, was that it precluded itself from disputing its obligation to pay the benefits. I agree with Chubb's submission that, according to the case law, breach of s. 2 does not result in an insurer being required to pay benefits to the claimant permanently. The failure to avail itself of s. 3 does. Chubb's permanent liability to pay benefits was a self-inflicted consequence of its failure to adhere to the requirements of both s. 2 and s. 3. This combination of provisions in the regulation transformed Chubb's provisional liability to Ms. Singh into a permanent one.

[65] This does not end the interpretation of the regulation and the statute. If Chubb's failure to follow the regulation made it Ms. Singh's insurer, the statute did not relieve Zurich of its responsibility under s. 268(3) and provided no mechanism for it to be relieved itself of that obligation. Because of the physical impossibility of an injured claimant to have been the occupant of more than one vehicle in a traffic accident, ordinarily an insurer in Zurich's position would stand alone as priority insurer. Chubb, however, inserted itself into that priority ranking alongside Zurich, by operation of ss. 2 and 3 of the regulation.

[66] In *Allstate Insurance Company of Canada v. Progressive Casualty Insurance Company of Canada*, 2002 ONFSCDRS 109, the FSCO appellate tribunal applied the equitable contribution doctrine between SABS insurers of equal priority where there were overlapping injury claims against separate insurers arising from two accidents. The case on appeal here is one of insurers of equal priority, Zurich as the actual insurer in priority and Chubb as the insurer placed in that position out of happenstance. In the absence of a statutory provision allowing Zurich to be lowered in priority, the principles applicable to duplicate or overlapping insurance apply.

(e) Conclusion re Statutory Interpretation and Equal Priority

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[67] Insofar as the arbitral award did not perform the exercise in statutory interpretation leading to this conclusion, or to any extent approximating it, the arbitrator erred by failing to provide adequate reasons demonstrating that he fully considered the interaction of O. Reg. 283/95 and s. 268 of the *Insurance Act*. When one performs that analysis, it is clear that the unusual facts of this case created two permanent insurers on the claim of equal priority. There was no provision in the legislation to put Chubb ahead of Zurich, or vice versa.

SANCTION FOR BREACH OF O. REG. 283/95

(a) Positions of the Parties

[68] Chubb's position was that the sanction the arbitrator imposed was inflexible and wholly out of proportion with its failure to administer the claim in the opening period. Moreover, the claimant's condition deteriorated starting from the time Zurich assumed handling of the claim and failed to provide benefits for a considerable period.

[69] Zurich argued that Chubb's initial position lasted until the Supreme court ultimately ruled against Chubb on the threshold issue of its status as 'insurer' for the claim. It was Chubb whose intransigence caused the claimant's deterioration and prejudiced Zurich's ability to mitigate the harm by providing benefits earlier.

(b) Applicable Law

[70] Neither of the parties' positions directly addressed the legal basis for the sanction within an area of law whose statutory and regulatory provisions are a complete code and are frequently updated to meet public policy objectives balancing the rights of injured parties and insurers.

[71] As I stated earlier, I am bound to follow the Court of Appeal guidance regarding the imposition of a sanction on an insurer failing to accept a claim under s. 2 of the regulation. In this appeal from the arbitrator, one must question the logic of punishing Chubb by requiring it to replace Zurich. That sanction benefits Zurich but offers no succour to the injured party, whose benefits claim was delayed in the process. If she availed herself of the 2% monthly compound interest, Chubb should be responsible for any portion of her SABS settlement attributable to that regulatory sanction for the period up to Zurich's commencement of payments. That not only seems to be the most just allocation of sanction in the case, but it also aligns with the legislative sanction for insurer non-payment in all cases.

[72] In the absence of a codified sanction for Chubb's breaches of the regulation, the case law providing sanctions for an insurer's breach of s. 2 provides no definitive guidance in an instance where the insurer in breach is only a deemed insurer and where the obvious primary insurer under s. 268 is standing in the wings. In light of this, can the arbitrator's sanction be considered unreasonable?

(c) Does this Case call for a Sanction or Legal Conclusion?

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[73] Considering Strathy J.'s decision in *Lombard Canada Ltd. v. Royal & SunAlliance Insurance Co.*, quoted by the arbitrator and reproduced above, the sanction against Chubb is the imposition of permanent liability is equivalent to the legal consequence of its having failed to give notice to Zurich under s. 3 of the regulation. It is not a sanction but, rather, a logical conclusion for failing to give notice.

[74] Chubb's failure to avail itself of s. 3 was a self-inflicted prejudice and had nothing to do with the harm and inconvenience to the claimant caused by its refusal to accept the claim under s. 2, apart from a matter of temporal sequence. Given that the purpose of s. 2 was to prevent priority disputes among insurers from holding up claims, the drafters of the regulation clearly intended a logical separation.

[75] By imposing *sole* liability on Chubb, contrary to the imposition of liability on Zurich by s. 268(3) of the *Insurance Act*, the arbitrator relieved Zurich of its obligation without grounds to do so. In this regard, the sanction he imposed on Chubb fell beyond the range of reasonable legal outcome. The jurisprudence cited by the arbitrator should be distinguished because they dealt with the sanctions or loss of rights of an insurer to assert a priority dispute. As between Chubb and Zurich in this case, their dispute was mischaracterized by the arbitrator as an insurance priority dispute. The proof of this is that there is no means of determining priority between them *qua* issuers of motor vehicle liability policies under s. 268. Chubb's equal priority status should not be considered a sanction for breach of s. 2. Rather, that status is a legal conclusion resulting from its failure under s. 3 to dispute responsibility to the claimant

(d) Conclusion regarding the Sanction

[76] The arbitrator's sanction must therefore be set aside and replaced with one dividing the SABS obligation equally between the insurers, except for any 2% interest payments attributable to insurer delay. Those interest payments must be paid by the insurer in respect of the delay occasioned during their respective responsibilities for handling the claim. Up until Zurich assumed handling of the claim, the delay is to be pinned on Chubb.

CONCLUSION

[77] I set aside the arbitrator's award and impose on the insurers an equal obligation to pay for Ms. Singh's SABS claim, apart from any 2% interest incorporated into the settlement with Ms. Singh. The compound interest is the only sanction applicable to this case that has a basis in the SABS legal framework. Since I was not provided the particulars of the payments made to date, including the settlement of the claim, I will leave it to counsel for the parties to calculate and adjust the financial consequences of my decision. They may contact me through my judicial assistant, at Melissa.Issa@ontario.ca, if they are unable to agree on the accounting.

[78] The amount of costs has been set by agreement in the amount of $15,000. I find that the overall result was divided because Chubb sought a complete reversal of the arbitral award

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including reimbursement of the amounts it paid to Ms. Singh after 2015. For that reason, I also hold that there be no costs of the appeal or of the arbitration below.

Akazaki J.

Released: May 23, 2024

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Electronically filed / Déposé par voie électronique : 18-Feb-2025
Toronto Superior Court of Justice / Cour supérieure de justice

TAB #31: ORAL COMPENDIUM: COURT FILE NO. DC-24-00000718-00JR

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Financial Services Commission of Ontario

Commission des services financiers de l'Ontario

Neutral Citation 2014 ONFSCDAS 14

Appeal P13-00000

OFFICE OF THE DIRECTOR OF ARBITRATIONS

INTACT INSURANCE COMPANY

Appellant

and

MARGIE BATEMAN

Respondent

BEFORE	**Delegate Lawrence Blackman**
REPRESENTATIVES	**Ms. Deborah G. Nelson for the Appellant, Intact Insurance Company** **Mr. Gordon Good for the Respondent, Ms. Margie Bateman**
HEARING DATE	**January 20, 2014. The decision with reasons was provided orally the same day, with full written reasons to follow**

APPEAL ORDER

Under section 283 of the *Insurance Act*, R.S.O. 1990, c. I.8, as amended, it is ordered that:

1. Pursuant to Rules 50.2 and 51.2(e) of the *Dispute Resolution Practice Code* (Fourth Edition – Updated August 2011), this appeal from the Arbitrator's November 26, 2013 motion decision is rejected. Accordingly, I decline to exercise my discretion pursuant to subsection 283(6) of the *Insurance Act* to stay the Arbitrator's decision.

2. If the parties are unable to agree on the legal expenses of this appeal, an expense hearing shall be requested within thirty days of the date of my oral decision, as set out within.

Lawrence Blackman
Director's Delegate

January 27, 2014
Date

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Financial Services Commission of Ontario
Intact and Bateman
Appeal Order [illegible]

REASONS FOR DECISION

I. NATURE OF THE APPEAL

The Respondent, Ms. Margie Bateman, was injured in a February 11, 1996 motor vehicle accident. As a result, she applied for statutory accident benefits pursuant to the *Schedule*[1] from her first-party automobile insurer which, at the time, was Zurich Insurance Company but is now the Appellant, Intact Insurance Company.

The parties dispute the Respondent's benefit entitlement, including loss of earning capacity benefits ("LECBs"), medical/rehabilitation, attendant care and housekeeping benefits, as well as a special award claimed pursuant to subsection 282(10) of the *Insurance Act*, R.S.O. 1990, c. I.8, as amended.

On August 17, 2010, the Appellant received the Respondent's Application for Mediation. Mediation, held November 2, 2011, was unsuccessful in resolving the issues in dispute.

The Commission received the Respondent's Application for Arbitration in January 2012. Rule 32 of the *Dispute Resolution Practice Code* (Fourth Edition – Updated August 2018) (the "*Code*"), mandates that at least ten days before the pre-hearing discussion the parties have, in part, exchanged the documents identified in the Application for Arbitration and the Response, established a reasonable time frame for the exchange of any remaining documents, listed any outstanding document requests and identified any disputed items.

The parties' compliance with Rule 32 allows the pre-hearing arbitrator to more expeditiously and cost-effectively, under Rule 33.1(c) of the *Code*, decide any disputes relating to the identification and exchange of documents, make orders and set time lines for the exchange of outstanding documents. The Commission's time lines in the *Code* state that dates for the arbitration oral hearing will be available within six to eight weeks from the registration of a completed

[1] *The Statutory Accident Benefits Schedule – Accidents after December 31, 1993*, Ontario Regulation 776/93, as amended.

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Application and that dates for an oral arbitration hearing will be available within four to six months of the conclusion of the pre-hearing discussion.

The pre-hearing was held before Arbitrator Alves (the "Arbitrator") on August 9, 2012. The Arbitrator confirmed the substantive issues in dispute and set an eight-day hearing for March 2013. The pre-hearing was to resume on September 28, 2012, allowing the parties to attempt their production disputes in the interim.

At the resumption, procedural issues remained outstanding, including whether the Appellant's accident benefits file was to be produced. Oral submissions were received at the resumption and on two further occasions. Written submissions were received by February 20, 2013. The Arbitrator's March 6, 2013 letter decision determined non-production preliminary procedural issues.

Additional submissions were then received by March 14, 2013. In the interim, the Arbitrator adjourned the March 2013 arbitration hearing to January 28, 2014. The Arbitrator released his production decision on November 26, 2013. The Arbitrator held:

1. The Appellant was to produce, by December 18, 2013, its complete file from February 1, 1990 to August 17, 2010, with the exceptions noted. August 17, 2010 was the date the Appellant received the Respondent's second Application for Mediation and the date on which the Arbitrator, citing arbitration case law,[2] held that litigation privilege could reasonably be said to attach. The Arbitrator noted that the Appellant retained its present counsel on September 2, 2010, shortly after the August 2010 Application for Mediation.

   Excepted from production were items #20 (reserve information) and #21 (legal opinions). Modified production was ordered regarding manuals, surveillance and contact information for file handlers. The Arbitrator set out a page, single-spaced, of items identified either generically or individually, that were to be specifically produced.

[2] *Compass and Liberty Mutual Insurance Company*, (FSCO A08-000422, March 12, 2009) and *Traffic Assurance and State Farm Mutual Automobile Insurance Company*, (FSCO A09-003505, July 30, 2010).

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Financial Services Commission of Ontario
Insurance Arbitrations
Appeal Order P13-00019

2. Citing *Dycent and Wawanesa Mutual Insurance Company*, (FSCO A03-000[illegible] the August 26, 2003), the Arbitrator found that extraordinary circumstances warranted the Appellant producing an affidavit of documents. These circumstances, where the Respondent had been seeking production of the Appellant's file since 1998, included

- Evidence that the Appellant was missing documentation, there being a notation on the Appellant's file that four fifths of its file was missing;
- The Appellant having two file numbers and the Appellant having neglected to have refused to confirm that both files had been produced;
- The absence of key documents in what the Appellant had produced, the Respondent having listed 45 documents she received in February 2013 for the first time;
- The absence of meaningful responses by the Appellant to the Respondent's requests for information and documentation; and,
- the manner in which the Appellant had claimed privilege

3. The Appellant was to deliver, by December 18, 2013, an Affidavit of Documents as particularized by the Arbitrator, restricted to documents that came into existence on or before August 17, 2010. The Arbitrator stated that the Appellant had set out "[m]any documents over which it claimed solicitor-client, litigation and/or settlement privilege. Rather than producing the documents and redacting the material for which privilege was claimed, the Appellant had withheld entire documents, making it difficult for the Respondent and the Arbitrator to determine whether privilege was legitimately claimed.

The Respondent had two days, until December 20, 2013, to challenge any claim of privilege made by the Appellant. The Appellant subsequently had until December [illegible], 2013 to file with the Commission a copy of each challenged document. The Arbitrator would then, based on the arguments articulated by the Appellant in its Affidavit of Documents and the Respondent's submissions, determine what further if any documents the Appellant should produce. The documents not ordered produced would be sealed.

4. The Appellant had refused to make those persons who had carriage of its file available to give evidence, or to provide their contact information. Holding that there was no prospect

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Electronically filed / Déposé par voie électronique : 18-Feb-2025
Toronto Superior Court of Justice / Cour supérieure de justice

TAB 32: ORAL COMPENDIUM: COURT FILE NO. DC-24-00000718-00JR

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Beasley et al. v. Barrand

[Indexed as: Beasley v. Barrand]

2010 ONSC 2095 (CanLII)

101 O.R. (3d) 452

2010 ONSC 2095

Ontario Superior Court of Justice,
Moore J.
April 9, 2010

Evidence -- Expert evidence -- Defendant in action arising out of motor vehicle accident not permitted to call experts who examined plaintiff seven years earlier on behalf of his insurer in connection with his claim for accident benefits -- Experts' reports not complying with rule 53.03 of Rules of Civil Procedure -- Experts not retained by defendant -- Purpose of rule 53.03 to rein in use of and reliance upon expert evidence at trial -- Rules of Civil Procedure, R.R.O. 1990, Reg. 194, rule 53.03. [page453]

In a tort action arising out of a motor vehicle accident, the defendant applied for leave to call three expert witnesses at trial and to elicit their opinions regarding their physical examinations of the plaintiff, their diagnoses and their prognoses. The experts had examined the plaintiff seven years previously on behalf of his insurer in connection with his claim for accident benefits. The defendant argued that the experts' opinions were highly probative and went to the core of the issues regarding damages and that their evidence should not be rejected on an overly technical interpretation of rule 53.03 of the Rules of Civil Procedure.

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[33] In the result, if these reports are received into evidence, the plaintiff will surely need to undertake a laborious, time-consuming and unnecessarily complicated description, for the benefit of the jury, of the statutory accident benefits system in place in this province at the time of the accident and at the time of the assessments undertaken by these three doctors. The plaintiff will have to lead evidence to explain the role and function of medical examiners retained by insurance adjusters for accident benefits insurers in connection with claims for benefits of the kind that the plaintiff apparently asserted under his automobile insurance contract with Kingsway. The plaintiff will need to contrast that with the roles of doctors retained by the parties to provide fair objective and non-partisan opinions upon issues joined by the pleadings between the parties in this litigation. To do less than that would risk misleading the jury into the belief that all doctors giving evidence would be opining from an equal footing and according to the same rules (in this case, Rule 53) when, in fact, they are not. [page460]

[34] The relationship between an insured and an insurer in accident benefits matters involves a duty of good faith, a fiduciary obligation; the relationship between plaintiff and defendant in a tort action does not. The obligation, if any, to pay accident benefits is very different from the exposure, if any, that a defendant faces in a tort action.

[35] Further, on the facts of this case, the three medical assessments, even if proven to contain expert opinions related only to matters within the expertise of their authors and even if they are correct, fair, objective and impartial, notwithstanding that they were written for purposes largely, perhaps entirely, unrelated to the issues between the parties to this action, are snapshots of the plaintiff's situation taken at a point more than seven years ago. These assessments can be of little, if any, help to the jury in assessing the plaintiff's medical and vocational progress (and the defendant's exposure potentially arising) over the past seven years. There is no contest that these doctors did not see the plaintiff after January of 2003 and that several doctors

2010 ONSC 2095 (CanLII)

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TAB #33: ORAL COMPENDIUM: COURT FILE NO. DC-24-00000718-00JR

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NUM #13

TAB #27

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FSRA Guidance Framework

Download a copy in PDF Format

Purpose

The purpose of FSRA's Guidance Framework is to describe our principles, processes and practices for the use of guidance in carrying out our legislative mandate.

Scope

FSRA's Guidance Framework will affect all entities regulated by FSRA.

Rationale and context

FSRA is responsible for supervising and regulating a number of different sectors. Standardizing our approach to guidance will make it easier to do business in those sectors, and will make us a more effective regulator. It will be easier for the public, new entrants and incumbents to understand what is legally binding, what is FSRA's interpretation or application of law and what information is designed to be helpful.

Principles

We will use the following principles as the foundation for our approach to using guidance:

- **Accountable (Internal).** FSRA is accountable for guidance that supports delivery on its legislative mandate and its vision for financial safety, fairness and choice in Ontario.
- **Accountable (External).** Regulated persons must put in place processes, controls and procedures to appropriately meet the expectations expressed in FSRA's guidance.
- **Effective.** FSRA takes a principles-based approach to developing guidance that is supported by good governance practices, sectoral expertise and high professional standards.
- **Efficient.** FSRA seeks to develop and maintain guidance that is relevant, proportionate to risks being addressed and minimizes regulatory burden.
- **Adaptable.** FSRA responds to the dynamic nature of the regulated sectors by providing guidance that proactively identifies market trends requiring new or revised guidance.
- **Collaborative.** FSRA consults stakeholders regarding guidance that creates compliance obligations and cooperates with other regulators to identify opportunities for improvement and harmonization.
- **Transparent.** FSRA sets well-understood expectations for regulated persons through clear and organized guidance.

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Guidance and practices

Types of guidance

FSRA will use four distinct types of guidance to support requirements set out in legislation, regulations and rules:

- **Interpretation:** Sets out FSRA's view of requirements under its legislative mandate (i.e. legislation, regulations and rules) so that non-compliance can lead to enforcement or supervisory action.
- **Information:** Indicative of FSRA views on certain topics without creating new compliance obligations for regulated persons.
- **Approach:** Describes FSRA's internal principles, processes and practices for supervisory action and application of CEO discretion.
- **Decision:** Sets out FSRA's determination and underlying reasons for regulatory decisions of precedential value for other parties not involved in the specific matter.

FSRA will use different types of guidance depending on specific circumstances in the regulated sectors and will establish standard structures and styles to help stakeholders easily understand and differentiate between the categories.

Appendix 1 provides further details regarding the four types of guidance and the relationship between FSRA guidance and legal requirements.

Governance

All FSRA guidance will be approved and issued by the CEO unless specifically delegated to another FSRA employee.

Prior to approval, and consistent with the Transparent principle, we will consult publicly on Interpretation and Approach guidance unless immediate action is required. We will consult on Information guidance as needed.

After approval, and consistent with the Efficient principle, we will regularly review our guidance to promote burden reduction and effective regulation by updating or removing outdated or spent items. The following review timelines will apply to the different types of guidance:

Guidance	Review Timeline
Interpretation	At least every 3 - 5 years
Information	At least every 3 - 5 years
Approach	At least every 3 - 5 years
Decision	No defined review timeline

Transition

Guidance issued by the Financial Services Commission of Ontario and the Deposit Insurance Corporation of Ontario continues to apply after the launch of FSRA unless otherwise noted. We will use the FSRA Guidance Approach to inform both our review of the existing guidance and our development of revised or new guidance.

Effective date and future review

FSRA's Guidance Framework is effective as of October 17, 2019. We are making the framework effective on a pilot basis to:

- facilitate the development of new and revised sector-specific guidance that conforms with FSRA's overall principles, and
- consult with stakeholders to identify further opportunities for improvement.

FSRA will initiate and complete a review of the guidance based on lessons learned through the pilot before the end of March 2020.

About FSRA

The Financial Services Regulatory Authority of Ontario (FSRA) is an independent regulatory agency created to provide more effective financial services regulation in Ontario for consumers and pension plan beneficiaries.

FSRA was established to replace the Financial Services Commission of Ontario (FSCO) and the Deposit Insurance Corporation of Ontario (DICO). FSRA's vision is to provide financial safety, fairness and choice for Ontarians.

Appendices and references

Appendix 1: Description of Types of Guidance

Name	Description
Legislation / Regulation	• Legally binding.
Rules	• Legally binding. • Developed through process defined in the FSRA Act with final decision from Minister.
Guidance: Interpretation	• Part of FSRA's Guidance Framework. • Sets out FSRA's view of requirements under its legislative mandate (i.e. legislation, regulation and rules). Non-compliance can lead to enforcement or supervisory action. • Consistent with Efficient principle, where an Interpretation creates compliance obligations it will be consistent with a risk- based approach to regulation.
Guidance: Information	• Part of FSRA's Guidance Framework. • Provides information from FSRA on certain topics, such as best or good practices, without creating compliance obligations for regulated persons. • Can take many different forms (e.g. FAQs supporting filing or form requirements; adopting code or standard that is not a mandatory requirement; explanatory note regarding an emerging issue).

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Guidance: Approach	• Part of FSRA's Guidance Framework. • Describes FSRA's internal principles, processes and practices for supervisory action and application of CEO discretion (e.g. Guidance Approach or Pensions Supervision Approach). • Does not create compliance obligations for regulated parties but can be considered indicative of FSRA's position. • Does not alter requirement to comply with existing legal and regulatory framework.
Guidance: Decision	• Part of FSRA's Guidance Framework. • Sets out FSRA's determination and underlying reasoning for specific regulatory issues. This also will serve as precedential value for others not involved as parties to the specific matter under consideration. • Some of FSRA's Decisions may be the subject of review by the Financial Services Tribunal and others reflect the exercise of FSRA's regulatory discretion or authority.

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FSRA

Affiliated insurers carrying on business as a common undertaking pursuant to s. 392.2(8) of the Insurance Act

Decision ◆◆◆◆

No. GR0018DEC Active

Purpose

This Guidance (the "Guidance") outlines the basis for the decision by the Financial Services Regulatory Authority of Ontario's ("FSRA")[1] that: (a) a group of insurers who[illegible]n to FSRA (the "Applicant"), is an "[illegible]" pursuant to subsection 392.2(8) of the *Insurance Act* (Ontario) ("the *Act*"); and (b) pursuant to subsection 392.2(8) of the *Act*, that such insurers are carrying on business as a common undertaking, and on that basis, are deemed to be an insurer for the purposes of determining an agent's authority to act as an agent under the *Act*.

AGENT'S AUTHORITY (NOT AN ADJUSTER)

Scope

This Guidance affects the following individuals and entities regulated by or licensed with FSRA:

- insurance agents
- insurance companies

This Guidance affects the following stakeholders and/or products.

- consumers of insurance
- life insurance, accident and sickness insurance and all other classes of insurance

Background

The Applicant is composed of: (a) an Ontario licensed property and casualty insurer ("the Insurer"); (b) its wholly owned subsidiary that is also an Ontario licensed insurer ("the Subsidiary"); (c) two managing general agents ("the MGAs") that are indirectly wholly-owned by a company that also indirectly wholly-owns the Insurer and the Subsidiary, and (d) a syndicate ("the Syndicate") licensed as a property and casualty insurer in Ontario but which is not owned by or under common ownership with the Insurer, the Subsidiary or the MGAs. (collectively, "the Group"). The MGAs have contractual arrangements with the Subsidiary and the Syndicate and can underwrite and issue contracts of property and casualty insurance on behalf of both.

Each of the Subsidiary and the Syndicate entered into an exclusive written agreement with the MGAs pursuant to which the MGAs, acting as the appointed underwriter on behalf of the Subsidiary and the Syndicate, agreed to provide access to property and casualty insurance products (the "Products") provided by the Subsidiary and the Syndicate to licensed agents of the Insurer, if the Insurer's

[redacted] offerings did not satisfy the insurance needs of any client of a licensed agent of the Insurer. This would allow the Insurer's licensed agents to offer a broader suite of commercial insurance products as compared to those products otherwise available through the Insurer in the absence of this this written agreement.

Under this arrangement, the consumer will interact solely with a licensed agent of the Insurer. If the Insurer is not able to satisfy the insurance needs of the consumer, the consumer, through the licensed agent, can purchase the Products, underwritten by the MGAs, from the Subsidiary and/or the Syndicate. The Products offered by the Insurer's licensed agents will clearly identify the relevant insurers with whom the consumer is contracting and the MGAs are authorized to issue policies of insurance for the Products on behalf of both the Subsidiary and the Syndicate.

Subsection 392.2(4) of the *Act* provides that licensed general insurance agents are prohibited from acting for more than one insurer. However, subsection 392.2(8) of the *Act* provides that an agent may be licensed to act as an agent for an "affiliated group of insurers" that, in the opinion of FSRA, are carrying on business as a common undertaking.

Decision

Based on the facts and circumstances described above under the heading "Background", FSRA has determined that the insurers in the Group are a "group of insurers" that are affiliated, and that they are, with respect to the Products underwritten by the MGAs, carrying on business as a common undertaking within the meaning of subsection 392.2(8) of the *Act*. In reaching this decision, FSRA considered

- The CEO's discretion under subsection 392.2(8) of the *Act*
- FSRA's statutory objects contained in section 3 of the *Financial Services Regulatory Authority of Ontario Act, 2016* (the "*FSRA Act*")
- The principles contained in FSRA Approach Guidance 6R0010APP Test and Learn Environments for Financial Services Innovation (the "TLE Guidance") and the commitments made by the Insurer in the testing agreement, including the test plan attached thereto, agreed between the Insurer and FSRA and binding upon the Group and the MGAs in their operation of common undertaking for the sale of the Products.

The relevant provisions of the *Act* are:

"392.2 (1) A person who holds a licence issued under this Part to act as an insurance agent in Ontario is authorized to act as such in accordance with the requirements of this *Act*, the regulations and the Authority rules and subject to the restrictions applicable to the class of licence issued to the person.

Classes of agent's licence

(2) The following classes of licence authorizing a person to act as an insurance agent in Ontario may be issued under this Part:

1. Licence for life insurance and accident and sickness insurance.
2. Licence for accident and sickness insurance.
3. Licence for all classes of insurance other than life insurance.

[...]

Authority of agent

4) A class of licence described in paragraph 2 or 3 of subsection (2) authorizes an agent to act for one insurer only, and the insurer itself must be licensed under this *Act* to undertake the applicable class of insurance.

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(5) The agent's licence for a class of licence described in paragraph 2 or 3 of subsection (2) must specify the name of the insurer that has appointed the agent to act on its behalf. 403

[...]

Representation restricted

(7) An agent holding a class of licence described in paragraph 2 or 3 of subsection (2) shall not make any representation to the public, by advertisement or otherwise, that the agent is an agent of any insurer other than the one specified in the licence for the purposes of selling the classes of insurance specified in the licence.

Insurance groups

(8) Despite subsection (7), an agent may be licensed to act as an agent for an affiliated group of insurers that, in the opinion of the Chief Executive Officer, are carrying on business as a common undertaking and that affiliated group of insurers is deemed to be an insurer for the purpose of determining the agent's authority to act as an agent under this Act."

Discretion under subsection 392.2(8) of the *Act*

FSRA has interpreted the terms "affiliated group" to mean:

> 1. a group of insurers in which each member is the subsidiary of another member of the group or each member is the subsidiary of the same body corporate or in which each member is controlled by the same person
>
> 2. a group of insurers that are not affiliated as described in (a) but whose membership or participation in a larger organization or enterprise, and/or whose connection or association with each other, creates a commonality of interests and an obligation to act together in a co-ordinated and predictable manner, including due to binding contractual arrangements between such insurers and/or other members of such organization or enterprise. [2]

Whether a group is an "affiliated group" under subsection 392.2(8) is a question of fact determined by FSRA in its discretion. With the Group and the MGAs, the contractual arrangements described above (e.g. the MGAs have exclusive contracts with the Subsidiary and the Syndicate to underwrite and offer the Products to clients of the Insurer) evidence a commonality of interests and that the Group will act in a coordinated and predictable manner. As such, the Group is an 'affiliated group of insurers' for the purpose of s392.2(8).

In exercising discretion based on the circumstances of the application, to ascertain what qualifies as a "common undertaking", FSRA adopted a contextual interpretation and one that allows for a more expansive distribution of property and casualty insurance products by licensed agents. FSRA determined that:

- The written agreements between the Insurer and MGAs to distribute the Products of the Subsidiary and the Syndicate through the licensed agents of the Insurer
- the written agreements between the MGAs and the Subsidiary as well as the Syndicate,

were sufficient evidence of a "common undertaking" between the members of the Group because these agreements, in FSRA's determination, represent a common business enterprise or project.

Because the Insurer, the Subsidiary, and the Syndicate are insurers engaged in this common undertaking, and because they are members of an affiliated group under subsection 392.2(8) of the *Act*, FSRA has the discretion under subsection 392.2(8) of the *Act* to deem these insurers to be "an insurer" for the purposes of determining the insurer's licensed agents' authority to act as licensed agents under the *Act*.

Statutory objects contained in section 3 of the *FSRA Act*

In arriving at this decision, FSRA also considered its statutory objects under section 3 of the *FSRA Act* and determined that allowing the Insurer, the Subsidiary and the Syndicate to act as an affiliated group under subsection 392.2(8) of the *Act*, when validated through a test and learn environment, would:

1. protect the rights and interests of consumers through increased access to property and casualty commercial insurance products in a more timely and convenient manner

2. promote or foster innovation and competition within the insurance sector by supporting a new model for the distribution of property and casualty commercial insurance products which recognizes that there is an increasing blurring of the distinctions between licensed agents and brokers where a group of insurers utilizes both methods of distribution for their products,

both in furtherance of FSRA's objects in subsections 3(2)(b) and 3(2)(c) of the *FSRA Act*.

TLE Guidance and commitments of the Ontario licensed insurer

FSRA also considered the commitments of the Insurer made to FSRA pursuant to the testing agreement regarding competence and training of its licensed agents, governance and agent oversight, complaint handling and consumer disclosures. Together, these commitments provided FSRA with sufficient comfort that consumers will be treated fairly by the group when accessing the broadened suite of insurance available through the Insurer's licensed agents.

FSRA also considered the TLE Guidance and determined that considering the Insurer, the Subsidiary and the Syndicate as one insurer pursuant to subsection 392.2(8) of the *Act* would be consistent with the TLE Guidance's principles, including:

1. Safe
The testing agreement and the operating plan set parameters that protect consumers from unreasonable risk and avoidable harm.

2. Directly beneficial to the public
If the test is validated, the opportunity for commercial customers of the Insurer to access a broader scope of insurance products through one agent will benefit consumers of property and casualty commercial insurance through the innovative use of the existing provisions of the *Act*.

3. Deliberate
FSRA's decision will expand and adjust FSRA's risk tolerance consciously to encourage innovation and modernization in the insurance sector.

4. Fair
The regulatory solution developed further to this decision will, if FSRA validates it through this test and learn approach, be made available to incumbents and startups alike.

5. Feasible
The course of conduct of the Insurer, the Subsidiary and the Syndicate represents a bona fide, ready-to-test solution, that will be examined through the exercise of FSRA's existing discretion under the *Act*. This discretion is the most feasible solution in FSRA's innovation and regulatory toolbox to implement this innovation.

6. Transparent
By publishing the Guidance, the innovation described in this Guidance is based on clearly-defined processes that are knowable by market participants and the public.

7. Accountable
By publishing the Guidance, FSRA is maintaining accountability to the public and the insurance sector by reporting on how

1120 ...used its tools and discretion under the *Act* to support innovation. FSRA also intends to provide a further report explaining whether the innovation has been successful.

FSRA's decision is subject to the terms of a testing agreement agreed to by the Insurer, and may be revoked by FSRA for any breach of these terms or upon notice by either FSRA or the Insurer, including if FSRA determines that FSRA's objects are no longer being met by the Group in offering the Products (e.g. if consumer harm results).

Effective date and future review

This Decision became effective on August 30, 2023 and will be reviewed no later than August 30, 2026.

About this Guidance

This document is consistent with FSRA's Guidance Framework. As a Decision, it describes FSRA's rationale for a certain regulatory decision of precedential value for other parties not involved in the specific matter. Regulatory decisions described in Decision guidance are made based on FSRA's legal authority and are formal responses to specific inquiries.

Effective Date: August 30, 2023

---

[1] Subsection 392.2(8) of the *Insurance Act* (Ontario) grants FSRA's Chief Executive Officer ("CEO") authority to determine whether an agent may be licensed to an affiliated group of insurers carrying on business as a common undertaking. However, for the purposes of this Guidance, reference will be made to FSRA as the CEO is acting as the chief executive officer of FSRA when making such determination and as the CEO may delegate authority to FSRA employees, as permitted by s 10(2.3) of the *Financial Services Regulatory Authority of Ontario Act*.

[2] "affiliated group" is not specifically defined under s. 392.2(8) but the term 'affiliate' and variations of this term are defined elsewhere in the *Act* without restricting the interpretation of affiliate under s392.2(8). However, if the legislator had meant to limit the definition of "affiliate" to the narrow sense that applies to other parts of the *Act* it could have done so but chose not to. Further, s.392.2(9) expressly includes within the s.392.2(8) definition of "affiliated group of insurers carrying on business as a common undertaking" mutual insurers that are not connected by common ownership but are affiliated by their participation in the Fire Mutual Guarantee Fund. For these reasons, FSRA has adopted, in addition to the narrow definition of affiliate in (a) above, the ordinary meaning definition of "affiliate" in the Canadian Oxford Dictionary and the New Shorter Oxford English Dictionary.

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TAB #34: ORAL COMPENDIUM: COURT FILE NO. DC-24-00000718-00JR

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6.	Notice of hearing
7.	Effect of non-attendance at hearing after due notice
8.	Where character, etc., of a party is in issue
9.	Hearings to be public; maintenance of order
9.1	Proceedings involving similar questions
10.	Right to representation
10.1	Examination of witnesses
11.	Rights of witnesses to representation
12.	Summonses
13.	Contempt proceedings
14.	Protection for witnesses
15.	Evidence
15.1	Use of previously admitted evidence
15.2	Witness panels
16.	Notice of facts and opinions
16.1	Interim decisions and orders
16.2	Time frames
17.	Decision, interest
17.1	Costs
18.	Notice of decision
19.	Enforcement of orders
20.	Record of proceeding
21.	Adjournments
21.1	Correction of errors
21.2	Power to review
22.	Administration of oaths
23.	Powers re control of proceedings
24.	Notice, etc.
25.	Appeal operates as stay; exception
25.0.1	Control of process
25.1	Rules
26.	Regulations
27.	Rules, etc., available to public
28.	Substantial compliance
29.	Prohibition on photographs, recordings, dissemination
32.	Conflict

Interpretation
1 (1) In this Act.

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"electronic hearing" means a hearing held by conference telephone or some other form of electronic technology allowing persons to hear one another; ("audience électronique")

"hearing" means a hearing in any proceeding; ("audience")

"licence" includes any permit, certificate, approval, registration or similar form of permission required by law; ("autorisation")

"municipality" has the same meaning as in the *Municipal Affairs Act*; ("municipalité")

"oral hearing" means a hearing at which the parties or their representatives attend before the tribunal in person; ("audience orale")

"proceeding" means a proceeding to which this Act applies; ("instance")

"representative" means, in respect of a proceeding to which this Act applies, a person authorized under the *Law Society Act* to represent a person in that proceeding; ("représentant")

"statutory power of decision" means a power or right, conferred by or under a statute, to make a decision deciding or prescribing,

(a) the legal rights, powers, privileges, immunities, duties or liabilities of any person or party, or

(b) the eligibility of any person or party to receive, or to the continuation of, a benefit or licence, whether the person is entitled thereto or not; ("compétence légale de décision")

"tribunal" means one or more persons, whether or not incorporated and however described, upon which a statutory power of decision is conferred by or under a statute; ("tribunal")

"written hearing" means a hearing held by means of the exchange of documents, whether in written form or by electronic means; ("audience écrite") R.S.O. 1990, c. S.22, s. 1 (1); 1994, c. 27, s. 56 (1-3); 2002, c. 17, Sched. F, Table; 2006, c. 21, Sched. C, s. 134 (1, 2).

Meaning of "person" extended

(2) A municipality, an unincorporated association of employers, a trade union or council of trade unions who may be a party to a proceeding in the exercise of a statutory power of decision under the statute conferring the power shall be deemed to be a person for the purpose of any provision of this Act or of any rule made under this Act that applies to parties. R.S.O. 1990, c. S.22, s. 1 (2).

Section Amendments with date in force (d/m/y) [+]

Liberal construction of Act and rules

2 This Act, and any rule made by a tribunal under subsection 17.1 (4) or section 25.1, shall be liberally construed to secure the just, most expeditious and cost-effective determination of every proceeding on its merits. 1999, c. 12, Sched. B, s. 18 (1); 2006, c. 21, Sched. B, s. 21 (1).

Section Amendments with date in force (d/m/y) [+]

Application of Act

3 (1) Subject to subsection (2), this Act applies to a proceeding by a tribunal in the exercise of a statutory power of decision conferred by or under an Act of the Legislature, where the tribunal is required by or under such Act or otherwise by law to hold or to afford to the parties to the proceeding an opportunity for a hearing before making a decision. R.S.O. 1990, c. S.22, s. 3 (1); 1994, c. 27, s. 56 (1).

Where Act does not apply

(2) This Act does not apply to a proceeding,

(a) before the Assembly or any committee of the Assembly;

(b) in or before,

(i) the Court of Appeal,

(ii) the Superior Court of Justice,

(iii) the Ontario Court of Justice,

1410 (iv) the Family Court of the Superior Court of Justice,

(v) the Small Claims Court, or

(vi) a justice of the peace;

(c) to which the Rules of Civil Procedure apply;

(d) before an arbitrator to which the *Arbitration Act, 1991* or the *Labour Relations Act, 1995* applies;

(e) at a coroner's inquest;

(f) of a commission appointed under the *Public Inquiries Act, 2009*;

(g) of one or more persons required to make an investigation and to make a report, with or without recommendations, where the report is for the information or advice of the person to whom it is made and does not in any way legally bind or limit that person in any decision he or she may have power to make; or

(h) of a tribunal empowered to make regulations, rules or by-laws in so far as its power to make regulations, rules or by-laws is concerned. R.S.O. 1990, c. S.22, s. 3 (2); 1994, c. 27, s. 56 (6); 2006, c. 19, Sched. C, s. 1 (1, 2, 4); 2009, c. 33, Sched. 6, s. 97; 2021, c. 25, Sched. 27, s. 1.

Section Amendments with date in force (d/m/y) [+]

Waiver

Waiver of procedural requirement

4 (1) Any procedural requirement of this Act, or of another Act or a regulation that applies to a proceeding, may be waived with the consent of the parties and the tribunal. 1997, c. 23, s. 19 (1).

Same, rules

(2) Any provision of a tribunal's rules made under section 25.1 may be waived in accordance with the rules. 1994, c. 27, s. 56 (7).

Section Amendments with date in force (d/m/y) [+]

Disposition without hearing

4.1 If the parties consent, a proceeding may be disposed of by a decision of the tribunal given without a hearing, unless another Act or a regulation that applies to the proceeding provides otherwise. 1997, c. 23, s. 19 (2).

Section Amendments with date in force (d/m/y) [+]

Panels, certain matters

4.2 (1) A procedural or interlocutory matter in a proceeding may be heard and determined by a panel consisting of one or more members of the tribunal, as assigned by the chair of the tribunal. 1994, c. 27, s. 56 (8).

Assignments

(2) In assigning members of the tribunal to a panel, the chair shall take into consideration any requirement imposed by another Act or a regulation that applies to the proceeding that the tribunal be representative of specific interests. 1997, c. 23, s. 19 (3).

Decision of panel

(3) The decision of a majority of the members of a panel, or their unanimous decision in the case of a two-member panel, is the tribunal's decision. 1994, c. 27, s. 56 (9).

Section Amendments with date in force (d/m/y) [+]

Panel of one, redirected panel

Panel of one

4.2.1 (1) The chair of a tribunal may decide that a proceeding be heard by a panel of one person and assign the person to hear the proceeding unless there is a statutory requirement in another Act that the proceeding be heard by a panel of more than one person.

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1411 ...ion in number of panel members

(2) Where there is a statutory requirement in another Act that a proceeding be heard by a panel of a specified number of persons, the chair of the tribunal may assign to the panel one person or any lesser number of persons than the number specified in the other Act if all parties to the proceeding consent. 1999, c. 12, Sched. B, s. 16 (2).

Section Amendments with date in force (d/m/y) [*]

Expiry of term

4.3 If the term of office of a member of a tribunal who has participated in a hearing expires before a decision is given, the member is deemed to continue, but only for the purpose of participating in the decision and for no other purpose. 1997, c. 23, s. 13 (3).

Section Amendments with date in force (d/m/y) [*]

Incapacity of member

4.4 (1) If a member of a tribunal who has participated in a hearing becomes unable, for any reason, to complete the hearing or to participate in the decision, the remaining member or members may complete the hearing and give a decision. 1994, c. 27, s. 50.

Other Acts and regulations

(2) Subsection (1) does not apply if another Act or a regulation specifically deals with the issue of what takes place in the circumstances described in subsection (1). 1997, c. 23, s. 13 (5).

Section Amendments with date in force (d/m/y) [*]

Decision not to process commencement of proceeding

4.5 (1) Subject to subsection (3), upon receiving documents relating to the commencement of a proceeding, a tribunal or its administrative staff may decide not to process the documents relating to the commencement of the proceeding if,

(a) the documents are incomplete;

(b) the documents are received after the time required for commencing the proceeding has elapsed;

(c) the fee required for commencing the proceeding is not paid; or

(d) there is some other technical defect in the commencement of the proceeding.

Notice

(2) A tribunal or its administrative staff shall give the party who commences a proceeding notice of a decision under subsection (1) and shall set out in the notice the reasons for the decision and the requirements for resuming the processing of the documents. ...

Rules under s. 25.1

(3) A tribunal or its administrative staff shall not make a decision under subsection (1) unless the tribunal has made rules under section 25.1 respecting the making of such decisions and those rules shall set out,

(a) any of the grounds referred to in subsection (1) upon which the tribunal or its administrative staff may decide not to process the documents relating to the commencement of a proceeding; and

(b) the requirements for the processing of the documents to be resumed.

Continuance of provisions in other statutes

(4) Despite section 32, nothing in this section shall prevent a tribunal or its administrative staff from deciding not to process documents relating to the commencement of a proceeding on grounds that differ from those referred to in subsection (1) or without complying with subsection (2) or (3) if the tribunal or its staff does so in accordance with the provisions of an Act that are in force on the day this section comes into force. 1999, c. 12, Sched. B, s. 16 (3).

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Section Amendments with date in force (dmy/y) [+]

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Dismissal of proceeding without hearing

4.6 (1) Subject to subsections (5) and (6), a tribunal may dismiss a proceeding without a hearing if

(a) the proceeding is frivolous, vexatious or is commenced in bad faith;

(b) the proceeding relates to matters that are outside the jurisdiction of the tribunal; or

(c) some aspect of the statutory requirements for bringing the proceeding has not been met.

Notice

(2) Before dismissing a proceeding under this section, a tribunal shall give notice of its intention to dismiss the proceeding to

(a) all parties to the proceeding if the proceeding is being dismissed for reasons referred to in clause (1) (b); or

(b) the party who commences the proceeding if the proceeding is being dismissed for any other reason.

Same

(3) The notice of intention to dismiss a proceeding shall set out the reasons for the dismissal and inform the parties of their right to make written submissions to the tribunal with respect to the dismissal within the time specified in the notice.

Right to make submissions

(4) A party who receives a notice under subsection (2) may make written submissions to the tribunal with respect to the dismissal within the time specified in the notice.

Dismissal

(5) A tribunal shall not dismiss a proceeding under this section until it has given notice under subsection (2) and considered any submissions made under subsection (4).

Rules

(6) A tribunal shall not dismiss a proceeding under this section unless it has made rules under section 25.1 respecting the early dismissal of proceedings and those rules shall include,

(a) any of the grounds referred to in subsection (1) upon which a proceeding may be dismissed;

(b) the right of the parties who are entitled to receive notice under subsection (2) to make submissions with respect to the dismissal; and

(c) the time within which the submissions must be made.

Continuance of provisions in other statutes

(7) Despite section 32, nothing in this section shall prevent a tribunal from dismissing a proceeding on grounds other than those referred to in subsection (1) or without complying with subsections (2) to (6) if the tribunal dismisses the proceeding in accordance with the provisions of an Act that are in force on the day this section comes into force. 1999, c. 12, Sched. B, s. 16 (3).

Section Amendments with date in force (dmy/y) [+]

Classifying proceedings

4.7 A tribunal may make rules under section 25.1 classifying the types of proceedings that come before it and setting guidelines as to the procedural steps or processes (such as preliminary motions, pre-hearing conferences, alternative dispute resolution mechanisms, expedited hearings) that apply to each type of proceeding and the circumstances in which other procedures may apply. 1999, c. 12, Sched. B, s. 16 (3).

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1413 Amendments with date in force (d/m/y) [•]

Alternative dispute resolution

4.8 (1) A tribunal may direct the parties to a proceeding to participate in an alternative dispute resolution mechanism for the purposes of resolving the proceeding or an issue arising in the proceeding if,

(a) it has made rules under section 25.1 respecting the use of alternative dispute resolution mechanisms; and

(b) all parties consent to participating in the alternative dispute resolution mechanism.

Definition

(2) In this section,

"alternative dispute resolution mechanism" includes mediation, conciliation, negotiation or any other means of facilitating the resolution of issues in dispute.

Rules

(3) A rule under section 25.1 respecting the use of alternative dispute resolution mechanisms shall include procedural guidelines to deal with the following:

1. The circumstances in which a settlement achieved by means of an alternative dispute resolution mechanism must be reviewed and approved by the tribunal.

2. Any requirement, statutory or otherwise, that there be an order by the tribunal.

Mandatory alternative dispute resolution

(4) A rule under subsection (3) may provide that participation in an alternative dispute resolution mechanism is mandatory or that it is mandatory in certain specified circumstances.

Person appointed to mediate, etc.

(5) A rule under subsection (3) may provide that a person appointed to mediate, conciliate, negotiate or help resolve a matter by means of an alternative dispute resolution mechanism be a member of the tribunal or a person independent of the tribunal. However, a member of the tribunal who is so appointed with respect to a matter in a proceeding shall not subsequently hear the matter if it comes before the tribunal unless the parties consent.

Continuance of provisions in other statutes

(6) Despite section 32, nothing in this section shall prevent a tribunal from directing parties to a proceeding to participate in an alternative dispute resolution mechanism even though the requirements of subsections (1) to (5) have not been met if the tribunal does so in accordance with the provisions of an Act that are in force on the day this section comes into force. 1999, c. 12, Sched. B, s. 16 (3).

Section Amendments with date in force (d/m/y) [•]

Mediators, etc.: not compellable, notes not evidence
Mediators, etc., not compellable

4.9 (1) No person employed as a mediator, conciliator or negotiator or otherwise appointed to facilitate the resolution of a matter before a tribunal by means of an alternative dispute resolution mechanism shall be compelled to give testimony or produce documents in a proceeding before the tribunal or in a civil proceeding with respect to matters that come to his or her knowledge in the course of exercising his or her duties under this or any other Act.

Evidence in civil proceedings

(2) No notes or records kept by a mediator, conciliator or negotiator or by any other person appointed to facilitate the resolution of a matter before a tribunal by means of an alternative dispute resolution mechanism under this or any other Act are admissible in a civil proceeding. 1999, c. 12, Sched. B, s. 16 (3).

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Section Amendments with date in force (d/m/y) [*]

Parties

5. The parties to a proceeding shall be the persons specified as parties by or under the statute under which the proceeding arises or, if not so specified, persons entitled by law to be parties to the proceeding. R.S.O. 1990, c. S.22, s. 5

Written hearings

5.1 (1) A tribunal whose rules made under section 25.1 deal with written hearings may hold a written hearing in a proceeding. 1997, c. 23, s. 13 (5).

Exception

(2) The tribunal shall not hold a written hearing if a party satisfies the tribunal that there is good reason for not doing so.

Same

(2.1) Subsection (2) does not apply if the only purpose of the hearing is to deal with procedural matters. 1998, c. 12, Sched. B, s. 16 (4).

Documents

(3) In a written hearing, all the parties are entitled to receive every document that the tribunal receives in the proceeding. 1994, c. 27, s. 56 (10).

Section Amendments with date in force (d/m/y) [*]

Electronic hearings

5.2 (1) A tribunal whose rules made under section 25.1 deal with electronic hearings may hold an electronic hearing in a proceeding. 1997, c. 23, s. 13 (7).

Exception

(2) The tribunal shall not hold an electronic hearing if a party satisfies the tribunal that holding an electronic rather than an oral hearing is likely to cause the party significant prejudice.

Same

(3) Subsection (2) does not apply if the only purpose of the hearing is to deal with procedural matters.

Participants to be able to hear one another

(4) In an electronic hearing, all the parties and the members of the tribunal participating in the hearing must be able to hear one another and any witnesses throughout the hearing. 1994, c. 27, s. 56 (10).

Section Amendments with date in force (d/m/y) [*]

Different kinds of hearings in one proceeding

5.2.1 A tribunal may, in a proceeding, hold any combination of written, electronic and oral hearings. 1997, c. 23, s. 13 (8).

Section Amendments with date in force (d/m/y) [*]

Pre-hearing conferences

5.3 (1) If the tribunal's rules made under section 25.1 deal with pre-hearing conferences, the tribunal may direct the parties to participate in a pre-hearing conference to consider,

(a) the settlement of any or all of the issues;

(b) the simplification of the issues;

(c) facts or evidence that may be agreed upon;

Appendix #1
Detailed Facts regarding the factual and legal matters herein as of August 17, 2024
(From the affidavit in support of Invoice 1(A))

ii. ***Jurisdiction:*** *Provincial (Ontario)*

iii. ***Statute[28], regulations and rule particulars:***
- a. ***Governing Automobile Insurance Legislation:*** *Insurance Act, R.S.O., 1990, c I.8 et seq ("Insurance Act" or "Ins. Act")*
- b. ***Governing Automobile Provincial Regulations:*** *SABS, Reg 283 and Reg 664*
  - i. ***Governing FSRA Rule:*** Unfair or Deceptive Acts or Practices Rule et seq (sec: as amended by Deferred Sales Charge Amendment 2 Approved by Minister of Finance: January 30, 2024 *("**UDAP Rule**")*

iv. ***Contractual particulars:***
- a. ***"Named Insureds":***
  - i. *BMW Financial Services Inc. (A Division of BMW Canada Inc.) (defined as "**BMW FS Inc**"; and*
  - ii. *Nicole Artopoulos (B.A., M.A.) ("**McLean Spouse**" or "**Individual Policyholder**")*
- b. ***Insured Automobile:*** *BMW 3 Series Xi Drive 2019 4DR AWD*
- c. ***Lessee:*** *Ms. Nicole Artopoulos*
- d. ***Lessor:*** *BMW FS Inc.*
- e. ***Insured Person[29] resident in Ontario (G Driver):*** *Mr. Kevin A. McLean (B.A., J.D., CIM) ("**McLean**", "**Artopoulos Spouse**", "**Insured Person**", "**Unnamed Insured Person**", "**Occupant**", "**Driver**" "**Appellant**", **Applicant**", or "**Claimant**"[30]);*
- f. ***"Broker":*** *Meloche Monnex Financial Services Inc.[31] (the "**Broker**" or "**Agent**", or "**MMFSI**")*
- g. ***Underwriter/Insurer*** *('contract of insurance' in the Insurance Policy)*
  - i. *Security National Insurance Company (**FSRA** Insurance Registration **#397**[32]);*
  - ii. *Head office: 50 Boulevard Crémazie O, Etage 12, Montreal, QC H2P 1B6, Canada;*
  - iii. ***Underwriter address in Ontario:*** *101 McNabb Street, 2nd Floor, **Markham**, Ontario, L3R 3H8*
- h. ***Insurance[33] Policy #:*** **#0010135114806 (the "Insurance Policy", "Insurance Contract"[34] or "Insurance Policy #806")**
- i. ***Insurance Program and Product with TD Insurance Meloche Monnex:*** *Alumni And Professional Program (the "**AP Program**")*
- j. ***The Trade Name of "TD Insurance Meloche Monnex"***
  - i. ***Trademark word holder of "TD Insurance":*** *The Toronto-Dominion Bank ("**TD Bank**")*
  - ii. ***Trademark word holder of "Meloche Monnex":*** *Meloche Monnex Inc. ("**MMI**"), a CBCA incorporated company.*
- k. ***Combined Name with two distinct trademarks for two different insurance programs:*** *"TD Insurance Meloche Monnex"*

v. ***The "Accident" or "MVA":***
- a. ***Date of Loss:*** *August 31, 2022 ("**DOL**" or "**Date Of Loss**")*

Endnotes

[1]"Insurance" means the undertaking by one person to indemnify another person against loss or liability for loss in respect of a certain risk or peril to which the object of the insurance may be exposed, or to pay a sum of money or other thing of value upon the happening of a certain event, and includes life insurance (see: s.1(1) of the *UDAP Rule*);
[2]*UDAP Rule*, 1(1)(v)(c): "Contract of insurance" means:(c) for a contract of insurance not referred to in (a) or (b), has the meaning ascribed to "contract" in s. 1 of the Act; see: section 1(1) of Insurance Act (Ontario): "contract" means a contract of insurance, and includes a policy, certificate, interim receipt, renewal receipt, or writing evidencing the contract, whether sealed or not, and a binding oral agreement;
[3]See: *SPPA*, section 1(1) definition of license: registration or similar form of permission required by law;
[4]See: *Insurance Act*, ss. 279 (includes does not exclude); see. section 3(1) of SABS which includes the Spouse of the Individual Named Insured (Artopoolos)
[5]As defined under *UDAP Rule*, ss. 1(1): "Claimant": "means a person who claims statutory accident benefits or who otherwise claims any benefit, compensation or payment under a contract of insurance,
[6]See: SNIC Response on January 25, 2024
[7]The "file number provided in the Andy Gers response" that was approved by TDI Legal which denoted the incorrect file number which I swear is the "TDGIC internally denoted file number" which it had and has possession and control of the same
[8]I shall be relying on jurisprudence in any to be heard motions and this SNIC Proceeding or future proceedings between SNIC and I where other insurers have had "two files" (one authentic and another not as authentic or not part of the assigned claim number for an insured person or injured person)
[9]The Appellant adopts the definitions from his filed documents in the record of proceeding and they have the same meaning herein as they do therein
[10]The Appellant's Spouse was the named insured in the Insurance Policy with SNIC.
[11]See: change of address by broker "Meloche Monnex Financial Services Inc" (tab 6)
[12]Yet likely $80 of that amount was under section 25 of SABS
[13]Terrible experience with their customer service. I did a quote at the end of June and was supposed to be sent an auto insurance package. After 2 weeks of not receiving anything, I called again and was told that a package would be resent. I received it yesterday and it's a BLANK auto insurance application. I called their customer service line and was on-hold for 10-15mins. Only to be finally told that their entire system is down, so they can't pull up any accounts! A customer rep called me back, but is located in New Brunswick, so now I have to pay long distance charges to try to resolve this. My renewal is up soon and I may ha8a [sic] stick to my current provider because of TD's incompetence! I've received great customer service at their branch level, but their insurance department sounds fragmented and disorganised. (see: https://www.yelp.ca/biz/td-home-and-auto-insurance-company-toronto, by Ms. Stephanie S. of Mississauga, Ontario)
[14]See: NOM #14, Affidavit #30 and Tab 22
[15]Apparently located at the Burlington Address
[16]See: Invoice 1(A), Dhaliwal OCF-18 and April 20, 2023, package from SNIC Markham that included a letter that mistakenly (presumed now because of not having some or all of the relevant faxes from the Appellant to the VP Building 4th Floor Fax Number) represented that there was "no medical evidence" (which meant it did not have the October 2022 MRI Package) on file, and only approved 20 physiotherapy sessions and part of the Dhaliwal Full Body Assessment.
[17]Appellant and MD (neurosurgeon)
[18]The now known focus of "TD Insurance" was causing the Appellant to submit through HCAI to the invalid Etobicoke Address.
[19]Despite bringing three early motions, where the style of cause was consistent with the naming in listed and attached documents and his definition of "TD SNIC" (see: McLean v. TD Insurance Meloche Monnex (Security National Insurance Company), due to the lengthy delays by whom he presumed was SNIC, an early decision by View-Chair Lake referenced "TD General Insurance Company".
[20]Mid-January 2024 decision relating to his first three motions which all identified TDIMM (SNIC) as the respondent
[21]For further background: Ms. Moraes, purporting to be his legal assistant, attempted to engage in discussions with the Tribunal, whilst improperly seeking an adjournment of the case conference, on behalf of TDGIC. From February 2024 until and including the case conference, the Appellant, whilst continuing to file all documents referencing the respondent SNIC, sought consent of TDGIC to be removed in accordance with SNIC Response. Mr. Karat did not take any steps in that regard and TDGIC opposed. In April 2024, Mr. Newfound's actual legal assistant appeared in lieu of Ms. Moraes.
[22]As found by Adj. Morrissette but in fact, the language used was, "did not oppose". In any event, TDGIC, volitionally, allowed itself to be removed without filing a pleading or representing that it was the "First Insurer".
[23]presumably an agent of Colliers International.
[24]For further background: On August 6, 2024, through a PIPEDA request of HCAI, HCAI provided the HCAI submitted copy of Dhaliwal OCF-18 which had caused re-direction to the defunct East Mall Address. The Appellant demanded that SNIC amend its address to SNIC Markham in HCAI and/or amend the name of the insurer to the First Insurer with a current and correct address. The Appellant made the same demand upon TDHA. Neither TDHA nor SNIC responded.
[25]For further background: Invoice 1(A) was delivered to the attention of Ms. Nurse with copies to the other known adjusters for SNIC along with a hard copy to head office (FSRA website) to the attention of the accounting department. A copy was also provided to

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(c) the dates by which any steps in the proceeding are to be taken or begun;

(e) the estimated duration of the hearing; and

(f) any other matter that may assist in the just and most expeditious disposition of the proceeding. 1994, c. 27, s. 56 (11); 1997, c. 23, s. 13 (9).

Other Acts and regulations

(1.1) The tribunal's power to direct the parties to participate in a pre-hearing conference is subject to any other Act or regulation that applies to the proceeding. 1997, c. 23, s. 13 (10).

Who presides

(2) The chair of the tribunal may designate a member of the tribunal or any other person to preside at the pre-hearing conference.

Orders

(3) A member who presides at a pre-hearing conference may make such orders as he or she considers necessary or advisable with respect to the conduct of the proceeding, including adding parties.

Disqualification

(4) A member who presides at a pre-hearing conference at which the parties attempt to settle issues shall not preside at the hearing of the proceeding unless the parties consent. 1994, c. 27, s. 56 (11).

Application of s. 5.2

(5) Section 5.2 applies to a pre-hearing conference, with necessary modifications. 1997, c. 23, s. 13 (10).

Section Amendments with date in force (d/m/y) [+]

Disclosure

5.4 (1) If the tribunal's rules made under section 25.1 deal with disclosure, the tribunal may, at any stage of the proceeding before all hearings are complete, make orders for,

(a) the exchange of documents;

(b) the oral or written examination of a party;

(c) the exchange of witness statements and reports of expert witnesses;

(d) the provision of particulars;

(e) any other form of disclosure. 1994, c. 27, s. 56 (12); 1997, c. 23, s. 13 (11).

Other Acts and regulations

(1.1) The tribunal's power to make orders for disclosure is subject to any other Act or regulation that applies to the proceeding. 1997, c. 23, s. 13 (12).

Exception, privileged information

(2) Subsection (1) does not authorize the making of an order requiring disclosure of privileged information. 1994, c. 27, s. 56 (12).

Section Amendments with date in force (d/m/y) [+]

Notice of hearing

6 (1) The parties to a proceeding shall be given reasonable notice of the hearing by the tribunal. R.S.O. 1990, c. S.22, s. 6 (1).

Statutory authority

(2) A notice of a hearing shall include a reference to the statutory authority under which the hearing will be held.

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(3) A notice of an oral hearing shall include,

(a) a statement of the time, place and purpose of the hearing, and

(b) a statement that if the party notified does not attend at the hearing, the tribunal may proceed in the party's absence and the party will not be entitled to any further notice in the proceeding. 1994, c. 27, s. 56 (13).

Written hearing

(4) A notice of a written hearing shall include,

(a) a statement of the date and purpose of the hearing, and details about the manner in which the hearing will be held;

(b) a statement that the hearing shall not be held as a written hearing if the party satisfies the tribunal that there is good reason for not holding a written hearing (in which case the tribunal is required to hold it as an electronic or oral hearing) and an indication of the procedure to be followed for that purpose;

(c) a statement that if the party notified neither acts under clause (b) nor participates in the hearing in accordance with the notice, the tribunal may proceed without the party's participation and the party will not be entitled to any further notice in the proceeding. 1994, c. 27, s. 56 (13); 1997, c. 23, s. 13 (13); 1999, c. 12, Sched. B, s. 16 (5).

Electronic hearing

(5) A notice of an electronic hearing shall include,

(a) a statement of the time and purpose of the hearing, and details about the manner in which the hearing will be held;

(b) a statement that the only purpose of the hearing is to deal with procedural matters, if that is the case;

(c) if clause (b) does not apply, a statement that the party notified may, by satisfying the tribunal that holding the hearing as an electronic hearing is likely to cause the party significant prejudice, require the tribunal to hold the hearing as an oral hearing, and an indication of the procedure to be followed for that purpose; and

(d) a statement that if the party notified neither acts under clause (c), if applicable, nor participates in the hearing in accordance with the notice, the tribunal may proceed without the party's participation and the party will not be entitled to any further notice in the proceeding. 1994, c. 27, s. 56 (13).

Section Amendments with date in force (d/m/y) [+]

Effect of non-attendance at hearing after due notice

7 (1) Where notice of an oral hearing has been given to a party to a proceeding in accordance with this Act and the party does not attend at the hearing, the tribunal may proceed in the absence of the party and the party is not entitled to any further notice in the proceeding. R.S.O. 1990, c. S.22, s. 7; 1994, c. 27, s. 56 (14).

Same, written hearings

(2) Where notice of a written hearing has been given to a party to a proceeding in accordance with this Act and the party neither acts under clause 6 (4) (b) nor participates in the hearing in accordance with the notice, the tribunal may proceed without the party's participation and the party is not entitled to any further notice in the proceeding.

Same, electronic hearings

(3) Where notice of an electronic hearing has been given to a party to a proceeding in accordance with this Act and the party neither acts under clause 6 (5) (c), if applicable, nor participates in the hearing in accordance with the notice, the tribunal may proceed without the party's participation and the party is not entitled to any further notice in the proceeding. 1994, c. 27, s. 56 (15).

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1417 Section Amendments with date in force (dmy) [*]

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Where character, etc., of a party is in issue

8. Where the good character, propriety of conduct or competence of a party is an issue in a proceeding, the party is entitled to be furnished prior to the hearing with reasonable information of any allegations with respect thereto. R.S.O. 1990, c. S.22, s. 8.

Hearings to be public; maintenance of order
Hearings to be public, exceptions
9 (1) An oral hearing shall be open to the public except where the tribunal is of the opinion that,

(a) matters involving public security may be disclosed; or

(b) intimate financial or personal matters or other matters may be disclosed at the hearing of such a nature, having regard to the circumstances, that the desirability of avoiding disclosure thereof in the interests of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public,

in which case the tribunal may hold the hearing in the absence of the public. R.S.O. 1990, c. S.22, s. 9 (1); 1994, c. 27, s. 56 (16).

Written hearings
(1.1) In a written hearing, members of the public are entitled to reasonable access to the documents submitted unless the tribunal is of the opinion that clause (1) (a) or (b) applies. 1994, c. 27, s. 56 (17).

Electronic hearings
(1.2) An electronic hearing shall be open to the public unless the tribunal is of the opinion that,

(a) it is not practical to hold the hearing in a manner that is open to the public; or

(b) clause (1) (a) or (b) applies. 1997, c. 23, s. 13 (14).

Maintenance of order at hearings
(2) A tribunal may make such orders or give such directions at an oral or electronic hearing as it considers necessary for the maintenance of order at the hearing, and, if any person disobeys or fails to comply with any such order or direction, the tribunal or a member thereof may call for the assistance of any peace officer to enforce the order or direction, and every peace officer so called upon shall take such action as is necessary to enforce the order or direction and may use such force as is reasonably required for that purpose. R.S.O. 1990, c. S.22, s. 9 (2); 1994, c. 27, s. 56 (18).

Section Amendments with date in force (dmy) [*]

Proceedings involving similar questions
9.1 (1) If two or more proceedings before a tribunal involve the same or similar questions of fact, law or policy, the tribunal may,

(a) combine the proceedings or any part of them, with the consent of the parties;

(b) hear the proceedings at the same time, with the consent of the parties;

(c) hear the proceedings one immediately after the other; or

(d) stay one or more of the proceedings until after the determination of another one of them.

Exception
(2) Subsection (1) does not apply to proceedings held under section 21 of the *Ontario Land Tribunals Act, 2021*. 1994, c. 27, s. 56 (19); 2021, c. 4, Sched. 6, s. 91.

Same
(3) Clauses (1) (a) and (b) do not apply to a proceeding if,

(a) any other Act or regulation that applies to the proceeding requires that it be heard in private;

1418 the tribunal is of the opinion that clause 3 (1) (a) or (b) applies to the proceeding. 1994, c. 27, s. 56 (19); 1997, c. 23, s. 11 (2).

Conflict, consent requirements

(4) The consent requirements of clauses (1) (a) and (b) do not apply if another Act or a regulation that applies to the proceedings allows the tribunal to combine them or hear them at the same time without the consent of the parties. 1997, c. 23, s. 13 (16).

Use of same evidence

(5) If the parties to the second-named proceeding consent, the tribunal may treat evidence that is admitted in a proceeding as if it were also admitted in another proceeding that is heard at the same time under clause (1) (b). 1994, c. 27, s. 56 (19).

Section Amendments with date in force (d/m/y) [+]

Right to representation

16 A party to a proceeding may be represented by a representative. 2006, c. 21, Sched. C, s. 134 (3).

Section Amendments with date in force (d/m/y) [+]

Examination of witnesses

16.1 A party to a proceeding may, at an oral or electronic hearing,

(a) call and examine witnesses and present evidence and submissions; and

(b) conduct cross-examinations of witnesses at the hearing reasonably required for a full and fair disclosure of all matters relevant to the issues in the proceeding. 1994, c. 27, s. 56 (20).

Section Amendments with date in force (d/m/y) [+]

Rights of witnesses to representation

17 (1) A witness at an oral or electronic hearing is entitled to be advised by a representative as to his or her rights, but such representative may take no other part in the hearing without leave of the tribunal. 2006, c. 21, Sched. C, s. 134 (4).

Idem

(2) Where an oral hearing is closed to the public, the witness's representative is not entitled to be present except when that witness is giving evidence. R.S.O. 1990, c. S.22, s. 11 (2); 1994, c. 27, s. 56 (22); 2006, c. 21, Sched. C, s. 134 (5).

Section Amendments with date in force (d/m/y) [+]

Summonses

18 (1) A tribunal may require any person, including a party, by summons,

(a) to give evidence on oath or affirmation at an oral or electronic hearing, and

(b) to produce in evidence at an oral or electronic hearing documents and things specified by the tribunal

relevant to the subject-matter of the proceeding and admissible at a hearing. R.S.O. 1990, c. S.22, s. 12 (1); 1994, c. 27, s. 56 (23).

Form and service of summons

(2) A summons issued under subsection (1) shall be in the prescribed form (in English or French) and

(a) where the tribunal consists of one person, shall be signed by him or her;

(b) where the tribunal consists of more than one person, shall be signed by the chair of the tribunal or in such other manner as documents on behalf of the tribunal may be signed under the statute constituting the tribunal. 1994, c. 27, s. 56 (24).

Same

(3) The summons shall be served personally on the person summoned. 1994, c. 27, s. 56 (24).

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Fees and allowances

(3.1) The person summoned is entitled to receive the same fees or allowances for attending at or otherwise participating in the hearing as are paid to a person summoned to attend before the Superior Court of Justice. 1994, c. 27, s. 56 (24); 2006, c. 19, Sched. C, s. 1 (1).

Bench warrant

(4) A judge of the Superior Court of Justice may issue a warrant against a person if the judge is satisfied that

(a) a summons was served on the person under this section;

(b) the person has failed to attend or to remain in attendance at the hearing (in the case of an oral hearing) or has failed otherwise to participate in the hearing (in the case of an electronic hearing) in accordance with the summons; and

(c) the person's attendance or participation is material to the ends of justice. 1994, c. 27, s. 56 (25); 2006, c. 19, Sched. C, s. 1 (1).

Same

(4.1) The warrant shall be in the prescribed form (in English or French), directed to any police officer, and shall require the person to be apprehended anywhere within Ontario, brought before the tribunal forthwith and,

(a) detained in custody as the judge may order until the person's presence as a witness is no longer required; or

(b) in the judge's discretion, released on a recognizance, with or without sureties, conditioned for attendance or participation to give evidence. 1994, c. 27, s. 56 (25).

Proof of service

(5) Service of a summons may be proved by affidavit in an application to have a warrant issued under subsection (4). 1994, c. 27, s. 56 (26).

Certificate of facts

(6) Where an application to have a warrant issued is made on behalf of a tribunal, the person constituting the tribunal or, if the tribunal consists of more than one person, the chair of the tribunal may certify to the judge the facts relied on to establish that the attendance or other participation of the person summoned is material to the ends of justice, and the judge may accept the certificate as proof of the facts. 1994, c. 27, s. 56 (26).

Same

(7) Where the application is made by a party to the proceeding, the facts relied on to establish that the attendance or other participation of the person is material to the ends of justice may be proved by the party's affidavit. 1994, c. 27, s. 56 (26).

Section Amendments with date in force (d/m/y) [+]

Contempt proceedings

13 (1) Where any person without lawful excuse,

(a) on being duly summoned under section 12 as a witness at a hearing makes default in attending at the hearing; or

(b) being in attendance as a witness at an oral hearing or otherwise participating as a witness at an electronic hearing, refuses to take an oath or to make an affirmation legally required by the tribunal to be taken or made, or to produce any document or thing in his or her power or control legally required by the tribunal to be produced by him or her or to answer any question to which the tribunal may legally require an answer; or

(c) does any other thing that would, if the tribunal had been a court of law having power to commit for contempt, have been a contempt of that court,

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1428 ...tribunal may, of its own motion or on the motion of a party to the proceeding, state a case to the Divisional Court setting out the facts and that court may inquire into the matter and, after hearing any witnesses who may be produced against or on behalf of that person and after hearing any statement that may be offered in defence, punish or take steps for the punishment of that person in the manner as if he or she had been guilty of contempt of the court. R.S.O. 1990, c. S.22, s. 13; 1994, c. 27, s. 56 (27).

Same

(2) Subsection (1) also applies to a person who,

(a) having objected under clause 6 (4) (b) to a hearing being held as a written hearing, fails without lawful excuse to participate in the oral or electronic hearing of the matter; or

(b) being a party, fails without lawful excuse to attend a pre-hearing conference when so directed by the tribunal. 1997, c. 23, s. 13 (17).

Section Amendments with date in force (d/m/y) [+]

Protection for witnesses

14 (1) A witness at an oral or electronic hearing shall be deemed to have objected to answer any question asked him or her upon the ground that the answer may tend to criminate him or her or may tend to establish his or her liability to civil proceedings at the instance of the Crown, or of any person, and no answer given by a witness at a hearing shall be used or be receivable in evidence against the witness in any trial or other proceeding against him or her thereafter taking place, other than a prosecution for perjury in giving such evidence. R.S.O. 1990, c. S.22, s. 14 (1); 1994, c. 27, s. 56 (28); 2021, c. 25, Sched. 27, s. 2.

(2) REPEALED: 1994, c. 27, s. 56 (28).

Section Amendments with date in force (d/m/y) [+]

Evidence

What is admissible in evidence at a hearing

15 (1) Subject to subsections (2) and (3), a tribunal may admit as evidence at a hearing, whether or not given or proven under oath or affirmation or admissible as evidence in a court,

(a) any oral testimony; and

(b) any document or other thing,

relevant to the subject-matter of the proceeding and may act on such evidence, but the tribunal may exclude anything unduly repetitious.

What is inadmissible in evidence at a hearing

(2) Nothing is admissible in evidence at a hearing,

(a) that would be inadmissible in a court by reason of any privilege under the law of evidence; or

(b) that is inadmissible by the statute under which the proceeding arises or any other statute.

Conflicts

(3) Nothing in subsection (1) overrides the provisions of any Act expressly limiting the extent to or purposes for which any oral testimony, documents or things may be admitted or used in evidence in any proceeding.

Copies

(4) Where a tribunal is satisfied as to its authenticity, a copy of a document or other thing may be admitted as evidence at a hearing

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Photocopies

(5) Where a document has been filed in evidence at a hearing, the tribunal may, or the person producing it or entitled to it may with the leave of the tribunal, cause the document to be photocopied and the tribunal may authorize the photocopy to be filed in evidence in the place of the document filed and release the document filed, or may furnish to the person producing it or the person entitled to it a photocopy of the document filed certified by a member of the tribunal.

Certified copy admissible in evidence

(6) A document purporting to be a copy of a document filed in evidence at a hearing, certified to be a copy thereof by a member of the tribunal, is admissible in evidence in proceedings in which the document is admissible as evidence of the document. R.S.O. 1990, c. S.22, s. 15.

Use of previously admitted evidence

15.1 (1) The tribunal may treat previously admitted evidence as if it had been admitted in a proceeding before the tribunal if the parties to the proceeding consent. 1994, c. 27, s. 56 (30).

Definition

(2) In subsection (1),

"previously admitted evidence" means evidence that was admitted, before the hearing of the proceeding referred to in that subsection, in any other proceeding before a court or tribunal, whether in or outside Ontario.

Additional power

(3) This power conferred by this section is in addition to the tribunal's power to admit evidence under section 15. 1994, c. 27, s. 13 (16).

Section Amendments with date in force (d/m/y) [*]

Witness panels

15.2 A tribunal may receive evidence from panels of witnesses composed of two or more persons, if the parties have first had an opportunity to make submissions in that regard. 1994, c. 27, s. 56 (31).

Section Amendments with date in force (d/m/y) [*]

Notice of facts and opinions

16 A tribunal may, in making its decision in any proceeding,

(a) take notice of facts that may be judicially noticed; and

(b) take notice of any generally recognized scientific or technical facts, information or opinions within its scientific or specialized knowledge. R.S.O. 1990, c. S.22, s. 16.

Interim decisions and orders

16.1 (1) A tribunal may make interim decisions and orders.

Conditions

(2) A tribunal may impose conditions on an interim decision or order.

Reasons

(3) An interim decision or order need not be accompanied by reasons. 1994, c. 27, s. 56 (32).

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1422 Amendments with date in force (d/m/y) [+]

Time frames

16.2 A tribunal shall establish guidelines setting out the usual time frame for completing proceedings that come before it and for completing the procedural steps within those proceedings. 1999, c. 12, Sched. B, s. 16 (6)

Section Amendments with date in force (d/m/y) [+]

Decision; interest
Decision

17 (1) A tribunal shall give its final decision and order, if any, in any proceeding in writing and shall give reasons in writing therefor if requested by a party. R.S.O. 1990, c. S.22, s. 17; 1993, c. 27, Sched.

Interest

(2) A tribunal that makes an order for the payment of money shall set out in the order the principal sum and, if interest is payable, the rate of interest and the date from which it is to be calculated. 1994, c. 27, s. 56 (33)

Section Amendments with date in force (d/m/y) [+]

Costs

17.1 (1) Subject to subsection (2), a tribunal may, in the circumstances set out in rules made under subsection (4), order a party to pay all or part of another party's costs in a proceeding. 2006, c. 19, Sched. B, s. 21 (2)

Exception

(2) A tribunal shall not make an order to pay costs under this section unless,

(a) the conduct or course of conduct of a party has been unreasonable, frivolous or vexatious or a party has acted in bad faith; and

(b) the tribunal has made rules under subsection (4). 2006, c. 19, Sched. B, s. 21 (2)

Amount of costs

(3) The amount of the costs ordered under this section shall be determined in accordance with the rules made under subsection (4). 2006, c. 19, Sched. B, s. 21 (2).

Rules

(4) A tribunal may make rules with respect to,

(a) the ordering of costs;

(b) the circumstances in which costs may be ordered; and

(c) the amount of costs or the manner in which the amount of costs is to be determined. 2006, c. 19, Sched. B, s. 21 (2)

Same

(5) Subsections 25.1 (3), (4), (5) and (6) apply with respect to rules made under subsection (4). 2006, c. 19, Sched. B, s. 21 (2)

Continuance of provisions in other statutes

(6) Despite section 32, nothing in this section shall prevent a tribunal from ordering a party to pay all or part of another party's costs in a proceeding in circumstances other than those set out in, and without complying with, subsections (1) to (3) if the tribunal makes an order in accordance with the provisions of an Act that are in force on February 14, 2006. 2006, c. 19, Sched. B, s. 21 (2)

Submissions must be in writing

(7) Despite sections 5.1, 5.2 and 5.2.1, submissions for a costs order, whether under subsection (1) or under an authority referred to in subsection (6), shall be made by way of written or electronic documents, unless a party satisfies the tribunal that to do so is likely to cause the party significant prejudice. 2015, c. 23, s. 6.

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1423 REPEALED: 2015, c. 23, s. 5.

Section Amendments with date in force (d/m/y) [•]

Notice of decision
19 (1) The tribunal shall send each party who participated in the proceeding, or the party's representative, a copy of its final decision or order, including the reasons if any have been given,

(a) by regular letter mail;

(b) by electronic transmission;

(c) by telephone transmission of a facsimile; or

(d) by some other method that allows proof of receipt, if the tribunal's rules made under section 25.1 deal with the matter. 1994, c. 27, s. 56 (34); 1997, c. 23, s. 13 (19); 2006, c. 21, Sched. C, s. 134 (6).

Use of mail
(2) If the copy is sent by regular letter mail, it shall be sent to the most recent addresses known to the tribunal and shall be deemed to be received by the party on the fifth day after the day it is mailed. 1994, c. 27, s. 56 (34).

Use of electronic or telephone transmission
(3) If the copy is sent by electronic transmission or by telephone transmission of a facsimile, it shall be deemed to be received on the day after it was sent, unless that day is a holiday, in which case the copy shall be deemed to be received on the next day that is not a holiday. 1994, c. 27, s. 56 (34).

Use of other method
(4) If the copy is sent by a method referred to in clause (1) (d), the tribunal's rules made under section 25.1 govern its deemed day of receipt. 1994, c. 27, s. 56 (34).

Failure to receive copy
(5) If a party that acts in good faith does not, through absence, accident, illness or other cause beyond the party's control, receive the copy until a later date than the deemed day of receipt, subsection (2), (3) or (4), as the case may be, does not apply. 1994, c. 27, s. 56 (34).

Section Amendments with date in force (d/m/y) [•]

Enforcement of orders
19 (1) A certified copy of a tribunal's decision or order in a proceeding may be filed in the Superior Court of Justice by the tribunal or by a party and on filing shall be deemed to be an order of that court and is enforceable as such. 1994, c. 27, s. 56 (35); 2006, c. 19, Sched. C, s. 1 (1).

Notice of filing
(2) A party who files an order under subsection (1) shall notify the tribunal within 10 days after the filing. 1994, c. 27, s. 56 (35).

Order for payment of money
(3) On receiving a certified copy of a tribunal's order for the payment of money, the sheriff shall enforce the order as if it were an execution issued by the Superior Court of Justice. 1994, c. 27, s. 56 (35); 2006, c. 19, Sched. C, s. 1 (1).

Section Amendments with date in force (d/m/y) [•]

Record of proceeding
20 A tribunal shall compile a record of any proceeding in which a hearing has been held which shall include,

(a) any application, complaint, reference or other document, if any, by which the proceeding was commenced;

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(b) the notice of any hearing;

(c) any interlocutory orders made by the tribunal;

(d) all documentary evidence filed with the tribunal, subject to any limitation expressly imposed by any other Act on the extent to which the documents may be used in evidence in any proceeding;

(e) the transcript, if any, of the oral evidence given at the hearing; and

(f) the decision of the tribunal and the reasons therefor, where reasons have been given. R.S.O. 1990, c. S.22, s. 20.

Adjournments

21 A hearing may be adjourned from time to time by a tribunal of its own motion or where it is shown to the satisfaction of the tribunal that the adjournment is required to permit an adequate hearing to be held. R.S.O. 1990, c. S.22, s. 21.

Correction of errors

21.1 A tribunal may at any time correct a typographical error, error of calculation or similar error made in its decision or order. 1994, c. 27, s. 56 (36).

Section Amendments with date in force (d/m/y) [+]

Power to review

21.2 (1) A tribunal may, if it considers it advisable and if its rules made under section 25.1 deal with the matter, review all or part of its own decision or order, and may confirm, vary, suspend or cancel the decision or order. 1997, c. 23, s. 10 (20).

Time for review

(2) The review shall take place within a reasonable time after the decision or order is made.

Conflict

(3) In the event of a conflict between this section and any other Act, the other Act prevails. 1994, c. 27, s. 56 (36).

Section Amendments with date in force (d/m/y) [+]

Administration of oaths

22 A member of a tribunal has power to administer oaths and affirmations for the purpose of any of its proceedings and the tribunal may require evidence before it to be given under oath or affirmation. R.S.O. 1990, c. S.22, s. 22.

Powers to control of proceedings

Abuse of processes

23 (1) A tribunal may make such orders or give such directions in proceedings before it as it considers proper to prevent abuse of its processes. R.S.O. 1990, c. S.22, s. 23 (1).

Limitation on examination

(2) A tribunal may reasonably limit further examination or cross-examination of a witness where it is satisfied that the examination or cross-examination has been sufficient to disclose fully and fairly all matters relevant to the issues in the proceeding. 1994, c. 27, s. 56 (37).

Exclusion of representatives

(3) A tribunal may exclude from a hearing anyone, other than a person licensed under the *Law Society Act*, appearing on behalf of a party or as an adviser to a witness if it finds that such person is not competent properly to represent or to advise the party or witness or does not understand and comply at the hearing with the duties and responsibilities of an advocate or adviser. 2006, c. 21, Sched. C, s. 134 (7).

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1425 Amendments with date in force (d/m/y) [•]

Notice, etc.
24. (1) Where a tribunal is of the opinion that because the parties to any proceeding before it are so numerous or for any other reason it is impracticable,

(a) to give notice of the hearing; or

(b) to send its decision and the material mentioned in section 16,

to all or any of the parties individually, the tribunal may, instead of doing so, cause reasonable notice of the hearing or of its decision to be given to such parties by public advertisement or otherwise as the tribunal may direct.

Contents of notice
(2) A notice of a decision given by a tribunal under clause (1) (b) shall inform the parties of the place where copies of the decision and the reasons therefor, if reasons were given, may be obtained. R.S.O. 1990, c. S.22, s. 24.

Appeal operates as stay, exception
25. (1) An appeal from a decision of a tribunal to a court or other appellate body operates as a stay in the matter unless,

(a) another Act or a regulation that applies to the proceeding expressly provides to the contrary; or

(b) the tribunal or the court or other appellate body orders otherwise. 1997, c. 23, s. 13 (21).

Idem
(2) An application for judicial review under the *Judicial Review Procedure Act*, or the bringing of proceedings specified in subsection 2 (1) of that Act is not an appeal within the meaning of subsection (1). R.S.O. 1990, c. S.22, s. 25 (2).

Section Amendments with date in force (d/m/y) [•]

Control of process
25.0.1 A tribunal has the power to determine its own procedures and practices and may for that purpose,

(a) make orders with respect to the procedure and practices that apply in any particular proceeding; and

(b) establish rules under section 25.1. 1999, c. 12, Sched. B, s. 18 (8).

Section Amendments with date in force (d/m/y) [•]

Rules
25.1 (1) A tribunal may make rules governing the practice and procedure before it. 1994, c. 27, s. 56 (36).

Application
(2) The rules may be of general or particular application. 1994, c. 27, s. 56 (36).

Consistency with Acts
(3) The rules shall be consistent with this Act and with the other Acts to which they relate. 1994, c. 27, s. 56 (36).

Public access
(4) The tribunal shall make the rules available to the public in English and in French. 1994, c. 27, s. 56 (36).

Legislation Act, 2006, Part III
(5) Rules adopted under this section are not regulations as defined in Part III (Regulations) of the *Legislation Act, 2006*. 1994, c. 27, s. 56 (36); 2006, c. 21, Sched. F, s. 136 (1).

1426 power

(6) The power conferred by this section is in addition to any power to adopt rules that the tribunal may have under another Act. 1994, c. 27, s. 56 (38).

Section Amendments with date in force (d/m/y) [•]

Regulations
25 The Lieutenant Governor in Council may make regulations prescribing forms for the purpose of section 12. 1994, c. 27, s. 56 (38).

Section Amendments with date in force (d/m/y) [•]

Rules, etc., available to public
27 A tribunal shall make any rules or guidelines established under this or any other Act available for examination by the public. 1994, c. 12, Sched. B, s. 16 (9).

Section Amendments with date in force (d/m/y) [•]

Substantial compliance
28 Substantial compliance with requirements respecting the content of forms, notices or documents under this Act or any rule made under this or any other Act is sufficient. 1994, c. 12, Sched. B, s. 16 (9).

Section Amendments with date in force (d/m/y) [•]

Prohibition on photographs, recordings, dissemination
29 (1) No person shall,

(a) take or attempt to take a photograph, audio or video recording or other record capable of producing or transmitting visual or aural representations by electronic means or otherwise,

(i) at a hearing,

(ii) of any person entering or leaving the room in which a hearing is to be or has been convened, or

(iii) of any person in the building in which a hearing is to be or has been convened if there is reasonable ground for believing that the person is there for the purpose of attending or leaving the hearing, other than in an area of the building designated by the tribunal for the purpose and with the person's consent;

(b) publish, broadcast, reproduce or otherwise disseminate a photograph, recording or record taken in contravention of clause (a); or

(c) broadcast, reproduce or otherwise disseminate an audio recording described in clause (2) (b). 2021, c. 25, Sched. 27, s. 3.

Non-application
(2) Subsection (1) does not apply with respect to,

(a) the unobtrusive making of notes or sketches of events at a hearing by a person;

(b) the making of an audio recording at a hearing, unobtrusively and in a manner authorized by the tribunal, by a representative, party acting on their own behalf or a journalist, for the sole purpose of supplementing or replacing notes; or

(c) subject to the authorization of the tribunal, any act referred to in subsection (1),

(i) if it is required for the presentation of evidence, the making of a record or any other purpose of the hearing,

(ii) with the consent of the parties and witnesses, or

(iii) in connection with any ceremonial proceeding. 2021, c. 25, Sched. 27, s. 3.

1427 ...e and penalty

(3) Every person who contravenes subsection (1) is guilty of an offence and on conviction is liable to a fine of not more than $25,0...

2021, c. 25, Sched. 27, s. 3

Section Amendments with date in force (d/m/y) [•]

30, 31 REPEALED: 1994, c. 27, s. 56 (40).

Section Amendments with date in force (d/m/y) [•]

Conflict

32 Unless it is expressly provided in any other Act that its provisions and regulations, rules or by-laws made under it apply despite anything in this Act, the provisions of this Act prevail over the provisions of such other Act and over regulations, rules or by-laws made under such other Act which conflict therewith. R.S.O. 1990, c. S.22, s. 32; 1994, c. 27, s. 56 (42).

Section Amendments with date in force (d/m/y) [•]

33, 34 REPEALED: 1994, c. 27, s. 56 (43).

Section Amendments with date in force (d/m/y) [•]

FORMS 1, 2 REPEALED: 1994, c. 27, s. 56 (44).

Section Amendments with date in force (d/m/y) [•]

Français

Tab 64

TAB #35: ORAL COMPENDIUM: COURT FILE NO. DC-24-00000718-00JR

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Volume #1: Material Facts to this Motion

1. The Appellant was injured in the Accident as the was the driver of the Insured Automobile on August 31, 2022, (the "**DOL**"). In late September 2023, SNIC[10] delivered to the Appellant an accident benefits application package with an OCF-1 and OCF-2 with a pre-printed and unalterable return-address of **SNIC Markham** and a facsimile number, which, unbeknownst to the Appellant, was a city of Toronto (North York) area code (416) landline phone number *grounded* and situated at the commercial office building on the fourth (4th) floor at 3650 Victoria Park Avenue, North York, Toronto, ON, M2H 3P7 (the "**VP Building**" or "**North York Office**"), was 416-774-3120 (the "**VP Building 4th Floor Fax Number**"). Since late 2016, SNIC has been located in Markham[11] which does not have 416 area code numbers.

2. The Appellant delivered his OCF-1 (the "**Completed Application**") to the **VP Building 4th Floor Fax Number** on October 13, 2022. While SNIC was not a tenant or occupier of the **North York Office** in October 2022, SNIC misrepresented that it was to the Appellant and falsely claimed to have *directly* received the Appellant's **Completed Application** by requesting that he deliver a completed OCF-3.

3. On November 3, 2022, the Appellant completed the OCF-3 with the return address of **SNIC Markham** but with the **VP Building 4th Floor Fax Number**, and his attending physician completed and signed his portion of the OCF-3 whilst faxing the same to the **VP Building 4th Floor Fax Number**. From November 2023 to April 6, 2023, the Appellant received $1499.98 in medical/rehab benefits[12] to his **Beneficiary Bank Account**, as he had also faxed, exclusively to **VP Building 4th Floor Fax Number**, a *Payments Canada* styled direct-deposit form, signed by him and exclusively to SNIC under **TD Claim #3**.

4. In March 2023, SNIC requested that the Appellant exclusively communicate with it via email. The Appellant rejected the offer on account of, *inter alia*, non-compliance with *SABS* and *PIPEDA*. The Appellant made a *PIPEDA* request of SNIC in early January 2023 but, without *PIPEDA* compliant responses for months, received an unidentified package from "New Brunswick" without reference to an insurance company but an unknown individual's name and his name with a different phone number. He notified his residential building concierge to return the package as he deemed it *suspicious*. With the benefit of hindsight, an online complaint by an individual customer of TDHA on **YELP**, where TDHA is

1433 identified as the sole insurance company tenant at the **Etobicoke Address**, against TDHA was that TDHA's customer service was in **New Brunswick**.[13]

5. On April 6, 2023, the Appellant, after providing **TONP** with the address and fax for SNIC, signed the **Dhaliwal OFC-18**. On April 6, 2023, Mr. Dhaliwal, PT (TONP), submitted the **Dhaliwal OCF-18** through **HCAI**. It is now known that SNIC caused **PT Dhaliwal** to submit the **Dhaliwal OCF-18** to the obsolete and fallacious **Etobicoke East Mall Address**. At said time, the only evidence of an insurance company at the **East Mall Address** was **TDHA** although in late 2020, *Toronto City Council* approved the demolition of the **Valhalla Executive Suites** at the inoperative **Etobicoke Address**.[14] Therefore, the only evidence of a relevant insurer, to the issues herein, at the Etobicoke Address was TDHA from 2018 to 2021. On April 20, 2023, the Appellant received confirmation in a letter from SNIC Markham that it had, by the "As per A. Nurse" purported signature on the OCF-18, Part 13, approved the sum of $2080.57 from the **Dhaliwal OCF-18**. It was presumed payment was issued to TONP.

6. In April 2023, the Appellant received a letter via fax to his fax number, but not from the **VP Building 4th Floor Fax Number** but an unknown and undisclosed fax number pursuant to *Reg 283*, that he has defined as "**Spam Faxes**", that, in response to his previous faxes to the **VP Building 4th Floor Fax Number**, requested that he discontinue faxing the **VP Building 4th Floor Fax Number** and the "mystery insurer" did not have any record of his **TD Claim #3**. The Appellant promptly notified, whom he thought was SNIC, at **VP Building 4th Floor Fax Number** (attention: Ms. Nurse) of the "Spam Faxes" and continued to fax the **VP Building 4th Floor Fax Number**.

7. In July 2023, the apparent replacement adjuster for Ms. Nurse, in Ms. Persaud[15], had contacted Rehab Mechanics to inform it that SNIC would not pay for any further physiotherapy sessions after the approved amounts were exhausted[16]. The Appellant was departing, in any event, to Europe to have the requisite MRIs that he could not obtain in Canada, and he informed Rehab Mechanics that he would provide the same in due course. From August to October 2023, the Appellant faxed the **VP Building 4th Floor Fax Number** with updates on his MRI results, examinations, assessments and reports. SNIC did not reply to this fax. Upon the Appellant's return, SNIC had responded to the aforementioned faxes from its alleged

1434 Burlington Address but now listing the 905 Fax Number. The Appellant responded to some of the letters from the alleged SNIC Burlington Address to the 905 Fax Number but many of the faxes to the 905 Fax Number were blocked or stopped mid-call. As a result, he re-faxed some of the same to the **VP Building 4th Floor Fax Number** and then faxed the aforementioned fax number at first instance.

8. In mid-October 2023, the Appellant received an email from "E-claims services", which was unknown to him, to an email that he had not consented to any email communication with SNIC for or at all, and it referenced "TD Insurance". The email appeared to request uploading of documents that the Appellant had already sent via fax. The Appellant did not respond to the same.

9. In November 2023, the Appellant faxed the **VP Building 4th Floor Fax Number**, as per the issues with the **905 Fax Number**, with a copy of the doubly[17] duly signed **OCF-19**. SNIC did not provide any response in accordance with *SABS*. However, a letter from SNIC (SNIC Burlington Address with a reference to Ms. Persaud) requested that potentially a non-physician complete and sign the OCF-19 by reference an unknown legal test of an "appropriate [sic] Ontario [sic] health practitioner [sic]". The Appellant responded to SNIC via fax to the **VP Building 4th Floor Fax Number** noting that SNIC had created an unknown legal test under *SABS*. SNIC did not respond in substance to the same.[18]

10. On December 24, 2023, the Appellant filed the Appeal and served the **VP Building 4th Floor Fax Number**. From December 26 to 28, 2023, the Appellant served, via email, the email addresses of Ms. Nurse and Ms. Persaud (by deduction) due to the size of the required listed and attached documents to his Appeal. On December 26, 2023, the Appellant received an auto-reply from Ms. Persaud that she had been away from the office since September 2023. However, on January 23, 2024, Mr. Karat, copying Mr. Nieuwland as counsel, while representing that he had been assigned by SNIC as the *ADR* and he was representing the "Security National Insurance Company", requested an email communication protocol for day-to-day matters with adjusters. The Appellant consented to the same.

11. On January 25, 2024, Mr. Karat, *prima facie*, solely completed and signed, contrary to LSO By-Law #7.1, section 6, the **SNIC Response**, and then served the Appellant with the same. The SNIC Response, while

1435 reverting to the SNIC Markham address for service, did not include the VP Building 4th Floor Fax Number.[19] SNIC has not represented the VP Building 4th Floor Fax Number as its since Summer 2023.

12. The Appellant had presumed that the miscue[20] by Vice-Chair Lake was at an end but it was not. On January 30, 2024, Mr. Nieuwland filed a DOR on behalf of TDGIC. The Appellant objected thereafter until June 21, 2024.[21] On May 2, 2024, Mr. Nieuwland, exclusively on behalf of TDGIC, orally represented to the Tribunal, the Appellant and SNIC, that SNIC and TDGIC were "*one and the same*" and "this is how we always do it" (in reference to TDGIC being the respondent party in substitution of SNIC). The later representation was contradicted thereafter by Mr. Nieuwland acting for SNIC in the *Sued Decisions*. The former representation was disproven by the FSRA Enforcement Decisions and certificates of status for SNIC and TDGIC, from the FSRA. In the face of the Appellant's NOM #8, filed in mid-May 2024, TDGIC finally changed its previous incorrigible and nugatory positions, and consented[22] to respondent party being named as SNIC to be consistent with the only filed Response by a Respondent. On June 21, 2024, Adj. Morrissette granted the Appellant's relief sought and each and every decision, document et al *of* the Tribunal referencing TDGIC was amended to correct the technical deficiency error created by some representation to the Tribunal by some unknown individuals that the respondent was TDGIC. On July 9, 2024, the Appellant, after TDGIC, refused to respond to his non-party requests pursuant to *LAT Rule* 9.2.2, filed his NOM #13 seeking production and disclosure of documents or things from a non-party. On July 11, 2024, the Appellant served the listed address of TDGIC in this SNIC Proceeding. The misrepresentations continued. The concierge[23] for the VP Building, represented to the Appellant that TDGIC had not been a tenant at the VP Building for over a year . The Appellant referenced going up to the 9th floor and the said concierge, confirmed again that TDGIC was no longer occupying 9th floor of the VP Building so he delivered the NOM #13 hearing brief to shipping/ receiving. The VP Building concierge confirmed that TDGIC relocated to Markham McNabb Building. In late July 2024, the Tribunal confirmed that NOM #13 would be heard in due course. From July 2024 to August 2024, Appellant made demands on SNIC for it to provide its fax number for SNIC Markham. SNIC did not respond. The Appellant made demands on TDHA (along with SNIC and TDGIC) to deny (or for the

1436 letter two insurance companies to confirm) that the VP Building 4th Floor Fax Number was its fax number as the relevant times. TDHA did not deny the same. Neither SNIC nor TDGIC confirmed it was either of their fax numbers at the material times. On August 3, 2024, the Appellant filed his NOM #14 hearing brief, and served SNIC and TDHA. On August 4, 2024, the Appellant took pictures of the legally void (as it related to a commercial address for service of an insurance company) Etobicoke Address, and provided an amended hearing record for NOM #14.[24] After much investigation and obtaining responses from or on behalf of the retired PT Dhaliwal and defunct TONP, it was determined that the representations by SNIC (Mr. Karat) and TDGIC (Mr. Nieuwland) that either SNIC or TDGIC had paid $2,850 in medical and rehab benefits were *false*. The Appellant had received $1499.98 to the Beneficiary Bank Account but TONP never received the $2080.57 which was approved by SNIC on April 20, 2023. The Appellant instructed Rehab Mechanics to issue an invoice so that accounting for the obligated insurer could pay the same along with other invoices as no adjuster for SNIC had signed any of the OCF-18's as required.[25]

Volume #2: Issues

13. The issues are:

a. On a balance of probabilities, with the uncontroverted evidence that SNIC, through its brokers (MMFSI and TDIAI) by way of c/o, no longer utilized the *4th floor* of the North York Office as a registered address as of 2016, the "lead tenants" were "TD Insurance" according to True North REIT and Colliers International from on or around 2017, and the Tribunal denoted TDGIC as being located on the *9th floor* of the VP Building, at the time (October 13, 2022) the Appellant delivered his Completed Application (OCF-1) from his fax to the VP Building 4th Floor Fax Number, was the First Insurer (see: Reg 283) TDHA? Further, From a case management perspective, with the *hearing proper* on the horizon, along with SNIC not having engaged in any listing and production of documents in the SNIC Response or thereafter on its own and in the face of demands pursuant to *LAT Rules*, and TDGIC consenting to be removed as a party from this LAT Proceeding without claiming once that it had a substantial interest in the outcome of the LAT Proceeding, then how must the Tribunal control its processes in order to ensure this LAT Proceeding is governing in accordance with SPPA, s. 2, Legislation Act, s. 64, *SABS* and *Reg 283* while having the necessary motions conducted for document disclosure et al so the Appellant has the necessary documents to attempt to meet his burden?

Volume #3: Application of the Settled and Binding Law to the Uncontroverted Facts, and Orders Sought

14. While there is an ability of a party to "request an expedited hearing" in the dropdown menu of Tribunals Ontario e-filing portal, there is a dearth of jurisprudence regarding the same with LAT/AABS matters.

15. As of 2010, the amendments to *Reg 283* led to an absence of listed fax numbers for insurance companies and for good reason: some unsavoury insured persons may deliberately manipulate the system by faxing

their OCF-1's to an incorrect insurance company with no record of them as insured persons leading to those insurance companies in receipt of confidential information with an inability to dispute that they were not liable along with which insurance company, wrongfully in receipt, may be liable.[26]

16. The only evidence of a licensed insurance company in Ontario having ownership of the VP Building 4th Floor Fax Number, being utilized as a fax number on October 13, 2022, is that of TD Home And Auto Insurance Company, FSRA registration number 1063. The only evidence of the floor (4th) in which the **VP Building 4th Floor Fax Number** was so grounded and wired with Bell Canada Inc., as the telecommunications provider, is and was the 416-774-3120 fax number. Canada Post only lists two addresses above the third floor at the VP Building *as having* postal codes: (i) the 4th floor; and (ii) 9th floor. The most *rudimentary syllogism* evolves from the above: if TDHA and TDGIC were both tenants at the VP Building in October 2022, and the Tribunal, which would obviously have accurate contact information for insurance companies, denoted TDGIC as being on the 9th floor of the VP Building, then TDHA was on the 4th floor of the VP Building. As the 4th floor was the floor or level with the **VP Building 4th Floor Fax Number**, then TDHA was the **First Insurer** to receive the Appellant's **Completed Application**. Whether TDHA has moved since that time is of no consequence. The corroborating evidence, which SNIC never denied in HCAI, also points to TDHA as the First Insurer with the VP Building 4th Floor Fax Number. It must be recalled that in the **FSRA Enforcement Decisions** involving four insurers from TDI Group, all of the distinct insurers in the TDI Group claimed a "technological error" for the unlawful and without notice increasing of premiums of their customers. Perhaps, it was another technological error. It is also noted that in the "*Right to Dispute The Insurance Company's Determination of your claim for SABS*" provided by SNIC (SNIC Markham), it referenced an old address for the Tribunal which it had not for years. *For context, had the Appellant delivered his Appeal to that invalid address for the Tribunal, would the Tribunal have considered that his Appeal was received and filed with it?* The question answers itself.[27] Subject to reply, all of which is respectfully submitted on August 17, 2024:

Appendices

Tab 65

Electronically filed / Déposé par voie électronique : 18-Feb-2025
Toronto Superior Court of Justice / Cour supérieure de justice

TAB #36: ORAL COMPENDIUM: COURT FILE NO. DC-24-00000718-00JR

Court File No. DC-24-00000718-00JR

FORM 4D

Courts of Justice Act

AFFIDAVIT

ONTARIO COURT OF JUSTICE (DIVISIONAL COURT)

BETWEEN:

KEVIN ALEXANDER MCLEAN

APPLICANT

- and -

TD HOME AND AUTO INSURANCE COMPANY, SECURITY NATIONAL INSURANCE COMPANY, TD GENERAL INSURANCE COMPANY, EXECUTIVE DIRECTOR, LICENCE APPEAL TRIBUNAL, HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, REPRESENTED BY EXECUTIVE CHAIR OF TRIBUNALS ONTARIO IN MR. SEAN WEIR, THE ATTORNEY GENERAL OF ONTARIO

RESPONDENTS

Affidavit #2 of Kevin A. McLean in this *JRPA* Proceeding

(Affidavit in support of the request for leave under section 6(2) of the *JRPA*)

I, Kevin Alexander McLean, Disabled (B.A., J.D., CIM) of **Toronto, Ontario, SWEAR THAT:**

Volume #1: Sworn Under Oath; under the Penalty of Perjury; and Introduction

1. I am the individual *JRPA* Applicant herein and I swear, under the pains and penalties of perjury, the following facts to be true. Where I have stated or sworn information on my belief(s), I have cited the source of my belief(s) by references, citations, end-noting or otherwise. When I have used the expressions (including any permutations) of "in my view", "in my opinion", or "belief", I am not drawing or making any conclusion of law or swearing a conclusion of law but rather citing my position and opinions as a matter of fact.

2. I commenced drafting this affidavit on December 30, 2024.

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3. Where double underlining has been utilized, the double underlining is mine and added for emphasis.

4. Where I have copied and pasted or quoted from my "Oral Outline" (currently in draft form), which is cross-referenced to the Oral Compendium, which has a hyperlinked and bookmarked index, I have not done so to make any legal argument but to provide context for my positions.

5. I adopt the definitions from this *JRPA* Proceeding herein and they have the same meaning herein as they do therein.

6. This is my second affidavit in this *JRPA* Proceeding herein. My first affidavit was the affidavit of service that was filed and served after the filing of my certificate of perfection (the "**Certificate Of Perfection**").

7. I repeat and rely upon the facts in my correspondence to the ONSC Divisional Court with copies to counsel for the various respondents herein. I adopt the facts therein as my evidence herein on a factual level but in relation to my positions that I have advanced, am advancing and will advance in a hearing before a single justice of the ONSC.

8. I filed and paid for my *JRPA* Application on November 15, 2024. I served the same on the Tribunal, AGO, and the **Respondent Insurance Companies**.

9. When referring to the "**Respondent Insurance Companies**" in relation to this *JRPA* Proceeding and particularly SNIC and TDHA as it relates to NOM #14 and #15.

10. I have not made any judicial review application regarding NOM #13 which was a document production motion involving TDGIC.

11. The **Respondent Insurance Companies** did not, in my view and my belief, file a notice of appearance on a forthwith basis. I raised an objection in relation to the same.

12. I filed and served my factum (the "**Applicant's Factum**" or "**Factum**") on December 10, 2024.

13. I filed and served my application record on December 12, 2024 (the "**Application Record**").

14. In relation to my **Factum**, I included all of the authorities that I intended to and intend to rely upon in relation to the merits of the hearing of my *JRPA* Application.

15. Since that time, I have, *inter alia*, put the respondents on notice that my reading of the *JRPA* is that the Tribunal was required to file the record of proceeding forthwith (see: section 10 of the *JRPA*) but I have not had a responsive email or letter in relation to the same.

16. On Friday, December 13, 2024, I filed and paid for my certificate of perfection (the "COP" or "**Certificate of Perfection**"). I also filed and served an affidavit of service on or around the same day.

17. As a result of the same, I am including in my oral argument for the urgent hearing before a single justice of the ONSC authorities that relate to the same.

18. I have also included further authorities in relation to the test for leave pursuant to section 6(2) of the *JRPA*.

19. For ease of reference, I copy and paste from the *JRPA* section 6:

> **Application to Divisional Court**
>
> 6 (1) Subject to subsection (2), an application for judicial review shall be made to the Divisional Court. R.S.O. 1990, c. J.1, s. 6 (1).
>
> **Application to judge of Superior Court of Justice**
>
> (2) An application for judicial review may be made to the Superior Court of Justice with leave of a judge thereof, which may be granted at the hearing of the application, where it is made to appear to the judge that the case is one of urgency and that the delay required for an application to the Divisional Court is likely to involve a failure of justice. R.S.O. 1990, c. J.1, s. 6 (2); 2006, c. 19, Sched. C, s. 1 (1).
>
> **Transfer to Divisional Court**
> (3) Where a judge refuses leave for an application under subsection (2), he or she may order that the application be transferred to the Divisional Court. R.S.O. 1990, c. J.1, s. 6 (3).
>
> **Appeal to Court of Appeal**
> (4) An appeal lies to the Court of Appeal, with leave of the Court of Appeal, from a final order of the Superior Court of Justice disposing of an application for judicial review pursuant to leave granted under subsection (2). R.S.O. 1990, c. J.1, s. 6 (4); 2006, c. 19, Sched. C, s. 1 (1).

20. I pleaded the relief sought under section 6(2) of the *JRPA* in my *JRPA* Application. I made my *JRPA* Application to the ONSC Divisional Court at first instance. I am seeking the relief that in the event that the ONSC (single justice) does not grant leave that the *JRPA* Proceeding is transferred to the Divisional Court (ONSC) for hearing.

21. For ease of reference, I quote from **Part I: Divisional Court Proceedings**, Part F of the Practice Direction

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26. Within two weeks after an application or appeal is commenced, or a motion is filed, the parties shall send an email to the court setting out,

    a. any preliminary issues;
    b. a draft proposed or agreed schedule for the exchange of court documents; and
    c. the proposed hearing length required (e.g. half a day for panel hearings).

22. I now note, after review of my emails with the ONSC Divisional Court and the respondents that I do not have a copy of the positions of the **Respondent Insurance Companies** in relation to the required information relating to, *inter alia*: (i) any preliminary objections; (ii) exchange of documents; and (iii) length of hearing.

23. For ease of reference, this is the only email that I have from Mr. Nieuwland in this *JRPA* Proceeding:

> **Nieuwland, Matthew** Tue, Dec 3, 4:52 PM
>
> to Heather, SCJ-CSJ, Jesse, me, Milene, Connor, Judie
>
> Good evening,
>
> Please find attached the Notice of Appearance of the respondent, Security National Insurance Company (otherwise referred to as TD Home and Auto and TD General Insurance company), served in accordance with the *Rules of Civil Procedure*.
>
> Thank you,
>
> **Matthew Nieuwland** | Lawyer | Claims Litigation Services | **TD Insurance**
> 66 Wellington Street West, 38th Floor, Toronto, Ontario. M5K 1A2
> T: 905-201-4092 | F: 416-599-7439
> Email: Matthew.Nieuwland@tdinsurance.com
> Legal Assistant: Christiana Ortiz | T: 416-486-2547 | E: christiana.ortiz@tdinsurance.com
>
> Privileged and/or Confidential"

24. While I appreciate the request by the Tribunal for a case conference, I have opposed the same. I also note, for the benefit of the ONSC Divisional Court, that the references in the Practice Direction to "parties" attending the case conference. My position is that until the Respondent Insurance Companies have complied with the requirement

of providing the ONSC Divisional Court with the above, that having a case conference without knowing the preliminary objections (if any) of the Respondent Insurance Companies, and their time estimate, that it would be futile and wasteful of resources.

25. I now copy and paste from the Practice Direction:

"G. Triage and Case Management

31. All applications, appeals, and motions in Divisional Court, and all steps in those proceedings, may be subject to judicial case management. The purpose of case management is to facilitate access to justice through the timely adjudication of proceedings in Divisional Court in a cost-effective and proportional manner."

26. While I have asked Mr. Nieuwland via email, with the ONSC Divisional Court copied along with the other respondents, if we could hear from him regarding the same, I have not received any response.

27. My position, after review of the jurisprudence including but not limited to *Hutchinson v. Aviva*[i], *Drewlo Holdings Inc.*[ii], *Birani v. Tarion Warranty Corporation*, *Ontario (Energy Board)*, *Goodis*, *Northwestern Utilities*, *Leon's Furniture*, *et al*, that the Tribunal, particularly the LAT in AABS matters, has been limited to the following participatory rights:

a. The record and explaining it in relation to said LAT proceeding;
b. Any procedural fairness that have arisen (but not bias or natural justice per se);
c. 15 page factums;
d. 15 minute oral argument;
e. No seeking of costs by the Tribunal;
f. Avoidance of any duplication of the respondent insurance company(ies) arguments;
g. No argument on the merits of this *JRPA* Application;
h. No arguments on the outcome of this *JRPA* Application;
i. the limitation of the appeal to questions of law or an extricable question of law from a finding of mixed fact and law;
j. the applicable standard of review of correctness within the context of the Board's specialized function;
k. procedural fairness as it relates to the tribunal's ability to make procedural choices and the extent to which the Board may consider law or argument not raised by the parties; and
l. Others listed in my Oral Outline and Oral Compendium.

28. I further note in order to avoid any duplication of arguments by the Tribunal of the Respondent Insurance Companies, the Respondent Insurance Companies will need to

file and serve a copy of their Factum (if any). If they are not intending to respond to my Factum and Application Record, then I believe, in accordance with the principles of having timely adjudication of this *JRPA* Proceeding in a cost-effective manner, that the Respondent Insurance Companies must notify all interested parties and persons including the ONSC Divisional Court.

29. I note in relation to section 10 of the *JRPA*, and by reference to section 20 of the SPPA, that the Tribunal has not, based on my understanding of the word "forthwith", filed the record of proceeding (the "Record Of Proceeding") forthwith.

30. I have reason to believe that the Tribunal does not have possession of the entire Record Of Proceeding or each and every filed document that would constitute the Record Of Proceeding as it is interpreted by jurisprudence that has interpreted section 20 of the SPPA.

31. I ground my belief based upon the following current submission in my Oral Outline (Draft Version):

> "[35] With great respect to the former case manager in Mr. Grant, his explanations regarding why he apparently input TDGIC do not pass muster. He requested that the Applicant provide the denial letters, which were already contained in the LAT Appeal by way of pre-LAT Appeal affidavits, and they contained the sole of SNIC with its two locations of Markham and Burlington and neither location housed the landline fax number of 416.774.3120. The mere fact that Mr. Grant would be responsible for the "parties' names are correct" is a scary cogitation. This is the same Mr. Grant that represented to the SABS Applicant that he could not file, when his file number was not recognized in the e-filing portal that it was due to a "power outage". It was about as believable as his previous representations about why he input TDGIC as the sole respondent over the very name in the "denial letters". The Applicant also notes that at various times thereafter that Mr. Grant sent the Applicant, with SNIC copied after the granting of NOM #8 (which was not by consent as VCM found), the style of cause of "McLean v. TDGIC" (or permutations of the same).
>
> [36] Why is the Tribunal remaining in a state of non-compliance with its statutory duties to forthwith file the record of proceeding? The Applicant respectfully submits that the question answers itself."

32. I also provide this affidavit #2 to ensure that I have provided notice to any parties or interested persons that I will have be advancing the argument on said date, by way of reference to my "Oral Outline", that not only am I entitled to leave to have the merits determined in such fashion but that the **Respondent Insurance Companies** (SNIC and THDA) are bound by the Keeprite standard ("Keeprite Standard"), as interpreted in the case of Keeprite and the Tribunal's standing and participation rights are limited.

33. I am also taking the position currently and will take the position that since the Tribunal has not filed a record of proceeding forthwith that it is not entitled to participate until it has done so. I am advancing the alternative position, which has only arisen as a result of the non-compliance with the *JRPA* and other statutes, enactments, policies and/or guides since the filing of the Applicant's Factum, that if the Tribunal is entitled to participate in this *JRPA* Proceeding,

34. To the extent that the Tribunal does not file the Record Of Proceedings or is unable to do so, my position will be that it cannot speak about the "record" to the ONSC (single justice) or the ONSC Divisional Court if I am not able to obtain leave.

VOLUME #2: URGENCY AND FAILURE OF JUSTICE (ON BELIEF): TIMING AND STRUCTURE OF THIS AFFIDAVIT

35. Due to the urgency of this case and that the Hearing Proper before the Tribunal in the LAT Appeal is set for January 25, 2024, I may provide an additional affidavit with exhibits.

36. I believe, without making any legal argument, herein that that this case is urgent based upon the facts pleaded in my *JRPA* Application, the facts in my Factum, correspondence, and that the Hearing Proper is set for January 25, 2025, and it involves, as submitted, the Sole Underwriter (SNIC) that did not first receive my Completed Application (OCP-1) on October 13, 2022.

37. I believe and allege, without making any legal argument, that there will be a failure of justice.

38. In my "Oral Outline" (draft form) that is cross-referenced to Oral Compendium, I have defined the following as [endnotes removed]:

a. "**Urgent**" means "requiring <u>immediate action</u> or attention";
b. "**Likely**" involves the balance of probabilities standard;
c. "**Failure**" means the "omission of occurrence or performance"; and
d. "**Justice**" is defined as: the quality of being just, impartial, or fair; the quality of conforming to law; and conformity to truth, fact, or reason : correctness.

39. In my "Oral Outline" (draft), I have for purposes of the test under section 6(2) of the *JRPA* and noting that evidence may need to be lead in relation to obtaining leave before a single justice, I have relied (implicitly or explicitly) on the following cases which I now copy and paste:

> *Her Majesty the Queen*, 2013 ONSC 6418, "[11] While Mr. Borton did not file an affidavit saying that he had lost his home, it seems obvious to me that Mr. Borton is suffering economically and that the uncertainty of a hearing date in the Divisional Court creates a <u>real risk</u> of there being

a failure of justice. The prejudice to Mr. Borton grows with each passing day; prejudice he can only mitigate by capitulating or by finding an available day for argument."

Cureatz v. Progressive Party of Canada, [1997] O.J. No. 2309 (Gen. Div.), LaForme J., as he then was, accepted jurisdiction to determine the matter, sitting as a single judge of the Divisional Court pursuant to s. 6(2) of the *JRPA*, while adopting various authorities, found: "In view of the fact that the Divisional Court is not able, in general, to deal with a question of urgency ... I take the view that s. 6(2) should be *liberally construed*. Thus, to my mind, the time that might be taken up before the Divisional Court can hear the matter is an important factor: *Universal Settlements International v. Duscio*, 2010 ONSC 6547 (CanLII), at para 6.

Universal Settlements International, the ONSC noted the stay of Justice Stinson was a factor in not granting leave and that stay remaining in effect while said *JRPA* application was transferred to the ONSC Divisional Court pursuant to section 6(3).

In *Savone*, the Justice TD Ray found, at paragraph 8, that where a judicial review involves only interlocutory orders and decisions, then it is **unlikely** leave will be granted. The unassailable corollary is when final orders are at issue or to be determined a failure of justice is *likely* if the single justice of the ONSC does not assume jurisdiction.

The merits of an application are important factors in determining whether there will be a failure of justice: *Savone*.

VOLUME #2(A): RECORD OF PROCEEDING

40. I am concerned that with the Tribunal's failure to file the Record of Proceeding forthwith and that it may be attempting to delay the timely adjudication of this *JRPA* Proceeding and/or it does not have the full and accurate Record Of Proceeding. I provide the source of my beliefs above.

VOLUME #3: MERITS AS A FACTOR IN CONSIDERATION THE SECTION 6(2) OF THE JRPA

VOLUME #3(A): FINAL ORDERS VS. INTERLOCUTORY

41. While I am not making any legal argument herein, I provide the ONSC Divisional Court by way of this affidavit #2, to be filed and served, in support of my request, wherein I have filed and served Requisition #2 on December 24, 2024, to be heard in front of a single justice of the ONSC pursuant to section 6(2) of the *JRPA*, my current submissions in the Oral Outline regarding the above heading:

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However, the adding of the party of TDHA as the First Insurer, along with the concomitant sought orders pursuant to the declaratory relief along the addition of those "causes of action" against "another". "Causes of action" is defined as: "a fact or facts that enable a person to bring an action against another".

As SNIC and TDGIC were not "one and the same", neither are SNIC and TDHA. Therefore, the dismissal of NOM #14 and NOM #15 by VCM, absent any analysis of the statutory scheme were decisions and orders that were final in nature: *ME v. Ontario*[tf] citing *Atlas*, *Kerr* et al.

Further authorities of our Ontario courts unequivocally support the unequivocal common law principles and precedents that ***to refuse*** relief to add a party, cause of action, and/or amendment of pleadings are final orders. Even motions that were dismissed that sought leave to issue third and fourth party claims were **FINAL** (see: *Khalil et al. v. United Investment Services Ltd. et al.*, 1975 CanLII 490 (ONSC) ["*Khalil*"]. In *Hollinger*, an order maintaining a sealing order ***FINALLY*** determined that a newspaper could not exercise its right to have access to the court file and was thus **FINAL** for the purposes of appeal (see: *Hollinger Inc. v. Ravelston Corp.*, 2008 ONCA 207 ["*Hollinger*"].

Even further, where a question of law is at issue, even when the ongoing inferior tribunal proceeding is ongoing, is a final order or decision. An order dismissing a motion for summary judgment on a **question of law**, where the only genuine issue is the question of law should probably be regarded as giving rise to *res judicata* and, hence, a ***FINAL order*** (see: David *Polowin Real Estate Ltd. v. Dominion of Canada General Insurance Co.*, 2004 CanLII 19916 (ON CA) ["*Polowin*"]).

Where the doctrines of *res judicata* or issue estoppel are at issue, an order during proceedings, not at its conclusion, is a final order. As there is a live issue of issue estoppel herein, where a motion, that is summary disposition in nature is dismissed, it will be ***FINAL*** if it involves a *substantive issue* like issue estoppel (see: *Almrei v. Canada (Attorney General)*, 2011 ONCA 779).

The natural corollary is that orders that grant the adding of a party, causes of action and/or amendments to pleadings are ***interlocutory***. Permitting amendments to pleadings are generally ***interlocutory*** (see: *Dynasty Furniture Manufacturing Ltd. v.*

Toronto-Dominion Bank, 2015 ONCA 137 ["*Dynasty Furniture*"]). Order **granting** leave to amend a statement of claim was ***interlocutory*** (see: *Merling v. Southam Inc.*, et al, 2000 CanLII 5621 (ONCA) ["Merling"]). An order ADDING a defendant is ***interlocutory*** (*nota bene*: supra, order refusing or denying the addition of a proposed party is ***FINAL*** which is trite in the sense that if a party has a cause of action and can seek relief against said proposed party, the refusal ***FINALLY*** disposes of that substantive right) (see: *Prescott & Russell (United Counties) v. David S. Laflamme Construction Inc.*, 2018 ONCA 495 ["*Prescott*"]). Order **granting** leave to amend paragraphs in a statement of claim was **interlocutory** (see: *Natario v. Rodriguez*, 2015 ONCA 227 ["*Natario*"]).

VOLUME #3(B): THE NON-JUSTICIABILITY DOCTRINES AND THEIR EXCEPTIONS

42. While my position remains that the prematurity doctrine raised by Mr. Boyce for the Tribunal is meritless, I have in my Oral Outline (Draft) provided the other non-justiciability doctrines and the exceptions to the same. I now copy and paste from the Oral Argument (Outline):

> "It is trite that the two decisions in NOM #14 and #15, and the reconsideration decisions, that are subject to judicial review, and the orders contained therein are final decisions and orders. With those orders and decisions being final, the doctrine against interlocutory judicial review or interlocutory appeals (also defined as "**Non-Justiciability ["NJ"] Interlocutory Doctrine**") is obsolete. As there has been much discussion by legal scholars and courts about the merger of the NJ **Interlocutory Doctrine** and the adequate, alternative and available[iv] remedy doctrine (the "**AAAR Doctrine**"), there cannot be any non-frivolous preliminary objection by a respondent insurance company or the **Tribunal** (see: section 9(2) of the *JRPA*) or the AGO (see: section 9(4) of the *JRPA*).
>
> The same is applicable to the exhaustion doctrine as that is predicated upon an applicant seeking judicial review exhausting all AAAR. If the potential party that is an applicant avers, with supporting evidence, is subject to a cause of action is not added by decision of an administrative decision maker who becomes *functus officio*[v], and reconsideration fails, then he or she has exhausted any available, alternate and adequate remedies [AAAR] *before the Tribunal*. While reconsideration is not an absolute prerequisite to judicial review. (*Ellis-Don Ltd. v. Ontario (Labour Relations Board)*, 2001 SCC 4 (CanLII)), the Applicant did so and received the three page decision where VCL, a decision-maker that he had drawn a potential and *prima facie* conflict of interest between him and her to the attention of the former case

manager in Mr. Grant, wherein she took issue with the *ME v. Ontario* precedential statements of law.

An exceptional circumstance is a final order or decision predicated on an 'exceptional discovery' wherein the respondent insurance companies naturally went into a shell and curled into a ball. Where a respondent insurance company is the only insurer, due to passage of time, that could be the First Insurer, then the LAT decision-maker is required, absent discretion as the Tribunal is a creature of statute (see: I would note that the primary argument advanced by the Appellant in this case focuses on a transfer of "jurisdiction" from the Superior Court to the LAT. As explained in *Keulen*, exclusive jurisdiction over *SABS* claims has been removed from the Superior Court of Justice and the Financial Services Commission of Ontario and has been placed in the LAT. This is the effect of the language in s. 280 of the *Insurance Act*. The authority granted to the LAT is circumscribed by the *Insurance Act*, the *SABS* and the applicable regulations. The LAT has no inherent jurisdiction (see: Lundy v. Peel) and any decision outside its authority is *ultra vires* (without authority or jurisdiction), to have added such party: section 280 of the *Insurance Act* (must decide in accordance with SABS)."

43. With respect to the exceptions to the Non-Justiciability Doctrines, I now copy and paste from the Oral Outline (Draft):

Even here decisions or orders are interlocutory, which they are not herein, and a SABS applicant has adequate, alternative, and available remedies before the Tribunal, which this *JRPA* Applicant does not, this ONSC Divisional Court and other similarly situated courts have intervened in the following circumstances:

a. *Repetition of judicial review proceedings*: where the potential prejudice of the risk of repeating proceedings *after* review outweighs the prejudice to the general orderly processing of administrative proceedings without interruption until their conclusion: *Lourenco v. Hegedu;*
b. *Real unfairness*: if there is a prospect of *real unfairness* through denial of natural justice or otherwise, a superior court may always exercise its inherent supervisory jurisdiction to put an end to the injustice before all the alternative remedies are exhausted… (paragraph 65 of the Applicant's Factum citing *Gage*);
c. *Natural justice breach – clear and obvious application succeeds:* "Where the court is being asked to determine whether a particular breach of natural justice rises to an "exceptional" circumstance, the court may consider whether it is "*clear and obvious*" that the application will be successful: *Unimac-United Management Corp. v St. Clare's-Monaco Place*, 2015 ONSC 4760 (CanLII) at paras. 16 and 17.);
d. **Override of interlocutory**:

i. "The Decision has broad implications for human rights disputes arising between unionized employers and employees throughout the province. Delaying this application until the conclusion of the hearing on the merits, which does not depend on any evidence or law relevant to the jurisdictional issue, will result in uncertainty for employers, employees and unions. This is an appropriate case for this court to exercise its discretion to hear this judicial review": *London District Catholic School Board v. Weilgosh, 2024 ONSC 3857* (CanLII)

ii. This Court has stated that it will review an interlocutory decision of a tribunal where a process is fatally flawed (*Roosma v. Ford Motor Co. of Canada* (1988), 1988 CanLII 5633 (ON SCDC), 66 O.R. (2d) 18 at 25-26).

e. *Lack of jurisdiction:* judicial intervention may be warranted in situations where the tribunal clearly lacks jurisdiction to proceed, privacy rights at issue or where proceeding with the hearing [proper] would result in an unfair hearing or a breach of natural justice: *Rowe v. College of Nurses of Ontario and al.*, 2023 ONSC 6414;

f. *Judicial Intervention even at the preliminary" stages of an administrative proceeding:*

i. "Judicial review is a discretionary remedy, and the Divisional Court has taken the position that it should not fragment proceedings before administrative tribunals. Absent exceptional circumstances demonstrating that the application should be heard, the Court will not intervene at a PRELIMINARY STAGE in proceedings. However, where the preliminary decision will likely result in a fundamental failure of justice, the Court may exercise its discretion to hear the application (*Ontario College of Art v. Ontario (Human Rights Commission)* (1993), 1993 CanLII 3430 (ON SCDC), 11 O.R. (3d) 798 (Div. Ct.) at pp. 2-3; *Howe v. Institute of Chartered Accountants of Ontario* (1994), 1994 CanLII 3360 (ON CA), 19 O.R. (3d) 483 (C.A.) at 490; *Gage v. Ontario (Attorney General)* (1992), 1992 CanLII 8517 (ON SCDC), 90 D.L.R. (4th) 537 (Div. Ct.) at 553).

VOLUME #3(C): KEEPRITE STANDARD

44. I now copy and paste from my Oral Outline (Draft) the relevant paragraphs involving the Keeprite Standard:

> Judicial review is not an opportunity to re-argue the case, but rather to show that the decision-maker failed to properly exercise its decision-making powers. Judicial review is not documentary discovery. However, compliance with section 10 of the *JRPA* is a requirement or obligation upon the **Tribunal**. As the **Tribunal** is not entitled to duplicate arguments of the respondent insurance companies, the respondent insurance companies will need to file their responsive factum *prior to* January 10, 2025, so the **Tribunal**

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has notice of the same and can adjust accordingly to, *inter alia*, avoid any duplication of submissions of the Tribunal.

In Ontario, this is known as the "**Keeprite Standard**" (by reference to *Keeprite Workers' Independent Union et al. and Keeprite Products Ltd.*, 1980 CanLII 1877 (ON CA), <https://canlii.ca/t/g14jm>) wherein in 2013 Madam Justice Swinton (who received supernumerary status in 2013) summarized the **Keeprite Standard** on judicial review regarding the impermissible inclusion of materials that were not before the decision maker:

> "[18] The ***Keeprite Standard*** for the admission of affidavit evidence on judicial review has been applied in numerous decisions involving labour boards and labour arbitrators. These cases have held that affidavit evidence can be admitted either to show an ***absence of evidence*** on an essential point *or* to disclose a ***breach of natural justice*** that cannot be proven by a mere reference to the record."

Affidavit evidence containing material that was **not** before the decision-maker is not admissible on judicial review unless it: a) provides non-argumentative background information; b) demonstrates that the decision-maker decided an essential point without any evidence; or c) demonstrates the decision-maker breached the *Rules* of natural justice (see: *Sticky Nuggz Inc. v. Alcohol and Gaming Commission of Ontario*, 2020 ONSC 5916 as per **Swinton, Lederer, Penny JJ).**

Issue #3, Volume #3[1]: Application of the Law to the Facts

Mr. Nieuwland, as now counsel to TDHA in this *JRPA* Application and counsel to SNIC in the LAT Appeal and former counsel to TDGIC, is in a blatant conflict of interest by his mere appearance on behalf of all three. They are separate and distinct insurance companies with separate FSRA registration numbers with

Like the Tribunal in *Dankha* and *Mosa*, this ONSC (whether Divisional or not), cannot condone blatant conflicts of interest particularly where TDHA, while still an automotive insurer, is no longer in the sub-category of private passenger market, and SNIC have entirely balance sheets, financial statements, goodwill et al, and are "at odds" (not *ad idem*) as per the FSRA and OSFI

requirements. Mr. Nieuwland, after still not having signed a pleading on behalf of SNIC, wishes for the ONSC (Divisional Court) to somehow believe that SNIC is also referred to as "TD General insurance company [sic]" and "TD Home And Auto [sic]".

Certainly, Mr. Boyce's decisions (as an adjudicator or Vice Chair) delineated between the various insurance companies that are apparently in the TDI Group. This does not mean that TDHA and SNIC are not entitled to have counsel represent their interests but they cannot provide any additional evidence to the Tribunal let alone any of benefit. To do so would be tantamount to intentionally including inadmissible affidavit evidence and subject to a costs award. Further, while SNIC or TDHA is entitled to oppose the relief sought, submissions are not evidence and they cannot overcome the balance of probabilities test

For objectivity purposes, the Applicant does not take issue with SNIC and TDIIA separately arguing the standard of review for the questions and issues to be determined herein. However, that would be in essence a five to ten page argument and five to ten minutes in oral argument. This leaves (pardon the pun) with this oral outline where the Applicant is some 30 minutes in "reading time" and subject to questions on the salient points, it will likely be less. Vis-à-vis the Applicant and the respondent insurance companies, it is a total of approximately 35 minutes when considering reply to submissions of the Applicant to the respondent insurance companies.

VOLUME #3(D): MY INCREASING CONCERNS ABOUT INSTITUTIONAL AND SYSTEMIC ISSUES REGARDING THE LAT AND THE IMPUGNED DECISION MAKERS ALONG WITH A CONCERNING TREND INVOLVING MR. BOYCE AND THE RESPONDENT INSURANCE COMPANIES; FURTHER GROUNDS FOR SECTION 6(2) OF THE JRPA

45. In light of the occurrence involving former Vice Chair Ms. Therese Reilly wherein she had accepted a conditional offer of employment from Aviva Insurance Company while employed by the SLASTO and LAT, and then issued a variety of decisions in favour of Aviva prior to her departure to work for Aviva, I have raised the below issues as soon as I became aware of them.

46. I have also found an additional authority as what I say the correct procedure is at this time for having this *JRPA* Application heard on its merits in a manner that is expeditious, cost-effective and just which is copied below (with my introductory submissions therein):

In *Taylor v. Pivotal Integrated HR Solutions*, 2021 ONSC 7720, The applicant, Paul Taylor, moved pursuant to s. 21(5) of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, to set aside the orders of Sachs J. made October 8, 2020. The motion judge made orders adding the Workplace Safety and Insurance Appeals Tribunal as a party to Mr. Taylor's judicial review application and dismissing the application for extreme delay.

In *Taylor*, ONSC Divisional Court (Toronto) as per The Honourable Justices Ryan Bell, Nishikawa, and Shore JJ., made the seminal statements of law relating to the overarching discretion of the ONSC (whether Divisional or otherwise) with respect to the Tribunal's participation:

> "[18] Section 9(2) of the *JRPA* does not affect this court's supervisory jurisdiction. It does not shield administrative tribunals such as the Tribunal from curial scrutiny entirely; rather, s. 9(2) permits tribunals to bring relevant matters to the attention of the court.
>
> [19] Allowing an administrative tribunal such as the Tribunal to participate on an application for judicial review does not give rise to "unjust opposition" as Mr. Taylor contends. To the contrary, the presence of the administrative tribunal as a party *may* help to ensure that the court hears both sides of a dispute where there is no other well-informed party standing in opposition to the party challenging the tribunal decision: *Ontario (Energy Board) v. Ontario Power Generation Inc.*, 2015 SCC 44, at para. 54.
>
> [20] *Once* a tribunal is a party, the court still has discretion as to the scope of participation to be accorded to the tribunal *during the hearing*. This involves balancing the need for fully informed adjudication against the importance of maintaining tribunal impartiality: *Hydro Ottawa v. Ontario (Workplace Safety and Insurance Appeals Tribunal)*, 2019 ONSC 4898 (Div. Ct.), at para. 6. This court is under no obligation to accept the submissions of a tribunal that appears before it.

The three part legal test from *Ontario Energy Board* is as follows:

> In accordance with the foregoing discussion of tribunal standing, where the statute does not clearly resolve the issue, the reviewing court must rely on its discretion to define the tribunal's role on appeal. While not exhaustive, I would find the following factors, identified by the courts and academic commentators cited above, are relevant in informing the court's exercise of this discretion:

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> (1) If an appeal or review were to be otherwise unopposed, a reviewing court may benefit by exercising its discretion to grant tribunal standing.
> (2) If there are other parties available to oppose an appeal or review, and those parties have the necessary knowledge and expertise to fully make and respond to arguments on appeal or review, tribunal standing may be less important in ensuring just outcomes.
> (3) Whether the tribunal adjudicates individual conflicts between two adversarial parties, or whether it instead serves a policy-making, regulatory or investigative role, or acts on behalf of the public interest, bears on the degree to which impartiality concerns are raised. Such concerns may weigh more heavily where the tribunal served an adjudicatory function in the proceeding that is the subject of the appeal, while a proceeding in which the tribunal adopts a more regulatory role may not raise such concerns.

47. As Mr. Nieuwland's clients have not complied with the Practice Direction (Information Submitted to the Court) within the two week time period since the bringing of the *JRPA* Application, I feel compelled to argue each of the above in the primary, secondary and tertiary based on the various hypotheticals.

48. I also note the following which I copy and paste from the Oral Outline (Draft):

> When the questions or issues to be decided are ones that do not require leave and/or subject to the correctness standard, the justice of the ONSC, pursuant to ss. 6(2) of the *JRPA*, is required to start afresh and/or "in the shoes" of the initial decision maker which was VCM. However, the Applicant requires leave by filing his requisition to set the hearing pursuant to *Rule* 38.03(3.1) which is done by request and not motion.
>
> Applications for judicial review are intended to be summary proceedings, and preliminary motions add greatly to the cost and time required to deal with such matters and are therefore to be **discouraged**."[i]
>
> A party may not rest on allegations in its pleadings on a motion for summary judgment. The party must "put its best foot forward" or "lead trumps or risk losing" (*Caplan v. Atas*, 2021 ONSC 670, the Honourable Justice DL Corbett paragraph 106). The principle is applicable herein to the NOM #14 and #15 being summary type hearings and this *JRPA* Proceeding.

49. To the extent that Mr. Nieuwland's clients do not oppose and/or participate in this *JRPA* Proceeding, I believe that will be another factor that will militate in favour of a shortened time for the hearing of my section 6(2) of the *JRPA* leave request and, if leave is granted, the arguing of the merits of the *JRPA* Application.

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VOLUME #3(E): MY INCREASING CONCERNS REGARDING MR. BOYCE AND HIS VARIOUS ROLES AND WHETHER THE PREMATURITY OBJECTION IS A BONA FIDE OBJECTION – FOR: (I) NOTICE PURPOSES; AND (II) PRE-EMPTIVE PURPOSES

50. **However, I am deeply concerned with the record of Mr. Boyce and his role as a former adjudicator and Vice Chair as it relates to how he had decided in favour of the Respondent Insurance Companies and his objection on behalf of the LAT. I now copy and paste from the "Appendices" and I address the same with further sworn evidence:**

> Appendix #4. LAT decisions where Mr. Boyce, as he then was Vice Chair Boyce (adjudicative capacity between two parties), re issued decisions, orders, finding and determinations that were all in favour of the three respondent insurance companies.

(nota bene: Put another way, not one individual who was an insured person and injured in an automobile accident was successful on a single issue before him.

(nota bene #2: these decisions also provide further direct evidence that TDHA (First Insurer) has been involved in LAT/AABS matters)

SUMMARY: TOTALS INVOLVING THE RESPONDENT INSURANCE COMPANIES THAT ARE AT ISSUE IN THIS *JRPA* APPLICATION WHERE MR. BOYCE WAS THE DECISION MAKER

- **SNIC (includes TDIMM) AND TDHA COMBINED:**
  - **14-0-1**

> Security National Insurance Company (FSRA Registration number 897)
>
> - 4 in favour of SNIC and one split decision
> - Total 4 0 1

1. **Mr. Boyce issued the following decisions involving SNIC (5)**

   a. ***A.P. vs. Security National Insurance Company***, **2020 CanLII 14480 (ON LAT)**

      i. **[3] A.P. has <u>not</u> demonstrated that his impairments warrant treatment beyond the MIG. Accordingly, the treatment plans in dispute are not reasonable and necessary and no interest is payable.**

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b. *Security National Insurance Company v. Balgobin*, 2021 CanLII 18916 (ON LAT),
   i. [ ] Security National is entitled to a repayment of IRB in the amount of $3,257.14, plus interest, due to the respondent's failure to notify it of her return to work.
c. *Ndukwe v. Security National Insurance Company*, 2021 CanLII 50784 (ON LAT
   i. [3] The applicant has not met her burden of demonstrating that removal from the MIG is warranted or that the treatment plan is dispute is reasonable and necessary.
d. *I.G. v Security National Insurance Company*, 2019 CanLII 110085 (ON LAT),
   i. [5] I find I.G. is statute-barred from proceeding with her claim for attendant care but she may proceed with her claims for non-earner benefits and medical benefits before the Tribunal.
e. *M.B. v Security National Insurance Company*, 2019 CanLII 130379 (ON LAT) [nota bene: a closer look at said case demonstrates that SNIC was primarily successful on the amounts sought and amounts]
   i. [5] I find, on a balance of probabilities, that the home modification treatment plan in dispute is partially reasonable and necessary. Specifically, I find the cost of the accessible kitchen package and closet organizers proposed by ADL to be reasonable and necessary.

TDHA (FSRA registration number 1096)
▪ 4 in favour of TDHA ▪ One reversal in favour of Applicant but solely based on decision of ONCA (but for decision, it would have been in favour of TDHA) ▪ One finding in favour of Applicant on CAT but no entitlement to any benefits ▪ 5-0 on substantive issues ▪ 5-1 (objectively speaking for the successful reconsideration on a preliminary issue)

2. Mr Boyce has issued decisions involving the First Insurer herein (TDHA) (6):

a. *Polat v. TD Home and Auto Insurance Company*, 2021 CanLII 35573 (ON LAT),
   i. Decided in favour of TDHA;
b. *C.L. v TD Home and Auto Insurance Company*, 2019 CanLII 126182 (ON LAT
   i. [4] C.L. is statute-barred from proceeding with his application at the Tribunal until he attends the IEs scheduled by TD.
c. Applicant v. TD Home and Auto Insurance Company, 2020 CanLII 30438 (ON LAT) [reconsideration in favour of the Applicant solely based upon the ONCA decision in *Tomec*]:
   i. [3] [The applicant]'s request for reconsideration is granted. I reverse the Tribunal's previous decision on the preliminary issue and find [the

applicant] may proceed to the Tribunal with his claim. [still not a substantive benefit or quantum in favour of the applicant insured person]

d. *18-000169 v TD Home and Auto Insurance Company*, 2019 CanLII 22189 (ON LAT
   i. [6] I find that K.S. sustained a catastrophic impairment as a result of the accident.
   ii. [7] I find that K.S. is not entitled to a post-104 IRB as he does not suffer a complete inability to work in his pre-accident employment. While I find K.S. is entitled to an IRB for the post-accident period, no amount is payable. TD's claim for repayment is denied.
   iii. [8] I find that K.S. is not entitled to ACBs or housekeeping for the period in dispute as he has not demonstrated that his service provider suffered an economic loss
   iv. [9] I find that an award in this matter is not appropriate as TD did not unreasonably withhold or delay payment of benefits. Accordingly, as no benefits are overdue, no interest is payable.
   v. [24] For these reasons and on a balance of probabilities, I find that K.S. suffered a catastrophic impairment as a result of the accident.
e. 17-008493 v TD Home and Auto Insurance Company, 2019 CanLII 76874 (ON LAT)
   i. [7] SC's appeal is statute-barred pursuant to s.51 of the Schedule.
f. *17-008493 v. TD Home and Auto Insurance Company*, 2019 CanLII 63361 (ON LAT)
   i. [1] The applicant, the insured in this proceeding, has requested reconsideration of an interlocutory motion decision dated January 16, 2019. On that motion, the applicant was unsuccessful in obtaining an adjournment of a hearing on a preliminary issue until a similar issue has been decided by the Court of Appeal.
   ii. [3] For the reasons that follow, I deny this request for reconsideration.
   iii. Adjournment: [19] I agree with the respondent that a hearing should only be delayed because a party is pursuing a civil action on similar issues in exceptional circumstances. The applicant is not pursuing a civil action in this case, he is relying on the outcome of an appeal in *Tomec* as a reason to postpone the hearing of this matter.

TD Insurance Meloche Monnex [no FSRA registration number]
▪ 5 decisions ▪ 4 in favour of TDIMM ▪ 1, prima facie, split decision (but solely on technicality based on cost on completing OCF-18 and 19 forms i.e. section 25 expenses) so marked as in favour of TDIMM ○ 5-0 TDIMM over insured persons

3. Mr. Boyce has issued decisions involving a non-insurance company in TD Insurance Meloche Monnex and a "Mennox" (nota bene: it remains unclear from these decisions

whether the underwriter was Primmum (#1396) or SNIC (#397)) (5) [nota bene #2: for all intents and purposes, former Vice Chair Boyce decided all in favour of "TD Ins. Meloche Monnex" for a 5-0 total]

a. *Bagla v. TD Insurance Meloche Monnex*, 2021 CanLII 35579 (ON LAT)
   i. [7] The applicant is limitation-barred on both ACB claims.
b. *Scheltgen and TD Ins. Meloche Monnex*, 2022 CanLII 23403 (ON LAT)
   i. [3] The applicant's request for reconsideration is dismissed.
c. Scheltgen v TD Insurance Meloche Monnex, 2021 CanLII 124041 (ON LAT)
   i. [3] The applicant is statute-barred from proceeding with his application under s. 55(1)2 because he failed to attend a properly scheduled s. 44 IE
d. O.A. v TD Insurance Meloche-Mennox, 2020 CanLII 87965 (ON LAT) [nota bene: in effect a decision fully in favour of "TD Insurance Meloche Mennox [sic: as it relates to the same and not a corporate entity]]
   i. [7] O.A. is entitled to an additional $400.00, representing the cost of completing the OCF-18 and OCF-19 forms, as they are reasonable and necessary and were not captured by TD's partial approval of January 29, 2019.
   ii. [8] O.A. is not entitled to payment for any of the remaining unapproved items in the OCF-18, as they are not reasonable and necessary.
e. *I.R. v. TD Insurance Meloche Mennox* [sic], 2020 CanLII 87968 (ON LAT),
   i. [4] I find I.R. has not satisfied his burden to prove that his accident-related impairments warrant removal from the MIG. The remainder of the treatment plan in dispute is not payable, no interest applies, and an award is not appropriate.

51. I am also concerned that Mr. Boyce is located at the same office as VCL and presumably the same office as VCM (albeit she appears to not have updated her contact information with the LSO). I distinguish the same with the office location of Ms. Im, counsel to Ministry of Attorney General. I now copy and paste from the Appendices of my Oral Outline (Draft):

> **Order in Council 1421/2023**
> On the recommendation of the undersigned, the Lieutenant Governor of Ontario, by and with the advice and concurrence of the Executive Council of Ontario, orders that:
> Whereas Jesse Boyce was reappointed as full-time member and vice-chair of the Licence Appeal Tribunal for a fixed term of three years, effective November 12, 2022, by Order in Council O.C. 1319/2022;
> And whereas Jesse Boyce was reappointed as part-time member of the Ontario Civilian Police Commission for a fixed term of five years, effective February 21, 2023, by Order in Council O.C. 67/2023;

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And whereas Jesse Boyce tendered his resignation effective August 21, 2023;
Therefore, pursuant to subsection 2(3) of the *Licence Appeal Tribunal Act, 1999*, subsection 21(2) of the *Police Services Act* and subsection 16(4) of the *Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009*, Orders in Council O.C. 1319/2022 and 67/2023 be revoked effective August 21, 2023.
Ministry of the Attorney General
Approved and Ordered: September 28, 2023

LSO Directory

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SLASTO
Business Address
25 Grosvenor[Wlj] 4th FloorToronto, OntarioM7A 2S8
Phone
1 437 997 1235 Ext.
Trusteeships
None
Current Practice Restrictions
None
Current Regulatory Proceedings
None
Regulatory History
None

Appendix #2: Location of Vice Chair Lake and Vice Chair Merrissette

Lindsay Nicole Lake

374

Back to resultsNew SearchPrint
Assumed Name
Lindsay Lake
Law Society Number
53566E
Class of Licence Definitions
Lawyer (L1)
Real Estate Insured †
No
Status Definitions
Not Practising Law - Employed
Business Name
Licence Appeal Tribunal(AABS)
Business Address
25 Grosvenor Street19th FloorToronto, OntarioM7A 1R2
Phone
1 416 627 0430 Ext.
Email Address
lindsay.lake@ontario.ca
Trusteeships
None
Current Practice Restrictions
None
Current Regulatory Proceedings
None
Regulatory History
None

Ms. Morissette has the incorrect address for the LAT (it is Grosvenor Street)

Trina Karen Morissette
Back to resultsNew SearchPrint
Assumed Name
Trina Morissette
Law Society Number
44942T
Class of Licence Definitions
Lawyer (L1)
Real Estate Insured †
No
Status Definitions
Not Practising Law - Employed
Business Name
Licence Appeal Tribunal
Business Address

575

5-20 Dundas St WToronto, OntarioM5G 2C2
Phone
1 613 462 9237 Ext.
Trusteeships
None
Current Practice Restrictions
None
Current Regulatory Proceedings
None
Regulatory History
None

JUXTAPOSED TO MS. IM WHOSE EMPLOYER IS MAG AND SHE IS AT 720 BAY STREET

Judie Yung-Mi Im
Back to resultsNew SearchPrint
Assumed Name
Judie Im
Law Society Number
44577V
Class of Licence Definitions
Lawyer (L1)
Real Estate Insured
No
Status Definitions
Practising Law - Employed
Business Name
Ministry of Attorney General
Business Address
8-720 Bay StToronto, OntarioM7A 2S9
Phone
1 416 427 4611 Ext.
Email Address
judie.im@ontario.ca
Trusteeships
None
Current Practice Restrictions
None
Current Regulatory Proceedings
None
Regulatory History
None

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52. I further note that some of the issues that I had raised relating to the apparent or impugned backdating of the VCM Decision may relate to the following as cited and found by the ONSC (Divisional Court) in Shuttleworth:

> Issue #4, Volume #4(1)(E): Has this Tribunal learned anything since Shuttleworth?

While Shuttleworth is well-known to the ONSC (Divisional Court), which was upheld by the ONCA, the paragraphs from its decision are most compelling [double underlining is the Applicant's and single underlining is that of the court]:

> ***The Decision Review Process***
> [24] In-house counsel for the LAT swore an affidavit explaining that the executive chair implemented a decision review process at the LAT. The stated reason was to maximize the quality of the tribunal's decisions. The peer review process has not been adopted formally. No written policy was provided but counsel swore that, "generally, the LAT decision review process for <u>final decisions</u> is, and at all material times in this case was" as follows:
>
> <u>First, there is peer review</u>: After drafting a decision, an adjudicator ***<u>is expected to send the decision for peer review by the Duty Vice-Chair</u>***. The Duty Chair offers suggestions to improve clarity, reasoning and readability and might also evaluate, for example, whether the correct legal test has been applied and whether any related case law that was not mentioned might be helpful.
>
> <u>Second, there is legal review</u>: The SLASTO Legal Services Unit reviews the decision to ensure that the <u>**correct legal test**</u> has been applied and to identify any related case law that was not mentioned that might be helpful.
>
> <u>Third, there is a second peer review by the executive chair</u>: "In some rare instances – such as when a decision involves a novel, contentious,

> precedent-setting, or high profile issue – ***the Legal Services Unit will send the decision to the Executive chair for her review***. In these instances, the Executive chair serves, in essence, as a second peer reviewer and accordingly will order the same kinds of comments that the author would typically receive during the initial peer review."
>
> Fourth, there is a review by the file's case management officer: The case management officer acts as an intake officer and primary point of contact for the parties. This review involves examining the decision's format, correcting grammatical and spelling errors, and ensuring that the template and parties' names are correct. [Emphasis added.]

The hallmark of the above is that where the "*Rule* of Law" is at issue, Where a **Tribunal** such as this one is back to its old "bad habits" like it was in *Shuttleworth* and the recent discovery that a former adjudicator in Therese Reilly (LSO number 28621D; "not practising law" with "contact information withheld"[ix]) had received a conditional job offer from Aviva in 2022 and then proceeded to apparently issue 13 decisions in favour of Aviva before embarking on her in-house legal position.[x] Ms. Reilly's reply to the bias allegation a frightening one: "Reilly has told media her decisions in the insurance cases were fact-based and untainted by bias. She claims LAT disclosure procedures should be tightened up to prevent any appearance of bias." In effect, an experienced Vice Chair of the Tribunal's position is that the public should not known of a "conditional offer" of employment with an insurance company where she inevitably worked for a period thereafter (i.e. avoid these "disclosures" and have less transparency). The prejudice experienced by these injured person is denoted in a case like *Nagesu v Traders General Insurance Company*, 2024 CanLII 23453 (ON LAT) where Associate Chair had to cancel the decisions of former adjudicator Ms. Reilly. The position of Aviva is perhaps even more concerning: "Aviva Canada said it was unaware Reilly was involved in insurance cases for LAT after the insurer hired her." It is rather disingenuous or intentionally misleading considering it was a "conditional offer of employment" and, of course, Vice Chair Reilly could not be involved in insurance cases for LAT *after* the hiring.

Upon investigation by the LAT, it was, in fact, only four decisions wherein Vice Chair Reilly had issued decisions after her acceptance of an offer of conditional employment. Mr. Boyce, counsel to the Tribunal herein and a former Vice Chair of the Tribunal with the same employer or payor of his

wages (see: Appendix #2), "batted a better record" for the TDHA and SNIC as his time as a Vice Chair. Involving SNIC and TDHA, they were 14-0-1 when Vice Chair Boyce, as he then was, was the decision maker (see: **Appendix #3**). Is this Mr. Boyce's 'cooling off period' before joining the likes of Mr. Nieuwland as counsel at TD Insurance Staff Legal? Is this why Mr. Nieuwland and his clients have remained silent? Is Mr. Boyce seeking to, in good faith, raise prematurity or is this a circuitous route for him to defend the advice he provided to the Tribunal before the VCM Decision was issued?

The optics are not pleasant on the eyes or ears. The rule of law requires the ONSC, by a single justice, to intervene judicially to immediately put an end to the real unfairness to not only this *JRPA* Applicant but others similarly situated.

Issue #4, Volume #4(I)(F)(i): Application of the LAT structure to these facts

In-house counsel for the Tribunal would be the likes of a Mr. Boyce.

With great respect to the former case manager in Mr. Grant, his explanations regarding why he apparently input TDGIC do not pass muster. He requested that the Applicant provide the denial letters, which were already contained in the LAT Appeal by way of pre-LAT Appeal affidavits, and they contained the sole of SNIC with its two locations of Markham and Burlington and neither location housed the landline fax number of 416.774.3120. The mere fact that Mr. Grant would be responsible for the "parties' names are correct" is a scary cogitation. This is the same Mr. Grant that represented to the SABS Applicant that he could not file, when his file number was not recognized in the e-filing portal that it was due to a "power outage". It was about as believable as his previous representations about why he input TDGIC as the sole respondent over the very name in the "denial letters".

Why is the Tribunal remaining in a state of non-compliance with its statutory duties to forthwith file the record of proceeding? The Applicant respectfully submits that the question answers itself.

Issue #4, Volume #4(I)(F):The issues remain ongoing

The issues have not stopped there as per this article, "OLTA Pushes for Urgent LAT Review" (see: https://www.lawtimesnews.com/practice-areas/personal-injury/olta-pushes-for-urgent-licence-appeal-tribunal-review/389679)

> "The association cited "disturbing trends" drawn from an inHEALTH analysis
>
> > OTLA noted that the success rate for insured applicants bringing their disputes to LAT has fallen over the years, with just 10% getting a win in 2023 compared to 2017's 33%.
>
> "Our members have voiced concerns that the LAT's process is overly rigid, is fraught with procedural unfairness, and fails to accommodate requests, even when both parties agree. This also raises important questions about the qualifications and training of LAT adjudicators," Purewal said. "The LAT is an arm of our justice system. Injured Ontario citizens should feel confident that they are getting a fair hearing and that justice is being done. Unfortunately, with the recent declining trends in success rates for applicants and the overwhelming success of insurers is raising significant questions for our membership."

VOLUME #3(F): ADDITIONAL AUTHORITY OF ROL-LAND FARMS LIMITED

53. I will also be relying on an additional authority of *Rol-Land Farms Limited* for the purposes of my Requisition #2:

Rol-Land Farms Limited (paragraph 44) party status is a discrete issue that has been finally determined

The Divisional Court (ONSC) found, while drawing similarities to *Great Atlantic v. Minister of Citizenship (Ontario)* in *Rol-Land Farms Limited* as follows at paragraph 44 while

> [44] In this case, as in *Great Atlantic & Pacific Co. of Canada Ltd. v. Ontario (Minister of Citizenship)*, [1993] O.J. No. 4179 (Div. Ct.), the question whether Ms. Harold was properly added as a party should be addressed as an interlocutory matter. The issue of party status is a ***discrete issue*** that has been ***FINALLY DETERMINED*** by the **Tribunal**. The full record upon which the **Tribunal** made its decision is before this Court.

Under the sub-heading, the converse is also true: putting the *JRPA* Applicant, in his capacity as a SABS Applicant, to the expense and time of proceeding against a non-First Insurer runs the risk of repeating this *JRPA* Proceeding again on the exact same legal issues.

At paragraph 45, **LEITCH r.s.j., GREER and Swinton JJ.B.** found as follows:

> "[45] Failure to address the issue of party status at this time will subject Ms. Harold to considerable prejudice. The proceedings before the Tribunal are expected to last between 20 and 25 days. While the respondents have suggested that Ms. Harold need not participate, that argument is without merit, given that she risks having findings made against her. Before she should be put to the trouble and expense of a hearing, the correctness of the Tribunal's decision to add her as a party should be determined. Therefore, this is one of the exceptional cases in which the application for judicial review of the interlocutory decision should be determined.

The above language in *Rol-Land Farms Limited* and section 6(2) of the *JRPA* are ironically similar in that the ONSCDC used the following: "where the preliminary decision will likely result in a fundamental failure of justice" and section 6(2) of the *JRPA* utilizes the language of "where it is made to appear to the judge that the case is one of urgency and that the delay required for an application to the Divisional Court is likely to involve a failure of justice. R.S.O. 1990, c. J.1, s. 6 (2); 2006, c. 19, Sched. C, s. 1 (1)."

The common or similar words between the jurisprudential statement of law and the legislative language in the *JRPA* are:

a. Likely;
b. Result vs. involve; and
c. Failure of justice.

The statement of law in *Rol-Land Farms Limited* and *JRPA*, ss. 6(2) both relate to a timing issue as follows:

a. The ONSC deciding a *JRPA* Application at a certain time where the underlying administrative proceeding is going (i.e. whether or not it is premature to do so); and
b. The ONSC deciding the *JRPA* Application before a single justice as opposed to having a three judge panel of the ONSC Divisional Court decide the same later (i.e. whether or not the delay in waiting for the ONSC Divisional Court to decide it later will likely, albeit only appearance, result in a failure of justice).

VOLUME #4: CONCLUSION AND JURAT

54. I believe, without making any legal conclusion, that I have provided, in addition to my filings, evidence where it has been made to appear that the case is urgent and the time to make any application to the ONSC Divisional Court will likely involve a failure of justice.

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55. I do not tender any of the above evidence to castigate any of the above individuals but I have done so to draw to the attention well in advance of January 14 or 16, 2025, that I will be further raising these issues in my leave request under section 6(2) of the *JRPA*. In this manner, I believe I have provided them with sufficient time to make any necessary adjustments. I have done so, in my view, as a courtesy and out of respect for the resources of the ONSC.

56. While I will continue to condense my Oral Outline so it meets the requirement of "succinctness", I have provided the above excerpts in such form for the above purposes. I will now cross-reference my Affidavit #2 to the Oral Outline.

57. I could argue the section 6(2) of the *JRPA* request and merits at this time in person, via phone, or Zoom.

58. I swear this Affidavit #2 so I have "led evidence" in relation to the test for a request for leave of an ONSC single justice pursuant to section 6(2) of *JRPA*.

59. I swear this **Affidavit #2** for no improper purpose and for the above purposes.

Sworn before me at **Toronto, Ontario**
On this 30th day of December 2024

Mr. Kevin A. McLean (B.A., J.D., CIM)

Vinh The Tran, Esq.

Unlimited, No Expiration.
NO ILA PROVIDED.
Identification Confirmed.

[illegible]

[illegible]*Hutchinson v. Aviva General Insurance Company*, 2022 ONSC 7136, Justice Nishikawa
"Cited in my letters (emails) to the ONSC Divisional Court (Madam Clerk and Ms. Lawrence) with copying of the respondents' counsel
"As per the endnote in this subheading, the plaintiff (appellant at the ONSC Divisional Court and appellant at the ONCA) had a rather baseless claim marked by ludicrous, absurd and baseless attacks against any and everyone. She was seeking criminal convictions against various government bodies and employees *in absentia*. However, the relief sought to add parties, which included six lawyers no less, which was dismissed by The Honourable Justice Vella of the ONSC, sitting as a case management judge dismissed the motion on grounds of abuse of process, frivolous, vexatious et al pursuant to Rule 2.01 of the Civil Rules. The ONCA, with a three judge panel as Justice Simmons of the ONCA was concerned that while the Divisional Court's decisions and orders were final, the motions judge's (as the ONCA referred to Justice Vella, although more precisely a case management judge) order may not have been interlocutory. The corollary of the same was that the M.E. would not have required leave to appeal the order of Justice Vella but rather would have been able to bring an appeal without leave. As Simmon J.A. could not determine the same as a single justice of the ONCA, she adjourned the leave motion to the ONCA to ME, to a three justice panel. In 2021, the ONCA found as follows:

> [1] This matter has a long procedural history. For present purposes, it is sufficient to focus on the motion brought by M.E. on October 9, 2020, wherein she sought to add additional causes of action and new parties to the action. The motion judge dismissed the motion as frivolous, vexatious, and an abuse of process under r. 2.1.01: *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194. M.E. then sought leave to appeal the motion judge's order to the Divisional Court. A panel of the Divisional Court dismissed that motion.
> [2] On May 17, 2021, M.E. applied to this court for leave to appeal the Divisional Court's order. The Registrar has repeatedly informed her that her materials do not comply with the Rules and practice directions. On July 5, 2021, M.E. filed the underlying" Notice of Motion for Non-Compliance." Simmons J.A. heard the motion on July 27, 2021. She adjourned the matter to a full panel, noting that while the Divisional Court's order was final, the motion judge's order concerned a motion to add causes of action, which may not be interlocutory. As a single judge, Simmons J.A. could not determine this issue.
>
> [3] We conclude that M.E. was seeking to add new causes of action. An order refusing leave to amend pleadings to plead a new cause of action is final: *Atlas Construction Inc. v. Brownstones Ltd.* (1996), 46 C.P.C. (3d) 67 (Ont. Gen. Div.). So is an order dismissing a motion to add a party, which M.E. also appears to have been trying to do: *Bryson v. Kerr* (1976), 1976 CanLII 867 (ON SC), 13 O.R. (2d) 672 (Ont. Div. Ct.). Accordingly, leave to appeal is not required and an appeal lies as of right to the Court of Appeal: *Courts of Justice Act*, R.S.O. 1990, c. C.43, s. 6(1)(b).
>
> [4] We order that the appeal of the motion judge's order of October 9, 2020 may proceed in this court. Costs of this motion are reserved to the panel hearing the appeal."

"(i)"**Adequate**" is defined as: **lawfully and reasonably sufficient.**" This connotes an objective person test by the word "**reasonably**". "**Sufficient**" is defined as: *enough* to meet the needs of a situation or a proposed end. "**Lawfully**" is defined as: being in harmony with the law; (h) "**Alternative**" is defined as: "offering or expressing a choice"; and "**Available**" means "present or ready for immediate use".
"The general common law rule is that a decision-maker is functus officio when they make a final decision in respect of the matter before it": *Chandler v. Alberta Association of Architects*, 1989 CanLII 41 (SCC), [1989] 2 S.C.R. 848, at p. 861. In Chandler, the Supreme Court held that:"As a general rule, once a tribunal has reached a final decision in respect to the matter that is before it in accordance with its enabling statute, that decision cannot be revisited because

the tribunal has changed its mind, made an error within jurisdiction or because there has been a change of circumstances. It can only do so if authorized by statute or if there has been a slip or error within [certain] exceptions....' Ergo, while it is always prudent and responsible, like the Applicant did, to bring forth a reconsideration motion, VCM was functus officio when she executed the VCM Decision.

[vi] definition of "preliminary": denoting an action or event preceding or done in preparation for something fuller or more important.

[vii] *David Bull Laboratories (Canada) Inc. v. Pharmacia Inc.*, 1994 CanLII 3529 (FCA) (F.C.A.); *Roviaro v. Western Logistics Inc.*, 2021 FCA 241 at paras. 23, 27-30.

[viii] Where Mr. McLean's FIPPA request was delivered

[ix] https://lso.ca/public-resources/finding-a-lawyer-or-paralegal/directory-search/member?MemberNumber=28621D

[x] https://www.canadianunderwriter.ca/risk/aviva-and-ontario-adjudicator-under-investigation-for-conflict-of-interest-allegations-1004236762/

Tab 66

Electronically filed / Déposé par voie électronique : 18-Feb-2025
Toronto Superior Court of Justice / Cour supérieure de justice

TAB #37: ORAL COMPENDIUM: COURT FILE NO. DC-24-00000718-00JR

Tab for Applicant

TAB 37, PAGE 604

Court File No.
DC-24-00000718-00JR

ONTARIO COURT OF JUSTICE (DIVISIONAL COURT)

BETWEEN.

KEVIN ALEXANDER MCLEAN

APPLICANT

- and -

TD HOME AND AUTO INSURANCE COMPANY, SECURITY NATIONAL INSURANCE COMPANY, TD GENERAL INSURANCE COMPANY, EXECUTIVE DIRECTOR, LICENCE APPEAL TRIBUNAL,
HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, REPRESENTED BY EXECUTIVE CHAIR OF TRIBUNALS ONTARIO IN MR. SEAN WEIR, THE ATTORNEY GENERAL OF ONTARIO

RESPONDENTS

NOTICE OF APPLICATION TO DIVISIONAL COURT FOR JUDICIAL REVIEW

TO THE RESPONDENTS:

A LEGAL PROCEEDING HAS BEEN COMMENCED by the Applicants. The claim made by the Applicants appears on the following pages.

THIS APPLICATION for Judicial Review will come on for a hearing before the Divisional Court on a date to be fixed by the Registrar at the place of hearing requested by the Applicants. The Applicants request that this application be heard at Osgoode Hall, 130 Queen Street West, Toronto, Ontario, M5H 2N5.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or an Ontario lawyer acting for you must forthwith prepare a notice of appearance in Form 38A prescribed by the Rules of Civil Procedure, serve it on the Applicants' lawyer or, where the Applicants do not have a lawyer, serve it on the Applicants, and file it, with proof of service, in the office of the Divisional Court, and you or your lawyer must appear at the hearing.

IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE APPLICATION, you or your lawyer must, in addition to serving your notice of appearance, serve a copy of the evidence on the Applicants' lawyer or, where the Applicants do not have a lawyer, serve it on the Applicants, and file it, with

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proof of service, in the office of the Divisional Court within thirty days after service on you of the Applicants' application record, or not later than 2 p.m. on the day before the hearing, whichever is earlier.

IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

Date: November 15, 2024

Issued by

Jessa-Marie Clegg
Digitally signed by Jessa-Marie Clegg
Date: 2024.11.22 10:11:31 -05'00'

Address of Local Registrar court office Divisional Court

Superior Court of Justice
Osgoode Hall
130 Queen Street West
Toronto, ON M5H 2N5

TO: ATTORNEY GENERAL OF ONTARIO
Crown Law Office — Civil
8th Floor, 720 Bay Street
Toronto, ON

AND TO:

Respondent Insurance Companies (addresses particularized and identified along with counsel in the record of proceeding and the civil claims submissions portal)

APPLICATION

Volume #1: Relief Sought

1. The Applicant adopts his definitions from the record of proceeding, including the hearing record in NOM #13 to #15 and NOM #16 and they have the same meaning herein as they do therein.

2. The Applicant makes the application for the following relief in the form of any orders, declarations, findings, determinations or directions with great respect to the License Appeal Tribunal and gratitude to the ONSC (Divisional Court) for its consideration of the same:

   a. An Order that this JRPA proceeding be declared as public interest litigation;

   b. An order that no costs are awarded against the Applicant in any event of the cause;

   c. An Order compelling Vice Chair Morrissette or the Tribunal to decide the Applicant's motion (defined as "NOM #16" which was served on SNIC, TDHA, and TDGIC and filed in September 2024) or confirm with the Applicant, copied to this ONSC (Divisional Court), that it is declining to exercise its jurisdiction or discretion under section 21.1 of the SPPA;

      i. An Order, thereafter the Tribunal complying with the above order, that Vice Chair Lake either amend her reconsideration decision (the "RD") or confirm, with a copy to this court, that she is declining to exercise her jurisdiction or discretion;

         I. An Order that the 30 day time limit under the JRPA does not commence until the above orders are complete;

   d. A preliminary or procedural order that this judicial review is heard before a single sitting judge pursuant to section 6(2) of the *JRPA*;

   e. A procedural and preliminary order that the limitation period for judicial review involving the final orders involving NOM #14 and NOM #15 does not commence until the Licence Appeal Tribunal/AABS issues its order regarding the Applicant's section 21.1 of the SPPA motion ("NOM #16") (filed in September 2024 but "in "progress" as of November 15, 2024, to the LAT/AABS) and the Tribunal issues any amended decision regarding the Applicant's likely amended reconsideration motion;

   f. An Order that the Applicant may add and include fresh evidence when it becomes available to him through any lawful means including the LAT and/or any privacy requests that are outstanding at the time of this JRPA Application;

   g. A procedural and preliminary order that no responsive materials are required from the Respondent Insurers and they are not entitled to participate without leave as they chose not to participate in the underlying motions subject to the Respondent Insurers participating in any of aforementioned amended motions arising out of the Applicant's NOM #16;

   h. An order in the nature of mandamus requiring the Tribunal to comply with its requirements regarding the provision of hearing notices to any and all parties prior to issuing decisions;

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i. An Order in the nature of mandamus requiring the Tribunal to comply with its specific rules, effective August 21, 2023, with particular reference to granting non-parties the right to make submissions prior to the issuance of a decision;

j. A declaration that certain specific rules in the LAT Rules are ultra vires the Tribunal which will be specified in the Applicant's factum;

k. An Order that the relief sought in the Applicant's motions (see: NOM #14 (August 3, 2024) and NOM #15 (August 21, 2024)) (see: Appendices #1 and #2) including his reconsideration motion, dated September 27, 2024, is granted in substantially the same form:

   i. An Order quashing or in certiorari and/or varying the orders of Vice Chair Morrissette ("VCM") decision on September 12, 2024, to the substantive orders sought therein; and

   ii. An Order quashing or in the nature of certiorari and/or varying the orders in the Vice Chair decision on involving the Applicant's reconsideration motion;

l. More specifically, the Orders sought by the Applicant shall be granted in full or substantially the same form as he sought them at the time:

   i. An Order cancelling the decisions and orders of the Adjudicator in NOM #14 and NOM #15;

   ii. An Order varying the decision of the Appellate Tribunal as follows:

      1. Granting the relief sought in NOM #14 (see: Hearing Record, Tab 1, page 3; see also: Appendix #1 herein); and

      2. Grant the relief in NOM #15, paragraph #3 (see: Appendix #2 herein);

m. A Declaration and Order that TDHA, FSRA registration number 1063, is declared the "**First Insurer**" pursuant to Reg 283, and such an order shall remain as it relates to the Applicant (also defined as the "Insured Person" or "Disabled Individual" arising out of no-fault car accident on August 31, 2022);

n. An Order compelling the LAT to provide and disclose any and all records involving who was the first respondent denoted in its LAT/AABS e-filing system;

o. An Order quashing VC Lake's Reconsideration Decision on grounds of conflict of interest and/or reasonable apprehension of bias;

p. Such injunctive or interlocutory relief as may be sought by the Applicant, until such time this application can be determined on its merits;

q. Costs in favour of the Applicant; and

r. Such other relief that the Applicant may advise and this Court may allow.

Volume #2: The Grounds for the Application

3. This judicial review can be disposed of on one legal ground and error, while there are broader errors in the VCM decision in the **First Insurer Motions** which include the following statement: "[27] ..... The initial respondent [sic], TDGIC, and the current respondent, SNIC accepted priority over the applicant's [sic] insurance policy".

4. Therefore, if SNIC and TDGIC accepted priority of the Insurance Policy, as found by the Adjudicator, and the Appellant did not make any such offer to either for them to 'accept priority of the Insurance Policy' and/or neither SNIC nor TDGIC first received the **Appellant's Completed Application**, then TDGIC had to receive that offer of "priority" (as the Adjudicator puts it) from the "**First Insurer**".

5. As a matter of law, could TDHA offer "priority" to SNIC and TDGIC? The question answers itself.

6. As the Applicant, along with SNIC, TDHA and TDGIC, are awaiting the decision from Vice Chair Morrissette in NOM #16, the Applicant took the time to advance this judicial review application so that it is filed and then can be amended after receiving the NOM #16 decision. Moreover, it may be affecting the reconsideration decision of Vice Chair Lake. Unlike an appeal under *LAT A*, the underlying matter is not stayed.

7. The Appellant is a disabled individual residing in Toronto, Ontario. At the time of the Accident, he was 39 years old with a G2 license. At the time of these submissions, he is 41 years old with a G license. The Appellant is the spouse of the individual insured (Nicole Artopoulos) and the Insured Automobile was leased from the lessor BMW Financial Services Inc. Since April 2018, the Appellant and Ms. Artopoulos have resided at 775 King Street West, Toronto, Ontario, M5V 2K3. Ms. Artopoulos, in Spring 2018, obtained an exclusive automotive insurance policy through SNIC as her being a University Of Toronto alumnus for a previous BMW leased vehicle. In October 2019, the same insurance policy was transferred to the Insured Automobile.

8. Security National Insurance Company ("SNIC") was incorporated under the CBCA in 1934, then continued under the federal *Insurance Act* with its head office in Montreal, Quebec. At the time of the Accident, SNIC was licensed with the FSRA to provide six (6) classes of insurance in Ontario and its FSRA registration number if 397. From 2018 to the time of the Accident and thereafter, SNIC's Ontario office has been the McNabb Building in Markham, Ontario. The primary area code for phone and fax lines in

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Markham is "905". At the time of the Accident, SNIC provided the return mailing address of the Markham McNabb Building but, in error, provided a "416 area code" fax number. The head tenants at the Markham McNabb Building are: (i) TD Bank; and (ii) General Motors. SNIC and Primmum Insurance Company ("Primmum") (FSRA reg. #1396), by virtue of them not having "TD" in their corporate names, operate under the colloquial business name of "TD Insurance Meloche Monnex" under two licensed trademarks from TD Bank and Meloche Monnex Inc. in: (i) "TD Insurance"; and (ii) "Meloche Monnex". SNIC, through TDIMM, issues policies under the "Professionals and Alumni Program" and Primmum, through TDIMM, issues policies under the "Employer Group Program". In October 2023, upon the Appellant's return to Canada after obtaining requisite MRIs, examinations, assessments and reports, the Appellant learned that SNIC had purported to change its physical address and fax number to: (i) the Burlington Address; and (ii) 905 Fax Number. The Burlington Address is 91 km from SNIC Markham (McNabb Building), where Meloche Monnex Inc. has its registered records office. The "Ontario Business Directory" lists the Burlington Address and 905 Fax Number as being the business of "TD Insurance". The "Ontario Business Directory" also lists the head office associated with the Burlington Address as the Victoria Park Building (see: Affidavit #29, Exhibit "A", page 1 and 2).

9. In the SNIC Response, SNIC did not list the 416 Fax Number as a fax number for service. With the benefit of hindsight and labyrinthian investigations, the only factual contact information that SNIC provided to the Appellant was its mailing address at the Markham McNabb Building. Neither the 416 Fax Number (which is the material mistake as it relates to whom is the First Insurer) nor the 905 Fax Number were fax numbers for SNIC as a recipient. Further, the Burlington Address was not an address for receipt of documents from the Appellant for SNIC.

10. TD Home And Auto Insurance Company ("TDHA") is an insurance company that is licensed, by the FSRA, to provide three classes of insurance including automotive insurance. TDHA's FSRA registration number is 1063. At the time of the Accident, the lead tenant(s) at the Victoria Park Building were denoted as "TD Insurance" by the property manager at the VP Building in Collies International. From 2018 to present, the "Ontario Business Directory" has listed the fax number of 416-774-3120 (the "416 Fax Number") as the fax number for TDHA. The 416 Fax Number is a landline, owned by Bell Canada Inc., which is grounded at the Victoria Park Building. In the HCAI Portal, the Appellant's TD Claim #3, contrary to the information he provided his physiotherapists as the return mailing address in documents, prima facie, sent to him by SNIC, auto-populated the name of the adjuster and a branch address for SNIC

of 304 The East Mall, 6th floor, Etobicoke, Toronto, Ontario, M9B 6B7 (the "**Etobicoke East Mall Address**") (see: Affidavit #21, Exhibit "A", page 20 to 22 for "branch names" as being "independent" of the licensed insurer. Yelp, another online business directory, lists the Etobicoke East Mall Address as the address for TDHAIC (see: Tab 18, page 340 to 343). While SNIC never, in letter to the Appellant, represented that its address was the Etobicoke East Mall Address, it is now clear that said address, created by SNIC for this TD Claim #3, was independent of SNIC, and an address for TDHA.

11. On or around September 1, 2022, the Appellant notified SNIC of his intention to apply for accident benefits. Due to an error in his postal code, the Appellant did not received an application benefits package from SNIC until late September 2022. On October 13, 2022, the Appellant fax delivered his OCF-1 (also defined as "Completed Application") to the 416 Fax Number. The Appellant also delivered the OCF-2, on his behalf by his employer, to the 416 Fax Number. On November 3, 2022, his attending medical doctor for his post-Accident impairments, completed and signed his portions of the OCF-3, and faxed the completed OCF-3 to the 416 Fax Number. 90 days from October 13, 2022 was January 10, 2022. The Appellant did not receive any dispute notice from SNIC or any other insurance company by January 10, 2023, pursuant to Reg 283. From January 11, 2023, to October 2023, the Appellant continued to fax the 416 Fax Number with all confidential information and other OCF forms regarding TD Claim #3. In October 2023, the Appellant attempted to fax some of his documents to the 905 Fax Number, with a copy to the 416 Fax Number, but the 905 Fax Number would more regularly, than the 416 Fax Number, block his faxes and/or drop them during the sending process. In November 2023, the Appellant fax delivered the completed OCF-19. On December 24, 2023, the Appellant filed this Appeal and served the duly signed Appeal to the 416 Fax Number. For some context along the way, in March 2023, the Appellant received a request from SNIC via mail wishing to communicate via email. The Appellant faxed the 416 Fax Number with his decline regarding the same and the reasons therein (i.e. PIPEDA issues and absence of compliance by whom he presumed was SNIC).

12. In April 2023, the Appellant received the "Spam Faxes" wherein an unknown person or company represented to him that it (after receipt of faxes at the 416 Fax Number but not from the 416 Fax Number) had no record of his TD Claim #3. The Appellant promptly faxed the 416 Fax Number (attention: Ms. Nurse) to alert SNIC to the issue of the "Spam Faxes" and his dismay that said recipient had no record of his TD Claim #3. In early May 2023, the Appellant received the purported attempt by SNIC to partially approve and partially reject the Dhaliwal OCF-18 (April 6, 2023) with the Forged Nurse Signature. After being successful in his NOM #8, by order on June 21, 2024, of the Tribunal, the Appellant filed his NOM

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#13 for non-party production and disclosure by the Fictitious Respondent (TDGIC) on July 9, 2024. The Appellant hand delivered the NOM #13 hearing brief to the listed address for the Fictitious Respondent, which was the Victoria Park Building which only became known to the Appellant for TDGIC in February 2024 (as it was not in the SNIC Response as an address for SNIC or previously), and learned that TDGIC had misrepresented its address to the Tribunal as it had not been a tenant for over a year (i.e. July 2023). The building manager for the VP Building represented that TDGIC had moved to the Markham McNabb Building. The building manager for the VP Building did NOT represent that TDGIC had moved to any of the following addresses: (i) the Burlington Address; or the (ii) the Etobicoke East Mall Address. From July 26 to July 31, 2024, the Appellant provided notice to TDHA, with a copy to SNIC, that the evidence was uncontroverted that the 416 Fax Number, the 905 Fax Number, the Burlington Address, and the East Mall Address were contact information exclusively for TDHA. Neither TDHA nor SNIC denied the same. From August 1 to 2, 2024, the Appellant sought the consent of SNIC and TDHA to add TDHA as a party, and neither TDHA nor SNIC responded. As of August 3, 2024, TDHA has never responded to the Appellant despite the Appellant sending faxes to the 416 Fax Number, 905 Fax Number, and through authorized submissions to HCAI, the East Mall Address. SNIC has not started any section 7(1) of Reg 283 arbitration. SNIC and the Appellant consented since January 2024 to the Email Communication Protocol

13. The question of fact to be answered in NOM #14 are on a balance of probabilities:

a. a) *Who was the owner of the **416 Fax Number**, which is a landline located at the Victoria Park Building in Toronto, in October 2022? (b) Was the address of 304 The East Mall, 6th Floor, Etobicoke, Toronto, Ontario (the "East Mall Address"), which is denoted by auto-population in HCAI after TD Claim #3 is inputted therein, an address for an address for SNIC, the address of TDHA, SNIC or another insurance company? And (c) Which insurance company holds the file for the **Fictitious TD Claim Number**?*

14. The issue of law to be answered in this NOM #14 on a balance of probabilities is

whether TDIIA was the **First Insurer** (i.e. the insurance company to receive the Appellant's Completed Application on October 13, 2022)?

15. The substantial amendments to Reg 283 became effective in September 2010. Reg 283 is designed to keep priority disputes out of the courts (see: *Zurich 2024*, paragraph 6). Reg 283 is also purposed to prevent SABS claims, including vital treatments and income benefits, from being delayed while insurers fight over priority dispute under section 268(2) of the *Insurance Act* (see: *Zurich 2024*, paragraph 161. SABS and Reg 283, having undergone major amendments in 2010 after being submitted to industry consultations and amendments before proclamations, they reflect important policy choices to ensure order and stability in regulated industries (see: *Bristol-Myers Squibb v. Canada (AG)*, 2005 1 SCR 533 at paragraph 99-100).As a matter of principle, there is difference between an insurer's failure to pay under section 2 of Reg 283 and a failure to pay under any provision of SABS (see. *Zurich 2024*, paragraph 54). While a **First Insurer** may have never received insurance premiums from the insured person (claimant) may seem intuitively wrong but the Legislature and LGIC's intent are to be respected. There is no, per se, harshness to be alleviated by a sophisticated insurance company, with endless resources, who receives a faxed OFC-1, who fails to investigate within three months and provides a notice to an insured person and other insurers under section 3 of Reg 283. The provisional first-insurer rule under the regulation and the priority regime under the statute operate *differently* (see: Zurich, paragraph 8). As long as a claimant for accident benefits completes all required fields (see: SABS, ss. 66 and 67) and signs the OCF-1, the **First Insurer** that receives an OCF-1 application MUST pay benefits in accordance with SABS (see: Reg 283, ss. 2.1(6)). If the **First Insurer** does not take any issue, within ten business days (approximately 15 calendar days) of receipt of the Completed Application, the **First Insurer** has 75 days from then to provide a notice of dispute that it is required to pay the benefits of the claimant in which it received a Completed Application. Irrespective of whether the claimant is an "insured person" or not in the subjective mind of the **First Insurer**, the **First Insurer** must respond to the Completed Application and the claimant (see: Reg 283, ss. 2.1(6)). Acceptance during the 90-day period is merely provisional (see: *Zurich 2024*, paragraph 29). If the **First Insurer** does not dispute, within 90 days, its liability to pay all benefits, in accordance with SABS, of the claimant, there is no other process for the **First Insurer** to transfer, dispute

and recover any paid or to be paid benefits to the claimant. **First Insurer**'s calculus to not accept a claim for whatever subjective reason can turn out to a costly and permanent mistake (see: Zurich, paragraph 10) As of 2015, in *Zurich 2015*, the SCC held that Chubb ought to have responded to the SABS claim immediately on a 'pay first and dispute later' basis (see: *Zurich 2024*, paragraph 12). long as the Completed Application by the claimant was not arbitrary, there is a nexus between the claimant and the **First Insurer** (i.e. the one to receive the Completed Application) (see: *Zurich 2024*, paragraph 14). In *Zurich 2015*, the SCC (see: 2015 SCC 19) restored Goldstein J (ONSC (Divisional Court)) in adopting the dissent of Juriansz J.A.: 2014 ONCA 400. a vague recollection about seeing an insurer's name at a rental car office was sufficiently non-arbitrary to require the **First Insurer** (Chubb in *Zurich 2015*)) to step into the shoes as a "**First Insurer**" for the purposes of section 2(1) of Reg 283 (see: *Zurich 2024*, paragraph 15). long as the **First Insurer** providers automobile insurance in Ontario at the time of receipt of the Completed Application there is a sufficient nexus between a claimant and the **First Insurer** (see. *Zurich 2024*, paragraph 16). The policy behind the inflexible rule that an insurer (like TDHA) fails to pay benefits and fails to put other insurers on notice after receipt of a Completed Application, when there is *SOME* nexus, being permanently responsible for the claimant's benefits is to promote compliance with the statutory scheme It is not an issue herein of this Appellant and **TDHA** but rather the greater public interest and ongoing and future compliance by all other similarly situated '**First Insurers**' (see. *Zurich 2024*, paragraph 31, where the second arbitrator cited paragraph 62 from the decision of Strathy J. (as he then was) in Lombard Canada Ltd., 2008, 94 O.R. (3d) 62 (Ont. S.C J.)The ONSC in *Zurich 2024* has settled the law in the above regards as follows: (i) breach of section 2 of Reg 283, according to the case law, does not result in the an insurer being required to pay benefits to the claimant permanently: BUT, (ii) the failure TO AVAIL itself of section 3 does TDHA's permanent liability for paying benefits was a self-inflicted consequence of its failure to adhere to the requirements of both section 2 and s. 3 of Reg 283. The combination of provisions in Reg 283 transformed TDHA's provisional liability into a permanent

one (see: *Zurich 2024*, paragraph 64). For TDHA to not be declared as the **First Insurer** would mean that there were no consequences for the conduct (or inaction) of TDHA by receipt of the Completed Application and by continuing to have its former branch office address (East Mall Address) auto-populate in HCAI, and it would defeat the legislation's public policy: "*pay now and dispute later*".

16. "Arbitrary" means: determined by impulse rather than reason. The Appellant faxed the Completed Application solely based on the reason that SNIC represented that its fax number was the 416 Fax Number when it could not have been based on SNIC's physical location at SNIC Markham. Therefore, the Appellant did not make an "arbitrary decision" to fax his Completed Application to the 416 Fax Number. "Receipt" means: "to get possession of". TDHA got possession of the Completed Application as the **First Insurer** on October 13, 2022. There is now no dispute that the Spam Faxes, which SNIC could not produce in the face of a demand from the Appellant for the same, were on behalf of TDHA and its attempt to steer the Appellant away from the 416 Fax Number and its representation it [TDHA] had no record of its claim. TDHA would NOT have had a "record" of the Appellant's TD Claim #3 as it the TD Claim #3 was likely created by SNIC but when the Appellant faxed the Completed Application, as opposed to mailing to SNIC Markham, to the 416 Fax Number, TDHA became the **First Insurer**.

17. The 416 Fax Number was the fax number for TDHA in September and October 2022. TDHA has been an adjusting insurance company, by reference to the East Mall Address which has been exclusively represented to the public as TDHA's address, of the Appellant's TD Claim #3, including by way of the Fictitious TD Claim Number, since it was so denoted in the HCAI portal as such. The 905 Fax Number and the Burlington Addresses were, at the material times post receipt of the Appellant's OCF-1, OCF-2, OCF-3, OCF-6's and OCF-18 (Dhaliwal), address for receipt of documents and confidential information of the Appellant (albeit unbeknownst to him) by TDHA.

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18. TDHA was the **First Insurer**, pursuant to Reg 283, and it is solely and permanently liable for the Appellant's claims for benefits pursuant to SABS. The Tribunal must grant ancillary Orders compelling TDHA to provide the Appellant with the current address and fax number for TDHAIC along with an adjuster that is authorized for TDHA along with amendments to the HCAI portal for accuracy purposes for any and all ongoing or day-to-day matters. SNIC must remain as a party as it may be liable for some of the costs in this **SNIC Proceeding** to be dealt with at the hearing proper.

19. It is the word "accepr" that is conspicuous, marked and eye-catching. Whatever acceptance of priority of the applicant's [sic] insurance policy was and is of no consequence in law as per Reg 283, section 4(1), 5(1) and (2). The Appellant never received any notice of "assignment, sharing or transfer of priority". It is trite that TDGIC's fax was in the LAT orders as early of February 2024 and SNIC resiled from the 416.774.3120 fax number by no later than Summer of 2023. TDHA was the **First Insurer** and received the Completed Application at first instance, and all other OCF documents. It is understandable why certain adjusters at SNIC, and then Mr. Nieuwland for TDGIC, were so unfamiliar with the documents and claimed to be missing certain documents like MRI reports, Brain MRI UHN Notification and others. It may be the most clichéd phrase in the history of law: "offer, acceptance, consideration." Prior to the 'acceptance' by SNIC and TDGIC over the insurance policy, as found by the Adjudicator, there had to be an offer from another person. There are four automotive insurance companies in "TD Insurance", as per its public website and URL for "legal", which are: (i) SNIC; (ii) TDGIC; (iii) TDHAIC (TDHA); and (iv) Primmum. SNIC and Primmum, without any reference TD in their names, operate under the banner of two distinct yet combined trademarks which are: (i) TD Insurance," which is owned by "The TD Bank"; and (ii) "Meloche Monnex," which is owned by Meloche Monnex Inc. (not to be confused with Meloche Monnex Financial Services Inc. or other brokers or agents with permutations of the name). Ironically, TDGIC and TDHA do not have "TD Insurance" in their name as the "insurance" word comes after "General" and "Auto" sequentially for the aforementioned.

20. There is no dispute that SNIC was the Sole Underwriter of the Insurance Policy. SNIC delivered an accident benefits package to the Appellant in late September 2022. SNIC represented its address as the SNIC Markham Office with a fax number of 416 774 3120. On May 2, 2024,3 in relation to NOM #4 and NOM #6, Nieuwland (with Karat appearing as the ADR Specialist for SNIC) orally represented, contrary the April 11 submissions (supra) solely on behalf of TDGIC, 3 that SNIC and TDGIC were and are "one and the same". The Appellant objected and reserved his rights.

21. "One And the Same" is defined, by Collins Dictionary as "When two or more people or things are thought to be separate and you say that they are one and the same, you mean that they are in fact one single person or thing."

22. While there is no dispute what Nieuwland thought and meant on May 2, 2024, his thoughts and meanings, while unambiguous, are contrary to the statute (Ins. Act) in which this SNIC Proceeding arose and FSRA Enforcement Decisions have found that the SABS Insurer (SNIC) and TDGIC are separate persons.

23. The now finding by the Tribunal that SNIC and TDGIC accepted priority over the insurance policy means that they agreed (which is possible in fact but not in law) to accept an offer from another regarding priority. This is not only the logical explanation for what transpired and why TDHA, an automotive insurer in Ontario which is the only required element for a non-underwriter of an insurance policy to be the provisional First Insurer and then potentially the permanent First Insurer, has not been responded and paid the benefits due and owing to the Appellant despite receipt of the same from the Appellant via fax. This also explains the Spam Fax in Spring 2023 which was nearly or identical to the August 2024 letter (see: Affidavits #34 and Affidavit #35).

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24. It is unfortunate, from an access to justice standpoint and for the benefit of the public, for the Adjudicator to rush this decision, as it was not available when the Appellant inquired on September 11, 2024, as to the date of the hearing for the NOM #13. With the greatest of respect, the Adjudicator was unfamiliar with the facts, which one can empathize with if she was new to this LAT proceeding but she granted the most consequential motion in this proceeding so far, and basic one at that such as the first order in this proceeding of her fellow Vice Chair (VC Lake). Adjudicator Morrissette was of the mistaken view that the Tribunal changed, at some unknown time, the IDENTITY of SNIC to TDGIC after January 30, 2024, but some time before February 19, 2024. One can understand not being able to pinpoint an exact date when identities are changed or swapped in a cyber-attack or ransomware plot, but the Adjudicator found that it was THE TRIBUNAL that changed the identity from SNIC to TDGIC. It appears that the Adjudicator was implying that an administrative individual employed by the License Appeal Tribunal in the AABS division somehow on off-time engaged in some administrative identity swapping without notice to the litigants in the proceeding. The Appellant is not attempting to be hyperbolic or histrionic in any way, but the License Appeal Tribunal is one of 13 tribunals part of Tribunals Ontario and it is a division or sub-body within the office of the most important ministry as it pertains to the law: THE MINISTRY OF ATTORNEY GENERAL. And the Appellant is merely finding out about this in September 2024? This is beyond concerning and beyond the Appellant's immediate interest. Perhaps, Adjudicator Morrissette meant December 30, 2023, to January 19, 2024? This would make more sense in that an administrator or case manager would have reviewed the Appeal and attached documents and countless references to TD SNIC and Security National Insurance Company and input SNIC as the respondent. Then, likely someone informed Mr. Grant to change the name from SNIC to TDGIC. This, of course, would have required such a change as the Appellant had already filed two motions by January

8, 2024. The Appellant only objected for six months, and this appears to have been the strategy by SNIC and then TDGIC of which neither were First Insurers.

25. A "Respondent" is a party in a LAT Proceeding. Legislative definitions are sometimes counter-intuitive and defy common sense. In Ontario, "legislation" includes "legislation and regulations", but a statute is distinct from a regulation. Section 5 of the SPPA: "The parties to a proceeding SHALL be. (i) the persons specified as parties by/under the statute17 under which the proceeding arises; OR (ii) if, not so specified, persons entitled BY LAW18 to be parties to the proceeding19. One would have thought with the benefit of Adjudicator Morrissette who expressly dealt with a party issue in NOM #8, such a misstatement of law or query from her would have been obsolete. By law is an ambiguous phrase which is not to be confused with a municipal by-law. "Source law" is a definition under the Legislation Act 2006, and it includes regulations. Tribunals in Ontario and Canada have held that persons who are not expressly required by statute to be parties may be added as parties pursuant to section 5 (*SPPA*) if s/he or it have a substantial and direct interest in the proceeding's outcome.

26. A final order disposes of the litigation, or finally disposes of part of the litigation: *Ball v. Donais* (1993), 1993 CanLII 8613 (ON CA), 13 O.R. (3d) 322 (C.A.). An interlocutory order disposes of the issue raised, most often a procedural issue, but the litigation proceeds: Hendrickson v. Kallio, 1932 CanLII 123 (ON CA), [1932] O.R. 675 (C.A.), at p. 678.The interlocutory order from which there is no appeal is an order which does not determine the real matter in dispute between the parties – the very subject matter of the litigation, but only some matter collateral (see: Hendrickson v. Kallio, 1932 CanLII 123 (ON CA), [1932] O.R. 675 (C.A.)

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27. In *Smerchanski v. Lewis* (1980), 1980 CanLII 1699 (ON CA), 30 O.R. (2d) 370 (C.A.), at para. 18: This Court has held that an order made in a contest between a party to an action and someone who is not a party is a final order, appealable without leave, if the order finally disposes of the rights of the parties in the issue raised between them. In M.E. v. Ontario, 2021 ONCA 718: We conclude that M.E. was seeking to add new causes of action. An order refusing leave to amend pleadings to plead a new cause of action is final: Atlas Construction Inc. v. Brownstones Ltd. (1996), 46 C.P.C. (3d) 67 (Ont. Gen. Div.). So is an order dismissing a motion to add a party, which M.E. also appears to have been trying to do Bryson v. Kerr (1976), 1976 CanLII 867 (ON SC), 13 O.R. (2d) 672 (Ont Div. Ct.). Accordingly, leave to appeal is not required and an appeal lies as of right to the Court of Appeal: Courts of Justice Act, R.S.O. 1990, c. C.43, s. 6(1)(b).

28. In Vavilov, the SCC attempted to clear up complexities and uncertainty brought on by Dunsmuir. 22 The SCC cited three (3) non-exhaustive examples in Vavilov where the correctness standard must be applied by a review tribunal or court: (i) constitutional questions (ii) general questions of law of central importance to the legal system as a whole; and (iii) questions regarding jurisdictional boundaries between two or more administrative bodies.

29. The Supreme Court in *Housen* found an error of law including the: (i) application of an incorrect legal standard; (ii) a failure to consider a required element of a legal test; or (iii) the mischaracterization of the standard.

30. A tribunal errors in law when it improperly approaches the evidence such as by misapprehending evidence, ignoring relevant evidence or relying on irrelevant evidence or irrelevant factors in reaching its decision 30 (see: Nguyen). In *Drewlo Holdings v. MPAC*, 33 the ONSCJ (DC) cited its decision in Yatar34

where, at ¶28. the Court confirmed a finding of fact can constitute an error of law: "is when a finding of fact on a material point is based on no evidence.

31. The failure to identify or consider the legal criteria that govern (the "Identification Failure Governing Legal Criteria") the exercise of discretion may constitute an error of law.

32 In *Gega*, the Divisional Court applied a novel yet functional determination of when an issue was one of law as opposed to one of 'mixed fact and law': "[19] This issue is a matter of law...argue this issue is a matter of mixed fact and law, but there are no factual findings that need to be made by me to consider this question."

33. In *Kawa Arab*, the Divisional Court found an administrative decision of statutory interpretation as a matter of law. At ¶ 19, Tzimas J. found "[19] ..... If an Adj. ignores evidence that the law requires to be considered to arrive at a DECISION, that will amount to an error in law.

34. In *Bassline*, VC Lamoreux found in 201846 at ¶ 20, "Therefore, I am satisfied that the Tribunal erred by determining that it had no jurisdiction to consider the issues raised in the Notice."

35. In *Lapcevich*, the ONSCJ49 found: "We agree with the appellant, Registrar, that the Licence Appeal Tribunal erred in its approach to the statutory framework and exceeded its jurisdiction; and it did not make the necessary threshold determinations, as required by the statute. In Sparks, the Divisional Court found that inconsistent findings of facts as "errors of law."

36. In Glencore, the FCA considered a second appeal wherein it stated the applicable SOR for extricable legal issues in that no deference is owed to the overall conclusion (see: ¶ 22).

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37. In *THMR*, ONCA found that when hearing below is in writing that the correctness standard applies.

38. The case of *Fatemea Rezaiezadeh v. State Farm Mutual Automobile Insurance Company*, 2016 ONFSCDRS 59 ("*Reza*") stands for the proposition below. The Appellant notes the case of Reza (for short) wherein, albeit under the FSCO, the arbitrator found the following: "The Appellant concedes there is no explicit procedure in the Code or the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22, as amended, to permit a party to continue a proceeding against a non-party." The "Dispute Resolution Code" is no longer applicable as it only applied with the FSCO. Even where State Farm Automobile Insurance Company was bought out by Certas and Desjardins regarding its Canadian operations, State Farm remained as the party as it was the underwriter at the time of the accident therein. Therefore, this is yet another reason that the decision of the Adjudicator and now the decision of the Appellate Tribunal (LAT) is one that finally disposes of the Appeal even when it is not in favour of the Appellant. If the Appellant does not have the **First Insurer** as the primary and liable party for the main issues between the Appellant and it (with SNIC only therein for costs as a result of it filing the sole Response (SNIC Response) to date but only as a result of the LAT Rules which is a distinction between present times and a case like Voltson), then all of the protections under SABS are illusory.

39. The provisional "**First Insurer** rule" (the "**First Insurer** Rule") under the regulation and priority regime under the statute operate differently (see: *Zurich 2024*, paragraph 8). If a claimant for accident benefits completes all required "fields" (see: SABS, ss. 66 and 67), duly signs the OCF-1 and then sends via mail or fax, the **First Insurer** that receives an OCF-1 application MUST benefits in accordance with SABS (see: Reg 283, ss. 2.1(6)). If the **First Insurer** does not take any issue, within ten business days of receipt of the Completed Application, the **First Insurer** has approximately 75 days from then to provide a notice

of dispute that it is required to pay the benefits of the claimant in which it received a Completed Application. Irrespective of whether the claimant is an "insured person" or not in the subjective mind of the **First Insurer**, the **First Insurer** must respond to the **Completed Application** and the claimant (see: *Reg 283*, ss. 2.1(6)).

40. Acceptance during the 90-day period is merely provisional (see: *Zurich 2024*, paragraph 29). If the **First Insurer** does not dispute, within 90 days, its liability to pay any and all benefits, in accordance with SABS, of the claimant, there is no other process for the **First Insurer** to transfer, dispute and recover any paid or to be paid benefits to the claimant. A **First Insurer**'s calculus to not accept a claim for whatever subjective reason can turn out to be a costly and permanent mistake.60 This is full answer to the Adjudicator's query about whether the Tribunal had authority to add the **First Insurer** to this LAT Proceeding, which is oddly required as a matter of law.

41. As of 2015, in *Zurich 2015*, the SCC held that Chubb ought to have responded to the SABS claim immediately on a 'pay first and dispute later' basis (see: *Zurich 2024*, paragraph 12). As long as the Completed Application by the claimant was not arbitrary, there is a "nexus" between the claimant and the **First Insurer** (i.e. the one to receive the Completed Application) (see: *Zurich 2024*, paragraph 14). In *Zurich 2015*, the SCC (see: 2015 SCC 19) restored Goldstein J's decision (ONSC (Divisional Court)) in adopting the dissent of Juriansz J.A.: 2014 ONCA 400. A vague recollection about seeing an insurer's name at a rental car office was sufficiently non-arbitrary to require a '**First Insurer**' (Chubb in *Zurich 2015*)) to step into the shoes as a "**First Insurer**" for the purposes of section 2(1) of Reg 283 (see: *Zurich 2024*, paragraph 15). If the **First Insurer** provides automobile insurance in Ontario at the time of receipt of the Completed Application there is a sufficient nexus between a claimant and the **First Insurer** (see: *Zurich 2024*, paragraph 16). The policy behind the inflexible rule is that an insurer who fails to pay benefits and fails to put other insurers on notice after receipt of a Completed Application, when there is

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SOME nexus between the claimant and the **First Insurer**, being permanently responsible for the claimant's benefits is to promote compliance with the statutory and regulatory scheme.

42. No power to pursue a non-party under statute is answered above. As a matter of principle, there is NO difference between an insurer's failure to pay under section 2 of Reg 283 and a failure to pay under any provision of SABS (see: *Zurich 2024*, paragraph 54). As the Tribunal is required to decide this LAT Proceeding in accordance with SABS as a matter of statute (see: section 280(4) of the *Insurance Act*), then it was not a matter of discretion for Adjudicator Morrissette but a requirement upon her to ensure that the Appellant had the correct and liable party (see also: *Insurance Act*, ss. 268(3)) before the Tribunal and in the future for not only himself but his service providers. While there is an ability of a party to "request an expedited hearing" in the dropdown menu of Tribunals Ontario e-filing portal, there is a dearth of jurisprudence regarding the same with LAT/AABS matters. As of 2010, the amendments to Reg 283 led to an absence of listed fax numbers for insurance companies and for good reason: some unsavory insured persons may deliberately manipulate the system by faxing their OCF-1's to an incorrect insurance company with no record of them as insured persons leading to those insurance companies in receipt of confidential information with an inability to dispute that they were not liable along with which insurance company may be liable. This could lead to an insurance company, who had not received premiums with no previous interaction with such an unsavory insured person, being liable to respond and pay benefits to said unsavory insured person.

43. It is important to note that the actual relief sought in the hearing record was slightly different in language but a distinction with a difference at Order #5: [5] Any further relief that is consistent with the above and in accordance with Reg 283, SABS, and Reg 664. The issue of adding the party TDHA as the **First Insurer** is one that the Adjudicator was required to answer (see: Rio Tinto, SCC 2010 SCC 43) However,

even if the Adjudicator had granted Order #1 that would have been sufficient as a decision (order, declaration, determination and/or finding) that would have finally disposed of the Appeal, as it was currently constituted on September 13, 2024.

44. Again, the Reconsideration Decision references that the appellant did not cite to any binding case law or legislative authority regarding adding a second respondent. The Tribunal has yet again misunderstood the Appellant's argument in that TDHA would be the First Insurer and SNIC would remain solely as it relates for costs in the proceeding prior to TDHA being the First Insurer. In relation to binding case law, Zurich 2024 as per Justice Akazaki unequivocally found that a breach of Reg 283 or SABs were a distinction without a difference. The decision of VCM in mid-September 2024 is not only an incorrect decision but a dangerous decision. It must be corrected forthwith for the benefit of the general public, the insurance industry and the relevant participants.

45. Moreover, had the Adjudicator determined the factual issue at Order #3 in NOM #15, this would have been a decision that finally disposes of the Appeal. In this regard, the Tribunal issued a Notice of Motion Scheduling Order on Thursday, September 12, 2024, that found that SNIC was located at the Burlington Office: "[3] preliminary finding, determination, or order, that the fax number 416-774-3120 was a landline phone number utilized as a fax number on the 4th floor of the building situated at the premises municipally known as 3650 Victoria Park Avenue, North York, Toronto, Ontario, M2H 3P7. The decision of Vice Chair Lake on reconsideration suffers from the same issues but remains premature considering not having NOM #16 decided in advance of the same. Once NOM #16 is decided, it will allow for the Applicant (Appellant) to be able to advance this judicial review in accordance with having final decisions on all the same.

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Volume #3: Documentary Evidence

46. The following documentary evidence will be used at the hearing of the application.

(a) The Motion Hearing Record for NOM #14 which includes the affidavits of the Applicant therein (see: Appendix #3)

(b) The Motion Hearing Record for NOM #15 of the Applicant which includes the affidavits of the Applicant therein (see: Appendix #4);

(c) The Motion Hearing Record for NOM #13 of the Applicant which includes the affidavits of the Applicant therein;

(d) The decision of Vice Chair Morrissette in relation to NOM #13 to #15 of the Applicant;

(e) The decision of Vice Chair Lake in relation to the Applicant's reconsideration motion;

(f) The record of proceeding in *AABS File Number*: "23-015662/AABS"

(g) Such other affidavit material and evidence as counsel may advise and this Honourable Court may deem proper.

November 15, 2024

Mr. Kevin A. McLean (B.A. J.D., CIM)
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M5V 2K3
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Appendix #1

The actual relief sought The Appellant seeks the following orders, without consent of SNIC and TDHA, as follows:

Order #1: First Insurer Declaration 1. An Order, Declaration, determination and/or finding that TD Home And Auto Insurance Company, FSRA registration number 1063 ("TDHA" or "TDHAIC") was the First Insurer to receive, pursuant to Reg 283, the Appellant's fax delivered Completed Application (see: Reg 283, s. 1) to the fax number, provided to him by SNIC as a return address [sic] for SNIC, of 416-774-3120 (the "416 Fax Number") on October 13, 2022; Order #2: East Mall Address (Branch Office): Determination of which licensed insurer carried on business at said branch office

2. An Order, Declaration, determination or finding the physical address, which is apparently denoted as a branch office of SNIC in HCAI, municipally known as 304 The East Mall, Floor 6, Etobicoke, Toronto, Ontario, M9B 6B7 (the "Etobicoke East Mall Address") was or is an address or branch office of TDHA and not SNIC;

Orders #3 and #4: Adding TDHA as a Party 3. An Order adding TDHA as a respondent party to this LAT proceeding herein; 4. An Order requiring TDHA, should it wish to oppose the relief sought in the Appellant's Appeal, file and serve a Response to the Appellant's Appeal within 14 days of the date of the orders herein;

Order #5: Ancillary Relief 5. Any further relief that is consistent with the above and in accordance with Reg 283, SABS, and Reg 664; and Order #6: Costs against SNIC pursuant to section 17.1 of the SPPA and Rule 19 of the LAT Rules.

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Appendix #2

Schedule "A" for NOM #15 The Appellant seeks the following remedies, without the consent of SNIC, as follows: 1. An Order that NOM #14 is heard in an expedited fashion and by no later than August 28, 2024 or, in the alternative, at the earliest date available for a Vice-Chair or adjudicator to determine the same; 2. An Order that if the Respondent Party (SNIC), TDHA or any other non-party or interested person wishes to oppose NOM #14, it must provide notice, via filed letter, to the Tribunal by no later than Wednesday, August 21, 2024; and 3. A preliminary finding, determination, or order, that the fax number 416-774-3120 was a landline phone number utilized as a fax number on the 4th floor of the building situated at the premises municipally known as 3650 Victoria Park Avenue, North York, Toronto, Ontario, M2H 3P7; a. In the alternative, an order that said issue of fact is added to the hearing of NOM #14; 4. An Order that NOM #13 is set for hearing three (3) weeks after the final decision of the Tribunal in NOM #14; and 5. An Order that the Appellant shall tender his hearing brief for his potential motion regarding document production and disclosure from SNIC (the "SNIC Document Production Motion") within one week after the decision of NOM #14 with a notice of scheduled hearing date to be issued by the Tribunal regarding exchange of responsive and reply briefs; 6. An Order that NOM #13 (Non-Party production by TDGIC) and the SNIC Document Production Motion (if applicable) shall be heard together three weeks after the decision in NOM #14; and Costs against SNIC for this motion herein if it opposes the same

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Appendix #3: Index for NOM #14

Chapter #1: Notice of Motion Form
1. Notice of Motion Form (with Schedule "A"), signed by the Appellant on August 2, 2024 ["Motion Form" or "NOM #14"]
a. (see pages 1 to 3);

Chapter #2: Reg 283 and Cited authorities (prior to *Zurich 2024*)
2. Disputes Between Insurers, O Reg 283/95 ["Reg 283"]
a. (see pages 4 to 9)
3. Cankaya v. Unifund Insurance Company, and Cankaya v. Intact Insurance Company, 2015 ONFSCDRS 214 (as per Delegate Blackman of the former Financial Services Commission of Ontario ["FSCO"]) ["Cankaya 2015"]
a. (see: pages 10 to 31)
4. Cankaya v. Unifund Insurance Company, and Cankaya v. Intact Insurance Company, 2016 ONFSCDRS 255 (as per Arbitrator Marshall Schnapp, "Decision on a Preliminary Issue") ["Cankaya 2016"]
a. (see: pages 32 to 45)
5. Economical v. Intact, 2021 ONSC 3249 (as per Mr. Justice Chalmers) ["Economical Group"]
a. Applicant (Respondent in Appeal): The Economical Insurance Group
b. Respondent (Appellant in Appeal): Intact Insurance
c. (see: pages 46 to 56)
6. Macko v. Aviva Insurance Company, 2023 CanLII 72650 (decision before Adjudicator Kaur) ["Macko"]
a. (see: pages 57 to 61)
7. Macko v. Aviva Insurance Company, 2023 CanLII 116487 (Reconsideration Decision before Vice Chair Kaur) ["Macko Reconsideration"]
a. (see: pages 62 to 66)

Chapter #3: Reg 664 and SABS
8. R.R.O. 1990, Regulation 664 ["Reg 664"], ss. 9.1, 9(1) and 10
a. (see: pages 67 to 69)
9. Statutory Accident Benefits Schedule, O Reg 34/10, effective September 1, 2010 et seq ["SABS" or the "Schedule"]

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a. (see: pages 70 to 132)

Chapter #4: Pleadings; *Insurance Act*; and UDAP Rule
10. Application of an Injured Person for auto insurance dispute resolution pursuant to the Insurance
Act, filed by the Appellant on December 24, 2023 (the "Appeal")
a. Served on the recipient of the fax number of 416-774-3120 (the "416 Fax Number"):
b. (see: pages 133 to 142)
11. Response filed by SNIC (the "SNIC Response")
a. solely signed, filed and served by Mr. David Karat, ADR Specialist for SNIC, on January
25, 2024
b. (see: pages 143 to 145)
12. *Insurance Act*, RSO 1990 c. I 8, section 268 (the "Act" or the "*Insurance Act*")

a. (see: pages 146 to 148)
13. Unfair or Deceptive Acts or Practices Rule, effective 2022 (the "UDAP Rule")
a. (see: pages 149 to 161)
Chapter #5: Further Authorities
The Chubb v. Zurich cases (2015 and 2024):
TD General Insurance Company v. Markel
Intact v. Bateman: "Re: two files with two different file numbers for one claimant (insured person)
(although unlawful – not unprecedented)
14. Chubb Insurance Co of Canada v. Zurich Insurance Company, 2024 ONSC 2929 (as per The
Honourable Justice Akazaki) ("*Zurich 2024*")
a. (see: pages 162 to 179)
15. TD General Insurance Company v. Markel Insurance Company, 2014 ONSC 6461 (as per Justice
Lederman) ("Markel")
a. (see: pages 180 to 194)
16 Zurich Insurance Co. v. Chubb Insurance Co. of Canada, 2015 SCC 19 ("*Zurich 2015*")
a. (see: pages 195 to 198)
17. Intact Insurance Company v. Bateman, 2014 ONFSCDRS 14 (as per Delegate Blackman)
a. (see: pages 199 to 214)

Chapter #6: Affidavits
18. Affidavit #30 of the Appellant, made on July 31, 2024 (filed: August 1, 2024, served on SNIC and
TDHA: August 1, 2024) ("Affidavit #30")
a. (see: pages 215 to 358)

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19. Affidavit #3 of the Appellant, made on October 31, 2024 (select pages only) (filed: listed and
attached document in Appeal on December 24, 2023) ["Affidavit #3"]
a. (see: pages 359 to 488);
20. Affidavit #29 of the Appellant, made on July 25, 2024 (select pages only)
a. (see: page pages 489 to 500)

Chapter #7: Motion Submissions (pursuant to LAT Rule 15. six pages, double spaced, size 12 font (except
for evidence, appendices and authorities)
21. Motion Submissions of the Appellant dated August 3, 2024 (served on SNIC and TDHA: August
3, 2024)
a. (see: pages 500 to 511)

Chapter #8: Additional evidence in pictorial form of the East Mall Address (August 4, 2024) and emails
to TDHA and SNIC confirming the same pursuant to, inter alia, section 15 of the SPPA
1
st Amended Inclusion (August 5, 2024)
22. Additional evidence: the East Mall Address
a. (see: pages 512 to 551)

Chapter #9: Costs against SNIC
Appellant's served and filed Costs Submissions on Thursday, September 5, 2024 (includes
LAT Rule 19.1: affidavit evidence in support of the Appellant have reasonable and probable grounds
to believei
that SNIC has conducted itself in relation to NOM #14 in an unreasonable, vexatious, frivolous and/or in bad faith
LAT Rule 19.2: written costs submissions by the Appellant before the decision or order is released
in relation to NOM #14;
LAT Rule 19.3: written costs submissions seeking $1,000 against SNIC in favour of the Appellant,
payable forthwith in any event of the result of NOM #14;
LAT Rule 19.4: Appellant has provided the reasons (authorities, statutes, regulations, LAT Rules)
and the particulars of SNIC's impugned conduct that have been, are and will continue to be
unreasonable, frivolous, vexatious, and in bad faith;
LAT Rule 19.5: Appellant has provided all relevant factors including but not limited to: (i) seriousness of SNIC's misconduct; (ii) SNIC's conduct in breach of orders (implicitly) and LAT

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Directions issued by the Tribunal; (iii) how SNIC's conduct has interfered with the Tribunal's
ability to carry out a fair, efficient, and effective process; and (iv) the resultant prejudice to the
Appellant
LAT Rule 19.6: the Appellant has sought $1,000 for the NOM #14 hearing
23. Costs submissions of the Appellant, filed and served on Thursday, September 5. 2024 with e-receipt
a. (see: pages 552 to 640)
i. Appendix #1: Glossary (see: pages 565 to 570)
ii. Appendix #2: Evidentiary And Authorities Chronology: from the time of SNIC's incorporation in 1934 to August 21, 2024 (see: pages 571 to 647); and
iii. Endnotes (see: pages 648 to 650).

Chapter #9: Materials For Reconsideration of the decisions involving NOM #14 and NOM #15
Fresh Evidence: not available to the Adjudicator in the Hearing Record (albeit in record of proceeding
in relation
24. Affidavit #34 of the Appellant of August 29, 2024 (see: pages 651 to 676)
25. Affidavit #35 of the Appellant of September 12, 2024 (see: pages 677 to 769)
26. Affidavit #36 of the Appellant of September 18, 2024 (see: pages 770 to 789)
27. Affidavit #37 of the Appellant of September 19, 2024 (filed under seal) (see: pages 790 to 832)
28. Reconsideration Form with Motion Submissions of September 30, 2024 (see. pages 833 to 856)

Electronically filed / Déposé par voie électronique : 18-Feb-2025
Toronto Superior Court of Justice / Cour supérieure de justice

TAB #38: ORAL COMPENDIUM: COURT FILE NO. DC-24-00000718-00JR

Electronically filed / Déposé par voie électronique : 18-Feb-2025
Toronto Superior Court of Justice / Cour supérieure de justice

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Court File No. DC-24-00000718-0OJR

ONTARIO COURT OF JUSTICE (DIVISIONAL COURT)

BETWEEN:

KEVIN ALEXANDER MCLEAN

APPLICANT

- and -

TD HOME AND AUTO INSURANCE COMPANY, SECURITY NATIONAL INSURANCE COMPANY, TD GENERAL INSURANCE COMPANY, EXECUTIVE DIRECTOR, LICENCE APPEAL TRIBUNAL,
HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, REPRESENTED BY EXECUTIVE CHAIR OF TRIBUNALS ONTARIO IN MR. SEAN WEIR, THE ATTORNEY GENERAL OF ONTARIO

RESPONDENTS

APPLICANT'S FACTUM

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VOLUME # #1: STATEMENT OF JUDICIAL REVIEW APPLICATION

1. This ***JRPA* Application** involves the challenge to two (2) issued decisions of the Licence Appeal Tribunal ("**LAT**" or "**Tribunal**")[1] on September 13, 2024, and October 16, 2024, and two potentially unmade decisions involving the same. In the absence of any analysis of the statutory scheme[2] (i) by Vice Chair ("VC") Morrissette ("**VCM**"); and (ii) VC Lake ("**VCL**"), on reconsideration (the "**RD**"), relying on the newly passed language, as of August 21, 2023[3], in the *LAT Rules*, which is non-legislation,[4] the reviewing or appellate court is required to start afresh. Since 2019, the SCC settled the judicial review landscape in declaring *Dunsmuir*[5] to no longer be the law of our land and provided factual and/or legal situations where the reasonableness standard of review is rebutted. The focus herein of where the presumptive reasonableness standard is rebutted is where the rule of law ("**ROL**") requires that the standard of correctness be applied.

2. The rule of law is a theme in this ***JRPA Proceeding*** as per, some events that occurred or issues that were catalyzed after the filing of the ***JRPA* Application**, which were, including but not limited to: (i) Tribunal counsel (Ms. Boyce) raising the prematurity doctrine on a preliminary basis; (ii) counsel (Mr. Nieuwland) to TDGIC and SNIC[6], but not TDHA, in the **LAT Proceeding** not filing an appearance notice *forthwith* but purporting to file said purported notice of appearance (the "**Purported Appearance**") that was defective whilst in his cover email making a similar misstatement of law to the one he made on behalf at the nullity case conference on May 2, 2024, that "SNIC" was 'one and the same' as two other insurance companies (see: 'also referred to as' TD Home And Auto [sic] and TD General Insurance company [sic]"; and (iii) others.[7]

3. The Applicant has also sought the consent of SNIC to adjourn the hearing proper with the LAT scheduled for January 25, 2024, predicated on a nullity pre-hearing conference before Vice Chair Painchaud (the "**Hearing Proper**"). TDGIC has no entitlement to participate herein as NOM #13 was an interlocutory order and it did not even attempt to participate in it. NOM #14 and #15 squarely raise issues between SNIC and TDHA. Neither SNIC nor

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TDHA sought to tender any materials, despite being duly served with NOM #14 and NOM #15.

4. The matter remains one where the delay will *likely*[8] involve a failure of justice being an affront to the rule of law and subspecies of the rule of law that involve: (i) general questions of law of central importance to the legal system as a whole; (ii) questions related to the jurisdictional boundaries between two or more administrative bodies; and (iii) the relationship between the legislature and the other branches of the state, which require a final and determinate answer from the courts (the "**Final Answer Requirement**"). The rule of law requires courts to have the final word (the "**Final Word Requirement**") with regard to general questions of law that are of central importance to the legal system as a whole because they require uniform and consistent answers (the "**Uniform Answers Requirement**" or "**Vertical *Stare Decisis***").[9] The rule of law requires courts to intervene where one administrative body has interpreted the scope of its authority in a manner that is **incompatible** with the jurisdiction of another administrative body since the rule of law cannot tolerate conflicting orders and proceedings where they result in a *true operational conflict* between two administrative bodies ("**Intolerance Conflicting Orders Requirement**").[10]

5. Whether affiliate or related insurance companies can accept priority, without any independent notices (see: (i) notice of transfer; (ii) notice of a potential agreement between insurers; and/or (iii) notice of arbitration) to an insured person or absolute noncompliance with *Reg 283*, over an applicant's [sic] insurance policy [sic] (not a *SABS* claim) is a question that must be answered by this ONSC on an urgent basis[11].

6. Some of the pertinent principles regarding the rule of law herein are: (i) *equality before the law*[12]; (ii) *accountability*[13]; and (iii) *access to justice*[14]. While administrative tribunal independence and absence of bias is not a constitutional principle, like that which is present pursuant to section 96 to 101 of the *Constitution Act* involving courts, conflicts of interest, bias and independence are presumed to be absent or at least reasonably perceived to be. The **VCM Decision** was not only incorrect and unreasonable[15] but it was counter to the

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ROL requirement of "*equality before the law*" to which the Applicant and, by extension, his service providers were so entitled. The **VCM Decision** lacked "*accountability to the law*" as it was opaque in not only substance but process as: (i) it failed to reference any uncontroverted filed and served evidence; (ii) it failed to reference the binding "source law" wherein the Tribunal was required to decide all questions of law and fact before it in accordance with *Reg 283*, *SABS* and *Reg 664*[16]; and (iii) it failed to reference any jurisprudence that was binding upon it.

7. The jurisprudence involving *JRPA* (ss. 6(2)), *Reg 283*, the prematurity doctrine, "double jeopardy doctrine" (*res judicata* and issue estoppel), and standard of review all invoke the same principles in the middle of that archetypal "Venn diagram". While there is no dispute on the law that the orders in NOM #14, and to some extent NOM #15, are ***final orders***, irrespective of their lack of correctness, those principles fatefully contain similar language in relation to the legal thresholds for this ONSC to decide the legal issues herein on an expedited and urgent basis: (i) rule of law; (ii) *standing in the shoes of another*; (iii) bringing the administration of justice into disrepute; (iv) urgency; (v) failure of justice; and (vi) avoidance of repetition of proceedings before this ONSC and the Tribunal.

8. If the **Purported Nieuwland Appearance** is struck and there is no validity to the LAT's preliminary objection in the form of the "prematurity doctrine" to reviewing final orders of the Tribunal,[17] then government counsel cannot defend this JRPA Proceeding. As noted by *Jia*[18] by this ONSC (Div. Court): "We would exercise our discretion to hear an appeal from the conflict decision, because it is evasive of appeal and it is potentially a matter of general practice important in proceedings before LAT." The ONSC (Divisional Court) referred, in *Harold The Mortgage Closer*[19] (paragraph 37), citing *Volochay*[20] (paragraph 68[21]) wherein the ONCA referred to the prematurity doctrine and impugned *interlocutory relief* as synonymous or quasi-synonymous.[22]

9. Section 138 of the *CJA* codifies the principle that a multiplicity of proceedings must be avoided.[23] This leaves the sole issue being one of timing. Unlike the applicant, Sanscon Construction Ltd.,[24] in *Sanscon v. City of Toronto* ["*Sanscon*"], which failed to comply with some of the elementary requirements of pleadings, notice *et al*, this Applicant paid,

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filed and served the *JRPA* Application in accordance with the requirement that it commence before the Divisional Court, he pleaded the material facts as to why he sought relief under section 6(2) of the *JRPA*, and why a failure to have this ***JRPA Proceeding*** heard urgently would *likely* lead to a failure of justice.

10. Like many ***unlawful*** schemes, it is not the 'what, when and how', but the '*why*'. The "why" herein was to circumvent multiple ***valid*** statutory schemes including: (i) FSRA investigatory and enforcement powers under the *Insurance Act* and the *UDAP Rule*; (ii) *Law Society Act* and its *By-Laws*; (iii) *PIPEDA*; and (iv) others. TDHA, as of 2019, while remaining as a licensed automobile insurer in Ontario, became a non-reporting insurance company to the FSRA for the purposes of the sub-category of insurance in the **"Private Passenger Market"**. Only three insurance companies, within the TDI Group, issued automotive insurance polices in Ontario in the **Private Passenger Market**: (i) Primmum Insurance Company (FSRA registration number 1396)[25] ("Primmum"); (ii) SNIC; and (iii) TDGIC.[26] The motive for why SNIC would engage in such intentional conduct and why TDHA would be complicit with the same is to "kill or limit the paper trail" of what can be investigated by the FSRA, the LSO, and OPCC.[27]

11. To determine the unlawful scheme, it required analytical precision, after much review, into the various sections of the *Insurance Act* as to whom, what, when and how an insurance company, including certain individuals in specified situations, could be investigated. Moreover, the FSRA's investigatory, search, seizure, citation and enforcement powers are not only curtailed but eliminated if an insurer like TDHA is not a reporting insurance company in the "**Private Passenger Market**" of automobile insurance. By SNIC's intentional action of having TDHA be the recipient insurer of his OCF-1 application, it controls what documents and activities are subject to investigation during the *SABS* claim processes. The corroborating evidence of the unlawful scheme was, *inter alia*, the following: (i) the Spam Fax in March 2023 from an unknown insurance company to the Applicant's fax number; (ii) SNIC providing notice of change of address, in Spring or Summer of 2023 from Markham to Burlington along with changing its fax number from the TDHA Fax Number to the Burlington Fax Number; (iii) a forged and invalid signature

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of "As per A. Nurse" under Ms. Nurse's name in an OCF-18; (iv) TDGIC substituting itself as the sole respondent in the LAT Proceeding; and (iv) other references in the AR or record of proceeding depending on any agreement between the entitled parties to participate herein.

12. By having TDGIC being the "sole respondent of record", albeit SNIC filing the sole "Response" in the LAT Proceeding (the "**SNIC Response**"), with the sole signature of a non-licensee (Mr. Karat) in breach of LSO By-Law 7.1, ss. 6(1)(b) and (d)[28], which does not meet a specified document to be included in the "record of proceeding" under the *SPPA*, SNIC controls or eliminates any investigation into its activities during the LAT Appeal temporal period. For example, if the FSRA sought to investigate issues involving SNIC, it could claim that it was not the insurer and that TDGIC was the solely responsible insurer for the Applicant's *SABS* claim (TD Claim #3), and the FSRA investigative and market conduct team would be misdirected. As the Applicant never faxed a document to the TDGIC fax number (416.774.3629) prior to the filing of the LAT Appeal and thereafter, there would be little to no evidence for the FSRA to investigate.

13. Moreover, by having a non-licensee self-titled "ADR Specialist" (non 'adjuster' under the *Insurance Act*), SNIC, along with TD Insurance Staff Legal, further limited the reach of the LSO into activities subject to its legislative powers and its by-laws which have legislative force[29]. By having Mr. Nieuwland solely act for TDGIC by filing a DOR, whilst having a P1 holder (not providing legal services) in Ms. Michelle Moraes masquerade as his legal assistant for three months before one Ms. Ortiz (his actual legal assistant) surfaced, it further curtailed the investigatory powers of the LSO and the FSRA. There was also evidence, albeit in a PIPEDA response of SNIC in 2024, that there were multiple files of these insurance companies involving a single claimant.

14. This Court must also rule on this ***JRPA Proceeding*** because the findings of VCM invoke the Applicant's [sic] Insurance Policy [sic] and a clandestine and undisclosed subsequent contract between SNIC and TDGIC (collectively, the "**Offerees**") by way of being offerees, to the surreptitious and unrevealed offer by TDHA (the "**Offeror**") as the First Insurer pursuant, to its prescribed jurisdiction, of *Rule 14.05(3)(d)*[30] to hear this matter since it

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involves the determination of rights that depends upon contractual interpretation. This court has, at least, two contracts to review in determining the rights of all involved: (i) the Insurance Policy; and (ii) the unrevealed contract between TDHA (as one party) "and" SNIC and TDGIC ("counterparties").

Vol 1, MV #1(B): Background Facts to this public interest litigation. /8774 Application:

15. The Applicant was injured as the driver occupant in an automobile accident ("**Accident**") on August 31, 2022 (the "**DOL**"), through no fault of his own, which rendered the Insured Automobile with a police reporting file and some $6,000 in damage to the Insured Automobile. The **Insured Automobile** was propelled involuntarily some 30 feet forward from a stopped position north of St. Clair Avenue and south of Heath Road, on the Spadina Avenue. From the DOL to January 11, 2023 (the "**Material Time**"), the Insurance Policy associated with the Insured Automobile that he was operating was a leased vehicle from BMW Financial Services Inc. ("**BMW FSI**") and his spouse, a University of Toronto alumnus, was the individual named insured. The Applicant suffered a variety of impairments that were readily outside of the MIG, including but not limited to: (i) a grade 1 retrolisthesis; (ii) degenerative disc disease; (iii) S1 nerve issues; and (iv) a concussion.

16. The sole underwriter (the "**Sole Underwriter**") in the Insurance Policy and "pink cards" was Security National Insurance Company ("**SNIC**") which was an out-of-province insurer that had six classes of insurance with the FSRA. On September 1, 2022, the Applicant orally notified (the "**Oral Notification**") SNIC of the **Accident** and his intention to apply for accident benefits pursuant to the *Schedule* making SNIC the "**First Notified Insurer**".

17. SNIC provided the Applicant, in late September 2022, the OCF-1 application (the "**OCF-1 Application**" or "**Application**" pursuant to *Reg 283*, section 1). In the "return this form to" field, SNIC provided a mailing address of the 2nd floor, 101 McNabb Street, Markham, Ontario (the "**Markham Office**") and a fax number of *416.774.3120*. Unbeknownst to the Applicant, the said fax number was not a telephone number in Markham but rather in North

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York, Toronto, and after lengthy investigations[31] the only evidence before the Tribunal was that the said fax number was a landline number, issued by Bell Canada Inc. (not Bell Mobility) at the 4th floor-3650 Victoria Park Avenue, North York, Toronto. In 2024, the only evidence before the Tribunal was that, in October 2022, it was controlled, assigned and belonged to TD Home And Auto Insurance Company (FSRA registration number 1063) ("**TDHA**").

18. **TDGIC's fax number, as per the Tribunal's notice of motion hearing orders, was the telephone number that was used solely as fax number, of 416.774.3629 and it was located on the 9th floor of the VP Building.**

> VOLUME #1(B)(i): The LAT Registrar Order that confirmed that: (a) SNIC was not located at the Markham Office, (b) located in Burlington; and (c) with the 905 Fax Number (not a 416 fax number)

19. **Further, *before* the issuance (September 13, 2024) of the VCM Decision, the Tribunal (not VCM herself but the LAT Registrar) on September 12, 2024, had issued another order that SNIC's address for service was 5th floor-5045 South Service Road, Burlington, Ontario ("SNIC Burlington Office").**

> VOLUME #1(B)(ii): *Why would VCM backdate VCM Decision to September 6, 2024?*

20. **The self-evident and overwhelming inference is that by the LAT Registrar providing the, in fact, address of SNIC in Burlington, this provided an *additional* binding ground, by way of a decision of the administrative body, as to why TDHA was the First Insurer. Simply put, SNIC solely provided its name with a false address and false fax number.**

> **VOLUME #1(B)(iii):** ***Why were there so many palpable errors in the VCM Decision?***

21. **The obvious inference was that she rushed her decision-making process to pretend that her decision was issued on September 6, 2024, and not subject to or inconsistent with the LAT Registrar's order finally providing the, in fact, address of SNIC being the SNIC**

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Burlington Office. VCM was required to review all materials in the record of proceeding prior to issuing her order, and the LAT Registrar order, received by the parties, was a binding order upon her. The VCM Decision was inconsistent with said order.

22. SNIC had provided the said physical address, absent a floor number, from Spring or Summer 2023 until the time of the Applicant's filing of the LAT Appeal on December 24, 2023. SNIC's fax number at the SNIC Burlington Office was that **905 Fax Number**. Ergo, SNIC only complied with the requirements under *Reg 283* of providing its name but failed to comply with the requirements, at the **Material Time**, that it provide its mailing address and fax number.

VOLUME #1(B)(iv): Obligation to pay benefits triggered upon receipt

23. On October 13, 2022, the Applicant not only faxed his completed application pursuant to *Reg 283* and *SABS*, ss. 32 (the "**McLean Completed Application**") to the **TDHA Fax Number**, which was a landline on the **4th Floor VP Building**, albeit unknowingly, but he also faxed a completed and signed OCF-2 on his behalf ("**Completed OCF-2**"). On November 3, 2022, the Applicant paid the section 25 of *SABS* fees for the OCF-3, and the said duly and doubly signed OCF-3 was delivered to the **4th Floor VP Bldg. Fax Number.**[32]

VOLUME #1(B)(v): The New Brunswick response to a *PIPEDA* request of SNIC and the SPAM Fax. February to April 2023

24. Further, there was additional evidence before the Tribunal that the Applicant had made a *PIPEDA* request of SNIC in February 2023, via email to the TD privacy email, but received an apparent *PIPEDA* response via mail from an unknown corporate sender located in New Brunswick. With further investigations in the Summer of 2024, the Applicant filed evidence with the Tribunal that while TDGIC operated in the **Private Passenger Market** in Ontario but did not operate in the **Private Passenger Market** in New Brunswick, TDHA did not in Ontario but did in New Brunswick along with SNIC and Pommum.

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25. Around the same time (March 2023), while SNIC had never faxed the Applicant in reply to any of his delivered faxes to the **TDHA Fax Number**, again unknowingly to him, and only sent ostensible responses the Applicant received a fax from an unknown sender that "it" had no record of the Applicant's TD Claim #3 and to send his faxes with information, already in each fax, to one of the various locations (see: Calgary, Ontario, Montreal, Nova Scotia and New Brunswick) across Canada. There were two fax numbers in Ontario: Burlington (905 Fax Number) and North York (the 4th Floor VP Building Fax Number). The Applicant was already faxing to the **416.774.3120** and he did not reside in Burlington but he was perplexed by the "North York" reference. Consequently, the Applicant promptly blocked the sender, on account of it being "spam" (defined as the "**Spam Fax**"). The Applicant notified the 416.774.3120 fax number presuming still he was faxing SNIC regarding the misidentification of said fax number being grounded, by landline phone number, in North York, although the Applicant was incorrect in that regard at said time by way of detrimental reliance on the representations made to him by SNIC, of the issue and continued to fax the said telephone (fax) number. Shortly thereafter, SNIC had correctly, albeit missing a floor number, provided the Applicant, via mail, with a notice of change of address from the Markham Office to the Burlington Office, and, most notably, from the VP Building 4th Floor Fax Number to the 905 Fax Number.

VOLUME #2: Overview of the binding precedents in relation to the Governing Statutes, Governing Regulations *et al*

26. *SABS* and *Reg 283*, having undergone major amendments in 2010 after being submitted to industry consultations and amendments before proclamations, they reflect important policy choices to ensure order and stability in regulated industries. Said "order and stability" in the regulations must be matched by this ONSC by reference to the **Final Word Requirement, Final Answer Requirement, Uniform Answers Requirement, Vertical *Stare Decisis***, and **Intolerance Conflicting Orders Requirement** pursuant to the ROL.

27. *Reg 283* is designed to keep priority disputes out of the courts.[33] *Reg 283* is also purposed to prevent *SABS* claims, including vital treatments and income benefits, from being delayed while insurers fight over priority dispute under section 268(2) of the *Insurance*

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Act.[34] As a matter of principle, there is NO[35] difference between an insurer's failure to pay under section 2 of *Reg 283* and a failure to pay under any provision of *SABS*.[36] [37]

28. While a **First Insurer**, like TDIIA, may have never received insurance premiums from the insured persons, or be deemed to have received the same pursuant to the Insurance Act after a determined insured person was an occupant in said 'insured automobile' may seem intuitively wrong, the Legislature, by passage of statutes with *Royal Assent*, and LGIC's intent, must be respected. There is no, *per se*, harshness to be alleviated by a sophisticated insurance company, with endless resources, who received the **McLean Completed Application**, who fails to investigate within three months and provide a notice, in form A143, to an insured person and other insurers under sections 3 and 4 of *Reg 283*. The provisional first-insurer rule under the regulation and the priority regime under the statute operate *differently*.[38] Irrespective of whether a claimant is an "insured person" or not in the *subjective* mind of the **First Insurer**, the **First Insurer** must respond to the Claimant and pay benefits where applicable and required (see: *Reg 283*, ss. 2.1(6)). Acceptance during the 90-day period is merely provisional.[39] If the **First Insurer** does not dispute, within 90 days, its liability to pay all benefits, in accordance with *SABS*, of the claimant, there is *no other process* for the **First Insurer** to transfer the *SABS* claim, dispute the same and recover any paid or to-be-paid benefits to the claimant.[40] A **First Insurer**'s calculus to not *accept* a claim for whatever subjective reason can turn out to a costly and permanent mistake.[41] The lack of acceptance in this regard is functionally equivalent to "*not accepting service of a claim*." which is distinct from not accepting an offer in relation to a proposed contract.

VOLUME #3: Requirement to 'step into the shoes' of Sole Underwriter[42]

29. In *Zurich 2015*[43], the SCC held that Chubb ought to have responded to the *SABS* claim immediately on a 'pay first and dispute later' basis.[44] If the sending of the **Completed Application** by the claimant was not arbitrary, there is a *nexus* between the claimant and the **First Insurer**.[45] The SCC restored Goldstein J.'s judgment (ONSC) ["*Zurich 2012*"[46]] in its verbatim adopting[47] the dissent of Juriansz J.A. ["*Zurich 2014*"][48], as he then was before retiring after an illustrious legal and judicial career in 2021,[49]: **2014 ONCA 400**[50].

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A vague recollection about seeing an insurer's name at a rental car office was sufficiently non-arbitrary to require the First Insurer (Chubb in *Zurich 2015*[31]) to "*step into the shoes*" of another insurance company(ies) that was liable under a "contract of insurance" for the purposes of section 2(1) of *Reg 283*.[32] The policy behind the inflexible rule that an insurer (like TDHA), which fails to: (i) respond provisionally to a claimant; (ii) fails to pay benefits provisionally to the claimant; (iii) fails to put other insurers on notice; and (iv) fails to put the insured person on notice of a potential transfer of the insured person's claim to other insurer(s), after receipt of a Completed Application, when there is *SOME* nexus, being permanently responsible for the claimant's benefits is to promote compliance with the *validly binding* statutory scheme.

30. The ONSC in *Zurich 2024*[33] (May) settled the law in the above regards as follows. (i) breach of section 2 of *Reg 283*, according to the case law, does not result in an insurer being required to pay benefits to the claimant permanently; BUT (ii) the *failure* TO AVAIL itself of section 3 does. Section 3 dovetails to section 4 which requires the First Insurer (TDHA) to provide notice to the insured person. Section 5 of *Reg 283* provides the consequences for an insured person not delivering its objection notice to the First Insurer within 14 days of receipt of the dispute notice form (A141) from the First Insurer. A143 requires the First Insurer, which receives the same, to fill out the form correctly and have a representative sign the same.

31. Herein, there is some incredibly prejudicial and fatal evidence, as it relates to any defence by TDHA that it could not meet the 90-day requirement to provide an A143 notice, and that is the signature block of Mr. Karat wherein he, as an ADR specialist, represented, multiple times, in 2024, that he was authorized to represent, "SNIC, TDGIC, Primmum, and TDHA".

32. TDHA's permanent liability for responding to the *SABS* Applicant and paying benefits to him was a *self-inflicted consequence* of its failure to adhere to the requirements and protections of section 2 to 4 of *Reg 283*.The combination of provisions in *Reg 283* transformed TDHA's provisional liability into a permanent one.[34] For TDHA to not be declared as the First Insurer would mean that there were no consequences for the conduct

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(or inaction) of TDHA by receipt of the **McLean Completed Application** and by continuing to have its former branch office address (**East Mall Address**) auto-populate in HCAI, without Mr. McLean having access to the same as he was not a "service provider" and no ability for any service provider to amend the same, it would defeat the legislation's public policy: "*pay now and dispute later*". The consequence would be that the "rule of law" would not matter and the LGIC's proclaimed amendments to *Reg 283* and *SABS* had *no teeth* and were of no force and effect. Put another way, the mandatory provisions therein would become discretionary based on the arbitrary and subjective beliefs and whims of insurance companies within a group of insurers. There would be no stability and consistency in the application of *Reg 283*, and the **Uniform Answers Requirement** or what is more commonly known as "horizontal and vertical *stare decisis*" in our provincial common law (judge made law) jurisdictions.

VOLUME # #4: Issues, Law and Argument

VOLUME # #4(A): Issues

33. The Applicant frames the general legal issues as follows:

a. **Issue #1**: What is the standard of review of the **VCM Decision** and the VCL Reconsideration Decision as it relates to VCM's orders in NOM #14 and NOM #15?

b. **Issue #2**: As TDHA was the first insurance company to receive the McLean Completed Application, was it possible, at law, for SNIC and TDGIC to accept priority over the Applicant's [sic] insurance policy [sic] without any notice to him?
   i. If the answer to said issue is in the negative, what is the legal effect of the same?

c. **Issue #3**: what orders must this ONSC fashion with respect to the public interest remedies that are evasive of the JRPA Application and of great importance to the procedure, practice, substance and the ROL in LAT proceedings where similar issues may arise?

VOLUME #4(B): Law

VOLUME #4(B)(I): Jurisprudence

34. The ONSC in *Beasley*[55] was unequivocal in its language that the fiduciary duties of an insurance company, whether they are provisional or permanent, are triggered by the obligation to pay benefits (if any) wherein the Honourable Justice Moore found: "[34] The

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relationship between an insured and an insurer in accident benefits matters involves a duty of good faith, **a fiduciary obligation**; the relationship between plaintiff and defendant in a tort action does not. The obligation, if any, *to* pay accident benefits is very different from the exposure, if any, that a defendant faces in a tort action."

35. The ONSC (Divisional Court) in *Jia* found, in upholding the reconsideration decision of VC Trojek[56], in a priority dispute case between CAA (insurance company) and The Personal Insurance Company, and *SABS* proceeding between a male widow and daughter without his wife and her mother respectively due to the fatal car accident against The Personal Insurance Company, found at paragraph 6: "[6] It is established law that insurers may not use the same counsel in statutory benefits cases and in tort cases brought against them by the same insured. This is because the duties of an insurer (and therefore of its counsel) are different in these contexts, and as an accident benefits insurer, the insurer is entitled to receive, and is required to keep confidential, a great deal of sensitive personal information from claimant." [57] [58]

VOLUME 4 #4(B)(1): Legislation

36. Section 280 of the *Insurance Act* contains six subsections, which were passed in 2014, of which only four are potentially relevant herein. [59] [60] The *SPPA* provides who may be parties to a proceeding which is by "statute" or "by law". The *Insurance Act* does not define or delineate who may be parties so the relevant part of section 5 is the "by law" component of the legislative section. TDHA, as the First Insurer on a provisional basis from October 13, 2022, to January 10, 2023, (the "**Provisional Period**") and then on a permanent basis from January 10, 2023, to present and in perpetuity (the "**Permanent Period**"), is the only insurance company in the TDI Group that, "by law", that was and *is* entitled to be the respondent party. Of note, the Applicant sent his LAT Appeal to the TDHA Fax Number and it was received by TDHA.

VOLUME # #4(B)(1): Regulations

37. **Benefits**" means *SABS* as defined under section 224(1) of the *Act* [61] An insurer shall *promptly* provide an OCF-1 and any other appropriate *forms* in accordance with the

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Schedule to an applicant who notifies the insurer [a "First Notified Insurer"] that she wishes to apply for benefits: 2.1(2) of *Reg 283*.[62] A *SABS* applicant shall use the Application provided by the insurer and shall send the Completed Application to only one insurer: ss. 2.1(4) of *Reg 283*.[63] An insurer that provides an application [a "First Notified Insurer"] under subsection (2) to an applicant shall: [1] not take *any* action *intended*: (i) to prevent; or (ii) stop, the applicant from submitting a completed application to *the insurer*; and [2] shall not: (i) refuse to accept the completed application *or* (ii) redirect the applicant to another insurer (see: ss. 2.1(5) of *Reg 283*). [64]

VOLUME # 4(B)(II.a): Disputes between Insurers: independent breaches by First Notified Insurer and First Insurer under section 2.1 of *Reg 283*

38. Conceivably, the "First Notified Insurer" and "First Insurer" (not the "First Party Insurer" under *Insurance Act* as referenced in *Reg 664*[65]), could independently and disjunctively breach different subsections under section 2.1 of the *Reg 283*. For example, the First Notified Insurer could breach section 2.1(5) of the *Reg 283*, by taking some action intended to prevent or stop the "applicant" from even *submitting* a completed application to "the insurer". "The insurer" may or may not be the First Notified Insurer. Under the last part of the sentence in subsection 2.1(5) of *Reg 283*, "an insurer" may breach section 2.1(5) by refusing to ***ACCEPT***[66] the Completed Application OR redirecting the same to *another* insurer. Ergo, a **First Notified Insurer** could conceivably breach sections 2.1(2), 2.1(3) and (5) of *Reg 283*. [67] [68] [69]

VOLUME # 4(B)(II.a): First Insurer: how could such an insurance company breach section 2 of *Reg 283*? Which subsections of section 2 of *Reg 283* did TDHA breach?

39. Juxtaposed to that, the First Insurer may not be First Notified Insurer wherein an individual contacts, delirious after the Accident, and notifies the insurance company it believes to be a sole underwriter for the vehicle in which she was injured. However, after complying with that seven-day notification requirement under section 32 of *SABS*, an individual may, perhaps after the benefit of ILA, realize that said First Notified Insurer is not *the insurer* that has a duty to respond to her and pay benefits in accordance with the *Schedule*. As seen

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in much of the jurisprudence, wherein insurance companies are willing to engage in a litigation for over nearly two decades, she may have multiple policies that could apply. She then submits her Completed Application to "the insurer" (not "an insurer" or the "**First Notified Insurer**") wherein the First Notified Insurer and First Insurer are distinct and separate entities (not "*one and the same*"). The First Insurer may fail to commence paying benefits in accordance with the provisions of *SABS pending* the resolution of any dispute as to which insurer is required to pay benefits (*nota bene*: the "**First [Recipient] Insurer**" in its capacity as the "**First Provisional Insurer**"). Such a First Insurer may breach section 2.1(6) on a provisional basis and only during the provisional period and/or beyond.

> *VOLUME # #4(II):(IIIa)* Consequences of Non-Compliance[70] (ss. 2.1(7) of *Reg 283*) and distinction between section 2(1) (LGIC proclamation in 1995) and ss. 2.1 (LGIC proclamation in 2011)

40. The word "reasonable" utilized by the LGIC indicates the objective person test. Therefore, the threshold and quantum for the fees under legal, adjusting, admin or disbursements is what a reasonable person would find in terms of whether they are owed and in what quantum. The only difference (see: *supra*, "the statute and regulation operate differently" as per Justice Akazaki) between section 2(1) and 2.1(6)[71] is that the former references the requirement to pay benefits under section 268 of the *Insurance Act* whereas section 2.1(6) reference the requirement of that **First [Recipient] Insurer** to pay benefits in accordance with the provision of the *Schedule*.

> **VOLUME # #4(III):** Argument

41. Vice Chair Morrissette obviously knows more than the Applicant as to what was represented to the Tribunal in written or oral form – not that which is correct at law – "behind the scenes". [72]There is no prescribed right of insurance companies, irrespective of whether they may or may not be affiliated within a group of insurance companies, to accept priority over an "insurance policy". No such right exists in relation to a claim for accident benefits after a Completed OCF-1 is received by AN insurance company. NIC did not refuse to accept the **Completed Application** as it did not receive the **Applicant's Completed Application** *first*. It is unclear if it even received it second or in what order or if at all. The reference to "it at all" is grounded in the record of proceeding and the denial

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letters in that SNIC never enclosed a copy of the initial OCF-1 delivered to TDHA at first instance or other documents but rather would reference them in a vague and ambiguous manner.[73] To encapsulate the application of the uncontroverted evidence to ss. 2.1(5) of *Reg 283*, SNIC was the only insurance company that provided the OCF-1 but it cannot be found to have prevented the Applicant from submitting his Completed Application to "the insurer" but rather *encouraged* him to do so by providing a North York, Toronto, fax number (**VP Building 4th Floor Fax Number**) of TDHA which was an "*in province*" insurer licensed in the class of automobile insurance. Therefore, there was a nexus between the Applicant and TDHA as he did not select TDHA on a whim but was exclusively directed to it by SNIC – at least "on paper".

42. TDHA was the First Insurer as the only two lead tenants at the Victoria Park Ave Building were that of TDGIC and TDHA. TDGIC occupied floors 7 to 9 with the 9th floor being its mailing address and TDHA occupying floors four to six with the four floors being its mailing address. Once the Applicant had honed in on the deception, the mathematical computation of how Bell Canada Inc. had assigned the numbers within the building was rather rudimentary. The area code of 416 was only for Toronto-based locations, 774 was assigned as a "prefix" to numbers within the District of North York and then within the VP Building, the 3 was a common feature to many landlines of tenants therein. The "120" was a string of three digits with numerical value of "1" being on the fourth floor and the numerical string of "629" with "six" being on the 9th floor. For sake of completeness: "2" was on the fifth floor; "3" was on the sixth floor; "4" was on the seventh floor; "5" was on the eighth floor; and "6" was on the ninth floor. The Tribunal's notice of hearing orders are orders at law and subject to judicial review, and neither SNIC nor TDGIC sought to challenge them by a section 21.1 of the *SPPA* motion or judicial review and/or appeal. It is trite that if those fax numbers that the Tribunal had found were to be for service of documents to SNIC and TDGIC were not their fax numbers, they would have objected or confirmed the same with the Tribunal.[74]

43. Therefore, SNIC had no provisional obligation to respond to the Applicant and pay benefits as its obligation to respond was merely the provision of forms and explanation of benefits

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as a mere stakeholder in the insurance industry, but rather TDHA had that obligation to respond and pay benefits. Therefore, pursuant to section 280(4), the LAT was required to resolve the LAT Proceeding in accordance with *SABS* and *Reg 283*.

44. In order for the Tribunal to determine the *JRPA* Applicant's claims under *Reg 664*, s. 10 (Dispute Resolution under section 280 of the *Insurance Act*).[75] Conceivably, s. 10 of *Reg 664* could involve two insurers because a provisional First Insurer could have delayed commencing paying benefits and further delayed during the provisional period, and a different agreed to, with or without the consent of an insured person subject to said claimant receiving notice or notices pursuant to *Reg 283*, or declared insurer, by arbitrator or subsequent court decisions[76] could have delayed or withheld benefits thereafter.[77]

45. The Applicant complied with section 268(5) of the *Insurance Act* and ss. 32(1) of the *Schedule* by SNIC became the "First Notified Insurer". Pursuant to section 32(2) of *Schedule* and *Reg 283*, ss. 2.1(2) SNIC provided the Applicant with an OCF-1 Application (see: *Reg 283*, s.1) and some other forms that related to the *Schedule*. SNIC breached part of ss. 2.1(3) of *Reg 283* by not providing its accurate mailing address and fax number. The Applicant complied with ss. 2.1(4) of *Reg 283* by using the "OCF-1 Application" provided by SNIC and sent the Completed Application to only one insurer (TDHA).

VOLUME # #4(III)(A)(i): Subsection 2.1(6)

46. TDHA was the First Insurer that received a Completed Application for benefits from this *JRPA* Applicant (*SABS* Applicant) and was duty bound, by the LGIC's 2010 proclamations, which were the subject of extensive industry wide consultations, to commence paying the benefits in accordance with the provisions of the *Schedule*.

VOLUME # #4(III)(A)(ii): Subsection 2.1(7)

47. As SNIC and THDA are both "insurers", distinct at law, they have both failed to comply with various sections under subsection 2.1 and are required to reimburse each other for any fees (adjusting and legal), costs *et al* that were reasonably incurred by the other insurer as a result of the non-compliance. However, that is an issue between them and not for the

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Applicant. The Applicant is not entitled to any payment of any incurred legal fees, adjuster's fees, administration costs and disbursements but he is entitled to benefits and payment of section 25 fees incurred.

VOLUME # #4(III)(A)(iii): Sections 3 to 4 of *Reg 283* and ss. 268(3) of the IA

48. An insurer against whom a person has recourse for the payment of statutory accident benefits is liable to pay the benefits: ss. 268(3) of the *Insurance Act*. Where an insurer has given notice under section 3 of *Reg 283*, said insurer must also give notice to *the insured person* using a form approved by the CEO of the FSRA: ss. 4(1) of the *Reg 283*. Said form is denoted below at Appendices and it is a A143.[78] TDHA did not even engage in the pretense of doing so.

VOLUME # #4(III)(A)(iv): Section 5 of *Reg 283*

49. The Applicant never received notice under section 4 of *Reg 283* so he did not have any obligation under section 5(1) of *Reg 283*. Ergo, the Applicant could not, in fact, advise the insurer paying benefits in writing within 14 days that he objected to the transfer of the claim to the insurers referred to in a non-existent notice. According to VCM, the transfer of his TD Claim #3, clandestinely occurred at some unparticularized time by some void ab initio agreement between the First Insurer when TDGIC, in conjunction with SNIC, accepted priority over the Applicant's [sic] Insurance Policy [sic]. VCM was clearly not referring to a "decision" but a *subsequent agreement* by her deliberate word choice of "acceptance". For "acceptance" to have occurred by two other insurers, where neither could be the First Insurer (TDHA), an offer had to be made. For an agreement to have been consummated, there had to be return consideration in the form of a fulfilled promise from the offerees to the offeror (TDHA). In order for that proposed contract, which could be at best an "agreement to agree", it required notice to the JRPA Applicant and his consent or his silence AFTER receipt of the prescribed notices.[79]

VOLUME # #4(III)(A)(v): Subsection 5(3) of *Reg 283*

50. Ss. 5(3) of *Reg 283* has a "despite" or "subject to" clause in said subsection but it relates to the Fund initiating arbitration so it is not germane to the issues herein.

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VOLUME # #4(III)(A)(vi): *Void Ab Initio* Agreement and deprivation of three different rights: (i) right to object to transfer of his claim to other insurers, (ii) right to object to proposed agreement between insurers; and (iii) right to file notice of arbitration

51. While the Applicant did not receive any section 4 notice pursuant to *Reg 283* and was deprived of his rights which the LGIC provided similarly situated accident victims, to object to the transfer of his TD Claim #3 to SNIC and TDGIC on an apparently joint basis, he was also deprived of his arbitration participatory rights in any subsequent proceeding to *settle* the dispute. Most importantly, whatever clandestine, underhanded and surreptitious agreement was negotiated and consummated between TDHA with SNIC and TDGIC, had no legal effect and was not merely void but void *ab initio*. It amounts to an irremediable nullity.[80]

VOLUME # #4(III)(A)(vii): Consent vs Non-Opposition – risks of allowing the Tribunal to decide the Hearing Proper with the "musical defence chairs" between SNIC, TDGIC and TDHA

52. Leaving aside that Mr. Nieuwland's purported Notice of Appearance was and remains defective, Mr. Nieuwland is apparently engaged in similar past conduct that was not only rejected by the Tribunal but the FSRA (two administrative tribunals created under different statutes with boundaries that regularly intersect) with respect to his misguided "*one and the same representation*" regarding SNIC and TDGIC being the same corporate entity. Such a misrepresentation was counter to the FSRA certificates of status involving each, their distinct license classes approved by the FSRA, the corporate history of TDGIC and SNIC, and the rule in *Foss v. Harbottle*. Mr. Nieuwland now wishes this ONSC to accept a filing, which was not forthwith, but wherein his cover email misrepresented that he was acting for SNIC and two distinct companies *also referred to as [sic]* as "TD Home and Auto [sic]" and "TD General Insurance company [sic]". It was a tantamount to a "triple down" on his previous "double down" at least "numerically". For the purposes of clause 4.3 of *Schedule* 1, the consent of an individual is only valid if it is reasonable to expect that an individual to whom the organization's activities are directed would understand the nature, purpose and consequences of the collection, use or disclosure of the

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personal information to which they are consenting: s. 6.1 of *PIPEDA*. It is trite that the OCF-1 and PIPEDA operate harmoniously and in tandem.

VOLUME #4(III)(B): "Mr. Nieuwland and co" – up to old tricks

53. Not opposing the relief in a motion, as TDGIC did by way of written email by Mr. Nieuwland on behalf of TDGIC on June 6, 2024, is not the legal equivalent of "consent". Such a statement of law is a trite one but the history of how SNIC and TDGIC have abused the process of the LAT Proceeding is precisely why this ***JRPA Proceeding*** must be decided *prior* to the Hearing Proper. After Mr. Karat, a non-licensee, signed and filed a Response on behalf of SNIC on January 25, 2025, (the "SNIC Response") contrary to LSO By-Laws, TDGIC purported to be the sole respondent without even the pretense of filing a pleading. NOM #8 was not granted until June 20, 2024, which then required another section 21.1 of the *SPPA* motion as the clarity and precision of some of the findings of fact, contrary to the record of proceeding, by yet again VCM, were incorrect. The Applicant sought the consent of TDGIC to remove itself as the sole respondent and the consent of SNIC, the only insurance company that filed a Response, to substitute itself for TDGIC. Mr. Nieuwland, for TDGIC, was unequivocal that TDGIC would NOT oppose any such relief from the Applicant after opposing said relief for nearly six months. Mr. McLean is not so self-aggrandizing to think that his NOM #8 was of such superb calibre that it was the sole catalyst for the change in legal position. Rather, it was, admittedly, bold move to serve the FSRA with NOM #8 and invite its submissions by way of *amicus curae*. 128 days passed from the time of the Nieuwland DOR on behalf of TDGIC to the time of his email where TDGIC would not oppose the relief that the Applicant had been seeking, with formal motions and at the case conference. SNIC did not respond to NOM #8 even though its sole representative, at the time, in Mr. Karat had responded to emails in May 2024. Consent for removal of TDGIC and substitution of SNIC for it would have required a "three party agreement" between the JRPA Application, TDGIC and SNIC.

VOLUME #4(III)(C): *Res judicata* and Issue Estoppel

54. The Applicant could then be caught by the doctrines of *res judicata* and issue estoppel.

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VOLUME # 4(D)(C)(i): *Res judicata*

55. In *Said v. Northbridge General Insurance Company, 2024 ONSC 5248* (Div. Court), the Honourable Justice DL Corbett with oral reasons considered *res judicata* in an administrative context where it was found that a LAT decision is final and authoritative subject to a party's rights of reconsideration or appeal from that decision.[81] TDHA and SNIC are not "one and the same" as it has already been found by the FSRA, through its issuance of the certificates of status in June 2024, that "TDGIC and SNIC were not one and the same".

VOLUME # 4(D)(C)(ii): Issue Estoppel

56. Issue estoppel has been articulated as follows in *Kazen v. Whitten & Lublin Professional Corporation*, 2020 ONCA 325[82]: (i) the same question has been decided; (ii) the judicial decision which is said to create the estoppel was final; and (iii) the parties to the judicial decision or their privies were the same persons as the parties to the proceedings in which the estoppel is raised [or] their privies. The ONCA in *Victoria University (Board of Regents) v. GE Canada Real*, 2016 ONCA 646 found the following: "[97] It holds that a party may not relitigate an issue that was finally decided in prior judicial proceedings between the same parties or those who stand in their place. However, even if these elements are present, the court retains discretion to not apply issue estoppel when its application would work an injustice."

57. It is the "mutuality principle" that would be at issue as to whether THDA and SNIC are "privies". However, even the slight chance, however remote, is enough to ensure that a decision is issued as to whom the First Insurer was – as there is no finding that TDHA was not the First Insurer and SNIC was the "Frist Insurer". Since there are no findings in this regard to overturn, no deference is required and the ONSC can decide the issue "de novo" or at least in a manner that resembles a "de novo hearing". It is yet another reason why the respondent insurance companies must not be entitled to participate herein. The Applicant would not be bound by *res judicata* and/or issue estoppel because SNIC and TDHA are privies but because of Mr Nieuwland's recent representation in his "received" filing (purported NOA) that SNIC are "also referred to as" as TDHA and TDGIC.

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VOLUME # 4a(II)(D): *Reza* vs. *State Farm*, and s. 19 of *SPPA*

58. The case of ***Fatemeh Rezaiezadeh v. State Farm Mutual Automobile Insurance Company***, 2016 ONFSCDRS 59 (**"*Reza*"**)[83] **stands for the proposition below wherein an arbitrator found the following: "The Appellant concedes there is no explicit procedure in...the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22, as amended, to permit a party to continue a proceeding against a non-party." While *Reza* was a decision before the FSCO, the Legislature has not amended the *SPPA* in any manner that would change that precedential statement of law. The Applicant will also be deprived of his rights under section 19 of the SPPA in relation to enforcement of a monetary order.[84]The Applicant cannot continue the LAT Proceeding as currently constituted against TDHA as per the VCM Decision. Moreover, the Applicant would be proceeding against as a "Non-First Insurer" that does not have any obligation to respond and to pay benefits.[85]**

VOLUME # 4a(II)(D)(i): Does the argument that SNC would merely cut a cheque assuage any concerns and/or should the Applicant have to ever take such a risk?

59. **In *Reza*[86], the following excerpt has extreme relevance to why this *JRPA Proceeding* must proceed expediently before a single justice and, if it fails, then before the ONSC (Div. Court): "The Appellant's apparent concern is that if she is successful on appeal and obtains a monetary award, if the Respondent does not pay, whose property does the sheriff seize? The Respondent submits that Certas would respond to any "valid" judgment by cutting a cheque because of its contractual obligation with State Farm. This did not seem to reassure the Appellant."[87]**

VOLUME # 4a(II)(D)(ii): Not merely the entitled insured person and the obligated insurance company (First Insurer) but *issues*

60. **The danger of not deciding this *JRPA Proceeding* on an expedited basis before a single justice, is outlined, to some degree, in 2015 ONCA 851[88]. The ONCA briefly set out the elements required for issue estoppel to apply to bar the re-arguing of *an issue*, and some useful comments on when parties meet the "mutuality principle". The applicable principle is that "litigation is conclusive upon *issues actually brought before the court* and upon any**

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issues which the parties, exercising reasonable diligence, should have brought forward on that occasion"[89] The ONCA at paragraph nine raised some of the indicia that would make corporate parties privies of each other and the address aspect is one that cuts both ways:

> "[9] ..... All corporate appellants, except Committee of Certified Acupuncturists of Ontario, share the same registered address and they all share *many* of the same directors and officers, including the two individual appellants. In the context of these proceedings, this constitutes a sufficient degree of identification among the parties "to make it just to hold that the decision to which one was a party should be binding in the proceedings to which the other is a party".[90] In any event, even if the same parties' requirement for issue estoppel is not strictly met, permitting the appellants to re-litigate the issue that was determined by the Divisional Court would amount to an abuse of process.

VOLUME # #4(III)(D)(v): "Would respond" is antithetical and counter to the purposes of *Reg 283* and *SABS* [they are imperatives]

61. As found by the Honourable Mr. Justice Akazaki, a former president of the OBA no less, in *Zurich 2024*[91] the purpose of *SABS* is and remains that those injured persons receive vital treatments and income replacement benefits. SNIC is even on worse footing than Certas, vis-à-vis the defunct State Farm, as noted in *Reza*[92], as it relates to automobile insurance benefits in Ontario, because there is no evidence of SNIC having a contractual relationship to TDHA to respond and pay on its behalf for its obligations under *Reg 283* and *SABS*. However, this inharmoniously bolsters a variety of points: (i) SNIC may take the position that it was *standing in the shoes* of TDHA; (ii) SNIC and TDHA are privies because of the "*standing in the shoes argument*", (iii) without a decision herein, SNIC may take the position, even post hearing, that the Applicant was advancing his arguments not only against SNIC, but TDGIC and TDHA, and be without any recourse against TDHA as the First Insurer; (iv) SNIC does not have a duty to respond and pay benefits because it was not the First Insurer but the Applicant's LAT Appeal is dispositive of all issues against not only SNIC but TDHA; (v) to the extent that the Applicant advanced a separate LAT Appeal against TDHA, he would be abusing the process of the Tribunal because the underlying evidence would be similar or the same as he had faxed the seminal documents and correspondence to 416.774.3120 on a primary level; and (v) others.

VOLUME # #4(III)(E)(i): No *effective remedy* left for the Applicant

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62. The prematurity doctrine has no applicability. The Applicant may or may not obtain a remedy against a non-liable insurance company as a matter of the governing statute in *Insurance Act*, ss. 268(3) and the binding regulations in *Reg 283*, *SABS* and *Reg 664*. Judicial review is a discretionary remedy. However, in *Awada*[93], Corbett J. by setting out the legal principle or precedent that courts should not interfere with ongoing administrative proceedings until after they are completed *or* until effective remedies are exhausted. It is not that a claimant has exhausted remedies but effective remedies. "Effective" is synonymous with "actual, real, or operative". Any remedies against SNIC are ineffective, futile or useless. The ineffectiveness of any remedies, absent costs against SNIC in the LAT Proceeding, is further bolstered by the mature and stable jurisprudence that an order adding or dismissing a motion to add a party is a final order.

VOLUME # 4(III)(E)(iii): The Ultimate Appeal argument

63. The ONSC outlined the legal test in *Mansuri*[94] wherein it stated, "To the extent that there are "alleged deficiencies" arising from the Initial Decision, the applicants have not established that they "cannot be cured on an ultimate appeal. Put another way, the applicants have not established that the alleged prejudice to the applicants outweighs the benefits of a single court proceeding once the underlying Tribunal proceedings are complete" (see: *Mansuri v. Dominion of Canada General Insurance Company*, 2023 ONSC 5764[95] at paragraph 43).[96] Even in an "ultimate appeal", no curing could occur as TDHA is not the solely liable respondent party in the LAT Appeal.

VOLUME # #4(III)(E)(iii): The corollaries in *Ontario Nurses Association*

64. The ONSC in *Sudbury and District Health Unit v Ontario Nurses' Association*, 2023 ONSC 2419 ["*Ontario Nurses*"][97], found as follows at paragraph 29: "…. Resolution of this application does not resolve the outstanding issues before the Arbitrator. In addition, the court has been clear that this is not an exceptional circumstance that would lead it to hear a judicial review application on an interlocutory decision." The deductive reasoning is rather rudimentary: (i) if resolution of a *JRPA* Application resolves outstanding issues

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before the Tribunal, then a *JRPA* Application is **not** premature; and (ii) if not an interlocutory decision, then this militates in favour of hearing this *JRPA* Application.[98]

VOLUME # 84(III)(F)(iv) Court May ALWAYS intervene - In Person: Jurisdiction of its Superior Court Status

65. The court noted that "if there is a prospect of *real unfairness* through denial of natural justice or otherwise, a superior court may always exercise its inherent supervisory jurisdiction to put an end to the injustice before all the alternative remedies are exhausted…the unfairness in this case is so obvious that it would be inappropriate to put the officer through a trial before a tribunal that lost jurisdiction through a denial of natural justice.[99] This madness needs to be put to an end. The Tribunal is not even correctly distinguishing between the law of consent and "non-opposition". *What next by way of extrapolation of legal principles?* Sexual assault victims need not consent to sexual acts but their lack or absence of opposition to sexual acts is functionally and legally equivalent to consent. This Tribunal should be ashamed of itself by tossing around, in some irresponsible manner, that "consent" and "non-opposition" are "*one and the same*".[100]

VOLUME # 84(III)(F)(v): Concerns about this decision maker in VCM

66. Further, the total absence of a foundation for a finding of fact is an error of law. Moreover, it is the findings of VCM that are so particularly concerning that raise incredible integrity issues and conduct. It is not the first time that this former adjudicator, since promoted to Vice Chair, has been involved in serious breaches of conduct with knowledge. Her apparent knowledge, not in the record of proceeding, of what transpired, was not only affront to the *LAT Rules* of all parties being copied on correspondence, but this ONSC can take judicial notice of some issues involving this Tribunal of yesteryear.

67. Vice Chair Morrissette had to obtain this "knowledge" that TDGIC and SNIC accepted priority over the Applicant's (sic) insurance policy [sic] from some place, repository *et al*. The activities of VCM, prior to assuming her role as an adjudicator and now VC, are of great concern on a general but a specific level herein (see: https://lobbycanada.gc.ca/en/investigations/reports-on-investigation/the-lobbying-activities-of-tuna-morissette/).[101] [102]

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VOLUME # #4(III)(E)(vi): The conduct of this Tribunal is bringing the rule of law into disrepute: exceptional circumstances.

68. In *Harold the Mortgage Closer Inc. v. Ontario* (Financial Services Regulatory Authority, Chief Executive Officer), 2024 ONSC 446 [103], this ONSC found: **"[49] Exceptional circumstances are ones that bring the rule of law into disrepute which goes beyond breaching procedural fairness or even acting without jurisdiction: *Dagré*, at para. 35."**

VOLUME # #4(III)(E)(vii): Risk of repeating proceedings and potential prejudice

69. **Referring to the exceptions to the prematurity doctrine, which are analyzed when interlocutory relief is challenged by way of judicial review which has no applicability herein, "…It will only be permitted in rare cases where the *potential* prejudice of the risk of repeating proceedings after review" (see: *Lourenco*[104]). This JRPA Application will be repeated if the prematurity doctrine and arguments of the Tribunal are accepted.**

VOLUME # #4(III)(E)(viii): Broader implications, Test Cases and Concurrent Jurisdiction

70. **In *London District Catholic School Board v. Weilgosh*, 2024 ONSC 3857[105], the concepts of broader implications and test cases caused the ONSC to hear the judicial review even on an interim order, which the VCM Decisions are not, before the conclusion of that proceeding. Even more forcefully, the issues herein are even more important because they will determine a *Reg 283* and *SABS* issue in a "test case" where they have not been decided before against the backdrop of some alarming issues involving this Tribunal which appear to be related to previous concerns about this Tribunal. This outcome and decision herein have broad implications for insured persons with various insurance companies in any "insurance group" and whether there is a systemic issue involving providing false contact information, which may or may not involve intentional breaches, and may be merely a technological error like the "four insurance companies" had in the FSRA Enforcement Decisions for SNIC[106], TDGIC[107], Primmum[108], and TDHA[109]. Nonetheless, it must be addressed forthwith before further prejudice occurs to the public.**

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VOLUME #5: Conclusion and Orders Sought

VOLUME #5(A): Why the prematurity doctrine has no applicability

71. History cannot repeat itself and the JRPA Applicant is acting not only in relation to "final orders" but in accordance with the "rule of law" and being pre-emptive by filing this factum and asking, with great respect and appreciation, for an urgent hearing. The obvious 'devil's advocate' position to the JRPA Applicant's submissions regarding being technically correct in following *Reg 283*, which dovetails with SABS and Reg 664, is that SNIC will claim that it will be bound by any decision of the Tribunal and not advance any positions contrary to the same or at the "11th hour". However, there is nothing, with the findings in the impugned orders and decisions of VCM on September 12, 2024, (contrary to the September 6, 2024 inscription), to take the position that it [SNIC] is not obligated to respond and pay benefits pursuant to *SABS* because it was NOT the "First Insurer". There is also nothing that would preclude SNIC from doing so after the Hearing Proper and prior to the issuance and release of a decision of the Tribunal in relation to the Hearing Proper as the Tribunal would not be *functus officio* until that time. SNIC could seek leave post Hearing Proper and advance that argument all while relying on the finding, god willing such a finding would not be issued by this ONSC Divisional Court, that the JRPA Application was premature. It would then leave the Applicant with no recourse regarding the final orders to NOT add TDHA as the First Insurer and not only no effective remedy against insurance companies within the TDI Group but no insurance company with a duty to respond and pay any benefits. In effect, it would be a return to the unlawful *status quo* where the Applicant communicates with the purported adjusters for SNIC and they do not respond to him despite the digital communication protocol that was consummated by consent between SNIC and the Applicant on January 23, 2024.

VOLUME #5(B): Preliminary Orders

72. With great respect and appreciation for the ONSC's time on this matter, the Applicant seeks, by way of this factum, the following orders on a preliminary basis: (a) Striking Nieuwland Purported NOA on behalf of three insurance companies; (b) An order that the Applicant is entitled to be heard on the issue of leave before a single justice of the ONSC

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at the earliest opportunity of this ONSC and prior to January 15, 2025; and (c) An Order dispensing with the need for any case management conference.

VOLUME #5(C): Public Interest Remedies: Declarations Of Law

73. The Applicant seeks the following public interest remedies, orders, declarations or findings for the benefit of the public along with this ONSC solidifying the required stability and uniformity involving *Reg 283*, which the Applicant respectfully seeks an endorsement or finding of the same, are the following syllogisms for accidents post September 1, 2010:

a. A **Declaration of Law** that there cannot be any binding agreement, at law, between a First Insurer and another insurer or insurer(s), where an insured person has not received notice from the First Insurer (see: section 3(1));
b. A **Declaration of Law** that there cannot be any binding agreement, at law, between a First Insurer and another insurer or insurer(s), where an insured person has not *selected* the First Insurer (see: section 7(2) of *Reg 283*);
c. A **Declaration of Law** that there cannot be any binding agreement, at law, between a First Insurer and another insurer or insurer(s), at first instance or subsequent, under *Reg 283* if the insured person, in her capacity as an Applicant having sent a Completed Application that was received by an insurer, making said insurer the "First Insurer", did not receive a notice of dispute or transfer pursuant to *Reg 283*;;
d. A **Declaration of Law** that there cannot be any binding agreement between a First Insurer and another insurer or insurer(s), at first instance or subsequent, under *Reg 283* if the insured person, in her capacity as an Applicant having sent a Completed Application that was received by an insurer making said insurer the "First Insurer", objected to any transfer of her claim pursuant to section 5(1) of *Reg 283* and said "agreement" was made without the consent of the insured person applicant who has seen and read the agreement;
e. A **Declaration of Law** that there cannot be any binding agreement, at law, between a First Insurer and another insurer or insurer(s), at first instance or subsequent, under *Reg 283* if the insured person, in her capacity as an Applicant having sent a Completed Application that was received by an insurer making said insurer the "First Insurer", where:
    i. an insured person has received notice of the potential transfer of the claim by the First Insurer to another insurer or insurers, the insured person has objected to the transfer within 14 days of receiving notice, received a copy of the proposed agreement, objected to said proposed agreement and has initiated arbitration within 14 days of being notified of an agreement under the *Arbitration Act, 1991* (see: section 7(2) of *Reg 283*);
f. A **Declaration of Law** that there cannot be any binding agreement, at law, between a First Insurer and another insurer or insurer(s), where an insurer does NOT commence or initiate arbitration within one year after the day the insurer paying

benefits gives a section 3 notice to the other insurers and, by corollary, a section 4 notice to the insured person applicant (see: section 7(4)); and

g. A **Declaration of Law** that there cannot be any binding agreement, at law, between a First Insurer and another insurer or insurer(s), whereby the insurer paying benefits was not the First Insurer if the First Insurer does not give notice in accordance with section 3(1) of *Reg 283* because the First Insurer is bound by its failure to give a section 3 notice to every other insurer because even if the First Insurer does so, section 4 requires a more formal notice under section 4 in the requisite form (A143).

VOLUME #5(D): Judicial Review Final Orders vis-à-vis Ms McLean and TDHA

74. The Applicant seeks the following final orders:

1. An order quashing, in the nature of certiorari, and setting aside the **VCM Decision**;
2. An order quashing, in the nature of certiorari, and setting aside the **VCL Reconsideration Decision**;
3. An order granting the Applicant's orders sought, stylized as #1 and #3 in his NOM #14 (see: page 12 of the **Application Record**);
4. Costs in favour of the Applicant in NOM #14 and #15 against the then sole respondent in SNIC and fixed at $2,000;
5. Costs in favour of the Applicant in this ***JRPA Proceeding*** against any of the respondents herein that oppose the relief herein;
6. Such other further relief that this Honourable Court may grant pursuant to its inherent jurisdiction; and
7. Leave to the Applicant to file and serve any further documents, including amended submissions, that arise from the above or become known to him and/or based upon any agreement or order regarding the filing of the record of proceeding.

VOLUME #5(E): A full answer to the prematurity doctrine by way of legal bases

75. Lastly, there is a full answer to why the issue of who the First Insurer was and is, and who the correct liable and obligated respondent party must be and that is section 56 of SABS:

> **"Time limit for proceedings**
> **56.** An application under subsection 280 (2) of the Act in respect of a benefit shall be commenced within two years after the insurer's refusal to pay the amount claimed. O. Reg. 44/16, s. 6."

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76. The LAT Appeal (a section 280(2) of the Insurance Act 'Application') was filed and served on the TDHA Fax Number, albeit unbeknownst to the Applicant as being the TDHA Fax Number, on December 24, 2023. SNIC filed its Response on January 25, 2024. VCM could not have reviewed the pleadings because she would have known by both pleadings that it was NOT the Applicant's Insurance Policy.

77. In *R.M. v CAA Insurance*, 2020 CanLII 94775[110], Vice Chair Shapiro found in relation to section 56 of the Schedule:

> "[5] Section 56 of the *Schedule* provides that an application to dispute a denial of a benefit must be commenced within two years of the insurer's refusal to pay. Section 64 allows the denial notice to be sent by regular mail or faxed to an insured's lawyer. Once a proper denial has been properly sent, if an insured does not appeal within that period, the Tribunal can not hear it as it is "time-barred".

78. This, in turn, makes the precise point that SNIC, at least prima facie, has sent "denial letters" to the Applicant but TDHA has not. Parenthetically, TDGIC never sent a denial letter to the Applicant which was the Applicant's primary reason for continuing to seek the relief to substitute SNIC for TDGIC – not the unsupported findings of VCM. Therefore, the "record of proceeding" will be unequivocally different between SNIC and TDHA. It is not merely a "cosmetic difference" but a substantive one.

79. All of which is respectfully submitted to the ONSC (Div. Ct.) at first instance on Tuesday, December 10, 2024:

Mr. Kevin A. McLean (B.A. J.D., CIM)
Self-represented, the Applicant herein

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APPENDICES OF THE JRPA APPLICANT'S FACTUM

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APPENDIX #1: Errors in VCM Decision as referenced by NOM #18 in the NOM #18 Motion Form and Schedule Thereto

The Appellant seeks the following orders as follows pursuant to section 21.4 of the *SPPA* (but not LAT Rule 17) by way of strikethrough for deleting the word therein and underlining for proposed additions in substantially the same form:

a. **An Order correcting the "date of the order" from September 6, 2024 to September 13, 20242;**

b. **An Order correcting paragraph 2 from "was issued to the parties" to the following in substance "was issued to the Appellant and TDGIC, which was and is a non-party pursuant to the retroactive nature of my order issued on June 20, 2024, and released on June 21, 2024. As a parenthetical note, the Appellant sought clarification of my order in relation to this NOM #8 to confirm that the retroactive nature of the ordered changes from TDGIC to SNIC only related to documents and orders issued by the Tribunal and not those of TDGIC from January 30, 2024, to June 21, 2024. I confirmed the same in my reasons for decision in relation to the Appellant's order seeking clarification, which was his NOM #10;**

c. **An Order correcting paragraph #2, sentence #2: [this is corrected by the change above in Order #2];**

d. **An Order correcting paragraph #3 to: from "on consent of the parties" to "by TDGIC not opposing the relief sought in NOM #8 (except costs) and the Appellant proceeding with his motion unopposed";**

e. **An Order correcting paragraph #5 as follows in substance: [to be consistent between sentence #1 and sentence #2 as sentence #1 references twelfth, thirteenth, and fourteenth and sentence #2 references "NOM #13, NOM #14, and NOM #15"];**

f. **An order correcting the *"similar error" [technical deficiency error]*, in the form of incorrect language, at paragraph 12, as submissions are not affidavit evidence. Further, an order specifically correcting paragraph 12, sentence #2, from "He submits that he made demands..." to "He swore affidavit evidence that he made demands upon TDHA and exhibited the emails he sent to TDGIC along with filing a certificate of service that delivered the hearing brief, which was indexed, tabulated and consecutively numbered pursuant to *LAT Rule 9.4.5.*, on July 11, 2024. As the Tribunal did not provide TDGIC with an opportunity for submissions, contrary to LAT Rule 9 2.2., the Tribunal did not have the benefit of any written submissions, affidavit evidence or authorities."**

g. **An order correcting paragraph #18 as follows with the inclusion of the technically correct language and facts: was TDGIC. While TDGIC was the**

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respondent party at the time, the effect of my order on June 6, 2024, operated retroactively.

h. An order correcting paragraph #19 as follows: removing sentence #1 and replacing with the language in the underlying hearing brief and record at the time "The reasons that SNIC was required to be the sole respondent party, as cited in NOM #8, were not only because of the Appellant's reasons but compliance with the *SPPA*, *SABS*, *Reg 283*, FSRA requirements, LATA, consistency with the *LAT Rules* and others.

i. An Order that **paragraph 22**, sentence #1 is corrected as follows: "TD Insurance letterhead" to "TD Insurance Meloche Monnex letterhead" with the return address of 200-101 McNabb Street, Markham, Ontario"

j. An Order that **paragraph 22, sentence #3** is removed in its entirety in favour of the facts within the record of proceeding as follows in substance with the below:

i. Within the filed Appeal, the Appellant utilized the definition of TD SNIC. While the Appellant could not input the entirety of TD Insurance Meloche Monnex (Security National Insurance Company), he used TD Insurance with the definition of "TD SNIC" within the pleading for further specification. Attached to his pleading with the required
listed key documents were four pre-pleading affidavits that all referenced TD SNIC, which contained the "Denial Letters" therein.

ı. On December 24, 2023, the Appellant served the Appeal to the fax number provided to him by SNIC in September 2022, which was 416.774.3120. The said fax number is grounded and wired to the building located at 3650 Victoria Park Avenue, North York, Toronto, Ontario. The Appellant was unaware that said fax number was not that of SNIC Markham. Whichever insurance company was so located on the 4th floor of the Victoria Park Building at the time of October 13, 2022, was served with the Appeal.

ii. On January 3, 2024, the Appellant filed his NOM #1 with the Tribunal.

iii. On January 8, 2024, the Appellant filed his NOM #2 with the Tribunal. On the same day, the Appellant received communications from one Mr. Josh Grant, case manager, of the LAT/AABS requesting that the Appellant provide copies of the denial letters that he had received in relation to his TD Claim #3 and LAT Proceeding. The Appellant did so on January 8, 2024, which contained denials letters exclusively from SNIC at its alleged offices of SNIC Markham and the Burlington Office Building (absent a floor number). The denial letters that the Appellant provided were already contained within the pre-pleading affidavits that particularized the key documents for the Appeal.

iv. On January 14, 2024, the Appellant filed NOM #3.

v. In each of the three motions denoted above, the Appellant denoted the respondent as "TD Insurance Meloche Monnex" (Security National Insurance Company).

vi. On January 16, 2024, Vice-Chair Lake issued written reasons for decision in all three motions, without the party receiving any notice of the written hearings, section 6, declining to decide the same. In Vice Chair Lake's order, she even references TD SNIC but continued with the finalization of her reasons for decision with TDGIC as the Respondent.

vii. For context as to how TD General Insurance Company became the sole respondent on January 8, 2024, in the LAT/AABS system, when Mr. Josh Grant, case manager for the SNIC Proceeding, was assigned to the same, Mr. Grant emailed the Appellant, Mr. Nieuwland, who was then counsel to TDGIC, and Mr. Karat, ADR Specialist to SNIC, on May 6, 2023, in response to the Appellant's May 6, 2024, email requesting, *inter alia*, copies of the documents and information as it relates to who provided the Tribunal with information regarding TDGIC on or around the deadline for filing a Response to the Appellant's Appeal. The Appellant's query arose after May 2, 2024, at the combined case conference and set hearings for his NOM #4 and NOM #6, when he objected, prior to and during the case conference, to TDGIC being the sole respondent or a respondent at all as it was never disclosed to him as an insurance company; it was not the underwriter in the Appellant Spouse's insurance policy, that had any duties in relation to his TD Claim #3. Moreover, the Appellant needed to know the information because *SABS* requires the insurance company that refused to pay any amounts claimed for benefits or any refusal seeking increased benefits to be named (see: section 56 of *SABS*3). Mr. Grant kindly noted that the Appellant did list TD Insurance as the Respondent but mistakenly stated that the denial letters the Appellant filed also referenced only TD Insurance when the denial letters bore the two trademarks of "TD Insurance Meloche Monnex" and the return address of Security National Insurance Company (see: affidavit #38, Exhibit "A" pages 31 to 45). Mr. Grant's explanation was that, after receiving the denial letters, which did not reference "TD Insurance" (or TD General Insurance Company), that the information, in his view, provided in the Appeal, plus pre-pleading listed and attached documents, provided him with only two options for entry of the respondent party insured, when SNIC was in the upper-right hand corner of each document along with the author being "TD Insurance Meloche Monnex", in: (i) TD General Insurance Company; or (ii) TD Home And Auto Insurance Company.

viii. Mr. Grant noted that "If there was a concern that the Security National Insurance Company, not TDGIC, being named as the Respondent party, please advise if the parties agree that a
change should be made. The Appellant sought TDGIC's consent, but it did not respond. It was not until after the Appellant found the FSRA enforcement decisions and Mr. Nieuwland's representation of SNIC in the Syed Decisions, could he disprove Mr. Nieuwland's representations that SNIC and TDGIC were one and the same and "this is how they always do it" [in relation to SNIC being the sole underwriter, responding insurance company *et al* and then TDGIC becoming the sole respondent]. The Appellant again sought the consent of TDGIC when he obtained the FSRA's confirmation that he could obtain status certificates at a cost for expedited receipt. TDGIC did not respond. It was not until after some six months of TDGIC refusing to be removed as the sole Respondent, and SNIC not responding to the overtures to be the sole respondent and opposing relief from the Appellant in motions and unlawfully appearing as the sole respondent at the case conference, that TDGIC, through Mr. Nieuwland confirmed in writing on June 6, 2024, that it would not oppose the Appellant's relief sought in NOM #8. The Appellant obtained those status certificates on June 19, 2024, and filed them

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with the Tribunal. On June 21, 2024, with a litany of reasons as to why SNIC was required to be the respondent instead of TDGIC, as TDHA was unknown to the Appellant, NOM #8 was granted in the Appellant's favour.

k. An Order that paragraph 23,

> ix. sentence #1 is corrected from "Respondent's counsel" to "current respondent's counsel and former counsel to TDGIC", from "noting that he was representing the insurer "TDGIC" to "declaring that he was representing the insurer "TDGIC" but only after Mr. Karat, the ADR Specialist, who represented to the Appellant, on January 23, 2024, via email, with Mr. Nieuwland copied as "counsel", that he was assigned to be the ADR and representing the Security National Insurance Company, and then on January 25, 2024, Mr. Karat signed and filed the Response for SNIC ("SNIC Response") whilst serving the Appellant;
> x. sentence #2 is corrected by the removal of the entire sentence with the facts as above in substance subject to the writing style of Vice Chair or an adjudicator;

l. An Order that paragraph 24 is corrected to the following:

i. Sentence #2: removing the entire sentence and adding the following, "Consistent with the documents, the Appellant refuted Mr. Nieuwland's misrepresentations4 that SNIC and TDGIC were "one and the same" and that TD Insurance Staff Legal always substituted or changed the identity of TDGIC for SNIC in LAT proceedings, which was counter to the very representations Mr. Nieuwland made representing SNIC in those *Syed Decisions* in LAT file number:
ii. Sentence #4: changing the following from "dated June 20, 2024, and released the following day on Friday, June 21, 2024,"5 and from "on consent of the respondent" to "by email dated June 6, 2024, TDGIC, through Mr. Nieuwland, confirmed it [TDGIC] would not oppose the relief sought";
m. An Order the following sentences in paragraph #27 are amended as follows:
i. Sentence #2: changing from "The initial respondent, TDGIC, and the current respondent, SNIC accepted priority over the applicant's spouse's insurance policy"
n. An Order that the following paragraph 35, sentence two is amended as follows:
i. From "curtail" to "circumvent";6; and

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APPENDIX #2: REG 283

ONTARIO REGULATION 283/95

DISPUTES BETWEEN INSURERS

Last amendment: 126/19.

This Regulation is made in English only.

0.1 In this Regulation,

"application" means an application for accident benefits (OCF-1) approved by the Superintendent for the purposes of the *Schedule*;

"benefits" means statutory accident benefits as defined in subsection 224 (1) of the Act;

"completed application" means a completed and signed application,

"Fund" means the Motor Vehicle Accident Claims Fund continued under subsection 2 (1) of the *Motor Vehicle Accident Claims Act*;

"*Schedule*" means, in respect of an accident, the *Statutory Accident Benefits Schedule* as defined in subsection 224 (1) of the Act that applies in respect of the accident. O. Reg. 38/10, s. 1.

1. All disputes as to which insurer is required to pay benefits under section 268 of the Act shall be settled in accordance with this Regulation. O. Reg. 283/95, s. 1.

2. (1) The first insurer that receives a completed application for benefits is responsible for paying benefits to an insured person pending the resolution of any dispute as to which insurer is required to pay benefits under section 268 of the Act. O. Reg. 283/95, s. 2.

(2) Subsection (1) applies in respect of benefits that may be payable as a result of an accident that occurs before September 1, 2010. O. Reg. 38/10, s. 2.

2.1 (1) This section applies in respect of benefits that may be payable as a result of an accident that occurs on or after September 1, 2010. O. Reg. 38/10, s. 3.

(2) An insurer shall promptly provide an application and any other appropriate forms in accordance with the *Schedule* to an applicant who notifies the insurer that he or she wishes to apply for benefits. O. Reg. 38/10, s. 3.

(3) The application provided by the insurer must include the insurer's name, mailing address and telephone and facsimile numbers. O. Reg. 38/10, s. 3.

(4) The applicant shall use the application provided by the insurer and shall send the completed application to only one insurer. O. Reg. 38/10, s. 3.

(5) An insurer that provides an application under subsection (2) to an applicant shall not take any action intended to prevent or stop the applicant from submitting a completed application to the insurer and shall not refuse to accept the completed application or redirect the applicant to another insurer. O. Reg. 38/10, s. 3.

(6) The first insurer that receives a completed application for benefits from the applicant shall commence paying the benefits in accordance with the provisions of the *Schedule* pending the resolution of any dispute as to which insurer is required to pay the benefits. O. Reg. 38/10, s. 3.

(7) An insurer that fails to comply with this section shall reimburse the Fund or another insurer for any legal fees, adjuster's fees, administrative costs and disbursements that are reasonably incurred by the Fund or other insurer as a result of the non-compliance. O. Reg. 38/10, s. 3.

(8) In subsection (7),

"insurer" does not include the Fund. O. Reg. 38/10, s. 3.

3. (1) No insurer may dispute its obligation to pay benefits under section 268 of the Act unless it gives written notice within 90 days of receipt of a completed application for benefits to every insurer who it claims is required to pay under that section. O. Reg. 283/95, s. 3 (1).

(1.1) If the dispute relates to an accident that occurred on or after September 1, 2010, a notice required under subsection (1) must also be given to the Fund if the insurer claims the Fund is required to pay benefits. O. Reg. 38/10, s. 4.

(2) An insurer may give notice after the 90-day period if,

(a) 90 days was not a sufficient period of time to make a determination that another insurer or insurers is liable under section 268 of the Act; and

(b) the insurer made the reasonable investigations necessary to determine if another insurer was liable within the 90-day period. O. Reg. 283/95, s. 3 (2).

(2.1) If the dispute relates to an accident that occurred on or after September 1, 2010, the Fund may give a notice under subsection (1) after the 90-day period and is not required to comply with subsection (2). O. Reg. 38/10, s. 4.

(3) The issue of whether an insurer who has not given notice within 90 days has complied with subsection (2) shall be resolved in an arbitration under section 7. O. Reg. 283/95, s. 3 (3).

3.1 (1) This section applies to disputes relating to accidents occurring on or after September 1, 2010. O. Reg. 38/10, s. 5.

(2) Before giving a notice to the Fund under section 3, an insurer must,

(a) complete a reasonable investigation to determine if any other insurer or insurers are liable to pay benefits in priority to the Fund; and

(b) provide particulars to the Fund of the investigation and the results of the investigation. O. Reg. 38/10, s. 5.

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4. (1) An insurer that gives notice under section 3 shall also give notice to the insured person using a form approved by the Chief Executive Officer. O. Reg. 283/95, s. 4; O. Reg. 305/98, s. 1; O Reg. 126/19, s. 2.

(2) Despite subsection (1), if the insurer that gives notice under section 3 is the Fund, no notice shall be given to the insured person under subsection (1). O. Reg. 38/10, s. 6.

5. (1) An insured person who receives a notice under section 4 shall advise the insurer paying benefits in writing within 14 days whether he or she objects to the transfer of the claim to the insurers referred to in the notice. O. Reg. 283/95, s. 5 (1).

(2) If the insured person does not advise the insurer within 14 days that he or she objects to the transfer of the claim, the insured person is not entitled to object to any subsequent agreement or decision to transfer the claim to the insurers referred to in the notice. O. Reg. 283/95, s. 5 (2).

(3) Subject to subsection 7 (5), an insured person who has given notice of an objection is entitled to participate as a party in any subsequent proceeding to settle the dispute and no agreement between insurers as to which insurer should pay the claim is binding unless the insured person consents to the agreement or 14 days have passed since the insured person was notified in writing of an agreement and the insured person has not initiated an arbitration under the *Arbitration Act, 1991*. O. Reg. 283/95, s. 5 (3); O. Reg. 38/10, s. 7.

6. (1) The insured person shall provide the insurers with all relevant information needed to determine who is required to pay benefits under section 268 of the Act. O. Reg. 283/95, s. 6.

(2) Upon request by the first insurer that receives a completed application for benefits, the insured person shall submit to one examination under oath for the purpose of determining who is required to pay benefits under section 268 of the Act. O. Reg. 16/13, s. 1.

(3) No other insurer is entitled to require the insured person to submit to an examination under oath for the purpose of determining who is required to pay benefits under section 268 of the Act. O. Reg. 16/13, s. 1.

(4) The scope of the examination under oath is limited to matters that are relevant to determining who is required to pay benefits under section 268 of the Act. O. Reg. 16/13, s. 1.

(5) The insured person is entitled to be represented at his or her own expense at the examination under oath by such counsel or other representative of his or her choice as the law permits. O. Reg. 16/13, s. 1.

(6) The insurer shall make reasonable efforts to *Schedule* the examination under oath for a time and location that are convenient for the insured person and shall give him or her reasonable advance notice of the following:

1. The date and location of the examination.

2. The insured person's entitlement to be represented in the manner described in subsection (5).

3. The reason for the examination.

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4. The fact that the scope of the examination is limited to matters that are relevant to determining who is required to pay statutory accident benefits under section 268 of the Act. O. Reg. 16/13, s. 1.

7. (1) If the insurers cannot agree as to who is required to pay benefits, the dispute shall be resolved through an arbitration under the *Arbitration Act, 1991* initiated by the insurer paying benefits under section 2 or 2.1 or any other insurer against whom the obligation to pay benefits is claimed. O. Reg. 38/10, s. 8.

(2) If an insured person was entitled to receive a notice under section 4, has given a notice of objection under section 5 and disagrees with an agreement among insurers that an insurer other than the insurer selected by the insured person should pay the benefits, the dispute shall be resolved through an arbitration under the *Arbitration Act, 1991* initiated by the insured person. O. Reg. 38/10, s. 8.

(3) The arbitration may be initiated by an insurer or by the insured person no later than one year after the day the insurer paying benefits first gives notice under section 3. O. Reg. 38/10, s. 8.

(4) Despite subsection (3), the arbitration may be initiated by the Fund at any time before or after the expiry of the time limit set out in subsection (3) if the Fund is paying benefits in respect of an accident that occurred on or after September 1, 2010. O. Reg. 38/10, s. 8.

(5) No insured person is entitled to initiate or participate as a party to an arbitration under this section if the insurer paying benefits is the Fund. O. Reg. 38/10, s. 8.

(6) If the dispute relates to an accident that occurred on or after September 1, 2010, the failure of an insurer other than the Fund to comply with section 2.1 or 3.1 may be the subject of a special award made by the arbitrator. O. Reg. 38/10, s. 8.

8. (1) Except as provided in this Regulation, the *Arbitration Act, 1991* applies to an arbitration under this Regulation. O. Reg. 283/95, s. 8 (1).

(2) The following rules apply with respect to an arbitration of a dispute relating to an accident that occurs on or after September 1, 2010:

1. If an insurer to whom a notice to initiate arbitration is delivered does not respond to the notice within 30 days, the insurer is deemed to have accepted the jurisdiction of the arbitrator proposed in the notice.

2. A pre-arbitration hearing must be *Scheduled* and take place no later than 120 days after the appointment of the arbitrator.

3. Subject to paragraph 4, once a date for the arbitration is *Scheduled*, the arbitration must be conducted on that day.

4. The arbitrator may grant an adjournment on such terms as the arbitrator considers appropriate, but only if there is cogent and compelling evidence of the reasons why the hearing cannot proceed on the *Scheduled* day.

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5. Unless consented to by all parties, the hearing of the arbitration must be completed within two years after the commencement of the arbitration. O. Reg. 38/10, s. 9.

(3) The decision of an arbitrator made under this Regulation must be made public. O. Reg. 38/10, s. 9.

(4) If the decision relates to an accident that occurred on or after September 1, 2010, the decision must be made public,

(a) by the insurer that the arbitrator finds to be liable to pay the benefits; and

(b) in a manner and form specified by the Chief Executive Officer. O. Reg. 38/10, s. 9; O. Reg. 126/19, s. 2.

9. (1) Unless otherwise ordered by the arbitrator or agreed to by all the parties before the commencement of the arbitration, the costs of the arbitration for all parties, including the cost of the arbitrator, shall be paid by the unsuccessful parties to the arbitration. O. Reg. 283/95, s. 9 (1).

(2) The costs referred to in subsection (1) shall be assessed in accordance with section 56 of the *Arbitration Act, 1991*. O. Reg. 283/95, s. 9 (2).

10. (1) If an insurer who receives notice under section 3 disputes its obligation to pay benefits on the basis that other insurers, excluding the insurer giving notice, have equal or higher priority under section 268 of the Act, it shall give notice to the other insurers. O. Reg. 283/95, s. 10 (1).

(2) This Regulation applies to the other insurers given notice in the same way that it applies to the original insurer given notice under section 3. O. Reg. 283/95, s. 10 (2).

(3) The dispute among the insurers shall be resolved in one arbitration. O. Reg. 283/95, s. 10 (3).

11. References in this Regulation to a form approved by the Chief Executive Officer are deemed to include the last form approved by the Superintendent for the purposes of the relevant provision prior to the day section 22 of *Schedule* 13 to the *Plan for Care and Opportunity Act (Budget Measures), 2018* came into force until the Chief Executive Officer approves a subsequent form for the purposes of the relevant provision. O. Reg. 126/19, s. 1.

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APPENDIX #3: THE SCHEDULE (NOTA BENE: FOCUSED ON THE WORD "RECEIVE" OR "RECEIVES")

Statutory Accident Benefits Schedule, O Reg 34/10, <https://canlii.ca/t/56cm2> retrieved on 2024-12-10

PART VIII
PROCEDURES FOR CLAIMING BENEFITS

General

Notice to insurer and application for benefits

[nota bene: duties of a person – insured person – or potentially insured person]

32. (1) A person who intends to apply for one or more benefits described in this Regulation shall notify the insurer of his or her intention no later than the seventh day after the circumstances arose that give rise to the entitlement to the benefit, *or* as soon as practicable after that day. O. Reg. 34/10, s. 32 (1).

[Nota bene: Duties of the First Notified Insurer]

(2) The insurer shall promptly provide the person with,

(a) the appropriate application forms;

(b) a written explanation of the benefits available;

(c) information to assist the person in applying for benefits; and

(d) information on the election relating to income replacement, non-earner and caregiver benefits, if applicable. O. Reg. 34/10, s. 32 (2).

(3) If an insurer that is subject to a Guideline referred to in subsection 64 (7) determines, acting reasonably, that there is a likelihood that the person may, in connection with the accident, deliver one or more documents referred to in that subsection, the insurer shall provide the following information to the central processing agency referred to in that subsection:

1. The name, address, gender and date of birth of the person.

2. The date of the accident.

3. Particulars of the automobile insurance policy under which the person asserts he or she is entitled to a benefit or benefits, including,

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i. the name of the insurer,

ii. the policy number, and

iii. the name of the person to whom the policy was issued.

4. The claim number assigned by the insurer.

5. Any other information reasonably required by the central processing agency to enable it to carry out its obligations to the insurer under this Regulation. O. Reg. 34/10, s. 32 (3)

(4) An insurer's obligation to provide the information referred to in subsection (3) may be discharged by,

(a) providing the information to the central processing agency: or

(b) confirming, correcting or supplementing the information previously provided to the central processing agency. O. Reg. 34/10, s. 32 (4).

[Nota bene: duties of the applicant submitting a completed application within 30 days after receipt of application forms]

(5) The applicant shall submit a completed and signed application for benefits to the insurer within 30 days after receiving the application forms. O. Reg. 34/10, s. 32 (5).

[Nota bene: Duties of the First Insurer]

(6) If an insurer receives an incomplete or unsigned application, the insurer shall notify the applicant within 10 business days after receiving the application and shall advise the applicant of the missing information that is required or that the applicant's signature is missing, as appropriate. O. Reg. 34/10, s. 32 (6).

(7) The insurer shall not give a notice under subsection (6) unless,

(a) the insurer, after a reasonable review of the incomplete application, is unable to determine, without the missing information, whether a benefit is payable; or

(b) the application has not been signed by the applicant. O. Reg. 34/10, s. 32 (7).

(8) If subsection (6) applies in respect of an incomplete application, no benefit is payable before the applicant provides the missing information or signs the application, as the case may be. O. Reg. 34/10, s. 32 (8).

(9) If an applicant is required by an insurer to submit an additional application in respect of a benefit that the applicant is receiving or may be eligible to receive, the applicant shall submit the additional application to the insurer within 30 days after receiving the additional application forms from the insurer. O. Reg. 34/10, s. 32 (9).

(10) Despite any shorter time, limit in this Regulation, if an applicant fails without a reasonable explanation to notify an insurer under subsection (1) within the time required under that subsection,

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the insurer may delay determining if the applicant is entitled to a benefit and may delay paying the benefit until the later of,

(a) 45 days after the day the insurer receives the completed and signed application; or

(b) 10 business days after the day the applicant complies with any request made by the insurer under subsection 33 (1) or (2). O. Reg. 34/10, s. 32 (10).

Claim for Income Replacement Benefit, Non-Earner Benefit, Caregiver Benefit or Payment for Housekeeping or Home Maintenance Services

Application

36. (1) In this section and section 37

(4) Within 10 business days after the insurer receives the application and completed disability certificate, the insurer shall,

(a) pay the specified benefit;

(b) give the applicant a notice explaining the medical and any other reasons why the insurer does not believe the applicant is entitled to the specified benefit and, if the insurer requires an examination under section 44 relating to the specified benefit, advising the applicant of the requirement for an examination; or

(c) send a request to the applicant under subsection 33 (1) or (2). O. Reg. 34/10, s. 36 (4).

(5) If the insurer sends a request to the applicant under subsection 33 (1) or (2), the insurer shall, within 10 business days after the applicant complies with the request,

(a) pay the specified benefit; or

(b) give the applicant a notice described in clause (4) (b). O. Reg. 34/10, s. 36 (5).

(6) If the insurer fails to comply with subsection (4) or (5) within the applicable time limit, the insurer shall pay the specified benefit for the period starting on the day the insurer received the application and completed disability certificate and ending, if the insurer subsequently gives a notice described in subsection (4) (b), on the day the insurer gives the notice. O. Reg. 34/10, s. 36 (6).

(7) If the insurer requires the applicant to undergo an examination under section 44, the insurer shall, within 10 days after receiving the report of the examination,

(a) give a copy of the report to the applicant and to the person who completed the disability certificate submitted with the application; and

(b) provide the applicant with a notice indicating the amount, if any, that the insurer agrees to pay in respect of the specified benefit, the amount, if any, the insurer refuses to pay in respect of the

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specified benefit and the medical and any other reasons for the insurer's decision. O. Reg. 34/10, s. 36 (7).

(8) Within 10 business days after delivering the notice under clause (7) (b), the insurer shall pay the amount, if any, that the insurer agrees to pay in respect of the specified benefit. O. Reg. 34/10, s. 36 (8).

(9) Every income replacement benefit, non-earner benefit or caregiver benefit shall be paid at least once every second week, subject to any prepayment of the benefit by the insurer. O. Reg. 34/10, s. 36 (9).

[Nota bene: Hence, why the Applicant has sworn evidence or submitted that he has never received any IRB as it was required to be paid by TDHA].

[Section 64 of *SABS* not relevant as it relates to that regulation and not *Reg 283*]

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APPENDIX #4: INSURANCE ACT, SECTIONS 224 AND 268

[SQUARE BRACKETS ARE THE APPLICANT'S]

PART VI
AUTOMOBILE INSURANCE

Interpretation, Part VI

224 (1) In this Part,

"statutory accident benefits" means the benefits set out in the regulations made under paragraphs 9 and 10 of subsection 121 (1); ("indemnités d'accident légales")

Fees and Regulations

Regulations

121 (1) The Lieutenant Governor in Council may make regulations,

9. establishing benefits for the purposes of Part VI that must be provided under contracts evidenced by motor vehicle liability policies and establishing terms, conditions, provisions, exclusions and limits related to such benefits;

10. requiring insurers to offer optional benefits in excess of the benefits that must be provided under paragraph 9 prescribing the circumstances in which the optional benefits are to be offered and establishing terms, conditions, provisions, exclusions and limits related to such benefits;

10.1 prescribing coverages and endorsements in respect of contracts of automobile insurance that insurers or a class of insurers are required to offer, deeming the benefits provided by the coverages and endorsements not to be statutory accident benefits for the purpose of Part VI, and prescribing the circumstances in which the coverages and endorsements shall be offered;

10.2 prescribing rules for interpreting the regulations made under paragraphs 9 and 10 or any provision of those regulations;

10.3 prescribing functions to be performed by a committee appointed under section 7;

10.4 governing the procedure for determining who is liable to pay statutory accident benefits under section 268, including requiring insurers to resolve disputes about liability through an arbitration process established by the regulations and requiring the interim payment of benefits pending the determination of liability;

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[nota bene: subsection 10.4 is yet another example of how the Legislature provided an extremely broad grant of authority to the LGIC for governing the procedure of determining how insurers are liable to pay *SABS* under section 268 which then dovetails to Reg 263]

Statutory accident benefits

268 (1) Every contract evidenced by a motor vehicle liability policy, including every such contract in force when the *Statutory Accident Benefits Schedule* is made or amended, shall be deemed to provide for the statutory accident benefits set out in the *Schedule* and any amendments to the *Schedule*, subject to the terms, conditions, provisions, exclusions and limits set out in that *Schedule*. 1993, c. 10, s. 26 (1).

Liability to pay

(2) The following rules apply for determining who is liable to pay statutory accident benefits:

1. In respect of an occupant of an automobile,

i. the occupant has recourse against the insurer of an automobile in respect of which the occupant is an insured,

ii. if recovery is unavailable under subparagraph i, the occupant has recourse against the insurer of the automobile in which he or she was an occupant,

iii. if recovery is unavailable under subparagraph i or ii, the occupant has recourse against the insurer of any other automobile involved in the incident from which the entitlement to statutory accident benefits arose,

iv. if recovery is unavailable under subparagraph i, ii or iii, the occupant has recourse against the Motor Vehicle Accident Claims Fund.

Liability

(3) An insurer against whom a person has recourse for the payment of statutory accident benefits is liable to pay the benefits. R.S.O. 1990, c. I.8, s. 268 (3); 1993, c. 10, s. 1.[11]

Choice of insurer

(4) If, under subparagraph i or iii of paragraph 1 ..... of subsection (2), a person has recourse against more than one insurer for the payment of statutory accident benefits, the person, in his or her absolute discretion, may decide the insurer from which he or she will claim the benefits

[nota bene: upon Mr. McLean's discovery of whom the First Insurer (TDHA) was, he, at law, only has recourse against one insurer and that is TDHA per se. To the extent that Mr. McLean has recourse against more than one insurer, it is only the obligation to pay benefits (see: *Beasley* and

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Jia) which triggers the fiduciary duties owed by an insurance company to him. It would be against his own self-interest, as a matter of law, to choose an insurer which does not have a duty to respond and pay. It is not a matter of contract but a matter of statute and regulations. Moreover, the duties of the insurer that first received the Completed Application are also delineated and detailed in the OCF-1 itself which also dovetail to *PIPEDA*. Mr. McLean has not and is not revoking his consent to TDHA having received the same but that has provided notice to it that it must comply with its obligations therein as a matter of law or "by law" which are under the following: (i) *Insurance Act*; (ii) Legislation Act; (iii) *SPPA*; (iv) *PIPEDA*; and regulations: (i) *Reg 283*; (iii) *SABSs et al*.

Same

(5) Despite subsection (4), if a person is a named insured under a contract evidenced by a motor vehicle liability policy or the person is the spouse or a dependant, as defined in the *Statutory Accident Benefits Schedule*, of a named insured, the person shall claim statutory accident benefits against the insurer under that policy. 1993, c. 10, s. 26 (2); 1999, c. 6, s. 31 (9); 2005, c. 5, s. 35 (13).

Same

(5.1) Subject to subsection (5.2), if there is more than one insurer against which a person may claim benefits under subsection (5), the person, in his or her discretion, may decide the insurer from which he or she will claim the benefits. 1993, c. 10, s. 26 (2).

Same

(5.2) If there is more than one insurer against which a person may claim benefits under subsection (5) and the person was, *at the time* of the incident, an occupant of an automobile in respect of which the person is the named insured or the spouse or a dependant of the named insured, the person shall claim statutory accident benefits against the insurer of the automobile in which the person was an occupant. 1993, c. 10, s. 26 (2); 1999, c. 6, s. 31 (10); 2005, c. 5, s. 35 (14).

[nota bene: There is no dispute that Mr. McLean attempted to claim benefits from SNIC but he nearly did not receive his accident benefits package by an incorrect postal code therein whilst his spouse did receive the same. Moreover, he did *attempt to claim benefits* from SNIC but it was intentional redirection, by way of fax number and potentially address (mailing), to a "different insurance company(ies)"

Payments pending dispute resolution

(8) Where the *Statutory Accident Benefits Schedule* provides that the insurer will pay a particular statutory accident benefit pending resolution of any dispute between the insurer and an insured, the insurer shall pay the benefit until the dispute is resolved. R.S.O. 1990, c. I.8, s. 268 (8); 1993, c. 10, s. 1.

[nota bene: said subsection 268(8) was passed in 1990 and amended in 1993 which predated *Reg 283* in its initial form and certainly well before its "amended form" in 2010. Nonetheless, a breach

of *SABS* and *Reg 283* is legally equivalent in the year of 2024 so said section overrides the above subsections 268(5) as that is a contractual (policy) issue. By the **VCM Decision**, paragraph 27, her finding that TDGIC, as the "initial respondent" [sic] and SNIC accepted priority over the applicant's [sic] insurance policy invokes the analysis of priority and not an insurance policy because priority cannot be decided in relation to an insurance policy per se when there is only one insurer. It certainly cannot add a "party" (i.e. language of "First Party Insurer" under *Reg 664* which is distinct from *Reg 283* with "First Insurer") to a contract WITHOUT the consent of a party to the Insurance Policy. Moreover, while the Applicant was statutorily deemed to have given consideration therefor under the Insurance Policy, the adding of an additional insurance company to a contract would have required the consent of all parties to that contract with "new consideration" or "additional consideration". Therefore, while subsection 2.1 of *Reg 283*, passed in 2010, is more analytically relevant to this *JRPA* Application, TDHA is still obligated to pay the benefits to the Applicant pursuant to section 2(1) of *Reg 283*).

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APPENDIX #5: Changes to Ontario Regulation 283/95: Disputes Between Insurers
Bulletin No. A-07/10 – Auto Property & Casualtyhttps://www.fsrao.ca/media/7866/download

With this Bulletin, the Financial Services Commission of Ontario (FSCO) is highlighting the recent changes to Ontario Regulation 283/95: Disputes Between Insurers, to ensure compliance by all insurers. The changes are effective September 1, 2010. Background Ontario Regulation 283/95 sets out a mandatory process for private arbitration of all disputes between insurers over which insurer is liable to pay accident benefits to a claimant. This regulation is intended to ensure that claimants receive accident benefits (e.g., medical and income replacement benefits) in a timely fashion while these disputes are being resolved. Ontario Regulation 283/95 was established in 1995 following several years of experience with the no-fault accident benefits system. During the past several years, a number of procedural issues and disputes over the interpretation of Ontario Regulation 283/95 have led to delays in paying claimants' benefits. In addition, the Motor Vehicle Accident Claims Fund (MVACF) has frequently had to get involved to ensure that benefit payments to injured persons were not delayed – even if a private insurer was obliged to make the payments. As part of the automobile insurance reforms which resulted from FSCO's Five Year Review of Automobile Insurance, effective September 1, 2010 Ontario Regulation 283/95 is amended by Ontario Regulation 38/10. These amendments were made to ensure that claims are not deflected and that claimants receive payments without delay in cases where there may be a dispute regarding which insurer is liable to pay statutory accident benefits. Insurers that do not comply with this regulation will be subject to appropriate

Key Regulation Changes 1. Deflection of Applications for Accident Benefits a) Upon request, an insurer must provide a claimant timely access to OCF-1: Application for Accident Benefits (OCF-1 application). (Section 2.1(2)) Individuals who are injured in automobile accidents often contact the insurance company that they believe is liable to pay accident benefits before they complete and send their OCF-1 application to the insurer. In many cases, claimants are not aware of the priority rules that determine which insurer is liable to pay them benefits. The Statutory Accident Benefits *Schedule (SABS)* requires an insurer to provide an OCF-1 application to an injured person who expresses an intention to make a claim for benefits. This requirement is now reinforced by section 2.1(2) of Ontario Regulation 283/95. b) An insurer must not impede claimants from submitting OCF-1 applications or redirect them to other insurers or the MVACF. (Section 2.1(5)) When a claimant first contacts an insurer following an accident, it is not always clear, based on information reported by the claimant, if that insurer is responsible for paying the accident benefits in accordance with the priority rules. It is inappropriate for the insurer to discourage the injured person from filing an OCF-1 application, for example on the grounds that there is no insurance coverage (e.g., due to a cancelled insurance policy), or that there is another insurer to whom the person should make his or her claim Insurers must provide claimants who express an intention to make an accident benefits claim with an OCF-1 application and not direct them to file it with MVACF or another insurer. Section 2.1(5) of Ontario Regulation 283/95 prohibits the deflection of OCF-1 applications. This includes deflection on the grounds that it is not clear which insurer is

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required to pay accident benefits. c) The first insurer that receives an OCF-1 application must pay accident benefits in accordance with the *SABS*. (Section 2.1(6)) In order to prevent delays in payments, Ontario Regulation 283/95 requires the first insurer that receives a completed OCF-1 application to pay the accident benefits, as long as the claimant meets the requirements of the *SABS*. Although an insurer may believe that it is not responsible for paying accident benefits under the priority rules, the process to transfer, dispute and recover paid benefits is set out in Ontario Regulation 283/95. d) An insurer that fails to comply with this section will reimburse the MVACF or another insurer all related legal fees, administrative costs and disbursements. (Section 2.1(7) Section 2.1 (7) has been added to Ontario Regulation 283/95 to confirm the ability to recover costs incurred by the MVACF or an insurer in the administration of a claim (including adjusting costs) from the non-compliant insurer. 2. Definitions of "First Insurer" and "Completed Application" Several amendments are intended to provide clarity on issues that have arisen since the release of Ontario Regulation 283/95 in 1995; such as what is a "first insurer" and "completed application". a) A "completed application" is defined as a completed and signed OCF-1 application. (Section 0.1) b)The insurer that first receives a completed OCF-1 application is the "first insurer" for the purposes of Ontario Regulation 283/95. (Section 2.1(6)) A "first insurer" may not refuse to respond to the application on the basis that the application is not from an "insured person", or that there was no relevant policy in place on the date of the accident (e.g., the insurance policy was cancelled, expired or never existed). c) The applicant shall complete the OCF-1 application that is provided by the insurer and send it to only one insurance company. (Section 2.1(4)) Claimants are required to submit a completed OCF-1 application to only one insurer. This is intended to avoid potential disputes over which insurer first received a completed application, rather than creating confusion by submitting OCF-1 applications to more than one insurer. 3. Time Limitations for Notifying Other Insurers of Liability a) Before initiating a dispute against the MVACF, an insurer is required to complete a reasonable investigation to determine if any other insurer(s) is/are liable to pay benefits in priority to the MVACF and provide the MVACF with the particulars and results of the investigation. (Section 3.1(2)(a) and (b)) Section 3 of Ontario Regulation 283/95 provides the first insurer 90 days from the receipt of the completed application to conduct a reasonable investigation. This time frame allows the insurer to conduct an investigation to determine whether another insurer is liable to pay benefits, and to deliver written notice to other insurers if it believes they are liable to pay for accident benefits under the priority rules. Ontario Regulation 283/95 provides an extension beyond 90 days only if the first insurer has made reasonable investigation of the claim but cannot reach a decision within the 90-day period. Section 3.1 requires an insurer that wishes to put the MVACF on notice of a dispute to first complete a reasonable investigation and provide the results of the investigation to the MVACF.

Due to the unique nature of the claims that are submitted directly to the MVACF, in many cases another policy is discovered only after an extended period of investigation. As a result, this time limit does not apply to OCF-1 applications that are submitted first to the MVACF. (Section 3(2.1)) To facilitate the early resolution of disputes between insurers, a dispute about which insurer is responsible

for payments must go to arbitration within one year of providing notice to the other insurer. See section 7 for the specific rules that need to be followed. Enforcement Note that in addition to

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sections 2.1(7) and 7 (6), actions contrary to Ontario Regulation 283/95 will be subject to appropriate enforcement or regulatory action in accordance with section 441 of the *Insurance Act* and Ontario Regulation 7/00: Unfair or Deceptive Acts or Practices. Publication of Arbitration Decisions Involving Disputes Between Insurers Amendments to Ontario Regulation 283/95 have been made to ensure that arbitration decisions involving disputes between insurers are both timely and publicly available. The amendments require the insurer that is found by the arbitrator to be liable to pay benefits to make the arbitrator's decision public in a manner and form specified by the Superintendent. (Section 8(4)) The specified form and the process by which insurers will need to comply with this requirement will be the subject of a future Property & Casualty – Auto Bulletin. Effective Date The effective date of the Ontario Regulation 283/95 amendments is September 1, 2010. All insurers need to ensure that their claims and underwriting staff, plus any other staff who may be affected by these amendments, are informed of these changes. In addition, insurers are to ensure that they make any operational changes needed to implement the reforms by the effective date. Copies of Regulations The *Insurance Act* and Ontario Regulations 283/95 and 38/10 can be downloaded from the e-laws website at www.e-laws.gov.on.ca. Phil Howell Chief Executive Officer and Superintendent of Financial Services May 13, 2010

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APPENDIX #6:AF-143, "Notice to Applicant of Dispute between Insurers"

Fillable/saveable:

AF-143E

Form details

Form number:	AF-143
Form title:	Notice to Applicant of Dispute Between Insurers
Sector:	Auto
Category:	Other - Auto
Last update:	1995-04-01

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Notice to Applicant of Dispute
Between Insurers

Name of Applicant

Mr. ☐ Mrs. ☐ Ms. ☐

Last Name | First Name

Address

City | Province | Postal Code

Date of Accident

This notice is to inform you that the insurer to whom you have applied for accident benefits has determined that another insurer is responsible for paying those benefits. Generally the regulations require the insurers to resolve this dispute by sharing the benefits on an equitable basis, but you are entitled to continue with benefits while the dispute is being resolved.

You will continue to receive benefits from the insurer that you applied to while the insurers attempt to resolve their dispute.

You also have the right to object to your claim being transferred to another insurer. If you wish to object please complete Part 4 of this form and send it within 10 days to the insurer that is currently paying you accident benefits. If you object you are entitled to participate in any proceeding that may take place to determine which insurer is responsible for paying accident benefits to you. If you do not object, you will not be entitled to dispute the decision if you wish to another insurer.

If you have any questions about this notice, or about the process that will be used to determine who is responsible for paying your claim, please contact the representative of the insurance company that is paying your accident benefits claim. The name and telephone number is listed in Part 3.

Part 1: Insurer that You Applied to for Accident Benefits

Company Name

Mailing Address

City | Province | Postal Code

Claims Handling Department Name | Phone No.

Part 2: Insurer Considered Responsible for Benefits (by Insurer Listed in Part 1)

Claims Representative's Name

Mailing Address

City | Province | Postal Code

Claims Representative's Phone No.

Attach additional sheets if necessary. ☐ Additional sheets attached.

Adjudicator's Name

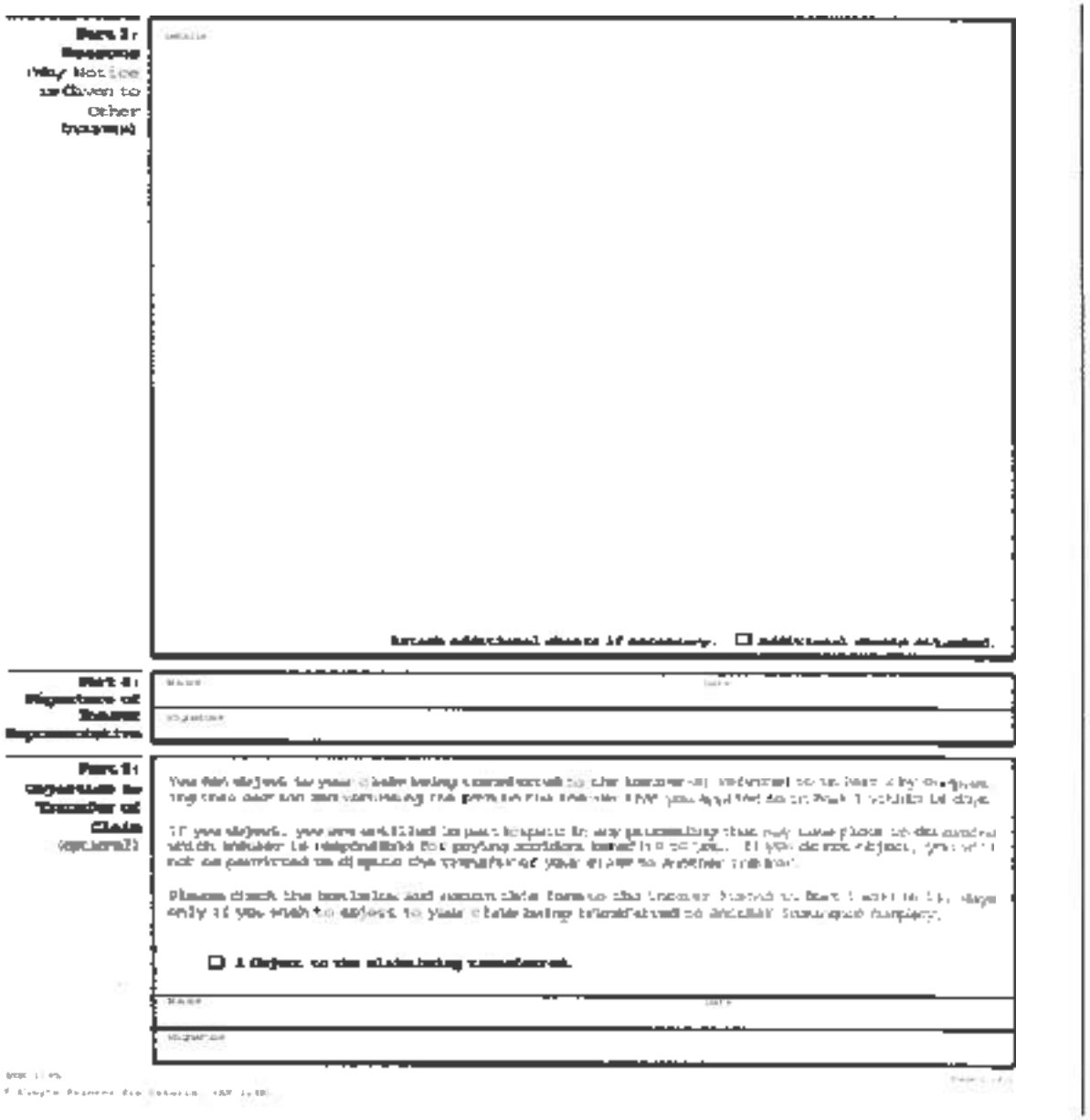
Mailing Address

City | Province | Postal Code

Adjudicator's Phone No.

Attach additional sheets if necessary. ☐ Additional sheets attached.

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[Copied and pasted] [square bracketing is the Applicant's for ease of reference]

For ease of searchability by the ONSC and the participating parties at the ONSC (Divisional Court level or by way of single justice on an expedited basis), the following are copied and pasted from the A141 Form at the following pages with endnoting for ease of application of the facts to the law:

[page 1]

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"This notice is to inform you that the insurer[112] to whom you have applied for accident benefits claims[113] that another insurer[114] is responsible for paying[115] these benefits. You[116] may be required to assist the insurers[117] in resolving their dispute by providing them with any information that may be needed to determine which insurer[118] should be paying your accident benefits claim. You will continue to receive accident benefits that you are entitled to from the insurer[119] that you applied to while the insurers attempt to resolve their dispute.

[Applicant's transfer of claim objection rights]

You also have the right to object to your claim being transferred[120] to another insurer[121]. If you wish to object please complete Part 5 of this form and send it within 14 days to the insurer that is currently paying you accident benefits[122].

[Applicant's arbitration participatory rights]

If you object, you are entitled to participate in *any proceeding*[123] that may take place to determine which insurer is responsible for paying accident benefits to you. If you do not object, you will not be permitted to dispute the transfer of your claim to another insurer.

If you have any questions about this notice, or about the process that insurers use to determine who is responsible for paying your claim, please contact the representative of the insurance company that is paying your accident benefits claim. The name and telephone number of the representative is listed in Part 1."[124]

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APPENDIX #7: REMITTANCE FORM PURSUANT TO FSRA REQUIREMENT

NOTE: Remember to attach all relevant documents when submitting this form

Insurer Details

Date of Remittance

Reporting Insurance Company

Name of Authorized Insurer Representative

Telephone Number Email Address

Decision Details

Date of Decision

Address

Names of Insurers in Dispute (Company Name vs Company Name)

Disputed Issues/Nature of Dispute (Please Check all that Apply):

☐ First Instalment Notice	☐ Arbitration (Practice, Interest and Special Awards, Costs)	☐ Coverage Issues, Cancellation
☐ Completed Application	☐ Priority Rules: Insured Person (Married/Unmarried/Spouse/Dependent Regular Use)	☐ Coverage Issues, Leased Vehicle
☐ 90 Day Notice		☐ Coverage Issues, Other Automobile
☐ One Year/Commencement	☐ Priority Rules: Occupant	☐ Appeal Pending (Forward appeal decision once it is received.)
☐ Reasonable Investigation	☐ Priority Rules: Non – Occupant Struck By Vehicle	☐ Priority Rules, Involved Vehicle
☐ Resolution		

Print Form | Clear Form | Save Form | Submit by Email

AT 4808 (10/21) Direction Relative Décision Page 1 of 1

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Endnotes

[1]AABS division
[2] Along with the interplay between the enabling statute (*Insurance Act*) and binding pieces of legislation (regulations) in *Reg 283*, *SABS* and *Reg 664*:
[3]Effective date
[4](see: *Legislation Act*, wherein a statute and regulations are both "legislation"),
[5]*Dunsmuir v. New Brunswick*, 2008 SCC 9 (CanLII), [2008] 1 SCR 190, <https://canlii.ca/t/1vxsm>, retrieved on 2024-12-10
[6]Mr. Nieuwland filed a DOR on behalf of SNIC on June 28, 2024
[7](iii) concerns about the Tribunal's undue influence or lack of independence, even subconsciously, from the insurance companies due to it being the only non-state funded Tribunal of the 13 tribunals in "Tribunals Ontario"; and (iv) an investigation report involving Ms. Trina Morrissette from the federal government regarding her conduct as a lobbyist for the Canadian Red Cross ("CRC").[7] The Applicant says her conduct amounts to "similar fact evidence" and contextual evidence that arises as a result of the VCM Decision.
[8]Balance of probabilities standard- is it more likely than not that there will be a failure of justice by the delay.
[9]Mr. Nieuwland's recent email to this ONSC (Divisional Court) has reignited the subsequent issues: (i) whether insurance companies in a group of insurers are 'one and the same', 'also known as' or 'also referred as'; (ii) the rule in *Foss v. Harbottle*; (ii) the FSRA guidance on affiliated entities only have an exemption on the non-adjuster broker side, and (iv) the motives for why such insurance companies in the TDI Group would engage in such misconduct.
[10]In this regard, the VCM Decision has again put two administrative bodies, at least, in the FSRA and the Tribunal against each other when they operate under the same enabling statute (*Insurance Act*) and the participants (insured persons, service providers and insurance companies) must comply with the *UDAP Rule* (2022 *et seq*).
[11]The Applicant is seeking by his forum to be heard before a single justice of the ONSC, with leave, due to the urgency of the issues herein.
[12]all people are equal under the law and have the right to equal protection and benefits with SABS benefits for all similarly situated persons to this Applicant
[13]all people, institutions, and entities are accountable to the law; (iii) *transparency*. the law-making process is transparent
[14]people have access to justice through independent and impartial courts
[15] (and patently unreasonable)
[16](with no distinction between a breach of *SABS* and *Reg 283* (see: *Chubb Insurance Co. of Canada v. Zurich Insurance Company*, 2024 ONSC 2929 (CanLII), <https://canlii.ca/t/k4nln>, retrieved on 2024-12-10 ["*Zurich* 2024"],
[17]on account of technicalities in the language of the LAT Rules which was different from the time this ONSC (Div. Court) upheld the reconsideration decision of VC Trojek in *Jia*
[18]*The Personal Insurance Company v. Jia*, 2020 ONSC 6361 (CanLII), <https://canlii.ca/t/jb7qm>, retrieved on 2024-12-10
[19]*Harold The Mortgage Closer Inc. v. Chief Executive Officer of the Financial Services Regulatory Authority of Ontario*, 2024 ONSC 2236 (CanLII), <https://canlii.ca/t/k43bl>, retrieved on 2024-12-10
[20]*Volochay v. College of Massage Therapists of Ontario*, 2012 ONCA 541 (CanLII)
[21]*Volochay v. College of Massage Therapists of Ontario*, 2012 ONCA 541 (CanLII), at para 68, <https://canlii.ca/t/fsdgd#par68>, retrieved on 2024-12-10 https://canlii.ca/t/fsdgd#par68
[22](see: [U]nless exceptional circumstances exist, a court should not interfere in an administrative proceeding until it has run its course. The principle has particular force where adequate alternative remedies are available under the administrative scheme. Ordinarily an affected individual must pursue these remedies before seeking relief from the court. The Federal Court of Appeal has endorsed this approach as well in Dugré v Canada (Attorney General), 2021 FCA 8, at para 37, framing the rule against prematurity, or interlocutory relief, as "next to absolute".).
[23]Herein, a multiplicity of proceedings will be avoided and the law will be clarified and settled, while avoiding a return by this Applicant to make the same arguments that he would even if all of his benefits and quantum were found in his favour because the wrong party would be liable for the same and required to respond *post-facto* the conclusion of the Hearing Proper. In this regard, the Applicant herein confirms, by his authorized signature, that he would bring the same *JRPA* Application and he respectfully submits that the principle of mootness, cited by the SCC in *Borowski*,

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would not be applicable because the important legal issues would not only not be decided but the decision of the LAT would be in conflict with the governing statutes, governing regulations and its own *LAT Rules*.

[24] *Sanscon Construction Ltd. v. City of Toronto*, 2021 ONSC 6409 (CanLII), <https://canlii.ca/t/jjn4p>, retrieved on 2024-12-10

> [16] Sanscon's Application was not brought before the Divisional Court, contrary to the Consolidated Practice Direction.
>
> [17] Sanscon's factum does not seek leave under s. 6(2) of the JRPA to have this matter heard, nor is it in the Notice of Application. It does not reference this court's jurisdiction or address why the Application was not brought before a single judge of the Divisional Court, sitting as a judge of the Superior Court of Justice.

[25] SNIC and Primmum operate under the trade name, which is a combination of two registered trademarks in "TD Insurance Meloche Monnex", with the "TD Insurance" owned by TD Bank and the Meloche Monnex owned by Meloche Monnex Inc. SNIC issues automobile (and home) insurance policies to alumni of various universities and those part of professional associations (the "**Alumni Professional Program**"). Primmum issues insurance policies to "employer groups".

[26] TDGIC issues insurance policies, by part of its namesake, to the "general public". Toronto has 416 area code landline telephone and fax numbers but not 905 telephone and fax numbers, and Burlington (and Markham) have 905 landline telephone and fax numbers but not 416 numbers. Mr. James V. Russell was appointed as the CEO of "TD Insurance Group" in the 2010's, and one of his stated goals was to increase the market share for "TD General" (TDGIC). This evidence provides the motive for why SNIC would allow TDGIC to be substituted for it *during* the LAT Proceeding without the name of TDGIC ever being present in a single communication since the MVA date of loss (the "Date Of Loss" or "DOL").

[27] If an Insured Person, who is also an injured person and often a lay litigant encountering the complexities of a *SABS* claim, may not keep completely accurate records of each and every fax that she has sent to an insurance company, the purported liable insurer can claim that it does not have the documents to which an injured person claims to have sent. In fact, herein this occurred with the initial adjuster for SNIC in Ms. Nurse claiming to not have certain documents that the Applicant delivered via fax. The Applicant obviously not your quintessential lay litigant had everything reduced to paper copy and saved in binders along with cloud storage whilst using an e-fax number. Affidavit #3 is an example of that attention to detail and record-keeping.

[28] https://lso.ca/about-lso/legislation-rules/by-laws/by-law-7-1

[29] LSA, ss. 62(2): (2) The by-laws made under this section shall be interpreted as if they formed part of this Act. R.S.O. 1990, c. L.8, s. 62 (2); 1998, c. 21, s. 29 (13).

[30] (d) the determination of rights that depend on the interpretation of a deed, will, contract or other instrument, or on the interpretation of a statute, order in council, regulation or municipal by-law or resolution

[31] In part because of SNIC not participating in the LAT Appeal after filing a Response and allowing TD General Insurance Company ("**TDGIC**") to be substituted for it.

[32] Factually on many levels, this is not an *JRPA* Application, like the flurry of arbitral, judicial review and appellate decisions involving *Zurich* v. *Chubb* from 2009 to 2024 (the "*Zurich Decisions*") in that TDHA did not merely receive one completed OCF-1, like Chubb Insurance Company through some innocent mistake by an injured individual (Ms. Singh) involving her rental of vehicle and seeing the name of "Chubb" inside the car rental office. TDHA received the *SABS* Applicant's completed OCF-1, OCF-2, OCF-3, OCF-6 and OCF-19. It is also uncontroverted that TDHA, by being the only former commercial tenant at the East Mall Address (Etobicoke) received all the Applicant's OCF-18's that were submitted through HCAI.[33]

[33] *Chubb Insurance Co. of Canada v. Zurich Insurance Company*, 2024 ONSC 2929 (CanLII), <https://canlii.ca/t/k4ltn>, retrieved on 2024-12-10 (see: *Zurich 2024*, paragraph 6 (see: https://canlii.ca/t/k4ltn#par6)).

[34] *Chubb Insurance Co. of Canada v. Zurich Insurance Company*, 2024 ONSC 2929 (CanLII), <https://canlii.ca/t/k4ltn>, retrieved on 2024-12-10 (see: *Zurich 2024*, paragraph 16 (see: https://canlii.ca/t/k4ltn#par16)).

[35] The Applicant erred in omitting said word in his JRPA Application and he apologizes to this ONSC Div. Court and the respondents for the same.

[36] *Chubb Insurance Co. of Canada v. Zurich Insurance Company*, 2024 ONSC 2929 (CanLII), <https://canlii.ca/t/k4ltn>, retrieved on 2024-12-10 (see: *Zurich 2024*, paragraph 54 (see: https://canlii.ca/t/k4ltn#par54)

[37] (see. paragraph 15 of the *JRPA* Application).

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[34] *Chubb Insurance Co. of Canada v. Zurich Insurance Company*, 2024 ONSC 2929 (CanLII), <https://canlii.ca/t/k4tln>, retrieved on 2024-12-10 (see: *Zurich 2024*, paragraph 8).
[35] *Chubb Insurance Co. of Canada v. Zurich Insurance Company*, 2024 ONSC 2929 (CanLII), <https://canlii.ca/t/k4tln>, retrieved on 2024-12-10 (see: *Zurich 2024*, paragraph 29).
[40]Herein, there was no evidence that TDHA paid any benefits but there was also no evidence that TDHA disputed its liability and obligations.
[41] *Chubb Insurance Co. of Canada v. Zurich Insurance Company*, 2024 ONSC 2929 (CanLII), <https://canlii.ca/t/k4tln>, retrieved on 2024-12-10 (see: *Zurich 2024*, paragraph 10).
[42]on a provisional basis but with an ability to step out of those shoes if the First Insurer avails itself to the *Reg 283* protections and obtain reimbursement from the liable insurer after provisionally responding to the Claimant (i.e. legal fees, disbursements, administration fees et al)
[43]*Zurich Insurance Co. v. Chubb Insurance Co. of Canada*, 2015 SCC 19 (CanLII), [2015] 2 SCR 134, <https://canlii.ca/t/gh85f>, retrieved on 2024-12-10
[44] *Chubb Insurance Co. of Canada v. Zurich Insurance Company*, 2024 ONSC 2929 (CanLII), <https://canlii.ca/t/k4tln>, retrieved on 2024-12-10 (see: *Zurich 2024*, paragraph 12).
[45] *Chubb Insurance Co. of Canada v. Zurich Insurance Company*, 2024 ONSC 2929 (CanLII), <https://canlii.ca/t/k4tln>, retrieved on 2024-12-10 (see: *Zurich 2024*, paragraph 14).
[46]Zurich Insurance v. Chubb Insurance, 2012 ONSC 6363 (CanLII), <https://canlii.ca/t/ftr4c>, retrieved on 2024-12-10
[47]As this ONSC will know, that is such a unique event by our SCC where they do not even wish to put any such amendments or clarity to a dissenting decision of the ONCA. While the justices in our province are not in the "business of counting their press clippings", it is a testament to how analytically sound The Honourable Justice Juriansz was in those dissenting reasons
[48]Zurich Insurance Company v. Chubb Insurance Company of Canada, 2014 ONCA 400 (CanLII), <https://canlii.ca/t/g6vvk>, retrieved on 2024-12-10
[49]https://www.torontomu.ca/criminaljusticefirsts/courts/Russell-Juriansz/
[50]Zurich Insurance Company v. Chubb Insurance Company of Canada, 2014 ONCA 400 (CanLII), <https://canlii.ca/t/g6vvk>, retrieved on 2024-12-10
[51]Zurich Insurance Co. v. Chubb Insurance Co. of Canada, 2015 SCC 19 (CanLII), [2015] 2 SCR 134, <https://canlii.ca/t/gh85f>, retrieved on 2024-12-10
[52](see: *Zurich 2024*, paragraph 15).
[53]*Chubb Insurance Co. of Canada v. Zurich Insurance Company*, 2024 ONSC 2929 (CanLII), <https://canlii.ca/t/k4tln>, retrieved on 2024-12-10
[54] *Chubb Insurance Co. of Canada v. Zurich Insurance Company*, 2024 ONSC 2929 (CanLII), <https://canlii.ca/t/k4tln>, retrieved on 2024-12-10 (see: *Zurich 2024*, paragraph 64)
[55]Beasley et al. v. Barrand, 2010 ONSC 2095 (CanLII), <https://canlii.ca/t/2984g>, retrieved on 2024-12-10
[56]wherein he overturned the decision of the adjudicator in the initial decision
[57]In this *JRPA* Application, the issue of whether a lawyer like Mr. Newland could act for TDGIC for six months then act for SNIC when NOM #8 was granted in the Applicant's favour, despite six months of opposition and then non-opposition [not consent], thereafter, is not at issue *per se*. However, the backdrop regarding the same is an important one.
[58]What about, as a "test case", the duties of insurance companies (and their counsel) in relation to their holding, controlling and/or possession (solely, jointly or constructively) that are: (i) neither an underwriter nor a First Insurer, and masquerade as the liable insurance company in the LAT Proceeding; (ii) the obligations of a First Insurer who remains anonymous until effectively caught as having the mailing address and/or fax number that provides unequivocal proof that it was a First Insurer, and (iii) the obligations of an underwriter, who was not the First Insurer, who carries on as the solely liable insurance company but then does not participate after filing the sole Response, pursuant to section 280(2) of the *Insurance Act*, in a LAT proceeding?
[59]Pursuant to section 280(1) of the *Insurance Act*, "this section applies with respect to the resolution of disputes in respect of an insured person's entitlement to statutory accident benefits *or* in respect of the amount of statutory accident benefits to which an insured person is entitled." Pursuant to ss. 280(2) of the *Insurance Act*, "The insured person *or* the insurer *may* apply to the Licence Appeal Tribunal to resolve a dispute described in subsection (1)". No person may bring a proceeding in any court with respect to a dispute described in subsection (1), other than an appeal from a decision of the Licence Appeal Tribunal or an application for judicial review, ss. 280(3) of the *Insurance Act*. The dispute shall be resolved in accordance with the *Statutory Accident Benefits Schedule*
[60], 2014, c. 9, Sched. 3, s. 14; ss. 280(4) of the *Insurance Act*.

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[61](see: "statutory accident benefits" mean the benefits set out in the regulations made under paragraphs 9 and 10 of subsection 121 (1) of the *Insurance Act*; see: section 121(a): "121 (1) The Lieutenant Governor in Council may make regulations").
[62]The Applicant notified SNIC, pursuant to the *Schedule*, s. 32, in early September 2022, that he wished to apply for benefits making SNIC not only the Sole Underwriter but the First Notified Insurer.
[63]The Applicant, in his capacity as a *SABS* applicant, sent the Completed Application [OCF-1] to the **North York Fax Number** on October 12, 2022. Ergo, at law, the *SABS* Applicant sent, or "served" only one **Completed Application** to only one insurer in TDHA. TDHA was the sole insurer that first received (the "First Insurer") the *SABS* **Applicant's Completed Application**.
[64]In fact, and at law, SNIC did not stop the Applicant from submitting his Completed Application to TDHA in that it provided him with the **TDHA Fax Number**. It is the word "accept" that is so pivotal in this ***JRPA* Application** by VCM's choice of language at paragraph 27 therein.
[65]"first party insurer" means the insurer responsible under subsection 268 (2) of the Act for the payment of statutory accident benefits; ("assureur de première part"): Automobile Insurance, RRO 1990, Reg. 664, s 9, <https://canlii.ca/t/dwf#sec9>,
[66]The word "accept" is of great importance considering the finding by VCM, without any evidence in the record of proceeding to support the same, that TDGIC and SNIC jointly <u>accepted</u> priority of the Applicant's [sic] insurance policy [sic] (see: paragraph 27 of the **VCM Decision**).
[67]As SNIC was the Sole Underwriter in the Insurance Policy, the Applicant has alleged that SNIC (as First Notified Insurer) breached section 2.1(5) of *Reg 283* by taking action, with intent (as it knew that its fax number was not the **North York Office Fax Number**), to prevent or stop the Applicant from submitting his Completed OCF-1 to it [SNIC] as it is an out-of-province insurer.
[68]In relation to the lack of promptness, SNIC somehow sent the Applicant's accident benefits package to the wrong postal code address yet his Spouse received her accident benefits package to the correct postal code when they lived in the same residence
[69]Further, the Applicant provided uncontroverted evidence that SNIC failed to provide its correct facsimile address in the Completed Application but instead provided the fax number of TDHA and thereby breached subsection 2.1(3) of *Reg 283*.
[70]Reimbursement by the non-compliant insurer during the period of non-compliance (see: ss. 2.1(7) of *Reg 283*). (i) legal fees; (ii) adjuster's fees; (iii) administrative costs; and (iv) disbursements.
[71]Subsection 2.1 of *Reg 283* applies to this judicial review as the Accident occurred on August 31, 2022, which was after September 1, 2010.
[72]Whether SNIC was to remain for costs purposes in the McLean LAT Proceeding was a matter of discretion, but the sole respondent insurance company as a matter of obligations under *Reg 283*, *SABS* and *Reg 664* was not. However, the Applicant's argument was encapsulated by a rhetorical question: *why should he not have any ability to seek costs against SNIC for its conduct in the LAT Proceeding that he alleged and alleges was unreasonable, frivolous, and in bad faith?* Costs are not a matter that relate to the *Insurance Act*, and the binding regulations herein (*SABS* and *Reg 283*), as the Tribunal passed them under a different statute: section 17.1 of the SPPA. Put another way, is the Applicant's time not worth anything when it required hundreds of hours to obtain the order in NOM #8?
[73]Even when the OCF-19 was fax delivered, in November 2023, to the VP Bldg. 4th Floor Fax Number, and when SNIC's fax number (**Burlington 905 Fax Number**) was blocking the same, SNIC responded by misidentifying one of the legal tests for a duly completed OCF-19 and merely enclosed a copy of a blank OCF-19. Moreover, when considering the **Forged Signature** in the OCF-18, last page only, it could not have been SNIC, although it appeared that way in HCAI by insurer name but NOT physical address, with the "As per A. Nurse", it was TDHA's address (East Mall Etobicoke Address) that received the duly completed OCF-18 at first instance. Perhaps, this is why Ms. Nurse, an adjuster, was not amenable to executing the same.
[74]The same would have been applicable to TD Staff Legal and Mr Nieuwland with its fax and his listed fax number with the LSO. Said unappealed findings are determinative that *neither* SNIC nor TDGIC were the First Insurers by way of the fax served Completed Application upon the 4th Floor VP Building Fax Number which was TDHA.
[75]"If the Licence Appeal Tribunal finds that <u>an insurer</u> has unreasonably withheld or delayed payments, the Licence Appeal Tribunal, in addition to awarding the benefits and interest to which an insured person is entitled under the Statutory Accident Benefits *Schedule*, may award a lump sum of up to 50 per cent of the amount to which the person was entitled at the time of the award together with interest on all amounts then owing to the insured (including unpaid interest) at the rate of 2 per cent per month, compounded monthly, from the time the benefits first became payable under the *Schedule*. O. Reg. 43/16, s. 4.".

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[76](like the vacillation of findings and orders of the arbitrator, ONSC (Goldstein J. in the ONSC), reversed by the ONCA, and the ONCA reversed by the SCC adopting the dissent of Justice Juriansz)

[77]It is trite that while the Tribunal is required to determine whether Mr. McLean was entitled to certain benefits and in what amounts, it also must determine which insurance company was and is liable for certain benefits and at what times. It can only do that if that the First Insurer is found to be TDHA and that decision must come from the ONSC.

[78] There was no evidence and none in the Application Record that TDHA, or any insurer, ever did so. Even on the convoluted, tortuous, unsupported and absurd logic of VCM that SNIC and TDGIC accepted priority over the Insurance Policy, there was some form of "transfer of the claim" to TDGIC which would have required notice to, at least, TDGIC and the *SABS* Applicant. No evidence was ever provided of such written notice to either.

[79]Mr. McLean was also entitled to object to SNIC (and TDGIC as he had done previously) having any control or possession of his TD Claim #3 relating to "confidential information" and documents not subsequently received by it in accordance with standardized language in the OCF-1 and *PIPEDA*. There is no dispute that TD Claim #3 was transferred from TDHA to TDGIC and SNIC. SNIC claimed to have received documents but not directly from the Applicant. SNIC purported to respond or did respond to the Applicant in relation to some communications but not all communications. TDGIC then surfaced at the LAT Proceeding but only after inclusion by the Tribunal without the consent of the Applicant or without any legal authority. SNIC filed its Response ("SNIC Response") on January 25, 2024, and then Mr. Nieuwland filed a DOR on behalf of TDGIC – not SNIC. The charade continued for six months until Mr. McLean, relying on Mr. Nieuwland's misrepresentations in non-transcribed case conference, which was yet another irremediable nullity and without statutory power as TDGIC was a non-party, that SNIC and TDGIC were "one and the same" and "this is how we always do it" (in relation to TDGIC being some sort of insurance company that came "off the bench" to provide a "spark" to the "defence" for SNIC as if it were some kind of sporting event). While there is no dispute of some form of transfer from TDHA to SNIC and, of course, with some unknown terms and conditions involving TDGIC on some basis perhaps on a joint level but more likely some form of "suggested interventions" based on unknown terms and conditions in this "subsequent clandestine agreement", there are no particulars in the decision of VCM. Moreover, any such transfer was without notice to Mr. McLean, and without compliance with *Reg 283*. The scheme of *Reg 283* requires substantive and procedural compliance and TDHA along with SNIC and TDGIC intentionally breached *Reg 283* without any form of attempt to cure the same. The required FSRA form did not matter to TDHA. The closest evidence that this ONSC has is a fax from an unknown fax number to Mr. McLean that TDHA had no record of his claim as of March 2023 (and then another letter in August 2024 albeit after NOM #14 and NOM #15). It was a fax without any semblance of compliance with *Reg 283*, and *SABS* to some degree, and the FSRA Form 143. It directed Mr. McLean to other fax numbers in Calgary, Montreal, New Brunswick and Burlington without reference to any insurance company. Mr. McLean was entitled, after lengthy investigation and fortuitous discoveries, was entitled to object and required to bring the issue forward as to TDHA not complying with its duties to respond and to pay benefits as the First Insurer.

[80]Due to the public importance of the issues herein, the Applicant respectfully, yet forcefully, notes that the LGIC did not create any ability for an insured person (applicant) to consent or sanitize the breaches that have occurred herein. Put another way, the LGIC did not pass any provisions that would authorize an insured person to sanitize or remedy such clandestine breaches to provide post-facto consideration that cure such non-compliance with *Reg 283*. Therefore, this undisclosed agreement by the respondent insurance companies, known to the Tribunal but not the Applicant, has no legal force or effect. The purposes of the inflexible prescribed regulations are to promote compliance with the statutory scheme and not to assist insurance companies and insured persons in isolated incidents so that an "insured person" can assist delinquent and felonious activities. To not set aside the VCM Decision and replace it with a correct decision, while the ONSC commences *ab initio*, would represent a precedent that contains a "slippery slope". Perhaps, "insurance companies" like this collection of respondent insurance companies may send a late notice with a semi-contemporaneous phone call to an insured person that may be in the form of a bribe so that the "checks and balances" of various regulatory bodies (FSRA, LSO, OPCC et al) do not catch "wind of the unlawful scheme".

[81][3] ... The test for *res judicata* was applied by the Adjudicator as follows (Decision, para. 12): In my view, the four preconditions for *res judicata* are satisfied. The parties are the same in both proceedings. The prior claim was within the jurisdiction of the Tribunal. The decision in the first application was based on the merits. The Tribunal reviewed the submissions and evidence and found that the applicant was not entitled to the IRB or found that the applicant was not entitled to IRBs for the period of January 14, 2020 to date and ongoing. Moreover, he was not entitled to payment for the November 9, 2019 accounting report. The first decision was a final decision because he did not file a reconsideration request and nor did he appeal the decision.

[5] A LAT decision is final and authoritative, subject to a party's rights of reconsideration or appeal from that decision. A party that disagrees with a LAT decision may not ignore that decision and recommence the same claims all over again. That is what the Appellant has done in this case. Even if the LAT erred in the first decision

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and decided the case on the basis of an issue that was not before it, that error would not have deprived the LAT of jurisdiction. The LAT's second decision is correct in law; this appeal fails on the merits.

[87] *Kuzen v. Whitten & Lublin Professional Corporation*, 2020 ONCA 325 (CanLII), <https://canlii.ca/t/j7c2m>, retrieved on 2024-12-10 ["*Kuzen*"]

[88] *Fatemeh Rezaiezadeh v. State Farm Mutual Automobile Insurance Company*, 2016 ONFSCDRS 59 (CanLII), <https://canlii.ca/t/jq9fm>, retrieved on 2024-12-10 ["*Reza*"]

[89] It is trite that the Sheriffs in Ontario operate in different jurisdictions. TDHA's known address, when utilizing the fax number (landline phone number) of 416.774.3120, was that of 4th floor of the VP Building (North York) which is in the City of Toronto. The Tribunal found that SNIC's address for service in the LAT Proceeding was that of the Burlington Office Building (5th floor) which was tied to the 905 Fax Number. This was consistent, albeit absent the floor number, to SNIC's "switch" or "change" from the Markham Office Address to the Burlington Office Address which was only *after* the Applicant received the March 2023 fax that an unknown insurance company, presumably TDHA, did NOT have any record of his TD Claim #3 after responding to one of his earlier faxes to 416.774.3120. Further, the Tribunal found repeatedly that TDGIC's address was 9th floor-3650 Victoria Park Avenue, North York, Toronto, Ontario, with a fax number of 416.774.3629. Therefore, the Applicant could be wedged in an unsolvable, unfathomable and impenetrable conundrum and a perjury trap. In relation to the latter, if the Applicant was required to swear evidence for the Sheriff regarding enforcement of an order against SNIC, it would force Mr. McLean into a "perjury trap".

[90] This ONSC can take judicial notice that SNIC and TDGIC could not even correctly represent the amount of benefits paid to the Applicant in May 2024 which leaves only one other insurance company, by reference to the fax number of 416.774.3120, that would correctly know the same.

[91] *Fatemeh Rezaiezadeh v. State Farm Mutual Automobile Insurance Company*, 2016 ONFSCDRS 59 (CanLII), <https://canlii.ca/t/jq9fm>, retrieved on 2024-12-10 ["*Reza*"]

[92] A change in the title of proceeding in this case potentially affects every Commission case involving the present insurer. At present there is no suggestion that this appeal is a nullity or that it should be stayed pending an order to continue as would happen under Rule 11.01 of the *Rules of Civil Procedure*. In the absence of any case law regarding a presently hypothetical concern, I defer to any further or other appellate officer the question of amending the title of proceeding in this appeal proceeding in the event there is any difficulty in the enforcement of this appeal order. I leave to arbitration any amendment of the title of proceeding at that level."

[93] *College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario v. Federation of Ontario Traditional Chinese Medicine Association (Committee of Traditional Chinese Medicine Practitioners & Acupuncturists of Ontario), 2015 ONCA 851 (CanLII)*, <https://canlii.ca/t/gnnl2>, retrieved on 2024-12-10

[94] Las Vegas Strip Ltd. v. Toronto (City), 1996 CanLII 8037 (ON SC), <https://canlii.ca/t/1vnp>, retrieved on 2024-12-10

[95] EnerNorth Industries Inc. (Re), 2009 ONCA 536 (CanLII), <https://canlii.ca/t/249w3>, retrieved on 2024-12-10.

[96] *Chubb Insurance Co. of Canada v. Zurich Insurance Company*, 2024 ONSC 2929 (CanLII), <https://canlii.ca/t/k4ubs>, retrieved on 2024-12-10

[97] *Fatemeh Rezaiezadeh v. State Farm Mutual Automobile Insurance Company*, 2016 ONFSCDRS 59 (CanLII), <https://canlii.ca/t/jq9fm>, retrieved on 2024-12-10 ["*Reza*"]

[98] Awada v Allstate, 2021 ONSC 8108 (CanLII), <https://canlii.ca/t/jkbvv>, retrieved on 2024-12-10

[99] Mansuri v. Dominion of Canada General Insurance Company, 2023 ONSC 5764 (CanLII), <https://canlii.ca/t/k0mrz

[100] Mansuri v. Dominion of Canada General Insurance Company, 2023 ONSC 5764 (CanLII), <https://canlii.ca/t/k0mrz>

[101] Of note, the Applicant is not challenging the decision of the Tribunal that did not find a reasonably perceived conflict of interest as a preliminary issue therein but rather he is challenging the decisions and orders of VCM that did not add TDHA as a party – at the very least so the Applicant could advance the argument of which insurance company was liable to respond and pay benefits. Since SNIC was and is not the First Insurer, as, in fact, found by the Tribunal or not found to not be, and TDGIC was already removed by non-opposition by TDGIC, then it leaves Primmum and SNIC. Primmum and SNIC have a bond with respect to the "TD Insurance Meloche Monnex" programs. The only insurance company in the TDI Group that was located at the Material Time at the VP Building with the fax of 416.774.3120 was TDHA. Former case manager Mr. Grant even admitted, on May 6, 2024, as a matter of optics, how the Tribunal viewed "TD Insurance" as being one of two companies: (i) TDGIC; and (ii) TDHA.

[102] *Sudbury and District Health Unit v Ontario Nurses' Association*, 2023 ONSC 2419 (CanLII), <https://canlii.ca/t/jxgwc>, retrieved on 2024-12-10

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[99]The Applicant is not making any argument in costs savings but avoidance of having two JRPA proceedings before this ONSC with the identical challenges to NOM #14 and #15.

[99]*Gage v. Ontario (Attorney General)*, 1992 CanLII 8517 (ON SCDC), <https://canlii.ca/t/gbkgx>

[100]This is particularly the case when the Applicant has drawn it to the attention of not only the Tribunal but VCM when she made the same mistake previously.

[101]In November 2017, one Ms. Karen E. Shepard wrote to then The Honourable Speaker Furey (Senate of our Parliament), "Pursuant to section 10.5 of the *Lobbying Act*, I have the honour of presenting to you a Report on Investigation on the lobbying activities of Trina Morissette for tabling in the Senate. The investigation was conducted in accordance with the provisions of section 10.4 of the Act." A key duty of government officials is to interact with citizens. The *Lobbying Act* ensures that Canadians and public office holders know who is communicating with the government and on what subject.

[102]While similar fact evidence is presumptively inadmissible and must be pleaded in civil court proceedings, being one of the exceptions to pleading evidence, this was not a court proceeding and the probative value of the similar fact evidence of an adjudicator and Vice Chair who is fashioning decisions with pejorative language, slights at the Applicant, and sanctimoniously accusing him of abusing the process. The VCM Decision almost rings in a covert threat to stay away from "pandora's box". For the Court's edification, Mr. McLean doubled down on his FIPPA request including Mr. Sean Weir, Executive Chair of Tribunals Ontario, but without a response. He then tripled down by including the Attorney General Of Ontario in Mr. Downey as the LAT is a body of MAG and based on the recent, publicly available, MOU, Mr. Weir was delegated the authority of an "institutional head" by the AGO. How shameful can it get when the LAT requests payment of fees to obtain records and has 30 days to provide a response, then does not provide one, then the adolescent excuses flowed with "technical difficulties" and then stonewalling. It may perhaps be a fresh evidence matter. The conduct involving Ms. Morrissette was of such a serious nature that one Ms. Shephard had to immediately suspend her investigation and refer the matter to the Royal Canadian Mounted Police: "An administrative review concerning this matter was opened in February of 2015. It involved interviews, a review of correspondence and other materials and an examination of Ms. Trina Morissette's work on behalf of the Canadian Red Cross (CRC). In November of 2015, I opened an investigation based upon information provided to me in an administrative review report prepared by the Investigations Directorate of my Office. In accordance with subsection 10.4(8)[102] of the Act, I immediately suspended my investigation and referred this matter to the Royal Canadian Mounted Police (RCMP), as I had reasonable grounds to believe that a breach of the *Lobbying Act* had occurred. In December of 2016, I was informed by the RCMP following their investigation that no charges would be laid in the matter. The RCMP had determined that it was not in the public interest to prosecute Ms. Morissette." The RCMP did not find that she had not breached the Criminal Code, which is an astonishing matter considering it involved Ms. Morrissette's activities as a lobbyist for a well-known charity in the Red Cross, but it was not in the public interest to prosecute. That is an entirely different finding than there were not reasonable and probable grounds to charge. Ms. Morrissette was subject to the five-year prohibition and restrictions on lobbying after being a designated public office holder which implies that she had a role in government prior to her switch to the charitable activities of the CRC. "Prior to starting work as the CRC's manager of Government Relations in 2014, Ms. Morissette had worked as a member of a federal minister's staff from 2009 to 2013. Her final day as a member of a minister's staff was on June 14, 2013Investigator Shephard found: "I have concluded that Ms. Morissette was in breach of Rule 2 (Accurate Information) of the *Lobbyists' Code of Conduct* (1997), as well as the Principles of Professionalism and Integrity and Honesty in the Code." There are some obvious inaccuracies in the VCM Decision and she was given a chance to correct the same by the Applicant's section 21.1 of the *SPPA* motion and she has apparently decided not to correct the same despite carrying on with other rulings in this LAT Proceeding. It would quite one thing if VCM cross-referenced her findings to evidence in the record of proceeding or even an email that she found between Mr. Grant and another individual or representative of @tdinsurance.com but there is not even a scintilla of the same. Under the "Lessons Learned", Investigator Shepard found: "the purpose of the five-year prohibition is to ensure that designated public office holders do not use information and personal connections derived from those positions to the advantage of interests that they lobby on behalf of. This is in the public interest because it ensures that Canadians can have confidence in the integrity of government decision-making." LAT is a body of government and the MAG no less. It is where this court has to exercise its supervisory jurisdiction to ensure the conduct of VCM and to some extent VCL, who was on notice of a potential conflict of interest relayed to one Mr. Grant but then snapped out a decision in relation to NOM #7 and then was presumed gone until October 2024, is realigned with the integrity and professionalism requirements of a decision maker with the Tribunal. However, lobbying public office holders should be done in a transparent manner and in conformity with high standards of conduct (see: Investigator Shepard). The same applies to the decision-making process of the LAT. She worked for the CRC for approximately 16 months as she returned to the Minister of Health in late 2014. It is unclear if she was fired. Pursuant to subsection 10.11(1) of

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the *Lobbying Act*. When Ms. Morissette ceased being a designated public office holder from 2013 until her return to work as a ministerial exempt staff in October of 2014, she was subject to the prohibition on lobbying. As of November 2017, she no longer worked in the public sector, "Ms. Morissette no longer works in the public sector". However, she returned to the provincial public sector at some point thereafter by of being an adjudicator at LAT. "Although officials of the Canadian Red Cross and Ms. Morissette indicated that her position with the CRC was initially to be "behind the scenes," they recalled having discussed the topic of lobbying during her interview. Once she was employed by the CRC, Ms. Morissette was asked to lobby on behalf of the organization. In fact, the CRC submitted monthly communication reports in the Registry of Lobbyists for meetings in which Ms. Morissette was the only representative of the organization. Ms. Morissette's employment description, the CRC letter of disclosure to the OCL and other information obtained during the investigation indicate that, on the occasions when Ms. Morissette communicated with designated public office holders, she did so on behalf of her employer, the CRC." "Although officials of the Canadian Red Cross and Ms. Morissette indicated that her position with the CRC was initially to be "behind the scenes," they recalled having discussed the topic of lobbying during her interview. Once she was employed by the CRC, Ms. Morissette was asked to lobby on behalf of the organization. In fact, the CRC submitted monthly communication reports in the Registry of Lobbyists for meetings in which Ms. Morissette was the only representative of the organization. Ms. Morissette's employment description, the CRC letter of disclosure to the OCL and other information obtained during the investigation indicate that, on the occasions when Ms. Morissette communicated with designated public office holders, she did so on behalf of her employer, the CRC. "In her letter of response to me, she acknowledged her obligations as a former designated public office holder and recognized that there could be consequences arising from her mistake. She confirmed that once she discovered that she had made an error [sic] regarding the application of the five-year prohibition to her, she took steps to remedy her error. She offered to disclose the fact of her error to my Office, and she offered to resign as an employee of the CRC." It is unclear whether that offer came to fruition. "When Ms. Morissette provided information about the *Lobbying Act* to the Canadian Red Cross, relying, in part, on her own interpretation of the *Lobbying Act*, Ms. Morissette provided information that was inaccurate to her employer. Ms. Morissette did not use proper care to avoid providing that inaccurate information regarding the application of the five-year prohibition on lobbying. As a result, Ms. Morissette was in breach of Rule 2 (Accurate information) of the *Lobbyists' Code of Conduct*." Vice Chair Morrissette has been given a chance to clarify and correct errors in the **VCM Decisions** but she has not done so. The fact that her decision was apparently dated on September 6, 2024, being the same date as the Applicant paying fees to the LAT privacy division is rather ironic and suspicious considering the decision is signed on September 12, 2024. Following Ms. Morissette's inquiries to the OCL concerning the application of the five-year prohibition to her lobbying activities, Ms. Morissette continued to engage in lobbying."[107] By engaging in registrable lobbying activity while prohibited from lobbying under the *Lobbying Act*, Ms. Morissette did not observe the highest professional and ethical standards. The breach of Rule 2 (Accurate information) and of the prohibition on lobbying do not meet the high standards for lobbyists that are necessary to ensure Canadians that lobbying is conducted transparently and ethically in accordance with the *Lobbying Act*. As a result, Ms. Morissette was in breach of the Principle of Professionalism in the Code.

[103] *Harold the Mortgage Closer Inc. v. Ontario (Financial Services Regulatory Authority, Chief Executive Officer)*, 2024 ONSC 4464 (CanLII), <https://canlii.ca/t/k6qjf>, retrieved on 2024-12-10
[104] *Lourenco v. Hegedus*, 2017 ONSC 3872 at para. 6
[105] London District Catholic School Board v. Weilgosh, 2024 ONSC 3857 (CanLII), <https://canlii.ca/t/k3qgr>, retrieved on 2024-12-10
[106] https://lean.fsrao.ca/?searchRequired=true&searchText=Security+National&enfActions=false&warnings=false&hasRelatedFiles=false&selectedStatus=0&startDate=&endDate=
[107] https://lean.fsrao.ca/?searchRequired=true&searchText=TD+General&enfActions=false&warnings=false&hasRelatedFiles=false&selectedStatus=0&startDate=&endDate=
[108] https://lean.fsrao.ca/?searchRequired=true&searchText=Financial&enfActions=false&warnings=false&hasRelatedFiles=false&selectedStatus=0&startDate=&endDate=
[109] https://lean.fsrao.ca/?searchRequired=true&searchText=TD+Home+And+Auto&enfActions=false&warnings=false&hasRelatedFiles=false&selectedStatus=0&startDate=&endDate=
[110] *R.M. v CAA Insurance, 2020 CanLII 94775* (ON LAT), <https://canlii.ca/t/jbwwr>, retrieved on 2024-12-10
[111] [note bene: TDHA is an insurer. Mr. McLean has recourse for the payment of *SABS* against TDHA as TDHA is bound by *Reg 283*. A breach of *Reg 283* is legally equivalent to a breach of *SABS*. Moreover, various sections of *SABS* reference the "first insurer" (i.e. receipt of the Completed Application) which imposed, and continues to impose obligations upon TDHA, to: (i) respond; and (ii) pay.

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[112]TDHA: October 13, 2022, by way of fax from Mr. McLean to TDHA albeit unbeknownst to him until August 2024
[113]In this hypothetical, it would have been TDHA
[114]Singular
[115]Duty to pay, albeit the updated A07 Bulleting from 2010 (May) which was the bases for the amendments to *Reg 283* in 2010 includes the duty to respond.
[116]In this hypothetical, it would have been McLean
[117]Based upon the VCM Decision, paragraph 27, it would have been a dispute between TDHA, as First Insurer, and SNIC, the Sole Underwriter and First Notified Insurer, and TDGIC, neither an underwriter nor a First Insurer and not even a First Notified Insurer but a "Fictitious Respondent" in the LAT Proceeding.
[118]One of three
[119]THE INSURER: TDHA
[120]Not "having already been transferred after October 13, 2022"
[121]Transfer of a claim objection rights
[122]Had TDHA sent the notice, then it would have been SNIC that was paying at the time, so it would have been a challenge to SNIC paying while TDHA was the First Insurer
[123]The LAT Proceeding is "any proceeding". The JRPA Application is "any proceeding". Although Mr. McLean did not have any "claim transfer objection rights" as TDHA failed to extend the same to him. Moreover, Mr. McLean did not have any "proceeding participation rights" as it relates to any potential arbitration before an arbitration pursuant to the Ontario legislation or statute known as the "Arbitration Act, 1991". Moreover, TDHA could not advance an arbitration without having paid any benefits to Mr. McLean. If TDHA was the payor of some or all of the $1499.98, then it could technically advance an arbitration claim but only after it provided a notice of potential transfer of claim pursuant to A143. However, it would be, if it did so in the month of December 2024, some 700 days late. Pursuant to *Reg 283*, section 2 and Zurich 2024, TDHA was provisionally liable to pay benefits from October 13, 2022, to January 10, 2023, (the "Provisional Payment Period"), and then permanently liable after January 10, 2023, subject to giving it notice of a transfer claim (A143) and then providing clear, cogent and convincing evidence as to why the 90 day period was insufficient to make a determination that *another insurer* or insurers (nota bene: conceivable could be two under section 268 per se) is liable under section 268; AND the insurer [TDHA] made the reasonable [nota bene: objective person standard] investigations necessary to determine if another insurer was liable within the 90 day period (see: section 3(2) of the *Reg 283*, passed in 1995, which was the year that *Reg 283* was passed by its namesake, "*Reg 283/95*". Where there is a dispute as to whether a First Insurer, like TDHA, had not given notice to other insurers and an Applicant pursuant to its receipt of a Completed Application by fax or mail, shall be resolved in an ARBITRATION pursuant to section 7 of *Reg 283* (see: ss. 3(3) of *Reg 283*). Pursuant to ss. 7(1) of *Reg 283*, it is ONLY an insurer that *has been* paying benefits under section 2 (nota bene: reference to section 268 of the Insurance Act (1990) and *Reg 283* passed in 1995) OR section 2.1 (nota bene: relating to an Accident (see: SABS, definition section), that occurred after September 1, 2010 and requires the dispute to be resolved in accordance with the Regulation 283 (not Insurance Act)) OR any other insurer against who the obligation to pay benefits is *claimed*. Subsection 3(3) dovetails to subsection 7(3) with a one year prescribed limitation period but that is tied to the insurer, 'first giving notice' under section 3 which is the insurers that it believes are liable to pay the benefits and the insured person, in his or her capacity as an "Applicant" after sending a Completed Application and it being *received* first by an insurance company making said insurance company the "First Insurer". However, if the First Insurer does not give a notice, pursuant to section 3(1) of *Reg 283* within 90 days (often means counting the "first day" and "last day"), it loses all of its dispute rights to pay benefits subject to overcoming the strenuous legal test under section 3(2) of *Reg 283*. It is here where TDHA, would hypothetically speaking, never be able to overcome said test by a decision of any reasonably-minded arbitrator reading a decision regarding the application of the facts to the legal test under ss. 3(2) of *Reg 283*. TDHA is an Ontario based insurer (not an out of province insurance company) and was the co-tenant with TDGIC at the "Spark Building", "North York Office Building" or the "VP Building" located at 3650 Victoria Park Avenue, District of North York, City of Toronto, where TDHA was located on the 4th floor (4th to 6th floors) with a fax of 416.774.3120 and its co-tenant in TDGIC had a fax number of 416.774.3629 and it was the commercial tenant on floors 7 to 9. By review of the information scribed on the Application (OCF-1), it had a sufficient period of time to make a determination that another insurer or insurers were liable under section 268 of the Act.
[124]Hence, by SNIC intentionally, as sworn by McLean, redirecting the Applicant to TDHA at first instance, and then purportedly paying benefits (unclear if that name is correct), TDHA became the First Insurer by McLean faxing of the same to it on October 13, 2022. However, if TDHA was the "actual payor" of the direct deposits at said time then it could have provided this notice to McLean. It was then caught in another dilemma by the fact that the representative known to McLean was that of Ms. Nurse of SNIC. Therefore, TDHA would have had to provide a phone number and representative for TDHA which would have caused issues and concerns for McLean.

Tab #39: Compendium: Court File No. DC-24-00000718-00JR

Electronically filed / Déposé par voie électronique : 18-Feb-2025
Toronto Superior Court of Justice / Cour supérieure de justice

Court File No. DC-24-00000718-00JR

ONTARIO COURT OF JUSTICE (DIVISIONAL COURT)

BETWEEN:

KEVIN ALEXANDER MCLEAN

APPLICANT

- and -

TD HOME AND AUTO INSURANCE COMPANY, SECURITY NATIONAL INSURANCE COMPANY, TD GENERAL INSURANCE COMPANY, EXECUTIVE DIRECTOR, LICENCE APPEAL TRIBUNAL,
HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, REPRESENTED BY EXECUTIVE CHAIR OF TRIBUNALS ONTARIO IN MR. SEAN WEIR, THE ATTORNEY GENERAL OF ONTARIO

RESPONDENTS

CERTIFICATE OF PERFECTION OF THE APPLICANT

I, Mr. Kevin A. McLean, the Applicant, certify by his signature below on the below date:

1. the **JRPA Application**, **Factum** (which includes the book of authorities by reference and hyperlinking therein), and **Application Record** have been filed herein with the ONSC Divisional Court; and

2. no other persons[i] than those denoted above are entitled by any statute (as defined and interpreted under the *Legislation Act*, 2006, SO 2006, c 21, Sch F (the "*Legislation Act*") or by an order *Rules of Civil Procedure*, RRO 1990, Reg 194 (the "*Civil Rules*", "*Rules*" or "*Rules of Procedure*") to notice[ii] and/or to be heard on this **JRPA Application**.

DATE: December 13, 2024



Mr. Kevin A. McLean (B.A. J.D., CIM)
Self-represented, the Applicant herein

FOR SERVICE AND NOTICE PURPOSES

TO [1]:

Licence Appeal Tribunal
15 Grosvenor Street
Toronto, Ontario
M7A 2S8

AND TO (its counsel):

Mr. Jesse Boyce
LSO number: 72486F
25 Grosvenor, 4th Floor
Toronto, Ontario,
M7A 2S8
Email: jesse.boyce@ontario.ca

TO [2]:

The Ministry of the Attorney General of Ontario

Attention: Ms. Judie Im
8-720 Bay St
Toronto, Ontario,
M7A 2S9
Email: judie.im@ontario.ca

FOR PURPOSES OF COURTESY COPY TO RESPONDENT INSURANCE COMPANIES
(who did not participate in the motions before the Tribunal that are subject to judicial review)

Insurance Companies subject to NOM #14 and #15 (judicial review)

To: the "First Insurer"

Address for service tied to the fax number of 416.774.3120 provided by the First Notified Insurer, which was the fax number of TDHA at the Material Time, in September 2022,

TD Home and Auto Insurance Company ["**TDHA**"]
FSRA Registration Number 1063
4th Floor-3650 Victoria Park Avenue
District of North York
City of Toronto
Ontario, M2H 3P7

Fax: 416.774.**3120**

To: The **First Notified Insurer** and **Sole Underwriter** in the Insurance Policy of the Applicant's former Spouse

Address for service provided by the Tribunal in the LAT Proceeding by LAT Order on September 12, 2024

Security National Insurance Company ("**SNIC**")
FSRA Registration Number 397
5th Floor-5045 South Service Road
Burlington, Ontario,
L7L 5Y7

Fax: 905-315-1074

Courtesy copy to the insurance company (non-party) subject to NOM #13 in part of the VCM Decision (*nota bene*: NOM #13 is not subject to JRPA Application as it was a document production motion and it was interlocutory unlike the NOM #14, which were final orders as they sought to add a party, amend the cause of action against the said a non-party *et al*)

Address for service provided by the LAT in the LAT Proceeding for TDGIC by LAT Orders commencing on or around February 13, 2024

TD General Insurance Company ("**TDGIC**")

FSRA Registration number 353
9th FLOOR-3650 Victoria Park Avenue
District of North York
City of Toronto
Province of Ontario
M2H 3P7

Fax: 416.774.**3629**

Attention: Mr. Matthew Nieuwland and Ms. Heather Paquini[iii]

Address for Mr. Matthew Albert Nieuwland

Law Society Number: 71405A
Business Name: TD Insurance Staff Legal
66 Wellington St W.,
Toronto, Ontario
M5K 1A2
Email Address: matthew.nieuwland@tdinsurance.com

Electronically filed / Déposé par voie électronique : 18-Feb-2025
Toronto Superior Court of Justice / Cour supérieure de justice

Court File No./N° du dossier du greffe : DC-24-00000718-00JR

Divisional Court File DC-24-00000718-00JR

McLean v. TDHA, the Licence Appeal Tribunal et al

DIVISIONAL COURT, SUPERIOR COURT OF JUSTICE

Proceedings commenced at Toronto, Ontario

Divisional Court Toronto
Osgoode Hall
130 Queen Street W., Rm 174
Toronto, ON M5H 2N5
Phone: (416) 327 5100

CERTIFICATE OF PERFECTION

Mr. Kevin A. McLean (B.A., J.D, CIM)
The JRPA Applicant
Self-represented or appearing *Pro Se*
410-775 King Street West
Toronto, Ontario,
M5V 2K3
(e): mcleansettlement@gmail.com

[i]With my position being, based upon the law that I have read including secondary source material and issued documents from The Honourable ONSC Divisional Court that only those persons that participated in the hearing (specifically, NOM #14 and NOM #15 which are subject to review by way of the relief that I have sough to quash the orders of VCM in NOM #14 and substitute VCM's orders with the orders that I sought in NOM #14 and to some extent NOM #15) that is subject to review or "on review" are entitled to participate as a right subject to the requirement of notice to the AGO and Tribunal and the rights of participation by the AGO and the Tribunal (as represented by their selected counsel)

[ii]The Applicant's position being, consistent with the Factum, that the Nieuwland Purported NOA or Nieuwland Purported Appearance was not filed forthwith and it remains defective.

[iii]*Nota bene*: a different legal administrative assistant that Mr. Nieuwland had and has in the Tribunal Proceeding

Electronically filed / Déposé par voie électronique : 18-Feb-2025
Toronto Superior Court of Justice / Cour supérieure de justice

Tab #40: Compendium: Court File No. DC-24-00000718-00JR

This is the 1st affidavit herein of Mr. Kevin A. McLean, and it was made on Friday, December 13, 2024

FORM 16B

COURTS OF JUSTICE ACT

AFFIDAVIT OF SERVICE

Court File No. DC-24-00000718-00JR

ONTARIO COURT OF JUSTICE (DIVISIONAL COURT)

BETWEEN:

KEVIN ALEXANDER MCLEAN

APPLICANT

- and -

TD HOME AND AUTO INSURANCE COMPANY, SECURITY NATIONAL INSURANCE COMPANY, TD GENERAL INSURANCE COMPANY, EXECUTIVE DIRECTOR, LICENCE APPEAL TRIBUNAL, HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, REPRESENTED BY EXECUTIVE CHAIR OF TRIBUNALS ONTARIO IN MR. SEAN WEIR, THE ATTORNEY GENERAL OF ONTARIO

RESPONDENTS

Affidavit #1 (Affidavit of Service) of Mr. Kevin A. McLean

I, Mr. Kevin Alexander McLean of the city of Toronto in the province of Ontario SWEAR that:

1. I am the affiant (also defined as the "**JRPA Applicant**" or "**Applicant**") herein and I swear, under the pains and penalties of perjury, the following facts to be true. Where I have stated information on belief, I have cited the source of my belief.

2. I am currently 41 years old as I was born on March 25, 1983, in Vancouver, British Columbia.

3. Despite having some continued issues with my brain, as per and evidenced by my MRIs in August 2023 along with diagnoses and treatment from health professionals or health practitioners prior to the same, I am competent to provide the evidence herein and I do so voluntarily.

4. I adopt the definitions from my filed documents with the ONSC Divisional Court and they have the same meaning herein as they do therein.

VOLUME #1: service of the JRPA Application

5. I served the **JRPA Application** on November 15, 2024, on the Tribunal via email by the email of LAT registrar to the attention of the case manager for the LAT Proceeding along with filing the same in the e-filing portal for LAT/AABS matters.

6. I serve the **JRPA Application** on November 15, 2024, via email to the designated email of the AGO for civil matters.

7. I received an email from the lawyer in good standing with the LSO and counsel to the Attorney General of Ontario in Ms. Judie Im in relation, inter alia, to my service of the JRPA Application on the AGO on the email that is publicly listed for serving the AGO.

8. In the following week, albeit not to my designated email herein with ONSC (Divisional Court), I received emails confirming the same from the Tribunal along with a notice of appearance on behalf of the Tribunal.

9. As my position remains that the respondent insurance companies are not entitled to appear in this **JRPA Proceeding**, absent leave of this Honourable Ontario Superior Court of Justice (Divisional Court), I do not swear that they were formally served with the **JRPA Application**, my **Factum** (defined *infra*), my **Application Record** (defined *infra*), and **Certificate Of Perfection** (the "**COP**" or "**Certificate Of Perfection**").

10. I have agreed to continue, albeit I removed him [Mr. Nieuwland] at one point and prior to the purported filing of an appearance by Mr. Nieuwland, to include Mr. Nieuwland, the declared representative to TDGIC from the date of January 30, 2024, and SNIC from the date of June 28, 2024 in the LAT Proceeding, on emails involving the ONSC Divisional Court along with Ms. Paquini along with the addressees contained therein as a courtesy without any waiver of my rights. I remain of the view, based upon my review of various sources of law including statutes, regulations, jurisprudence and secondary source material, that the notice of appearance filed by Mr. Nieuwland on behalf of SNIC, TDGIC and TDHA (albeit with the reference in the cover email of "SNIC also referred to as "TD Home And Auto [sic] and TD General Insurance company [sic]") was not filed *forthwith* and it remains a nullity or void *ab initio* on account of the respondent insurance companies needing leave of the ONSC to participate. My evidence in paragraph 10 is not to be construed or intended to be construed as drawing or making any conclusions of law or engaging in any legal argument but rather I am swearing my beliefs for purposes of my positions previously and currently as it relates to the same.

VOLUME #2: Parties served with my **Factum** and book of authorities contained therein[1] (the "**Factum**"), application record (the "**Application Record**") and certificate of perfection (the "**COP**" or "**Certificate of Perfection**")[2]

Volume #2(A): Licence Appeal Tribunal

11. I served the **Tribunal** with my **Factum** on December 10, 2024, by sending a copy of the same by e-mail to jesse.boyce@ontario.ca to Mr. Jesse Boyce who is the lawyer for the Tribunal in this **JRPA Proceeding.**

12. I served the Tribunal with my **Application Record** on December 12, 2024, by sending a copy of the same by e-mail to jesse.boyce@ontario.ca to Mr. Jesse Boyce who is the lawyer for the Tribunal in this **JRPA Proceeding.**

13. I served the **Tribunal** with my **Certificate Of Perfection** on December 13, 2024, by sending a copy by e-mail to jesse.boyce@ontario.ca to Mr. Jesse Boyce who is the lawyer for the **Tribunal** in this **JRPA Proceeding.**

Volume #2(B): AGO[3]

14. I served the AGO with my **Factum** on December 10, 2024, by sending a copy by e-mail to judie.im@ontario.ca to Ms. Judie Im the lawyer for the AGO in this **JRPA Proceeding.**

15. I served the AGO with my **Application Record** on December 12, 2024, by sending a copy by e-mail to judie.im@ontario.ca to Ms. Judie Im, the lawyer for the AGO in this **JRPA Proceeding.**

16. I served AGO with my **Certificate Of Perfection** on December 13, 2024, by sending a copy by e-mail to judie.im@ontario.ca to Ms. Judie Im the lawyer for the AGO in this **JRPA Proceeding.**

VOLUME #3: Responses from the respondent parties [distinguished from the respondent insurance companies]

17. I have not received any responses from the respondent parties vis-à-vis confirming of receipt of the **Factum, Application Record** and **Certificate of Perfection** but they have been copied on the emails wherein I filed my **Factum, Application Record** and **Certificate Of Perfection.**

VOLUME #4: Jurat

18. I swear this affidavit of service in the **JRPA Proceeding** herein for no improper purpose and for confirming the above facts and those facts on belief where I have cited the sources of said beliefs therein.

Sworn before me at **Toronto, Ontario**
On this 13th day of December 2024

Mr. Keyhan R. Mohsan (B.A., J.D., CIM)

Vinh The Tran, Esq.

Unlimited, No Expiration
NO R.L.P. PROVIDED.
Identification Confirmed.

[Nothing past this line but "endnotes"]

[1]See: https://www.ontariocourts.ca/scj/practice/div-court-pd/ "Part IV: Efficient Use of the Court's Time Before and During Hearings, "D. Factums and Books of Authorities" (see: 9. Where hyperlinks to all authorities are provided in the factum, it will not be necessary to file a book of authorities);

[2](see: https://www.ontariocourts.ca/scj/files/pubs/guide-div-ct-judicial-review-EN.pdf; "Once the above materials have been served and filed, the applicant must complete a "certificate of perfection". The certificate of perfection confirms that all the material required to be filed by the applicant for the hearing of the application has been filed". I believe the above materials involve the Factum (which includes the authorities I intend to rely upon) and the Application Record which have been filed and served.

[3](see: https://www.ontariocourts.ca/scj/files/pubs/guide-div-ct-judicial-review-EN.pdf) "Judicial review is initiated by filing a "Notice of Application for Judicial Review" (Form 68A) with the Divisional Court. The Notice of

Application must be served on the Attorney General of Ontario. The Notice of Application should also be served on the decisionmaker that exercised the statutory power and anyone else who participated in the original hearing. The decision-maker may also be a party to the proceedings. You can serve the Notice of Application on the Attorney General of Ontario and the relevant administrative body by mail, facsimile, or by delivering it in person to their offices. You should look online for the correct contact information."

Tab #41: Compendium: Court File No. DC-24-00000718-00JR

Court File No. DC-24-00000718-00JR

Form 4E
Courts of Justice Act

Requisition

ONTARIO COURT OF JUSTICE (DIVISIONAL COURT)

BETWEEN:

KEVIN ALEXANDER MCLEAN

APPLICANT

- and -

TD HOME AND AUTO INSURANCE COMPANY, SECURITY NATIONAL INSURANCE COMPANY, TD GENERAL INSURANCE COMPANY, EXECUTIVE DIRECTOR, LICENCE APPEAL TRIBUNAL,
HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, REPRESENTED BY EXECUTIVE CHAIR OF TRIBUNALS ONTARIO IN MR. SEAN WEIR, THE ATTORNEY GENERAL OF ONTARIO

RESPONDENTS

REQUISITION

TO THE LOCAL REGISTRAR at The Ontario Superior Court of Justice (Divisional Court) Toronto, Osgoode Hall, 130 Queen Street W., Rm 174 (or any other room situate within said building and lands at the ONSC Divisional Court (Toronto) where the Registrar is so located), Toronto, ON, M5H 2N5 (the "**Toronto Divisional Court**") Phone: (416) 327 5100

I REQUIRE, with due respect and out of an abundance of caution, pursuant to *Rules Of Civil Procedure*, Rule 4.08[i], that the Registrar provide myself and the named respondents in the **Filed Certificate Of Perfection** (see: *infra*), with a Notice of Listing For Hearing in Form 68(B) pursuant to *Rules of Civil Procedure*, Rule 68, "**PROCEEDINGS FOR JUDICIAL REVIEW"**, Rule 68.05, "*Certificate of Perfection*", sub rule (2)[ii], pursuant to my filing and payment of the required fee for the **Certificate of Perfection** on December 15, 2024, (the "**Filed Certificate Of Perfection**").

December 24, 2024

Mr. Kevin A. McLean
775 King Street West,
Suite 410
Toronto, Ontario
M5V 2K3
(e): mcleansettlement@gmail.com



Mr. Kevin A. McLean (B.A. J.D., CIM)
Self-represented or appearing *Pro Se*, the Applicant herein

RCP-E 4E (July 1, 2007)

---

[i] **4.08** Where a party is entitled to require the registrar to carry out a duty under these rules, the party may do so by filing a requisition (Form 4E) and paying the prescribed fee, if any. R.R.O. 1990, Reg. 194, r. 4.08.

[ii] (2) When the certificate of perfection has been filed, the registrar shall place the application on a list for hearing and give notice of listing for hearing (Form 68B) by mail to the parties and the other persons named in the certificate of perfection. R.R.O. 1990, Reg. 194, r. 68.05 (2).

TAB #42: COMPENDIUM: COURT FILE NO. DC-24-00000718-00JR

Court File No. DC-24-00000718-00JR

Form 4E
Courts of Justice Act

REQUISITION

ONTARIO COURT OF JUSTICE (DIVISIONAL COURT)

BETWEEN:

KEVIN ALEXANDER MCLEAN

APPLICANT

- and -

TD HOME AND AUTO INSURANCE COMPANY, SECURITY NATIONAL INSURANCE COMPANY, TD GENERAL INSURANCE COMPANY, EXECUTIVE DIRECTOR, LICENCE APPEAL TRIBUNAL,
HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, REPRESENTED BY EXECUTIVE CHAIR OF TRIBUNALS ONTARIO IN MR. SEAN WEIR, THE ATTORNEY GENERAL OF ONTARIO

RESPONDENTS

REQUISITION
(SET DOWN URGENT APPLICATION FOR HEARING)

(To set down hearing pursuant to ss. 6(2) of the *JRPA*, Rules 38.02[i], 38.03(3.1) of the *Rules of Civil Procedure*, section 18 of the *Courts of Justice Act et al*)

TO THE LOCAL REGISTRAR at The Ontario Superior Court of Justice (Divisional Court) Toronto, Osgoode Hall, 130 Queen Street W., Rm 174 (or any other room situate within said building and lands at the ONSC Divisional Court (Toronto) where the Registrar is so located), Toronto, ON, M5H 2N5 (the "**Toronto Divisional Court**") Phone: (416) 327 5100

I REQUIRE and respectfully request that this *JRPA* Application is set down for hearing pursuant to section 6(2) of the *JRPA* on the basis of urgency and that the delay required for an application to the Divisional Court is likely to involve a failure of justice, Rule 38.03(3.1), "Urgent Applications"[ii] before a justice of the Ontario Superior Court of Justice who may hear my application for leave thereof, and if granted, then the hearing of my *JRPA* Application pursuant to my filed and delivered materials, at first instance to the ONSC Divisional Court pursuant to section 6(1) of the *JRPA*.

I request that my request for leave of an ONSC justice pursuant to ss. 6(2) of the *JRPA* and my *JRPA* Application are heard on any day in the week of Tuesday, January 14, 2025, or Thursday, January 16, 2025, before a single justice of the ONSC Toronto Region (see: Appendix #1) who is not currently in his or her rotation[iii] as a sitting justice of the ONSC Divisional Court. I request further, or in the alternative, that my request for leave of an ONSC single justice and my *JRPA* Application (if leave is granted) be heard on any date in the week of January 13, 2025, to January 17, 2025, after the date of January 14, 2025 inclusive.

Pursuant and consistent with the following: (i) "*Consolidated Practice Direction for Divisional Court Proceedings*, Effective June 15, 2023, Part V: Guidelines to Determine Mode of Hearing"; and (ii) "*Consolidated Civil Provincial Practice Direction*, Amended February 1, 2024, C. Presumptive guidelines to determine mode of proceeding in civil matters, xiii. Appeals to the Divisional Court and applications for judicial review"[iv], I respectfully request that this hearing be conducted electronically by teleconference.

I further REQUIRE and respectfully request that I receive from the ONSC Divisional Court an invite or link to Case Center (formerly Case Lines) pursuant to the "ONTARIO SUPERIOR COURT OF JUSTICE GUIDE TO JUDICIAL REVIEW IN DIVISIONAL COURT".[v]

I estimate that I will require 35 minutes in initial oral argument (inclusive of my request for leave and of the hearing of my *JRPA* Application) and ten minutes in reply. I estimate that the total hearing time will be *less* than two hours.

December 24, 2024

Mr. Kevin A. McLean
775 King Street West,
Suite 410
Toronto, Ontario
M5V 2K3
(e): mcleansettlement@gmail.com



Mr. Kevin A. McLean (B.A. J.D., CIM)
Self-represented or appearing *Pro Se*, the Applicant herein

Appendix #1:

https://www.ontariocourts.ca/scj/judges/current/judges/#Judges_of_the_Toronto_Region

Justices of the Toronto Region

The Honourable R. Lee Akazaki
The Honourable Jasmine T. Akbarali
The Honourable Suhail A.Q. Akhtar
The Honourable Beth A. Allen
The Honourable Nancy L. Backhouse
The Honourable Joan M. Barrett
The Honourable Peter Bawden
The Honourable William Black
The Honourable Susanne Boucher
The Honourable Carole J. Brown
The Honourable Michael F. Brown
The Honourable Lisa Brownstone
The Honourable Kelly P. Byrne
The Honourable John Callaghan
The Honourable Kenneth L. Campbell
The Honourable R. Philip Campbell
The Honourable Peter J. Cavanagh
The Honourable Robert Centa
The Honourable William S. Chalmers
The Honourable Michael Code
The Honourable Barbara A. Conway
The Honourable David L. Corbett
The Honourable Katherine B. Corrick
The Honourable Bonnie L. Croll
The Honourable George Czutrin
The Honourable Breese Davies
The Honourable James F. Diamond
The Honourable Bernadette Dietrich
The Honourable Jane O. Dietrich
The Honourable Michael Dineen
The Honourable Grant R. Dow
The Honourable Todd Ducharme
The Honourable Sean F. Dunphy
The Honourable Mario D. Faieta
The Honourable Maureen D. Forestell
The Honourable Cory A. Gilmore
The Honourable Benjamin T. Glustein
The Honourable Robert F. Goldstein
The Honourable Susan G. Himel
The Honourable Kenneth G. Hood
The Honourable Carolyn J. Horkins

The Honourable Jane E. Kelly
The Honourable Jessica Kimmel
The Honourable Markus Koehnen
The Honourable Melanie Kraft
The Honourable Freya Kristjanson
The Honourable Janet Leiper
The Honourable Richard A. Lococo
The Honourable Carissima Mathen
The Honourable Wendy M. Matheson
The Honourable Rita-Jean Maxwell
The Honourable Heather McArthur
The Honourable John B. McMahon
The Honourable Loretta P. Merritt
The Honourable Anne M. Molloy
The Honourable Edward M. Morgan
The Honourable Frederick L. Myers
The Honourable Shaun S. Nakatsuru
The Honourable E. Llana Nakonechny
The Honourable Apple C. Newton-Smith
The Honourable Sandra Nishikawa
The Honourable Shaun O'Brien
The Honourable Alfred J. O'Marra
The Honourable Brian P. O'Marra
The Honourable Peter J. Osborne
The Honourable Eugenia Papageorgiou
The Honourable Ira G. Parghi
The Honourable Jennifer Penman
The Honourable Michael A. Penny
The Honourable Andrew Pinto
The Honourable Andra Pollak
The Honourable Jill Presser
The Honourable Audrey P. Ramsay
The Honourable Catherine H. Rhinelander
The Honourable Gillian E. Roberts
The Honourable Nathalie Des Rosiers
The Honourable Harriet E. Sachs
The Honourable Mary A. Sanderson
The Honourable Andrew A. Sanfilippo
The Honourable Paul B. Schabas
The Honourable P. Andras Schreck
The Honourable Mohan Sharma
The Honourable Linda A. Shin
The Honourable Julia Shin Doi
The Honourable Sharon Shore
The Honourable Nancy J. Spies
The Honourable Jana Steele
The Honourable Colin P. Stevenson
The Honourable David G. Stinson
The Honourable P. Tamara Sugunasiri

The Honourable Susan Vella
The Honourable Marie-Andrée Vermette
The Honourable Benita Wassenaar

Endnotes

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[i]"the absence of any practice direction for scheduling of involving the same"
[ii]"An urgent application may be set down for hearing on any day on which a judge is scheduled to hear applications, even if a lawyer estimates that the hearing is likely to be more than two hours long
[iii]S. 18(3) says that judges who have been appointed to the Superior Court of Justice may also hear cases at the Divisional Court. In practice, Superior Court of Justice judges rotate through the Divisional Court (see: Courts of Justice Act Chapters, 4. Divisional Court, Sections 18 - 21, 1st ed, 2021 CanLIIDocs 2074)
[iv]**Single judge hearings**: All single judge hearings in the Divisional Court will be held virtually unless a party requests that it be held in person and the Court agrees or the Court directs that it will be held in person.
[v]See: https://www.ontariocourts.ca/scj/files/pubs/guide-div-ct-judicial-review-EN.pdf; "After you have brought an application for judicial review, you will receive an email to register for CaseLines and upload your materials"

TAB #43: COMPENDIUM: COURT FILE NO. DC-24-00000718-00JR

Court File No. DC-24-00000718-00JR

FORM 4D

Courts of Justice Act

AFFIDAVIT

ONTARIO COURT OF JUSTICE (DIVISIONAL COURT)

BETWEEN:

KEVIN ALEXANDER MCLEAN

APPLICANT

- and -

TD HOME AND AUTO INSURANCE COMPANY, SECURITY NATIONAL INSURANCE COMPANY, TD GENERAL INSURANCE COMPANY, EXECUTIVE DIRECTOR, LICENCE APPEAL TRIBUNAL, HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, REPRESENTED BY EXECUTIVE CHAIR OF TRIBUNALS ONTARIO IN MR. SEAN WEIR, THE ATTORNEY GENERAL OF ONTARIO

RESPONDENTS

Affidavit #3 of Kevin A. McLean in this *JRPA* Proceeding

(Affidavit in support of my allegation of a reasonable apprehension of bias, reasonable apprehension of a conflict of interest and/or a reasonable apprehension of a lack or absence of independence et al)

I, Kevin Alexander McLean, Disabled (B.A., J.D., CIM) of **Toronto, Ontario, SWEAR** THAT:

Volume #1: Sworn Under Oath; under the Penalty of Perjury; and Introduction

1. I am the individual *JRPA* Applicant herein and I swear, under the pains and penalties of perjury, the following facts to be true. Where I have stated or sworn information on my belief(s), I have cited the source of my belief(s) by references, citations, end-noting or otherwise. When I have used the expressions (including any permutations) of "in my view", "in my opinion", or "belief", I am not drawing or making any conclusion of law or swearing a conclusion of law but rather citing my position and opinions as a matter of fact.

2. I commenced drafting this affidavit after five p.m. on Wednesday, January 8, 2025.

3. Where double underlining has been utilized, the double underlining is mine and added for emphasis. I adopt the definitions from my previously filed documents in this JRPA Proceeding and they have the same meaning herein a

4. This is my third affidavit in this JRPA Proceeding. My first affidavit was my affidavit of service involving having served the respondents with my JRPA Application, Factum,

5. I swear that this affidavit is not to add any materials to the Application Record but rather for the purposes of my objection to The Honourable Justice Shore being involved in this JRPA Proceeding on account of what I allege is a reasonably perceived conflict of interest. I do not any way impugn the character or integrity of the Honourable Justice Shore. I am not suggesting that she knew of said relationship and the evidence in the record of proceeding because the Tribunal has failed to file the record of proceeding forthwith as per section 10 of the JRPA.

6. Contrarily, I have and will continue to impugn the integrity of Mr. Andrew Papadimtriopoulos who I have sworn, on belief, was the individual who engaged in the "Forged Signature" (my definition) on or around April 20, 2023, in relation to my submitted OCF-18 on April 6, 2023. Please see affidavit #37 for said attachment in this regard. I repeat and rely upon my previous sworn evidence in this regard and I expressly readopt the same herein by reference to the attachments at Exhibit "B".

7. Now shown to me and marked as Exhibit "A" is a copy of the emails that I sent today to the ONSC Divisional Court regarding my discovery that I believed the Honourable Madam Justice Shore, by virtue of what I found was public information that she was formerly a partner of Epstein Cole until July 2018, which was the same law firm, based on my belief and memory, that Mr. Andrew P. retained in a matrimonial litigation with my Spouse (at the time). I repeat and rely upon the particulars in the emails therein and I expressly adopt the same.

8. I only became aware of the name of Madam Justice Shore after receiving the following email:

Jan 7, 2025,
10:23 AM

Good morning,

Madam Justice Shore directs as follows:

There shall be a case management conference on this file, on a date to be provided by the Court office. The parties should come prepared to discuss whether the application for judicial review is premature and, if necessary, prepared to set a schedule for the exchange of material and set a hearing date.

Sincerely,
Evelyne Ibula (She/Her/Elle)
Assistant Trial Coordinator
Superior Court of Justice – Divisional Court
Osgoode Hall, Room 174
130 Queen Street West
Toronto, ON M5H 2N5

9. I repeat and rely upon my affidavit #15 and #16 as to when I advanced sworn evidence as to a conflict of interest involving various individuals who were at the time apparently acing for TDGIC. Exhibit "A" is enumerated therein with page numbers at the top of the page to allow for any inclusions by way of Case Center.

10. Now shown to me is Exhibit "B" which is a copy of the attachments that I delivered with some of my emails in Exhibit "A". Exhibit "B" is enumerated therein with page numbers at the top of the page for the reasons referenced in the above paragraph.

11. I will continue to review the Practice Direction regarding "case management" and "case conferences" and the Civil Rules regarding, inter alia, the effect of a "direction" prior to a case conference.

12. I continue to request that the respondents provide their position as to whether they will consent, not oppose or oppose a motion to have the above order rendered void on account of a reasonably perceived conflict of interest and reasonable apprehension of lack of independence and/or other similarly named principles like bias or reasonable apprehension of bias. I will not address the merits of such a pre-hearing conference direction as per the law articulated by the SCC in *Newfoundland Telephone Co. v. Newfoundland (Board of Commissioners of Public Utilities)*, 1992 CanLII 84 (SCC) which I say in support for my position that the "pre case conference direction" is void and not merely voidable. I now copy and paste as per preliminary and courtesy notice to the ONSC Divisional Court along with the respondents the following

> " A denial of a right to a fair hearing cannot be cured by the tribunal's subsequent decision. A decision of a tribunal which denied the parties a fair hearing cannot be simply voidable and rendered valid as a result of the subsequent decision of the tribunal. The damage created by apprehension of bias cannot be remedied. The hearing, and any subsequent order resulting

from it, must be void. The order of the Board of Commissioners of Public Utilities was accordingly void.

Everyone appearing before administrative boards is entitled to be treated fairly. It is an independent and unqualified right. As I have stated, it is impossible to have a fair hearing or to have procedural fairness if a reasonable apprehension of bias has been established. If there has been a denial of a right to a fair hearing it cannot be cured by the tribunal's subsequent decision. A decision of a tribunal which denied the parties a fair hearing cannot be simply voidable and rendered valid as a result of the subsequent decision of the tribunal. Procedural fairness is an essential aspect of any hearing before a tribunal. The damage created by apprehension of bias cannot be remedied. The hearing, and any subsequent order resulting from it, is void. In *Cardinal v. Director of Kent Institution*, 1985 CanLII 23 (SCC), [1985] 2 S.C.R. 643, at p. 661, Le Dain J. speaking for the Court put his position in this way:

> ... I find it necessary to affirm that the denial of a right to a fair hearing must always render a decision invalid, whether or not it may appear to a reviewing court that the hearing would likely have resulted in a different decision. The right to a fair hearing must be regarded as an independent, unqualified right which finds its essential justification in the sense of procedural justice which any person affected by an administrative decision is entitled to have. It is not for a court to deny that right and sense of justice on the basis of speculation as to what the result might have been had there been a hearing.

In my view, this principle is also applicable to this case. In the circumstances, there is no alternative but to declare that the Order of the Board of Commissioners of Public Utilities is void.

13. In providing the above quotation, I am not in any way seeking to provide legal argument or draw legal conclusion in affidavit evidence but provide my position as it currently stands.

14. I shall address any other separate procedural matters in a separate affidavit or correspondence if applicable.

15. In light of the Tribunal failing to comply with, *inter alia*, section 10 of the *JRPA*, I swear this **Affidavit #3** for no improper purpose and for the above purposes.

Sworn before me at Toronto, Ontario
On this 8th day of January 2025

Mr. Kevin A. McLean (B.A., J.D., CIM)

Vinh The Tran, Esq.

Unlimited No Expiration
No ILA provided
Identification Confirmed

'I have read one of the Practice Directions of the ONSC that I believe referenced Case Center utilizing the right hand side of the page.

THIS IS EXHIBIT "A" REFERRED TO IN THE AFFIDAVIT OF Kevin A. Miller

AFFIRMED BEFORE ME, THIS 6th DAY OF January 20 25

..... , ETC.

Vinh The Tran, Esq., LSUC #57761C
Lawyer, Notary, Oaths Commissioner
188-639 Dupont Street, Toronto, ON
M6G 1Z4, T. 647-209-7389
vinhtranlaw@hotmail.com

Gmail Mr. Kevin McLean <mcleansettlement@gmail.com>

Re: LAT's Notice of Appearance : McLean v. TD Home and Auto Insurance et al. : 718/24

Mr. Kevin McLean <mcleansettlement@gmail.com> Thu, Jan 2, 2025 at 3:05 PM
To: "SCJ-CSJ Div Court Mail (JUD)" <scj-csj.divcourtmail@ontario.ca>
Cc: "Nieuwland, Matthew" <Matthew.Nieuwland@tdinsurance.com>, "Boyce, Jesse (MAG)" <Jesse.Boyce@ontario.ca>, "Maciel, Milene (MAG)" <Milene.Maciel@ontario.ca>, "Collie, Connor (MAG)" <Connor.Collie@ontario.ca>, "Im, Judie (She/Her) (MAG)" <Judie.Im@ontario.ca>, "Pasquini, Heather" <Heather.Pasquini@tdinsurance.com>

January 2, 2025

VIA EMAIL

Regarding the below (pursuant to the Consolidated Practice Direction on sending emails and enclosing documents by the document naming protocol contained therein)

Court file number: Court File No. DC-24-00000718-00JR
Type of document: Request – requisition for urgent hearing – online filing in error – as requests for urgent hearing cannot be submitted online[i]
Short title of proceeding: *McLean v. TDHA et al*
Party: Mr. Kevin A. McLean, self-represented, Applicant, e: mcleansettlement@gmail.com;

Re: Requisition – request for urgent hearing submitted herein for filing and service upon the respondents

Dear ONSC Divisional Court (Madam Clerk):

I write to confirm the above. I am now tendering the requisition #2 for filing and service herein as per my error in filing the same online. I apologize to the court and the respondents in this regard for my lack of precision in this regard and obtuseness.

I thank you for accepting the same for filing in this manner. The document remains identical to the one tendered previously.

I will take any necessary steps to remove that filing from the online portal if I am able to. Otherwise, kindly accept this as my authorization to remove this Requisition #2 for any further processing.

Thank you kindly and a Happy New Year to all!

---

[i] https://www.ontario.ca/page/file-civil-or-divisional-court-documents-online (nota bene: at least that is the way I read said secondary source information: You cannot submit documents online:

- to request an urgent court hearing

Warm regards,

Mr. Kevin A. McLean (B.A. (MCL), J.D., CIM)

On Tue, Dec 31, 2024 at 9:36 AM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

> December 31, 2024

Gmail Mr. Kevin McLean <mcleansettlement@gmail.com>

Re: LAT's Notice of Appearance : McLean v. TD Home and Auto Insurance et al. : 718/24

Mr. Kevin McLean <mcleansettlement@gmail.com> Thu, Jan 2, 2025 at 3:15 PM
To: "SCJ-CSJ Div Court Mail (JUD)" <scj-csj.divcourtmail@ontario.ca>
Cc: "Nieuwland, Matthew" <Matthew.Nieuwland@tdinsurance.com>, "Boyce, Jesse (MAG)" <Jesse.Boyce@ontario.ca>, "Maciel, Milene (MAG)" <Milene.Maciel@ontario.ca>, "Collie, Connor (MAG)" <Connor.Collie@ontario.ca>, "Im, Judie (She/Her) (MAG)" <Judie.Im@ontario.ca>, "Pasquini, Heather" <Heather.Pasquini@tdinsurance.com>

January 2, 2025

VIA EMAIL

Regarding the below (pursuant to the Consolidated Practice Direction on sending emails and enclosing documents by the document naming protocol contained therein)

Court file number: Court File No. DC-24-00000718-00JR
Type of document: email
Short title of proceeding: *McLean v. TDHA et al*
Party: Mr. Kevin A. McLean, self-represented, Applicant, e: mcleansettlement@gmail.com;

Re: Confirmation of the document to not be processed electronically herein for receipt, filing and service

Dear ONSC Divisional Court (Madam Clerk):

I write regarding the above. I confirm that I cannot see any literature that would allow me to retract the misguided online filing for my request for an urgent hearing. As such, I confirm that this is the filing below that need not be processed electronically. Thank you in this regard and my apologies again.

Lastly, I will presume that the filing at Appendix #2 can and will be processed electronically as it was not an urgent filing but merely to receive the Form 68(B) for the "notice of listing of hearing" with the approximate dates if this matter were to proceed before the ONSC Divisional Court. In my humble view, this will be an important aspect to know when determining when a judicial panel of three could hear this JRPA Application vis-à-vis a single justice (see: section 6(2) and (3) of the *JRPA*).

Appendices

Appendix #1

Court File Number

DC-24-00000718-00JR

Submitted to the Divisional Court, Superior Court of Justice in

Toronto

Transaction

Existing civil proceeding (Divisional Court)

Confirmation number

Date and time

24-Dec-2024 02:57 PM

Document(s) submitted

File Name

Form 4E: Requisition

Requisition (Setting - Urgent Application - JRPA - ss. 6(2) - Rule 38.03) - Applicant - McLean - 24-Dec-24_Filed.pdf

Appendix #2: Request – requisition – Form 68(B) remains – as that was not an urgent filing per se

This filing will remain for processing electronically

Court File Number

DC-24-00000718-00JR

Submitted to the Divisional Court, Superior Court of Justice in

Toronto

Transaction

Existing civil proceeding (Divisional Court)

Confirmation number

2787308

Date and time

24-Dec-2024 12:05 PM

Document(s) submitted

File Name

Form 4E: Requisition

Requisition (Form 68(B)) - Applicant - Mr McLean - 24-Dec-2024_Filed.pdf

Warm regards,

Mr. Kevin A. McLean (B.A. (MCL), J.D., CIM)

On Thu, Jan 2, 2025 at 3:05 PM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

> January 2, 2025
>
> VIA EMAIL
>
> Regarding the below (pursuant to the Consolidated Practice Direction on sending emails and enclosing documents by the document naming protocol contained therein)

Gmail Mr. Kevin McLean <mcleansettlement@gmail.com>

Re: LAT's Notice of Appearance : McLean v. TD Home and Auto Insurance et al. : 718/24

Mr. Kevin McLean <mcleansettlement@gmail.com> Fri, Jan 3, 2025 at 1:37 PM
To: "SCJ-CSJ Div Court Mail (JUD)" <scj-csj.divcourtmail@ontario.ca>
Cc: "Nieuwland, Matthew" <Matthew.Nieuwland@tdinsurance.com>, "Boyce, Jesse (MAG)" <Jesse.Boyce@ontario.ca>, "Maciel, Milene (MAG)" <Milene.Maciel@ontario.ca>, "Collie, Connor (MAG)" <Connor.Collie@ontario.ca>, "Im, Judie (She/Her) (MAG)" <Judie.Im@ontario.ca>, "Pasquini, Heather" <Heather.Pasquini@tdinsurance.com>

January 3, 2025

VIA EMAIL

Regarding the below (pursuant to the Consolidated Practice Direction on sending emails and enclosing documents by the document naming protocol contained therein)

Court file number: Court File No. DC-24-00000718-00JR
Type of document: email
Short title of proceeding: *McLean v. TDHA et al*
Party: Mr. Kevin A. McLean, self-represented, Applicant, e: mcleansettlement@gmail.com;

Re: Kind request – confirmation of the above attached document – filing – *at your convenience*

Dear ONSC Divisional Court (Madam Clerk or Ms. Lawrence):

I write regarding the above. Would you kindly confirm receipt of the above at your convenience? I note that said filing (see: confirmation number of 2787650) remains in progress despite my error in seeking to have it processed online when it was withdrawn in favour of filing herein via email.

I thank you for the indulgence and await to hear from you.

Warm regards,

Mr. Kevin A. McLean (B.A. (MCL), J.D., CIM)

On Thu, Jan 2, 2025 at 3:15 PM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

> January 2, 2025
>
> **VIA EMAIL**
>
> Regarding the below (pursuant to the Consolidated Practice Direction on sending emails and enclosing documents by the document naming protocol contained therein)
>
> Court file number: Court File No. DC-24-00000718-00JR

Electronically filed / Déposé par voie électronique : 18-Feb-2025
Toronto Superior Court of Justice / Cour supérieure de justice

Gmail **Mr. Kevin McLean <mcleansettlement@gmail.com>**

Re: LAT's Notice of Appearance : McLean v. TD Home and Auto Insurance et al. : 718/24

Div Court Schedule <DivCourtSchedule@ontario.ca> Tue, Jan 7, 2025 at 10:23 AM
To: "Boyce, Jesse (MAG)" <Jesse.Boyce@ontario.ca>, "Mr. Kevin McLean" <mcleansettlement@gmail.com>, "SCJ-CSJ Div Court Mail (JUD)" <scj-csj.divcourtmail@ontario.ca>
Cc: "Nieuwland, Matthew" <Matthew.Nieuwland@tdinsurance.com>, "Maciel, Milene (MAG)" <Milene.Maciel@ontario.ca>, "Collie, Connor (MAG)" <Connor.Collie@ontario.ca>, "Im, Judie (She/Her) (MAG)" <Judie.Im@ontario.ca>, "Pasquini, Heather" <Heather.Pasquini@tdinsurance.com>

Good morning,

Madam Justice Shore directs as follows:

There shall be a case management conference on this file, on a date to be provided by the Court office. The parties should come prepared to discuss whether the application for judicial review is premature and, if necessary, prepared to set a schedule for the exchange of material and set a hearing date.

Sincerely,

Evelyne Ibula (She/Her/Elle)
Assistant Trial Coordinator

Superior Court of Justice – Divisional Court

Osgoode Hall, Room 174

130 Queen Street West

Toronto, ON M5H 2N5

From: Boyce, Jesse (MAG) <Jesse.Boyce@ontario.ca>
Sent: Friday, December 20, 2024 4:26 PM
To: Mr. Kevin McLean <mcleansettlement@gmail.com>; SCJ-CSJ Div Court Mail (JUD) <scj-csj.divcourtmail@ontario.ca>
Cc: Nieuwland, Matthew <Matthew.Nieuwland@tdinsurance.com>; Maciel, Milene (MAG) <Milene.Maciel@ontario.ca>; Collie, Connor (MAG) <Connor.Collie@ontario.ca>; Im, Judie (She/Her) (MAG) <Judie.Im@ontario.ca>; Pasquini,

Gmail

Mr. Kevin McLean <mcleansettlement@gmail.com>

Re: LAT's Notice of Appearance : McLean v. TD Home and Auto Insurance et al. : 718/24

Mr. Kevin McLean <mcleansettlement@gmail.com> Tue, Jan 7, 2025 at 10:43 AM
To: Div Court Schedule <DivCourtSchedule@ontario.ca>
Cc: "Boyce, Jesse (MAG)" <Jesse.Boyce@ontario.ca>, "SCJ-CSJ Div Court Mail (JUD)" <scj-csj.divcourtmail@ontario.ca>, "Nieuwland, Matthew" <Matthew.Nieuwland@tdinsurance.com>, "Maciel, Milene (MAG)" <Milene.Maciel@ontario.ca>, "Collie, Connor (MAG)" <Connor.Collie@ontario.ca>, "Im, Judie (She/Her) (MAG)" <Judie.Im@ontario.ca>, "Pasquini, Heather" <Heather.Pasquini@tdinsurance.com>

January 3, 2025

VIA EMAIL

Regarding the below (pursuant to the Consolidated Practice Direction on sending emails and enclosing documents by the document naming protocol contained therein)

Court file number: Court File No. DC-24-00000718-00JR
Type of document: email
Short title of proceeding: *McLean v. TDHA et al*
Party: Mr. Kevin A. McLean, self-represented, Applicant, e: mcleansettlement@gmail.com;

Re: response to Ms. Ibula's email - and kind reiteration of the above regarding some outstanding filings (yet to be confirmed as filed) from December 2024 and January 2025 et al

Dear ONSC (Divisional Court) (Ms. Ibula):

Thank you for your email. I confirm its receipt. Kindly extend my thanks to The Honourable Madam Justice Shore

In relation to the above, would you kindly confirm the above filing when you have a moment, so the record of proceeding demonstrates the same for the purposes in your email and otherwise?

I also note that I have not received a filing from the online registry (civil submissions) as particularized above. I would be most grateful to have a filed copy as it is past five business days.

I still note that the Tribunal has failed to file a record of proceeding forthwith and any such discussions at a case conference. I would ask that Mr. Boyce for the Tribunal attend to the same on a forthwith basis as if the record of proceedings will be required to be filed and known to the ONSC Divisional Court to have such discussions, including ‘exchange of materials’ and setting a hearing date.

In relation to the setting of a hearing date, I respectfully still maintain my request under section 6(2) of the JRPA.

I kindly still request, in advance of the same, that the respondent insurance companies provide their position under the Practice Direction, “Information Submitted to the Court” so we all know whether it will be advancing any preliminary objections. I am aware of the preliminary objection by the Tribunal (Mr. Boyce).

In relation to the exchange of materials, in the event Her Honour was unaware, I have already filed all my materials (see: Factum and Application Record filed and served on December 10 and 12, 2024) but for the

scanned and being hyperlinked and bookmarked.

Thank you.

Warm regards,

Mr. Kevin A. McLean (B.A. (MCL), J.D., CIM)

On Tue, Jan 7, 2025 at 10:23 AM Div Court Schedule <DivCourtSchedule@ontario.ca> wrote:

> Good morning,
>
> **Madam Justice Shore directs as follows:**
>
> There shall be a case management conference on this file, on a date to be provided by the Court office. The parties should come prepared to discuss whether the application for judicial review is premature and, if necessary, prepared to set a schedule for the exchange of material and set a hearing date.
>
> Sincerely,
>
> **Evelyne Ibula (She/Her/Elle)**
> Assistant Trial Coordinator
>
> Superior Court of Justice – Divisional Court
>
> Osgoode Hall, Room 174
>
> 130 Queen Street West
>
> Toronto, ON M5H 2N5
>
> ---
>
> **From:** Boyce, Jesse (MAG) <Jesse.Boyce@ontario.ca>
> **Sent:** Friday, December 20, 2024 4:26 PM
> **To:** Mr. Kevin McLean <mcleansettlement@gmail.com>; SCJ-CSJ Div Court Mail (JUD) <scj-csj.divcourtmail@ontario.ca>
> **Cc:** Nieuwland, Matthew <Matthew.Nieuwland@tdinsurance.com>; Maciel, Milene (MAG) <Milene.Maciel@ontario.ca>; Collie, Connor (MAG) <Connor.Collie@ontario.ca>; Im, Judie (She/Her) (MAG) <Judie.Im@ontario.ca>; Pasquini, Heather <Heather.Pasquini@tdinsurance.com>
> **Subject:** RE: LAT's Notice of Appearance : McLean v. TD Home and Auto Insurance et al. : 718/24
>
> Good afternoon,

Gmail Mr. Kevin McLean <mcleansettlement@gmail.com>

Re: LAT's Notice of Appearance : McLean v. TD Home and Auto Insurance et al. : 718/24

Mr. Kevin McLean <mcleansettlement@gmail.com> Tue, Jan 7, 2025 at 12:07 PM
To: Div Court Schedule <DivCourtSchedule@ontario.ca>
Cc: "Boyce, Jesse (MAG)" <Jesse.Boyce@ontario.ca>, "SCJ-CSJ Div Court Mail (JUD)" <scj-csj.divcourtmail@ontario.ca>, "Nieuwland, Matthew" <Matthew.Nieuwland@tdinsurance.com>, "Maciel, Milene (MAG)" <Milene.Maciel@ontario.ca>, "Collie, Connor (MAG)" <Connor.Collie@ontario.ca>, "Im, Judie (She/Her) (MAG)" <Judie.Im@ontario.ca>, "Pasquini, Heather" <Heather.Pasquini@tdinsurance.com>

January 7, 2025

VIA EMAIL

Regarding the below (pursuant to the Consolidated Practice Direction on sending emails and enclosing documents by the document naming protocol contained therein)

Court file number: Court File No. DC-24-00000718-00JR
Type of document: email
Short title of proceeding: McLean v. TDHA et al
Party: Mr. Kevin A. McLean, self-represented, Applicant, e: mcleansettlement@gmail.com;

Re: courtesy dates to the ONSC Divisional Court staff regarding the above

Dear ONSC Divisional Court (Madam Clerk, Ms. Lawarence and Ms. Ibula):

I kindly write on a courtesy basis regarding the above. From a scheduling perspective, I confirm that I am unavailable on Friday, January 10, 2025, until Tuesday, January 14, 2025 (returning on said date). You will receive my auto replies on those days.

I have two medical appointments and my quarterly EKG and blood tests on Thursday, so I am largely unavailable on Thursday. I will have limited access to email on Thursday.

In the interim, I will await to hear from the respondents regarding the above so I can, inter alia, know the position of the respondent insurance companies regarding their position regarding any preliminary objections regarding the same and, more importantly in my view, the opportunity to review the record of proceeding to see if it accords with all of my filings and some of the filings of SNIC, then TDGIC and then back to SNIC. I appreciate that there were some tech errors during the LAT Proceeding and I remain available to Mr. Boye and the Tribunal if they are missing a page, or a document and I can assist subject to my availability regarding the above. I remain concerned that the Tribunal may not have the full record of proceedings and ask if Mr. Boyce confirm or deny if there are any issues in this regard.

I respectfully submit that as the purpose of case management is “The purpose of case management is to facilitate access to justice through the timely adjudication of proceedings in Divisional Court in a cost-effective and proportional manner”, that in order to make use of a case conference for such purposes, having the record of proceeding, which is quite overdue (see: section 10 of the JRPA) with an index, tabulations and enumerations is not only helpful but necessary. While my factum and recent affidavit provide much discussion regarding the justiciability doctrine of prematurity, in order to have the discussions before justice,

served.

Thank you.

Warm regards,

Mr. Kevin A. McLean (B.A. (MCL), J.D., CIM)

On Tue, Jan 7, 2025 at 10:43 AM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

> January 3, 2025
>
> **VIA EMAIL**
>
> Regarding the below (pursuant to the Consolidated Practice Direction on sending emails and enclosing documents by the document naming protocol contained therein)
>
> Court file number: Court File No. DC-24-00000718-00JR
> Type of document: email
> Short title of proceeding: *McLean v. TDHA et al*
> Party: Mr. Kevin A. McLean, self-represented, Applicant, e: mcleansettlement@gmail.com;
>
> Re: response to Ms. Ibula's email - and kind reiteration of the above regarding some outstanding filings (yet to be confirmed as filed) from December 2024 and January 2025 et al
>
> Dear ONSC (Divisional Court) (Ms. Ibula):
>
> Thank you for your email. I confirm its receipt. Kindly extend my thanks to The Honourable Madam Justice Shore
>
> In relation to the above, would you kindly confirm the above filing when you have a moment, so the record of proceeding demonstrates the same for the purposes in your email and otherwise?
>
> I also note that I have not received a filing from the online registry (civil submissions) as particularized above. I would be most grateful to have a filed copy as it is past five business days.
>
> I still note that the Tribunal has failed to file a record of proceeding forthwith and any such discussions at a case conference. I would ask that Mr. Boyce for the Tribunal attend to the same on a forthwith basis as if the record of proceedings will be required to be filed and known to the ONSC Divisional Court to have such discussions, including 'exchange of materials' and setting a hearing date.
>
> In relation to the setting of a hearing date, I respectfully still maintain my request under section 6(2) of the JRPA.
>
> I kindly still request, in advance of the same, that the respondent insurance companies provide their position under the Practice Direction, "Information Submitted to the Court" so we all know whether it will be advancing any preliminary objections. I am aware of the preliminary objection by the Tribunal (Mr. Boyce).
>
> In relation to the exchange of materials, in the event Her Honour was unaware, I have already filed all my materials (see: Factum and Application Record filed and served on December 10 and 12, 2024) but for the oral compendium. I will have my oral outline and oral compendium complete in short order as it is now fully scanned and being hyperlinked and bookmarked.

Gmail **Mr. Kevin McLean <mcleansettlement@gmail.com>**

Re: LAT's Notice of Appearance : McLean v. TD Home and Auto Insurance et al. : 718/24

Nieuwland, Matthew <Matthew.Nieuwland@tdinsurance.com> Tue, Jan 7, 2025 at 5:42 PM
To: Div Court Schedule <DivCourtSchedule@ontario.ca>, "Boyce, Jesse (MAG)" <Jesse.Boyce@ontario.ca>, "Mr. Kevin McLean" <mcleansettlement@gmail.com>, "SCJ-CSJ Div Court Mail (JUD)" <scj-csj.divcourtmail@ontario.ca>
Cc: "Maciel, Milene (MAG)" <Milene.Maciel@ontario.ca>, "Collie, Connor (MAG)" <Connor.Collie@ontario.ca>, "Im, Judie (She/Her) (MAG)" <Judie.Im@ontario.ca>, "Pasquini, Heather" <Heather.Pasquini@tdinsurance.com>

Counsel for the responding party, TD, will be out of the country from January 22, 2025, to February 3, 2025 (inclusive), and respectfully requests that the case conference occur outside of those dates.

Thank you,

Matthew Nieuwland | Lawyer | Claims Litigation Services | **TD Insurance**
66 Wellington Street West, 38th Floor, Toronto, Ontario, M5K 1A2
T: 905-201-4092 | F: 416-599-7439

Email: Matthew.Nieuwland@tdinsurance.com

Legal Assistant: Heather Pasquini | T: 416-415-9854 | E: heather.pasquini@tdinsurance.com

Privileged and/or Confidential

From: Div Court Schedule <DivCourtSchedule@ontario.ca>
Sent: Tuesday, January 7, 2025 10:24 AM
To: Boyce, Jesse (MAG) <Jesse.Boyce@ontario.ca>; Mr. Kevin McLean <mcleansettlement@gmail.com>; SCJ-CSJ Div Court Mail (JUD) <scj-csj.divcourtmail@ontario.ca>
Cc: Nieuwland, Matthew <Matthew.Nieuwland@tdinsurance.com>; Maciel, Milene (MAG) <Milene.Maciel@ontario.ca>; Collie, Connor (MAG) <Connor.Collie@ontario.ca>; Im, Judie (She/Her) (MAG) <Judie.Im@ontario.ca>; Pasquini, Heather <Heather.Pasquini@tdinsurance.com>
Subject: RE: LAT's Notice of Appearance : McLean v. TD Home and Auto Insurance et al. : 718/24

CAUTION: EXTERNAL MAIL. DO NOT CLICK ON LINKS OR OPEN ATTACHMENTS YOU DO NOT TRUST
ATTENTION : COURRIEL EXTERNE. NE CLIQUEZ PAS SUR DES LIENS ET N'OUVREZ PAS DE PIÈCES JOINTES AUXQUELS VOUS NE FAITES PAS CONFIANCE

Good morning,

Gmail Mr. Kevin McLean <mcleansettlement@gmail.com>

Re: LAT's Notice of Appearance : McLean v. TD Home and Auto Insurance et al. : 718/24

Mr. Kevin McLean <mcleansettlement@gmail.com> Tue, Jan 7, 2025 at 5:50 PM
To: "Nieuwland, Matthew" <Matthew.Nieuwland@tdinsurance.com>
Cc: Div Court Schedule <DivCourtSchedule@ontario.ca>, "Boyce, Jesse (MAG)" <Jesse.Boyce@ontario.ca>, "SCJ-CSJ Div Court Mail (JUD)" <scj-csj.divcourtmail@ontario.ca>, "Maciel, Milene (MAG)" <Milene.Maciel@ontario.ca>, "Collie, Connor (MAG)" <Connor.Collie@ontario.ca>, "Im, Judie (She/Her) (MAG)" <Judie.Im@ontario.ca>, "Pasquini, Heather" <Heather.Pasquini@tdinsurance.com>

Dear ONSC (Divisional Court) and Mr. Nieuwland:

Thank you for your email. To be precise here, there is no "responding party" of TD per se. I again kindly request before Mr. Nieuwland leaves the country (and preferably forthwith) that he provides the positions of the three respondent insurance companies (with a particular focus on SNIC and TDHA) as it relates to the Practice Direction "Information Submitted to the Court".

Warm regards,

Mr. Kevin A. McLean (B.A. (MCL), J.D., CIM)

On Tue, Jan 7, 2025 at 5:42 PM Nieuwland, Matthew <Matthew.Nieuwland@tdinsurance.com> wrote:

> Counsel for the responding party, TD, will be out of the country from January 22, 2025, to February 3, 2025 (inclusive), and respectfully requests that the case conference occur outside of those dates.
>
> Thankyou,
>
> **Matthew Nieuwland** | Lawyer | Claims Litigation Services | **TD Insurance**
> 66 Wellington Street West, 38th Floor, Toronto, Ontario, M5K 1A2
> T: 905-201-4092 | F: 416-599-7439
>
> Email: Matthew.Nieuwland@tdinsurance.com
>
> Legal Assistant: Heather Pasquini | T: 416-415-9854 | E: heather.pasquini@tdinsurance.com
>
> Privileged and/or Confidential
>
> ---
>
> **From:** Div Court Schedule <DivCourtSchedule@ontario.ca>
> **Sent:** Tuesday, January 7, 2025 10:24 AM
> **To:** Boyce, Jesse (MAG) <Jesse.Boyce@ontario.ca>; Mr. Kevin McLean <mcleansettlement@gmail.com>; SCJ-CSJ Div Court Mail (JUD) <scj-csj.divcourtmail@ontario.ca>
> **Cc:** Nieuwland, Matthew <Matthew.Nieuwland@tdinsurance.com>; Maciel, Milene (MAG) <Milene.Maciel@ontario.ca>; Collie, Connor (MAG) <Connor.Collie@ontario.ca>; Im, Judie (She/Her) (MAG) <Judie.Im@ontario.ca>; Pasquini, Heather <Heather.Pasquini@tdinsurance.com>
> **Subject:** RE: LAT's Notice of Appearance : McLean v. TD Home and Auto Insurance et al. : 718/24

Gmail Mr. Kevin McLean <mcleansettlement@gmail.com>

Re: LAT's Notice of Appearance : McLean v. TD Home and Auto Insurance et al. : 718/24

Mr. Kevin McLean <mcleansettlement@gmail.com> Wed, Jan 8, 2025 at 10:10 AM
To: "Nieuwland, Matthew" <Matthew.Nieuwland@tdinsurance.com>
Cc: Div Court Schedule <DivCourtSchedule@ontario.ca>, "Boyce, Jesse (MAG)" <Jesse.Boyce@ontario.ca>, "SCJ-CSJ Div Court Mail (JUD)" <scj-csj.divcourtmail@ontario.ca>, "Maciel, Milene (MAG)" <Milene.Maciel@ontario.ca>, "Collie, Connor (MAG)" <Connor.Collie@ontario.ca>, "Im, Judie (She/Her) (MAG)" <Judie.Im@ontario.ca>, "Pasquini, Heather" <Heather.Pasquini@tdinsurance.com>

January 8, 2025

VIA EMAIL

Regarding the below (pursuant to the Consolidated Practice Direction on sending emails and enclosing documents by the document naming protocol contained therein)

Court file number: Court File No. DC-24-00000718-00JR
Type of document: email
Short title of proceeding: McLean v. TDHA et al
Party: Mr. Kevin A. McLean, self-represented, Applicant, e: mcleansettlement@gmail.com;

Re: several brief emails to send before I am away from my email – will be separately sent – abundance of caution

Re #2: kind request that the ONSC Divisional Court (Madam Clerk's office) – directs or requests that the respondent insurance companies (three separate entities) – provide the requisite information under the Practice Direction (Information Submitted to the Court) within two weeks of the JRPA Application being filed

Dear Madam Clerk (copied to the above addressees):

I confirm that upon further review, there are only two notices of appearance filed herein: (i) LAT (Mr. Boyce); and (ii) TDHA, SNIC and TDGIC (Mr. Nieuwland).

Only I and the Tribunal have complied with the Practice Direction involving "Information Submitted to the Court". I appreciate the reference to the above regarding exchange of documents but in the circumstances, I respectfully submit that the three insurance companies must comply with the Practice Direction and confirm or deny whether they have any preliminary objections and their time estimate for a hearing.

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Warm regards,

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Re: confirmation that Mr. Boyce did respond to my query albeit in a separate email – context purposes

Dear Madam Clerk (copied to the above addressees):

I can confirm that Mr. Boyce did respond to me and I responded in kind in a separate thread. While I believe we canvassed the distinctness of our positions. Without delving into the truth of the contents of the emails and speaking for one another, I can confirm that I have never waived any right to hold others to compliance with any statute, regulations, rule, practice direction or guide, and the same applies to me.

For the email thread herein, I can confirm that I have provided notice to the Tribunal (as this is solely a Tribunal statutory responsibility) that if it does not file the record of proceeding by the end of the business day, I intend to rely on the non-compliance by the Tribunal for any purpose that is lawful. In that vein, and based on my reading of the language of The Honourable Madam Justice Shore, to the extent that the Tribunal does not do so, I will have to potentially bring a motion and seek costs as the record of proceeding is inextricably connected to the issue of prematurity or as many are referring to that 'anti-justiciability doctrine" as the "AAR Doctrine" (adequate alternative remedy doctrine).

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> "The purpose of requiring a tribunal or adjudicator to file a "record of proceedings" is to ensure that when the court reviews the tribunal's decision, it has the information and evidence as it appeared before the tribunal in the first instance. A court reviewing an adjudicative decision may look at decisions to admit evidence, submissions of witnesses, and other evidence and may substitute its judgment for that of the court [or tribunal] of first instance (*Payne v. Ontario Human Rights Commission*, 2000 CanLII 5731 (ON CA), [2000] O.J. No. 2987, 136 O.A.C. 357 (C.A.), at para. 23; *Jacko v. McLellan*, 2008 CanLII 22921 (ON SCDC) at paragraph 18).:

I respectfully submit that until the Tribunal complies with its forthwith duties, it would be premature to schedule any "case management".

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Thank you.

Warm regards,

Mr. Kevin A. McLean (B.A. (MCL), J.D., CIM)

On Wed, Jan 8, 2025 at 10:10 AM Mr. Kevin McLean <mcleansettlement@gmail.com > wrote:

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Electronically filed / Déposé par voie électronique : 18-Feb-2025
Toronto Superior Court of Justice / Cour supérieure de justice

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January 8, 2025

URGENT – IMMEDIATE NOTICE PROVIDED TO THE ONSC DIVISIONAL COURT ONCE IT BECAME KNOW TO THE APPLICANT – AS OF TODAY'S DATE

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Re: confirmation of my objection to any involvement of The Honourable Madam Justice Shore on grounds of an objectively perceived reasonable apprehension of bias based upon, inter alia, her previous position

Dear ONSC (Divisional Court):

Kindly provide a copy of this correspondence and email thread to the attention of the relevant chief justice and his or her delegate (if applicable) along with a copy to The Honourable Madam Justice Sharon Shore. I presume the Justice Shore referred to in the above is the same as below.

I wish to again express my gratitude for the opportunity and honour of arguing my case, which I say is public interest, before the ONSC (either Divisional Court or by way of a single justice of the ONSC (if applicable and leave is granted)). However, I am compelled to raise a potential conflict of interest, lack of independent and/or a reasonably perceived apprehension of bias involving the direction of Madam Justice Shore.

While I would have been able to cross-reference the Record Of Proceeding had the Tribunal complied with the same, I will do so by general references herein and in a subsequent email and then I attach the relevant affidavit material. I do not draw this to the attention of the court light. I will particularize it further in short order.

Insurance Policy (which is squarely at issue herein) had a then former spouse, by separation (in 2017), and then by divorce decree thereafter in 2018. His name is Mr. Andrew Papadimitripoulos. He is a lawyer with the LSO but a licensee solely employed by none other than TD Insurance. His address in the LSO Directory is that of the Markham office particularized in the filed materials.

As this is in my sworn evidence in the Record Of Proceeding, I arrived in Toronto on April 11, 2018, to reunite with Ms. Nicole Artopoulos. When I arrived I became aware that Mr. Andrew Papadimtriopoulos had retained family counsel in Epstein Cole. I was aware on some levels of the stage of their matrimonial litigation. There was also an offshoot of said individual engaging in a litany of deplorable pieces of conduct involving myself and Ms. Artopoulos. It is contained in an affidavit filed under seal.

While Mr. Nieuwland represented in my conflict of interest motion, where the party name was still TDGIC, that Mr. Andrew Papadimtriopoulos was never involved in my file or otherwise (see: motion response of the Fictitious Respondent in April 2024), I found evidence in the Summer/Fall 2024 that demonstrated that he was more than likely to be the signatory of the document referred to as the "As Per A. Nurse" signature document or the Forged Signature document.

As a result of the same, I would respectfully request that Madam Justice Shore not be involved in any way with this JRPA Proceeding and that her direction is set aside. I appreciate that this may require a motion from me or a set hearing date but in the interim, I have drawn this to the attention of the court to demonstrate good faith (see: cases like Yellow Cedar and Talisman).

Again, I appreciate that Madam Justice Shore is of the utmost repute but this matter is too important to myself and frankly the public to even have a scintilla of evidence that there may be an issue or perception of perceived conflict of interest or bias. This is particularly apposite when Mr. Karat, the non-licensee who improperly executed the SNIC Response works from the same location as Mr. Andrew P., and they had jointly acted on a file previously.

I will boldly presume that Madam Justice Sharon Store is the same former partner Ms. Shore at Epstein Cole LLP unless I hear otherwise.

I would ask that the chief justice or the associate chief justice direct a hearing regarding the same, by way of date, on a motion by myself in the event, after considered review which I anticipate would take a few days and into next week that Madam Justice Shore does not recuse herself and her order is not voided or set aside for the above and to follow reasons.

Thank you kindly and all of the above is without any personal attack whatsoever on Madam Justice Shore at all or the ONSC but I was compelled to notify the court et al on a prompt basis and I did so forthwith.

Appendix

Sharon Shore, a partner at Epstein Cole LLP, is appointed a judge of the Ontario Superior Court of Justice in Toronto. She replaces Justice I.A. MacDonnell, who elected to become a supernumerary judge effective July 30, 2018.

Warm regards,

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Re: confirmation of my objection to any involvement of The Honourable Madam Justice Shore on grounds of an objectively perceived reasonable apprehension of bias based upon, inter alia, her previous position

Dear ONSC (Divisional Court):

I write further to the above. In this regard, I attach the first of several affidavits to underscore my respectful submissions supported by uncontroverted evidence that there is a reasonable apprehension of bias by the above and to follow. I appreciate the demands upon this ONSC Divisional Court and this evidence was known to the respondent insurance companies and the Tribunal for some time. In that vein, I will provide a letter to the court at first instance that outlines some of this evidence which should have been already filed by the Tribunal.

If consent is of assistance so that this JRPA Proceeding can be governed in accordance with the Civil Rules, I would askthat the respondents consent to the relief that I am seeking informally herein.

This is titled "Affidavit #37" and it was filed under seal. Thankyou.

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Warm regards,

Mr. Kevin A. McLean (B.A. (MCL), J.D., CIM)

On Tue, Jan 7, 2025 at 5:50 PM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

> Dear ONSC (Divisional Court) and Mr. Nieuwland:
>
> Thankyou for your email. To be precise here, there is no "responding party" of TD per se. I again kindly request before Mr . Nieuwland leaves the country (and preferably forthwith) that he provides the positions of the three respondent insurance companies (with a particular focus on SNIC and TDHA) as it relates to the Practice Direction "Information Submitted to the Court".
>
> Warm regards,
>
> **Mr. Kevin A. McLean (B.A. (MCL), J.D., CIM)**

On Tue, Jan 7, 2025 at 5:42 PM Nieuwland, Matthew <Matthew.Nieuwland@tdinsurance.com> wrote:

> Counsel for the responding party, TD, will be out of the country from January 22, 2025, to February 3, 2025 (inclusive), and respectfully requests that the case conference occur outside of those dates.
>
> Thank you,
>
> **Matthew Nieuwland |** Lawyer **|** Claims Litigation Services | **TD Insurance**
> 66 Wellington Street West, 38th Floor, Toronto, Ontario, M5K 1A2
> T: 905-201-4092 | F: 416-599-7439
>
> Email: Matthew.Nieuwland@tdinsurance.com
>
> Legal Assistant: Heather Pasquini | T: 416-415-9854 | E: heather.pasquini@tdinsurance.com
>
> Privileged and/or Confidential
>
> ---
>
> **From:** Div Court Schedule <DivCourtSchedule@ontario.ca>
> **Sent:** Tuesday, January 7, 2025 10:24 AM
> **To:** Boyce, Jesse (MAG) <Jesse.Boyce@ontario.ca>; Mr. Kevin McLean <mcleansettlement@gmail.com>; SCJ-CSJ Div Court Mail (JUD) <scj-csj.divcourtmail@ontario.ca>
> **Cc:** Nieuwland, Matthew <Matthew.Nieuwland@tdinsurance.com>; Maciel, Milene (MAG) <Milene.Maciel@ontario.ca>; Collie, Connor (MAG) <Connor.Collie@ontario.ca>; Im, Judie (She/Her) (MAG) <Judie.Im@ontario.ca>; Pasquini, Heather <Heather.Pasquini@tdinsurance.com>
> **Subject:** RE: LAT's Notice of Appearance : McLean v. TD Home and Auto Insurance et al. : 718/24
>
> CAUTION: EXTERNAL MAIL. DO NOT CLICK ON LINKS OR OPEN ATTACHMENTS YOU DO NOT TRUST
> ATTENTION : COURRIEL EXTERNE. NE CLIQUEZ PAS SUR DES LIENS ET N'OUVREZ PAS DE PIÈCES JOINTES AUXQUELS VOUS NE FAITES PAS CONFIANCE
>
> Good morning,
>
> **Madam Justice Shore directs as follows:**
>
> There shall be a case management conference on this file, on a date to be provided by the Court office. The parties should come prepared to discuss whether the application for judicial review is premature and, if necessary, prepared to set a schedule for the exchange of material and set a hearing date.
>
> Sincerely,

Assistant Trial Coordinator

Superior Court of Justice – Divisional Court

Osgoode Hall, Room 174

130 Queen Street West

Toronto, ON M5H 2N5

From: Boyce, Jesse (MAG) <Jesse.Boyce@ontario.ca>
Sent: Friday, December 20, 2024 4:26 PM
To: Mr. Kevin McLean <mcleansettlement@gmail.com>; SCJ-CSJ Div Court Mail (JUD) <scj-csj.divcourtmail@ontario.ca>
Cc: Nieuwland, Matthew <Matthew.Nieuwland@tdinsurance.com>; Maciel, Milene (MAG) <Milene.Maciel@ontario.ca>; Collie, Connor (MAG) <Connor.Collie@ontario.ca>; Im, Judie (She/Her) (MAG) <Judie.Im@ontario.ca>; Pasquini, Heather <Heather.Pasquini@tdinsurance.com>
Subject: RE: LAT's Notice of Appearance : McLean v. TD Home and Auto Insurance et al. : 718/24

Good afternoon,

It is my understanding that the Court has advised the parties to wait for further case management directions, which potentially involves a case conference to address prematurity, the issues raised by the Applicant in this email chain, and to approve a timetable for materials and a hearing format, etc.

If the Court is considering scheduling a case conference, the LAT respectfully requests that it be scheduled on or after January 2, 2025, so that all parties may participate.

Thank you,

Jesse A. Boyce (he/him)

Counsel

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Tribunaux décisionnels Ontario

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From: Mr. Kevin McLean <mcleansettlement@gmail.com>
Sent: Thursday, December 19, 2024 8:13 PM
To: SCJ-CSJ Div Court Mail (JUD) <scj-csj.divcourtmail@ontario.ca>
Cc: Nieuwland, Matthew <Matthew.Nieuwland@tdinsurance.com>; Boyce, Jesse (MAG) <Jesse.Boyce@ontario.ca>; Maciel, Milene (MAG) <Milene.Maciel@ontario.ca>; Collie, Connor (MAG) <Connor.Collie@ontario.ca>; Im, Judie (She/Her) (MAG) <Judie.Im@ontario.ca>; Pasquini, Heather <Heather.Pasquini@tdinsurance.com>
Subject: Re: LAT's Notice of Appearance : McLean v. TD Home and Auto Insurance et al. : 718/24

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December 19, 2024 at 8:09 p.m. EST)

VIA EMAIL (version #1)

DICTATED WITH VOICE RECOGNITION SOFTWARE (right to amend any errors with respect to spelling, grammar or important qualifiers)

Regarding the below (pursuant to the *Consolidated Practice Direction* on sending emails and enclosing documents by the document naming protocol contained therein)

Court file number: Court File No. DC-24-00000718-00JR
Type of document: Letter (email):

Short title of proceeding: *McLean v. TDHA et al*
Party: Mr. Kevin A. McLean, self-represented, Applicant, e: mcleansettlement@gmail.com;

Re: courtesy query to the respondents and full disclosure approach for benefit of the ONSC Divisional Court regarding the positions of the respondents regarding the implications of the legal test in Ontario (Energy Board) v. Ontario Power Generation Inc., 2015 SCC 44 and other aspects detailed below

Dear Sirs/Mesdames/other gender-neutral pronouns:

1. I write regarding the above and, as noted, a courtesy approach and full disclosure approach with a focus on the paramount issues being public interest issues on a substantive

reviewing the required protocols and Practice Direction, along with finalizing the oral compendium, in hyperlinked bookmarked form, I was reviewing my cited case of *Drewlo Holdings Inc. v. MPAC*, 2023 ONSC 4839 ["*Drewlo*", also defined as the "Tranquilli Decision"] which was before the Superior Court of Justice – Ontario Divisional Court [London] with a written endorsement by the Honourable Justice Tranquilli. It was heard on July 6, 2023, with said written endorsement being issued by the ONSC Divisional Court on August 24, 2023.

2. I have been, in my view, exceedingly over-inclusive and comprehensive herein for the reasons stated herein. I thank all for their consideration of my queries and I politely ask that you, with particular reference to the Tribunal, AGO and respondent insurance companies (with particular reference to SNIC and TDHA) revert back to me at your earliest opportunity.

3. I adopt the definitions from my filed documents in this JRPA Proceeding and they have the same meaning herein as they do therein.

4. From my review of Drewlo, the Assessment Review Board, another tribunal which is part of the Tribunals Ontario (13 different tribunals by my computation) (defined in this letter as the "Board" or "ARB Tribunal"), sought leave pursuant to Rule 13.02 of the Rules of Civil Procedure (the "Civil Rules") as Drewlo Holdings Inc.[i] had sought leave to appeal (not judicially review per se) (see: paragraph 1 and 2). Drewlo Holdings Inc. took issue with a decision of the Board which held that the Municipal Property Assessment Corporation ("MPAC") had the statutory authority under section 33 of the Assessment Act to issue a second 'omitted' assessment[ii] in the same taxation year in respect of two of three apartment towers that Drewlo Holdings Inc. converted into individual units under a registered condominium plan (see: paragraph 2). Drewlo Holdings naturally opposed the same in arguing that MPAC, which I presume is the separate and distinct corporation that was created by the City of London to engage in the assessment of property tax assessments for various properties in the city of London (province of Ontario), had already issued an omitted assessment for the same property[iii] in May 2019. Drewlo Holdings Inc. made other arguments event though the 'omitted assessment' allegedly had some surficial issues in failing to address those units converted to the registered condo plan, the Appellant (Drewlo Holdings Inc.) argued that MPAC did not have statutory authority under section 33 of the Assessment Act[iv] as the "land" had already been assessed under the Assessment Act and the 'second omitted assessment' was without authority or ultra vires MPAC.

5. The Board (ARB Tribunal) rejected Drewlo Holding Inc.'s argument and dismissed its appeal[v] [before it]. The Board found that the relevant question was whether the registration of the condo plan created new "lands" to be added to the Assessment Roll. Presumably, this definition created by Drewlo Holdings Inc. of "omitted assessment" had no merit because if new lands were created then its argument of the "land" being previously assessed was predicated on a false premise[vi] and MPAC's assessment position was correct.

6. As Drewlo sought to appeal, it had to obtain leave to appeal the Board (ARB Tribunal)'s decision. In a 2023 decision[vii] of the ONSC Divisional Court, in its capacity

Nicholson of the ONSC Divisional Court) granted leave to appeal. There was certainly much in the way of "money on the line" in this appeal of the decision of a statutory body (ARB Tribunal) as MPAC had reassessed the "land and buildings" (as the previous assessment involved the "land" only as per the lands being vacant without the towers) with a combined total increasing some nearly 66 million dollars [viii].

7. Returning to the Board's motion before Justice Tranquilly, MPAC took no position yet the City of London consented to the Board's motion (see: paragraph 6[ix]).[x] Drewlo Holdings Inc. vigorously opposed the Board's participation in its [Drewlo Holdings] appeal of the Board's decision where it alleged five errors of law in the Board' s decision.

8. As the JRPA Application, Applicant's Factum and Applicant's Application Record were filed and served last week, along with the filing of the Certificate Of Perfection, I felt compelled to draw this to the attention of the above noted respondents before they engaged in potential responsive factums. I also note the same considering the duty of the Tribunal to file the "record of proceeding" (see: SPPA). I will note, parenthetically, that if the Tribunal counsel wishes to have may assistance in this regard, I would be pleased to assist in any form it wishes in that regard. I also note that in the separate [absent the inclusion of the court for respect of its resources] "triage" between myself with Mr. Boyce being responsible for the dialogue on behalf of the Tribunal, which I have appreciated not only in substance but in his professionalism, forthrightness and candour, he has referenced a conventional timeline for the provision of the record of proceeding. I will defer to his expertise in appearing as counsel before the Divisional Court in that regard but I cannot find any particular rule in the Civil Rules or section in the Practice Direction referencing the same. I will not divulge those communications (i.e. the truth of their contents), at this time or thereafter, without his consent or if required by this ONSC Divisional Court. I do not say anything is "earth shattering" per se but out of respect for him and the Tribunal and those therein and the spirit of a "triage" without the inclusion of ONSC Divisional Court (Madam Clerkand her staf f).

9. To harp on the "full disclosure spirit" from my side, I note that while respondents are required to respond to the factum and application record within 30 days of its service upon them, and I though, in good faith, it would be unfair to them to raise this issue as soon as it somewhat crystalized. As noted, we have a slight gap in days between the Applicant's Factum and Applicant's Application Record but that is not the seminal point that I am wishing to convey. We have, in my view, based on research of the case law, somewhat of an unprecedented situation based on what has crystallized as of now being December 19, 2024, by way of date of creating said letter, and December 20, 2024, when deemed received. Moreover, with various "statutory holidays", I appreciate that many recipients herein may be taking time away from their vocations and the "office" (whether physical, "at home" or remote). I thought it would be unfair to continue to review this issue and then provide such a position during late December or early January 2025 with the timelines noted above. The reason for saying the same is what is referencing, in part, at paragraphs 7 to 9, in the Tranquilli Decision. The Board submitted that it did not intend to argue the merits of its decision (i.e. the decision it issued) and would not take a position on the outcome of the appeal (before the ONSC Divisional Court) or the current value of the subject property.

10. While I have very much appreciated the candour of Mr. Boyce, counsel to the Tribunal, whilst I do not believe I have had any other substantive emails from the other named

Tribunal in a counsel or adjudicative capacity, I note that its preliminary objection raised was that of "prematurity". I would respectfully submit that I have already faced that issue in the Applicant's Factum with painstaking detail with reference to a litany of cited authorities but the exceptional circumstances herein along with reference to the ONCA appellate authority of ME v. Ontario (2021), citing *Atlas*, Kerr et al, as to why the aspects of the VCM Decision, solely relate to some relief (which included orders, determinations, findings and declarations) sought in NOM #14 and NOM #15, that a decision that does any of the following: (i) add or not add party; (ii) grant or refuse an order to amend pleading by any current or future party; and/or (iii) grant or refuse an order to add a cause of action, is a final order and not interlocutory.

11. I hope that the Applicant's Factum remains sufficiently clear that I do not dispute that the relief that I sought, which was dismissed, in NOM #13, was interlocutory as it sought documents from a non-party in TDGIC. I am not challenging the same despite VCM in the VCM Decision consolidating NOM #13 and NOM #15 for decision issuance purposes.

12. Returning to paragraph 7 of the Tranquilli Decision, I note the language of the "proposed factum" in support of the Board's motion, the Board sought to provide the court with the statutory and procedural context for its decision and to make "limited submissions". In the consecutively alphabetized list of the Tranquilli Decision, they were: (a) limited to questions or law or an extricable question of law from a finding of mixed fact and law; (b) applicable standard of review of correctness within the context of the Board's specialized function; and (c) procedural fairness as it relates to the tribunal (ARB Tribunal) ability to make procedural choices and to the extent to which the Board may consider law or argument not raised by the parties.

13. Relating to this JRPA Application, there is no dispute that the only "parties" at the time of the VCM Decision were myself and SNIC. The JRPA Application, along with that of the Reconsideration Submissions to the LAT, contained in the Application Record, and Applicant's Factum provide a bevy of cases as to why the standard of review is correctness when measured against the undisputed evidence before Vice Chair Morrissette. For continued context and out of an abundance of caution, there were no materials filed on behalf of the sole respondent party in SNIC, as it was the only insurance company that filed a Response (defined as the "SNIC Response") in relation to my delivered LAT Appeal, by fax, to the 416.774.3120 fax number at first instance, and TDHA (as it relates to NOM #14 and NOM #15).

14. There is no issue, by way of example and dovetailing the facts herein to that of the Tranquilli Decision, to an allegation of procedural fairness breaches by not raising an issue by the parties at the time of the VCM Decision but considered by VCM. There is certainly a finding, against me, that I had not cited relevant law or authorities which I dispute in the Reconsideration Motion, JRPA Application and Applicant's Factum. However, I need not digress as that is a matter for the ONSC Divisional Court.

15. There has been a reference from some time back by one of the counsel for the government about a "joint response" and Ms. Im had reached out to me regarding some of the specifics of the rules and statute and some intimation of jointness. I do not wish to speak for that email per se but she can correct me if she wishes but that is my reading in part. However, in this regard, having a response from the distinct counsel for their clients,

is somewhat or entirely distinct. I defer to their organizational setup in that regard and do not wish to speak ignorantly per se. Fortuitously, the response of the erudite Ms. Im may also assist us, at least informally with further details to be reconciled, not requiring any further participation from her and her "office" and employer (client) per se. I can confirm, by reference to the Applicant's Factum and Application Record, that I am not raising any constitutional or vires questions. To ensure I am clear herein, I am not in any way supplementing or attempting to supplement my JRPA Application and Factum but raising this issue, by reference to the

16. I can also confirm that I did receive a response from the privacy division of LAT (MAG), albeit it required my inclusion of the Honourable Attorney General of Ontario in Mr. Downey himself with some level of intensity on my part, I do not view it as compliant to my access request. That being said, I shall work the requisite channels in that regard. However, at this time, not much turns on that and I can confirm that I will not be bringing any fresh evidence as I do not have any that would be worthy of a motion. I provide that information as per the relief sought in my JRPA Application which was somewhat forward looking based on the status at that time. If any of the addressees require further details as to what I was seeking, and what remains extant in my review, I am amenable to providing the same. However, I respectfully doubt that it will be necessary in light of the representations made in this paragraph.

Paragraph Eight (8) of the Tranquilli Decision: limited submissions from the Tribunal

17. In paragraph eight of the **Tranquilli Decision**, the Board submitted that its proposed limited submissions, by reference to its proposed factum [xi], would promote the following:

a. Full and informed adjudication; but

b. Without compromising tribunal impartiality or prejudicing the parties.

The Guide, "What to Include in a Application for Judicial Review" (third paragraph of page five)

18. Admittedly, the reference to "parties" is one that I will continue to research with reference to the Civil Rules and the Practice Direction. However, I again note, consistent with my previous position, that the Ontario Superior Court of Justice Guide to Judicial Review in Divisional Court (the "JR Divisional Court Guide" or "Guide") and other secondary sources espouse the view, at least implicitly, that only those that participated in the hearing (a "written hearing" in "written format" (see: SPPA, section 1 et al) are entitled to participate in a JRPA proceeding or at the very least, the hearing of a JRPA application. In that regard, I re- confirm my previous positions that the respondent insurance companies in SNIC and TDHA did not participate in the hearing before VCM and did not seek any reconsideration of the same – even on legal or participatory grounds. I again reiterate my position regarding the Purported Appearance by the three respondent insurance companies and the potential requirement for leave based on the aforementioned grounds in the Applicant's Factum.

raised any preliminary issues at this time. The sole issue of prematurity was raised by Mr. Boyce on behalf of the Tribunal. To reinforce the collaborative approach with the evolution and/or creation of the law in what I say is a "test case" or "novel case" or at least one with unprecedented facts, I would be most grateful to know what was meant by "joint response" (or words to that effect). In erring on the side of caution, I wish to confirm whether any proposed factum by the LAT would solely be on behalf of the LAT or it would include, even by implication, any responses on behalf of any other respondents. I ask this question or pose this query considering the current status and the timelines above and the 30 days to provide a responsive factum being the ultimate deadline with no preclusion of filing and serving earlier.[xii] I will kindly and politely confirm that I will object to any respondent, irrespective of their status as a party or not a party, engaging in attempting or purporting to filing any materials that engage in the same. I trust that is sufficient for notice purposes and it was an appropriate time to do so.

20. Returning to the denoted heading herein, I note that the NOA was required to be served on the Ago by reference to the word "must". I self-evidently did so by reference to Ms. Im's kind and prompt overture at the outset.

21. In relation to the decision-maker , I followed the ONSC Divisional Court Guide in being over-inclusive by serving VCM as it related to the 'original hearing' and that of VCL as it related to the 'reconsideration hearing'. However, I note that the Guide only utilizes the language of 'original hearing' which I infer or deduce refers, in these circumstances, to the VCM Decision.

22. It is the next sentence, which is sentence four in the Guide under this heading (page 5), with reference to the words of: (i) party; (ii) decision-maker; (iii) proceedings; and (iv) may, that is still subject to my research and why I welcome the position of the LAT.

The definition of "party" and Distinction between Rule 13.02 and Rule 13.02

23. I note that "party" is not defined under the Civil Rules. The word "party" by 'control f function' of the Civil Rules is referenced some 1,501 times. I am currently going through the same so I beg the pardon of all if I have missed it.

24. However, I do note the definition of "respondent party", which is: '"responding party" means a person against whom a motion is made', but naturally applies to a "motion", which means "a motion in a proceeding or an intended proceeding". Naturally, we have a "proceeding" and not an "intended proceeding".

25. Further, my review of my represented potential request to proceed before a single justice of the ONSC Divisional Court appears to be by way of "request" and not motion. I have deduced the same by my review of the Practice Guide and note my continued obligation to upload all documents into the Case Center. However, I will, of course, defer to the expertise and practice of the Divisional Court in an JRPA proceeding, and, of course,

this was important to canvas prior to doing the same while noting the word "prompt".

26. I note the following from Rule 13.01:

27. I have copied and pasted Ruel 13.02 and Rule 13.03 herein:

> **Leave to Intervene as Added Party**
>
> **13.01** (1) A person who is not a party to a proceeding may move for leave to intervene as an added party if the person claims,
>
> (a) an interest in the subject matter of the proceeding;
>
> (b) that the person may be adversely af fected by a judgment in the proceeding; or
>
> (c) that there exists between the person and one or more of the parties to the proceeding a question of law or fact in common with one or more of the questions in issue in the proceeding. R.R.O. 1990, Reg. 194, r. 13.01 (1).
>
> (2) On the motion, the court shall consider whether the intervention will unduly delay or prejudice the determination of the rights of the parties to the proceeding and the court may add the person as a party to the proceeding and may make such order as is just. R.R.O. 1990, Reg. 194, r . 13.01 (2).
>
> **Leave to Intervene as Friend of the Court**
>
> **13.02** Any person may, with leave of a judge or at the invitation of the presiding judge or associate judge, and without becoming a party to the proceeding, intervene as a friend of the court for the purpose of rendering assistance to the court by way of argument. R.R.O. 1990, Reg. 194, r. 13.02; O. Reg. 186/10, s. 1; O. Reg. 711/20, s. 7; O. Reg. 383/21, s. 15.
>
> **Leave to Intervene in Divisional Court or Court of Appeal**
>
> **13.03** (1) Leave to intervene in the Divisional Court as an added party or as a friend of the court may be granted by a panel of the court, the Chief Justice or Associate Chief Justice of the Superior Court of Justice or a judge designated by either of them. R.R.O. 1990, Reg. 194, r. 13.03 (1); O. Reg. 292/99, s. 4; O. Reg. 186/10, s. 2; O. Reg. 82/17, s. 16.

28. The aforementioned subrules read similarly but for the self-evident distinctions.

Returning to the Tranquilli Decision

Divisional Court should have dismissed the Board's motion.

30. The Honourable Justice Tranquilli found that the Board did not have a statutory right to appear in the Appeal. This is a "judicial review" pursuant to the JRPA and not any others statutory right of appeal. For sake of dovetailing the relevant statute for an appeal (a 'statutory appeal') to herein, section 11 of LATA, specifically the subsections infra, states:

> **"11** (1) Subject to subsections (2) to (6), a party to a proceeding before the Tribunal relating to a matter under any of the following Acts may appeal from its decision or order to the Divisional Court in accordance with the rules of court:
>
> **Question of law only**
>
> (3) An appeal may be made on a question of law only. 2011, c. 1, Sched. 1, s. 5 (5).
>
> **Right to be heard**
>
> (5) The Minister responsible for administration of the Act under which the decision that is the subject of the appeal was made is entitled to be heard, by counsel or otherwise, on the appeal. 2018, c. 12, Sched. 2, s. 54 (4).
>
> ***Insurance Act* appeals — question of law only**
>
> (6) An appeal from a decision of the Tribunal relating to a matter under the *Insurance Act* may be made on a question of law only. 2014, c. 9, Sched. 5, s. 5 (3)."

31. Naturally, there is a filed notice of appearance from the Tribunal herein. The Purported Appearance by the respondent insurance companies was not filed forthwith and the issue is whether it can participate herein when it did not in the seminal hearings and the decisions that are issue in this JRPA Proceeding. Certainly, the Tribunal 'participated' by issuing its decision. I presume the question arises as to whether the AGO and LAT are 'entitled' to participate on the facts and current status. I am still researching that issue and I will revert back if I find anything that is of substance to add herein but certainly welcome the positions of those two aforementioned as to whether there is an entitlement to participate, and whether that has changed in light of current status. I address the legal test from the Ontario (Energy Board), with the benefit of some secondary source material, infra with respect to the indicia in the common law test. I have done so in somewhat alternative manners considering I cannot prognosticate the future when considering the many permutations.

32. In the Tranquilli Decision, Justice Tranquilli found, or by reference to the position of Drewlo Holdings Inc., at paragraph 9, that the appeal before the ONSC Divisional Court was opposed by two responding parties such that there are no 'gaps' in the record that would benefit from the Board's participation. The parties, which were three (3) parties with

respectively to the Board's motion, were represented by knowledgeable and experienced counsel who would be able to make fully informed arguments to the appellate panel of the ONSC Divisional Court. Drewlo Holdings Inc. contended that the Board's participation, under its limited proposed terms, were unnecessary and threatened to compromise board impartiality. Drewlo Holdings Inc., at the last sentence of paragraph nine, submitted to Justice Tranquilli, that *some* of the Board's proposed submissions (in its proposed factum) verged on addressing the merits of the appeal and defending the Board (ARB Tribunal's) decision.

33. Again, I do not suggest that Mr. Boyce, or Ms. Im to that end, have represented in any manner that they intended to do so per se. However, if history is any teacher from the LAT Appeal, I believe it is best to ensure that we are not engaging in any unnecessary motions before the ONSC Divisional Court regarding issues that could have been canvassed and resolved without the necessity for the same.

A more relaxed attitude to tribunal participation in statutory appeals

34. I quote from paragraph 10 of the Tranquilli Decision for ease of reference, and because Ontario (Energy Board) is cited therein:

> "[10] The applicable principles that guide the court's exercise of its discretion under Rule 13.02 on the question of tribunal intervention are well recognized. This includes consideration of the factors outlined in *Peel (Regional Municipality) v. Great Atlantic & Pacific Co. of Canada Ltd.*, (1990) 1990 CanLII 6886 (ON CA), 74 O.R. (2d) 164 and the non-exhaustive factors identified in *Ontario (Energy Board) v. Ontario Power Generation Inc.*, 2015 SCC 44 (CanLII), [2015] 3 S.C.R. 147 at para. 59. Concerns about tribunal participation on appeal should not be read to establish a categorical ban. For the most part, there is a more relaxed attitude in allowing tribunal participation in statutory appeals of its decisions. A discretionary approach provides the best means of ensuring the principles of finality and impartiality are respected without sacrificing the ability of reviewing courts to hear useful and important information and analysis. *Ontario (Energy Board)*, at paras. 46, 52.

35. I presume that the more relaxed attitude to the LAT's participation herein, and perhaps including the MAG, in a statutory appeal is further underscored by the above noted sections of LATA which further specify the entitlement to only questions of law only under the Insurance Act and the participation of the Minister responsible for administration of the Act at issue.

36. It appears that the unassailable corollary, as a matter of this being a JRPA Proceeding and not an appeal under LATA, is that there is a less relaxed attitude to the participation (not merely a Notice of Appearance) in this JRPA Proceeding involving the LAT (Tribunal).

the Board (ARB Tribunal) to participate in that appeal on the proposed terms, by reference to the proposed factum included in the Board's motion, but with the caveat that it was subject to the discretion of the hearing panel of the Appeal before the ONSC Divisional Court (see: paragraph 11 of the Tranquilli Decision).

38. I will have to urgently review the principles under section 13.03 of the Civil Rules due to the urgency of my JRPA Application. However, in the interim, I note the following principles from Ontario (Energy Board), secondary source article[xiii] from the Alberta Law Review in Mr. Lorne Neudorf (JD (Victoria), LLM (McGill), PhD (Cambridge); Member of the Law Society of Upper Canada; Assistant Professor, Thompson Rivers University, Faculty of Law) when referencing the three principles where the statute (or multiple statutes) do NOT *clearly resolve the issue*:

> In accordance with the foregoing discussion of tribunal standing, where the statute does not clearly resolve the issue, the reviewing court must rely on its discretion to define the tribunal's role on appeal. While not exhaustive, I would find the following factors, identified by the courts and academic commentators cited above, are relevant in informing the court's exercise of this discretion: (1) If an appeal or review were to be otherwise unopposed, a reviewing court may benefit by exercising its discretion to grant tribunal standing. (2) If there are other parties available to oppose an appeal or review, and those parties have the necessary knowledge and expertise to fully make and respond to arguments on appeal or review, tribunal standing may be less important in ensuring just outcomes. (3) Whether the tribunal adjudicates individual conflicts between two adversarial parties, or whether it instead serves a policy-making, regulatory or investigative role, or acts on behalf of the public interest, bears on the degree to which impartiality concerns are raised. Such concerns may weigh more heavily where the tribunal served an adjudicatory function in the proceeding that is the subject of the appeal, while a proceeding in which the tribunal adopts a more regulatory role may not raise such concerns.

39. Returning the JRPA, I note the permissive language used by the Legislature and in reference to the definition of "party" whilst including section 2(1) for completeness purposes:

> "party" includes a municipality, association of employers, a trade union or council of trade unions which may be a party to any of the proceedings mentioned in subsection 2 (1); ("partie")
>
> **Applications for judicial review**
>
> **2** (1) On an application by way of originating notice, which may be styled "Notice of Application for Judicial Review", the court may, despite any right of appeal, by order grant any relief that the applicant would be entitled to in any one or more of the following:
>
> 1. Proceedings by way of application for an order in the nature of mandamus, prohibition or certiorari.

both, in relation to the exercise, refusal to exercise or proposed or purported exercise of a statutory power. R.S.O. 1990, c. J.1, s. 2 (1).

40. I also note that section 9(2) uses the word "may" as well:

> **Exerciser of power may be a party**
>
> (2) For the purposes of an application for judicial review in relation to the exercise, refusal to exercise or proposed or purported exercise of a statutory power, the person who is authorized to exercise the power may be a party to the application. R.S.O. 1990, c. J.1, s. 9 (2).

41. It is trite that the language of 'may be a party to the application' and the right to be heard and represented by counsel are distinct concepts. Again, I will continue to research that issue and welcome the position of the Tribunal from a legal and factual point of view (i.e. in relation to this JRPA Proceeding herein).

42. However, it would seem that the common law principles from the Ontario (Energy Board) case are applicable herein as follows:

> a. If a[n]…. review were to be otherwise unopposed, a reviewing court may benefit by exercising its discretion to grant tribunal standing;
>
> b. If there are other parties available to oppose a[n]…. review, and those parties have the necessary knowledge and expertise to fully make and respond to arguments on review, tribunal standing may be less important in ensuring just outcome; and
>
> c. Whether the tribunal adjudicates individual conflicts between two adversarial parties, or whether it instead serves a policy-making, regulatory or investigative role, or acts on behalf of the public interest, bears on the degree to which impartiality concerns are raised. Such concerns may weigh more heavily where the tribunal served an adjudicatory function in the proceeding that is the subject

43. In returning to the above distinction between merely being a "party" and the right to be heard, and clear specification of a role, the extrapolation herein is that the Tribunal is entitled to be a party but its role and right to be heard is factually driven. Herein, I respectfully submit that Tribunal counsel have little to nothing to add to this JRPA Proceeding. The VCM Decision is certainly not deficient in its reasons per se by language or length. My challenges to it and its implications are self-evident therein. There is another reason for my objection to the same and that is that the LAT, to my last recall, is not "government funded per se" but funded by the "insurance industry". If my example is any indication, premiums paid to SNIC, SNIC choosing to file the SNIC Response, then not

she then was, all while holding the premiums paid to it while presumably making an above market return of investment ("ROI"), then it is as if the insurance companies are paying the decision makers at the Licence Appeal Tribunal. I do not raise that point lightly but also for general and public importance aspects in any necessary balancing (if applicable) to be engaged in by this ONSC Divisional Court.

44. In the Alberta Law Article by the aforementioned author, I note the following at page five (i.e. the number of pages in the CanLII document) and page 223 of that edition of the Alberta Law Review:

> "Applying the law to the facts of the case, Justice Rothstein observed that the enabling legislation provided the Board with a right to be heard in an appeal but fell short of specifying its role in the appearance."

45. We also do not know if the respondent insurance companies are intending to seek leave to participate and on what terms or conditions per se. However, this can be dealt with in my view by Mr. Nieuwland responded, ever so briefly, as to whether SNIC and TDHA oppose the relief sought (some or all) in the JRPA Application and further particularized in the Applicant's Factum.

46. Each part of the legal test cannot be analyzed in a vacuum per se.

47. The Licence Appeal Tribunal is an adjudicative body and has held itself as such. Therefore, this factor militates in the Tribunal not participating in this JRPA Proceeding.

48. The again referenced oddity herein is that while the respondent insurance companies may oppose or not oppose some relief, even if they oppose, the "record of proceeding" and "application record" are document based and cannot be changed. The same is applicable to the lackof any participation by SNIC and TDHA in NOM #14 and NOM #15.

49. At page 222 in the Alberta Law Review article, the distinction between a standard of review of reasonableness and correctness is relevant as well:

> "This role would be particularly important in relation to a reasonableness review of an administrative decision to ensure that the reviewing court was fully informed in assessing the reasonableness of the outcome."

50. Whether the ONSC Divisional Court finds my arguments persuasive or not and whether the VCM Decision was correct or not is a matter of speculation that I cannot engage in but the issues raised are ones that are naturally on the correctness standard of review. I respectfully note that this militates in favour of the Tribunal's participation role (if any) to be minimal.

51. I further note at paragraph 13 of the Tranquilli Decision that even in an insurance case involving *Hutchison v. Aviva General Insurance Company*, 2022 ONSC 7136, that Justice Tranquilli found that the court put limits on the proposed participation (while also citing Tartu College) such as limiting the tribunal from making submission on standard of review or any reasonable apprehension of bias. I have certainly squarely put some of the inflammatory language used by VCM directed at me regarding me, inter alia, putting a "strain on the Tribunal" and apparently abusing the process of the Tribunal while apparently curtailing (I believe she meant "circumventing") certain "non-rules" like length of affidavit material.

52. Justice Tranquilli in the Tranquilli Decision also distinguished between the MPAC and City of London which is yet another factor where it would be helpful to hear from the above noted persons.

Conclusion

53. I would be most grateful to hear, with particular reference, from: (i) counsel to the Tribunal in Mr. Boyce; and (ii) counsel (Mr. Nieuwland) to SNIC (in the Tribunal and herein) and counsel to TDHA (at this level but at the Tribunal), regarding their positions regarding this query to them.

54. This will also affect any potential costs of this JRPA Proceeding and whether there can, at law, be an agreement on costs and by whom (if applicable). I also say the positions or lackthereof of the above may also af fect how I fashion and focus the Oral Compendium.

55. I respectfully reserve the right to formalize this letter onto letterhead for "filing purposes" or "formality purposes" as I believe the delivery of the same and the responses are consequential to not only the routes taken hereafter but the outcome of this JRPA Application.

56. Should anything be unclear, I ask that any of the addressees kindly ask the same forthwith so we can work together out of respect for the law and the resources of the ONSC Divisional Court.

57. In the spirit of drawing these issues with particulars to the attention of the above potential participants, I shall leave it there so they have ample notice of the same and an opportunity to respond informally and formally. To the extent I add or amend anything (whether procedurally or substantively), I shall do so with an "underling" for amendments" and a "strikethrough" for deletion.

58. I confirm that this letter is to be solely received for the above purposes to ensure that we are working together in a professional and adherence to the law fashion while respecting the finite and valuable resources of the ONSC Divisional Court. I respectfully reserve my rights and will await the positions of the above persons (not named the ONSC

application.

59. Thankyou kindly .

---

[i] **Drewlo Holdings** Inc. is a family-owned business that has been developing, constructing and managing apartment buildings for over 60 years (as per LinkedIn profile)

[ii] The word "omitted" was likely defined as a result of: 33 (1) The following rules apply if land liable to assessment has been in whole or in part omitted from the tax roll for the current year or for all or part of either or both of the last two preceding years, and no taxes have been levied for the assessment omitted:

1. The assessment corporation shall make any assessment necessary to correct the omission.
2. If the land is located in a municipality, the clerk of the municipality shall alter the tax roll upon receiving notice of the change, and the municipality shall levy and collect the taxes that would have been payable if the assessment had not been omitted.
3. If the land is located in non-municipal territory, the Minister shall alter the tax roll upon receiving notice of the change and shall collect the taxes that would have been payable if the assessment had not been omitted.

(2) For the purposes of this section,

"omitted" includes the invalidation or setting aside of an assessment by any court or assessment tribunal on any ground except that the land is not liable to taxation.

[iii] Although the issue appears to be that MPAC issued this second "omitted" assessment in relation to two of three properties

[iv] Without delving too deeply into the minutia of Drewlo v. MPAC, it appears that the Assessment Act was amended since 2019.

[v] Like the language I have utilized relating to the "LAT Appeal" and being an "Appellant" before the LAT (Tribunal).

[vi] Singular usage of "land" versus "lands" (by the creation of the same through a registered condo plan i.e. the conversion of those buildings (at least two of three) to individual units)

[vii] Drewlo Holdings v. MPAC, 2023 ONSC 1466 (CanLII), <https://canlii.ca/t/jvwjq

[viii] In January 2019, MPAC conducted an assessment of the current value of the property and concluded that the total value of the property (land and the three towers) was $68,410,000. This was comprised of $2,602,000 for the land and $65,808,000 for the towers (see: Drewlo Holdings v. MPAC, 2023 ONSC 1466 (CanLII), at para 8, <https://canlii.ca/t/jvwjq#par8>, retrieved on 2024-12-19)

[ix] Drewlo Holdings Inc. v. MPAC, 2023 ONSC 4839 (CanLII), at para 6, <https://canlii.ca/t/k03rn#par6>, retrieved on 2024-12-19

[x] I respectfully say an interesting morsel therein which applies to the issue to be decided between VCM's finding of TDGIC (the "Former Respondent", "Fictitious Respondent", or "Removed Respondent") consenting to my NOM #8 or the motion going by consent but curiously having detailed reasons for decision (see: reasons for decision of VCM on June 20, 2024).

[xi] It is unclear whether said proposed factum was filed as a standalone document or whether it was appended to an affidavit per se in "support" of its motion to intervene

[xii] It is for that reason, albeit at my admittedly slow pace, taken much of the day to craft this letter

LITIGATION, 2016 CanLIIDocs 58

Warm regards,

Mr. Kevin A. McLean (B.A. (MCL), J.D., CIM)

On Mon, Dec 16, 2024 at 5:18 PM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

> Thankyou kindly Madam Clerk The promptness and attention to detail is greatly appreciated.
>
> Warm regards,
>
> **Mr. Kevin A. McLean (B.A. (MCL), J.D., CIM)**
>
> On Mon, Dec 16, 2024 at 4:29 PM SCJ-CSJ Div Court Mail (JUD) <scj-csj.divcourtmail@ontario.ca> wrote:
>
> > Hello Mr. McLean,
> >
> > This has been filed.
> >
> > Thanks,
> >
> > ---
> >
> > **From:** Mr. Kevin McLean <mcleansettlement@gmail.com>
> > **Sent:** Friday, December 13, 2024 4:00 PM
> > **To:** SCJ-CSJ Div Court Mail (JUD) <scj-csj.divcourtmail@ontario.ca>
> > **Cc:** Nieuwland, Matthew <Matthew.Nieuwland@tdinsurance.com>; Boyce, Jesse (MAG) <Jesse.Boyce@ontario.ca>; Maciel, Milene (MAG) <Milene.Maciel@ontario.ca>; Collie, Connor (MAG) <Connor.Collie@ontario.ca>; Im, Judie (She/Her) (MAG) <Judie.Im@ontario.ca>; Pasquini, Heather <Heather.Pasquini@tdinsurance.com>
> > **Subject:** Re: LAT's Notice of Appearance : McLean v. TD Home and Auto Insurance et al. : 718/24
> >
> > **CAUTION -- EXTERNAL E-MAIL - Do not click links or open attachments unless you recognize the sender.**
> >
> > Hello again Ms. Clegg (copied to the addressees):

scanned form. As per the above, I will notify all with the requisite copy(ies) of my filed and paid for (in the JSO Portal) **Certificate Of Perfection**.

I will attend to any other filings in the JSO Portal (where or if required) as well.

Thank you again for the guidance.

Warm regards,

Mr. Kevin A. McLean (B.A. (MCL), J.D., CIM)

On Fri, Dec 13, 2024 at 3:38 PM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

> Good Afternoon Ms. Clegg:
>
> Thank you for your email and the guidance. I will attend to that shortly.
>
> Warm regards,
>
> **Mr. Kevin A. McLean (B.A. (MCL), J.D., CIM)**
>
> On Fri, Dec 13, 2024 at 3:32 PM SCJ-CSJ Div Court Mail (JUD) <scj-csj.divcourtmail@ontario.ca> wrote:
>
> > Hello Mr. McLean,
> >
> > Please file this Certificate of Perfection on the JSO portal, as there is a fee of $645 associated with filing this document.
> >
> > Thanks,
> >
> > ---
> >
> > **From:** Mr. Kevin McLean <mcleansettlement@gmail.com>
> > **Sent:** Friday, December 13, 2024 2:52 PM
> > **To:** SCJ-CSJ Div Court Mail (JUD) <scj-csj.divcourtmail@ontario.ca>
> > **Cc:** Nieuwland, Matthew <Matthew.Nieuwland@tdinsurance.com>; Boyce, Jesse (MAG)

(MAG) <Connor.Collie@ontario.ca>; Im, Judie (She/Her) (MAG) <Judie.Im@ontario.ca>; Pasquini, Heather <Heather.Pasquini@tdinsurance.com>
Subject: Re: LAT's Notice of Appearance : McLean v. TD Home and Auto Insurance et al. : 718/24

CAUTION -- EXTERNAL E-MAIL - Do not click links or open attachments unless you recognize the sender.

Friday, December 13, 2024

VIA EMAIL

Regarding the below (pursuant to the Consolidated Practice Direction on sending emails and enclosing the factum by the document naming protocol contained therein)

Court file number: Court File No. DC-24-00000718-00JR
Type of document: Certificate of Perfection
Short title of proceeding: McLean v. TDHA et al
Party: Mr. Kevin A. McLean, self-represented, Applicant, e: mcleansettlement@gmail.com;

*Re: filing of the **Certificate of Perfection** by the Applicant*

Dear ONSC Divisional Court (kind attention: Madam Clerk) (copied to the respondent parties entitled to participate in this JRPA Proceeding and Mr. Nieuwland for the respondent insurance companies):

1. I write regarding the above.

2. Kindly find my duly executed and dated Certificate Of Perfection tendered for filing herein.

3. My affidavit of service of the materials denoted in the Certificate Of Perfection shall follow.

4. Thankyou kindly .

Warm regards,

Mr. Kevin A. McLean (B.A. (MCL), J.D., CIM)

On Fri, Dec 13, 2024 at 12:00 PM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

> Good Morning in return to you (and all copied):
>
> Thank you kindly. I confirm receipt of the email.
>
> Warm regards,
>
> **Mr. Kevin A. McLean (B.A. (MCL), J.D., CIM)**
>
> On Fri, Dec 13, 2024 at 10:37 AM SCJ-CSJ Div Court Mail (JUD) <scj-csj.divcourtmail@ontario.ca> wrote:
>
> > Good morning,
> >
> > This has been received and filed with the court.
> >
> > Kind regards,
> >
> > **Ariel Lawrence** (she/her)
> >
> > Divisional Court Toronto
> >
> > Osgoode Hall
> >
> > 130 Queen Street W., Rm 174
> >
> > Toronto, ON M5H 2N5
> >
> > Phone: (416) 327 5100
> >
> > ---
> >
> > **From:** Mr. Kevin McLean <mcleansettlement@gmail.com>
> > **Sent:** Thursday, December 12, 2024 5:01 PM
> > **To:** SCJ-CSJ Div Court Mail (JUD) <scj-csj.divcourtmail@ontario.ca>
> > **Cc:** Nieuwland, Matthew <Matthew.Nieuwland@tdinsurance.com>; Boyce, Jesse (MAG) <Jesse.Boyce@ontario.ca>; Maciel, Milene (MAG) <Milene.Maciel@ontario.ca>; Collie, Connor (MAG) <Connor.Collie@ontario.ca>; Im, Judie (She/Her) (MAG) <Judie.Im@ontario.ca>; Pasquini, Heather <Heather.Pasquini@tdinsurance.com>
> > **Subject:** Re: LAT's Notice of Appearance : McLean v. TD Home and Auto Insurance et al. : 718/24
> >
> > **CAUTION -- EXTERNAL E-MAIL - Do not click links or open attachments unless you recognize the sender.**

to participate in this JRPA Proceeding and Mr. Nieuwland for the respondent insurance companies):

Please find Vol 3 of the Applicant's Application Record attached herein. This concludes the filing and serving of the Applicant's Application Record herein. Thankyou.

Warm regards,

Mr. Kevin A. McLean (B.A. (MCL), J.D., CIM)

On Thu, Dec 12, 2024 at 4:59 PM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

> Dear ONSC Divisional Court (kind attention: Madam Clerk) (copied to the respondent parties entitled to participate in this JRPA Proceeding and Mr. Nieuwland for the respondent insurance companies):
>
> Please find Vol 2 of the Applicant's Application Record attached herein.
>
> Warm regards,
>
> **Mr. Kevin A. McLean (B.A. (MCL), J.D., CIM)**
>
> On Thu, Dec 12, 2024 at 4:57 PM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:
>
> > December 12, 2024
> >
> > Regarding the below (pursuant to the Consolidated Practice Direction on sending emails and enclosing the factum by the document naming protocol contained therein)
> >
> > **Court file number**: Court File No. DC-24-00000718-00JR
> >
> > **Type of document**: **Application Record** (Application record index with 70 tabs, each page consecutively numbered in between tabulations)
> >
> > **Short title of proceeding**: *McLean v. TDHA et al*
> >
> > Mr. Kevin A. McLean, self-represented, Appellant, e: mcleansettlement@gmail.com;
> >
> > Re: filing and serving of the Application Record of the Applicant (piecemeal attachments due to size and volumes)
> >
> > Dear ONSC Divisional Court (kind attention: Madam Clerk) (copied to the respondent parties entitled to participate in this JRPA Proceeding and Mr. Nieuwland for the respondent insurance companies):
> >
> > 1. I write regarding the above.

2. I will be enclosing the Application Record of the Applicant relating to the above in this email thread. As the total number of pages contained therein is slightly shy of 1500 when counting the index, they will be submitted in three separate volumes as per the file name in each attachment.

3. I note that the civil practice direction uses the word "should" for bookmarking an Application Record. As I will be filing an oral compendium with a brief oral argument, I will ensure that said oral compendium will be bookmarked accordingly with only the most relevant evidence from the Application Record. The reason for doing so is not to avoid bookmarking the same but to avoid any wasted time or redundancy in bookmarking those materials will not be relevant for the hearing of this matter and to respect the resources of the judiciary and court along with those somewhat new to the matter in counsel to the Tribunal.

4. Kindly find Vol #1 of the Application Record attached which contains the index for all of the 70 tabs and enumerated pages.

5. If any of the recipients would like a copy of the application record index separately for ease of reference, I am happy to provide you with a copy of the same.

6. Thankyou kindly .

Warm regards,

Mr. Kevin A. McLean (B.A. (MCL), J.D., CIM)

On Wed, Dec 11, 2024 at 1:20 PM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

> Dear ONSC Divisional Court (kind attention: Ms. Lawrence):
>
> Thankyou kindly .
>
> Warm regards,
>
> **Mr. Kevin A. McLean (B.A. (MCL), J.D., CIM)**

On Wed, Dec 11, 2024 at 12:03 PM SCJ-CSJ Div Court Mail (JUD) <scj-csj.divcourtmail@ontario.ca> wrote:

> Good afternoon,
>
> This has been received and filed with the court.
>
> Kind regards,
>
> **Ariel Lawrence** (she/her)
>
> Divisional Court Toronto
>
> Osgoode Hall
>
> 130 Queen Street W., Rm 174
>
> Toronto, ON M5H 2N5
>
> Phone: (416) 327 5100

From: Mr. Kevin McLean <mcleansettlement@gmail.com>
Sent: Tuesday, December 10, 2024 5:01 PM
To: SCJ-CSJ Div Court Mail (JUD) <scj-csj.divcourtmail@ontario.ca>
Cc: Nieuwland, Matthew <Matthew.Nieuwland@tdinsurance.com>; Boyce, Jesse (MAG) <Jesse.Boyce@ontario.ca>; Maciel, Milene (MAG) <Milene.Maciel@ontario.ca>; Collie, Connor (MAG) <Connor.Collie@ontario.ca>; Im, Judie (She/Her) (MAG) <Judie.Im@ontario.ca>; Pasquini, Heather <Heather.Pasquini@tdinsurance.com>
Subject: Re: LAT's Notice of Appearance : McLean v. TD Home and Auto Insurance et al. : 718/24

CAUTION -- EXTERNAL E-MAIL - Do not click links or open attachments unless you recognize the sender.

December 10, 2024

Regarding the below (pursuant to the Consolidated Practice Direction on sending emails and enclosing the factum by the document naming protocol contained therein)

> Court file number: Court File No. DC-24-00000718-00JR
>
> Type of document: Factum (enclosed in PDF and Word with hyperlinks to each and every case relied upon)
>
> Short title of proceeding: McLean v. TDHA et al
>
> Mr. Kevin A. McLean, self-represented, Appellant, e: mcleansettlement@gmail.com;

Dear ONSC Divisional Court (kind attention: Madam Clerk) (copied to the respondent parties entitled to participate in this JRPA Proceeding and Mr. Nieuwland for the respondent insurance companies):

2. I attach a copy of the filed copies in PDF and Word versions of my factum within the 30 page limit regarding the above.

3. Each and every authority is hyperlinked including relevant authorities where I have cited and hyperlinked the paragraph therein.

4. I will now attend to finalizing the application record for filing and service.

5. If there is any issue opening the documents (Word or PDF), please let me know at your earliest convenience so I can accommodate you. I have made both “read only” and I trust that is not an issue. If it is, I can send them as “editable” and “non read only”. Appreciating the naming document protocol, I have added the vernacular of "Word"" and "PDF" for each at the end for ease of reference and "Filed" to delineate the same.

6. Thankyou kindly .

Warm regards,

Mr. Kevin A. McLean (B.A. (MCL), J.D., CIM)

On Wed, Dec 4, 2024 at 12:48 PM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

> Dear Ms. Lawrence: thankyou kindly for the update. My positions will remain then and I confirm that I have complied to the best of my ability to provide my good faith responses to the same.
>
> Warm regards,
>
> **Mr. Kevin A. McLean (B.A. (MCL), J.D., CIM)**
>
> On Wed, Dec 4, 2024 at 12:22 PM SCJ-CSJ Div Court Mail (JUD) <scj-csj.divcourtmail@ontario.ca> wrote:

Kindly be advised a case conference has been requested for this proceeding. Parties will receive further case management directions in due course.

Kind regards,

Ariel Lawrence (she/her)

Divisional Court Toronto

Osgoode Hall

130 Queen Street W., Rm 174

Toronto, ON M5H 2N5

Phone: (416) 327 5100

From: Mr. Kevin McLean <mcleansettlement@gmail.com>
Sent: Wednesday, December 4, 2024 12:03 PM
To: SCJ-CSJ Div Court Mail (JUD) <scj-csj.divcourtmail@ontario.ca>
Cc: Nieuwland, Matthew <Matthew.Nieuwland@tdinsurance.com>; Boyce, Jesse (MAG) <Jesse.Boyce@ontario.ca>; Maciel, Milene (MAG) <Milene.Maciel@ontario.ca>; Collie, Connor (MAG) <Connor.Collie@ontario.ca>; Im, Judie (She/Her) (MAG) <Judie.Im@ontario.ca>; Pasquini, Heather <Heather.Pasquini@tdinsurance.com>
Subject: Re: LAT's Notice of Appearance : McLean v. TD Home and Auto Insurance et al. : 718/24

CAUTION -- EXTERNAL E-MAIL - Do not click links or open attachments unless you recognize the sender.

Good Morning Ms. Lawrence:

Thankyou for your email and your patience while the multiple parties worktogether to respond in a singular and cohesive fashion.

To confirm (so we are respectful of the timelines), we are communicating separately regarding the issues. I have provided my positions in accordance with what was requested and I am waiting to hear backfrom the various persons/parties through their counsel.
I can also confirm that as of last night I requested the consent of the sole current party in SNIC to adjourn the date of the scheduled hearing proper from January 25, 2025 for at least

awaiting to hear whether SNIC will consent to the brief adjournment. If not, I will exhaust that avenue with a formal adjournment motion pursuant to LAT Rule 16 with the requisite form. If it is not granted, I will likely seeka stay of the LAT Proceeding on an interim and indefinite basis until this JRPA Application is decided.

Pardon me for the piecemeal, while I await the responses denoted above in a separate email thread.

I will be raising the issue of whether the respondent insurance companies (some or all) are entitled to participate herein and to have been filed a Notice of Appearance, and whether that Notice of Appearance was not filed forthwith, defective and void ab initio. I will be raising that as a preliminary issue if Mr. Nieuwland does not seekto correct those impugned deficiencies. I strongly object to the respondent insurance companies filing any Notice Of Appearance herein. I had presumed that they would not and they did not file a Notice Of Appearance forthwith. Simply put, I object to the document that Mr. Nieuwland tendered yesterday of acting on behalf of "Security National Insurance Company et al" and his reference to "also referred to as" in relation to those insurance companies not named "Security National Insurance Company". I believe such conduct and a filing, where the respondent insurance companies had ample time to participate in the relevant motions at issue herein but chose not to, and did not participate in the reconsideration motion, despite being duly served, will only delay this JRP A Proceeding. It is already causing time management issues by their purported inclusion. In my humble view, such a filing would have required leave and at the very least, some or all of the respondent insurance companies must seekleave to participate herein.

With respect to exchange of documents, I am nearly ready to file and serve all the factum, application and bookof authorities. We may be able to dispense with the need for the filing of the record of proceeding by the Tribunal and I have sought one small addition to it, by consent, of the respondents (where applicable). With respect to responding to my factum, I note the 30-day time limit so I do not believe there is any issue in that regard. If we can dispense with the need for the

not only the parties but the court.

With respect to time estimate, I am amenable to the half day but I would prefer to proceed before a single justice pursuant to section 6(2) of the JRPA.

Lastly, the preliminary issue that I have raised with respect to the respondent insurance companies will remain and I am awaiting to hear from Ms. Body on whether her proposed preliminary issue of prematurity also includes a previous reference to whether the orders that I seekto set aside are interlocutory or final. I have also inquired as to whether her position on behalf of the Tribunal will change depending on whether there is a brief adjournment of the LAT Proceeding.

We will revert backwhen we have hopefully resolved the above with analytical precision.

Thankyou.

Warm regards,

Mr. Kevin A. McLean (B.A. (MCL), J.D., CIM)

On Wed, Dec 4, 2024 at 11:46 AM SCJ-CSJ Div Court Mail (JUD) <scj-csj.divcourtmail@ontario.ca> wrote:

> Good afternoon,
>
> This has been received with the court.
>
> Kind regards,
>
> **Ariel Lawrence** (she/her)
>
> Divisional Court Toronto
>
> Osgoode Hall
>
> 130 Queen Street W., Rm 174

Phone: (416) 327 5100

From: Nieuwland, Matthew <Matthew.Nieuwland@tdinsurance.com>
Sent: Tuesday, December 3, 2024 4:53 PM
To: SCJ-CSJ Div Court Mail (JUD) <scj-csj.divcourtmail@ontario.ca>; Boyce, Jesse (MAG) <Jesse.Boyce@ontario.ca>; Mr. Kevin McLean <mcleansettlement@gmail.com>
Cc: Maciel, Milene (MAG) <Milene.Maciel@ontario.ca>; Collie, Connor (MAG) <Connor.Collie@ontario.ca>; Im, Judie (She/Her) (MAG) <Judie.Im@ontario.ca>; Pasquini, Heather <Heather.Pasquini@tdinsurance.com>
Subject: RE: LAT's Notice of Appearance : McLean v. TD Home and Auto Insurance et al. : 718/24

CAUTION -- EXTERNAL E-MAIL - Do not click links or open attachments unless you recognize the sender.

Good evening,

Please find attached the Notice of Appearance of the respondent, Security National Insurance Company (otherwise referred to as TD Home and Auto and TD General Insurance company), served in accordance with the *Rules of Civil Procedure*.

Thank you,

Matthew Nieuwland | Lawyer | Claims Litigation Services | **TD Insurance**
66 Wellington Street West, 38th Floor, Toronto, Ontario, M5K 1A2
T: 905-201-4092 | F: 416-599-7439

Email: Matthew.Nieuwland@tdinsurance.com

Legal Assistant: Christiana Ortiz | T: 416-486-2547 | E: christiana.ortiz@tdinsurance.com

Privileged and/or Confidential

From: SCJ-CSJ Div Court Mail (JUD) <scj-csj.divcourtmail@ontario.ca>
Sent: Tuesday, December 3, 2024 3:34 PM
To: Boyce, Jesse (MAG) <Jesse.Boyce@ontario.ca>; Mr. Kevin McLean <mcleansettlement@gmail.com>
Cc: Maciel, Milene (MAG) <Milene.Maciel@ontario.ca>; Collie, Connor (MAG) <Connor.Collie@ontario.ca>; Im, Judie (She/Her) (MAG) <Judie.Im@ontario.ca>; Nieuwland, Matthew <Matthew.Nieuwland@tdinsurance.com>
Subject: RE: LAT's Notice of Appearance : McLean v. TD Home and Auto Insurance et al. : 718/24

CAUTION: EXTERNAL MAIL. DO NOT CLICK ON LINKS OR OPEN ATTACHMENTS YOU DO NOT TRUST
ATTENTION : COURRIEL EXTERNE. NE CLIQUEZ PAS SUR DES LIENS ET N'OUVREZ PAS DE PIÈCES JOINTES AUXQUELS VOUS NE FAITES PAS CONFIANCE

Good afternoon,

This has been received with the court. Please be advised that requests to schedule a case conference is subject to approval by the case management Judge and dates are only provided once it has been approved. Parties will receive further case management directions in due course.

Kind regards

Ariel Lawrence (she/her)

Divisional Court Toronto

Osgoode Hall

130 Queen Street W., Rm 174

Toronto, ON M5H 2N5

Phone: (416) 327 5100

From: Boyce, Jesse (MAG) <Jesse.Boyce@ontario.ca>
Sent: Tuesday, December 3, 2024 3:18 PM
To: Mr. Kevin McLean <mcleansettlement@gmail.com>; SCJ-CSJ Div Court Mail (JUD) <scj-csj.divcourtmail@ontario.ca>
Cc: Maciel, Milene (MAG) <Milene.Maciel@ontario.ca>; Collie, Connor (MAG) <Connor.Collie@ontario.ca>; Im, Judie (She/Her) (MAG) <Judie.Im@ontario.ca>; matthew.nieuwland@tdinsurance.com
Subject: RE: LAT's Notice of Appearance : McLean v. TD Home and Auto Insurance et al. : 718/24

Good Afternoon,

As a courtesy, I have re-added counsel for parties named in the Notice, should they elect to participate.

The LAT wishes to raise the preliminary issue that this Application gives rise to an issue of prematurity, as the LAT

substantive issues is scheduled for January 24, 2025.

In the alternative, the LAT requests that a case conference be scheduled to determine the parameters of the hearing and a timetable.

Thank you,

Jesse A. Boyce (he/him)

Counsel

Tribunals Ontario – Legal Services Branch

(437) 997-1235

jesse.boyce@ontario.ca

tribunalsontario.ca

Confidential message which may be privileged. If received in error, please delete the message and advise me by return email.

Message confidentiel dont le contenu peut être privilégié. Si reçu par erreur, veuillez supprimer ce message et aviser l'expéditeur par retour de courriel.

From: Mr. Kevin McLean <mcleansettlement@gmail.com>
Sent: Tuesday, December 3, 2024 2:24 PM
To: SCJ-CSJ Div Court Mail (JUD) <scj-csj.divcourtmail@ontario.ca>
Cc: Maciel, Milene (MAG) <Milene.Maciel@ontario.ca>; Boyce, Jesse (MAG) <Jesse.Boyce@ontario.ca>; Collie, Connor (MAG) <Connor.Collie@ontario.ca>; Cloc-Reception (MAG) <Cloc.Reception@ontario.ca>
Subject: Re: LAT's Notice of Appearance : McLean v. TD Home and Auto Insurance et al. : 718/24

CAUTION -- EXTERNAL E-MAIL - Do not click links or open attachments unless you recognize the sender.

Dear ONSC (Divisional Court) (kind attention: Ms. Lawrence):

Thankyou again for your email above.

As I promised to the recipients herein (and I have removed my email exclusively for Tribunal purposes), I received a decision involving an outstanding document motion regarding SNIC as of yesterday's date. You will note that there is again the oddity of VC Morrissette representing that the order was from late November 2024

herein.

This, in turn, leaves one remaining motion to be decided or for the Tribunal to inform me that it will not decide the same which is that section 21.1 of the SPPA motion that I referenced. At this stage, I will inform the Tribunal that if I do not hear from it, then I will proceed with the decisions as they stand and take the position that it does not intend to exercise its discretion

I have followed up with the Tribunal as of this morning to inquire regarding the same as it is highly relevant to the orders and decisions wherein, I have sought judicial review of the same. It is not a matter of those decisions "needing correction" per se but knowing whether they will or will not be correct in part or in whole.

For ease of reference, I have attached the hearing record in this regard so I am not speaking in a non-cross referenced manner. All the relevant materials have been organized, tabulated, and consecutively numbered for the application record. My book of authorities is done and my factum is as well subject to hearing from the Tribunal on this attached section 21.1 of the SPPA motion record.

As I am in the process of ensuring that my factum complies with all of the requirements pursuant to various rules and practice directions, at first instance, I will confirm the following for sake of convenience (**without** any confirmation that the above noted persons (i.e. Tribunal and AGO) agree with my positions):

1. Preliminary issue: the only preliminary issue from my standpoint is whether the above will consent to my seeking of leave to have this JRPA proceeding hearing before a single justice of the JPRA, s. 2;

2. Timetable: as noted above, I am ready to file all of the above subject to the issue of whether it can proceed before a single justice of the ONSC and how that affects any of the above. I will await to hear from the above noted esteemed counsel as it relates to the same and whether they (some or all) consent to the same and the mechanics (if any) of having such an order vetted and approved;

3. Time estimate: if before a single justice pursuant to section 6(2) of the JRPA, my recall is that it is done on written argument. If so, then no time estimate is required per se. To the extent that any appearances are required, I do not anticipate I need more than 20 minutes in oral submissions and five minutes in reply.

I apologize for any delay in response but I will do my best to provide the court with an update regarding whether the Tribunal stands on the above. Thank you kindly .

Warm regards,

Mr. Kevin A. McLean (B.A. (MCL), J.D., CIM)

On Tue, Dec 3, 2024 at 1:57 PM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

> Hello again Ms. Lawrence,
>
> I can confirm that myself and those persons that have filed notices of appearance are in communication. I have reviewed the email herein and attachments and I do not see any notices of appearances for any of the

participate in the lower court motions. As such, my position which I have made clear to the esteemed counsel for the Tribunal and the AGO (albeit all under the umbrella of "MAG") is that Mr. Nieuwland is not entitled to be included herein. Should Mr. Nieuwland file a Notice of Appearance on behalf of some or all of the respondent insurance companies, then I will review that position at said time. However, since they did not participate in the orders that are subject to the JRPA Application per se, I would oppose the same. It is not in any way intended to be disrespectful to Mr. Nieuwland per se but he should not have been included at first instance.

If any of the above disagree, I would be happy to review their authorities or legal bases for the same.

I will not overstep the process of the separate communication protocol as proposed by Ms. Boyd per se but I am hopeful we can have those questions answered promptly on a joint basis and if not, then we cannot.

Thankyou.

Warm regards,

Mr. Kevin A. McLean (B.A. (MCL), J.D., CIM)

On Tue, Dec 3, 2024 at 10:51 AM SCJ-CSJ Div Court Mail (JUD) <scj-csj.divcourtmail@ontario.ca> wrote:

> Good morning,
>
> If parties are yet to agree on a schedule with specific dates for the exchange of materials for this Application for Judicial review, kindly do so and reply to the attached email at parties earliest convenience.
>
> Kind regards,
>
> **Ariel Lawrence** (she/her)
>
> Divisional Court Toronto
>
> Osgoode Hall
>
> 130 Queen Street W., Rm 174
>
> Toronto, ON M5H 2N5
>
> Phone: (416) 327 5100

From: Mr. Kevin McLean <mcleansettlement@gmail.com>
Sent: Friday, November 29, 2024 3:02 PM
To: Kevin McLean <mcleansniclat@gmail.com>
Cc: SCJ-CSJ Div Court Mail (JUD) <scj-csj.divcourtmail@ontario.ca>; Maciel, Milene (MAG) <Milene.Maciel@ontario.ca>; Matthew.Nieuwland@tdinsurance.com; Boyce, Jesse (MAG) <Jesse.Boyce@ontario.ca>; Collie, Connor (MAG) <Connor.Collie@ontario.ca>; Cloc-Reception (MAG) <Cloc.Reception@ontario.ca>
Subject: Re: LAT's Notice of Appearance : McLean v. TD Home and Auto Insurance et al. : 718/24

CAUTION -- EXTERNAL E-MAIL - Do not click links or open attachments unless you recognize the sender.

Dear All, thankyou again for your emails. As noted in my filed and served JRPA Application, the email for service is this email herein. As such, I have removed the mcleansniclat@gmail.com from the email chain as that is dedicated exclusively for the Tribunal proceeding itself and communications with various adjusters et al. I do not intend to be overly technical but I thank you for only emailing this email herein (mcleansettlement@gmail.com) for matters related to the above JRPA Application.

By way of courtesy update, I anticipate having my factum, application record, bookof authorities et al complete in short order subject to hearing from the Tribunal whether it will decide my section 21.1 of the SPPA motion or decline to exercise its discretion and any consequence of the same. I am following up currently and awaiting to hear the same which will allow me to make any appropriate adjustments to the factum, the inclusion of any potential authorities and/or supplementing the current application record.

I can also confirm that I received an email from one Ms. Judie Im of the AGO (Constitutional Branch) regarding a matter that she brought to my attention and I am responding to her in that regard. I will update all regarding the same.

Thankyou.

Warm regards,

Mr. Kevin A. McLean (B.A. (MCL), J.D., CIM)

On Fri, Nov 29, 2024 at 2:48 PM Kevin McLean <mcleansniclat@gmail.com> wrote:

> Thank you kindly everyone for your emails. If you could only include the mcleansettlement@gmail.com for purposes of the JRPA Application, I would be most grateful. I will reply from that email after sending this one herein.

Warm regards,

Mr. Kevin A. McLean (B.A. (MCL), J.D., CIM)

On Wed, Nov 27, 2024 at 3:11 PM SCJ-CSJ Div Court Mail (JUD) <scj-csj.divcourtmail@ontario.ca> wrote:

> Hello Ms. Maciel,
>
> Received and file.
>
> Thanks,
>
> ---
>
> **From:** Maciel, Milene (MAG) <Milene.Maciel@ontario.ca>
> **Sent:** Wednesday, November 27, 2024 2:52 PM
> **To:** mcleansniclat@gmail.com; Matthew.Nieuwland@tdinsurance.com
> **Cc:** Boyce, Jesse (MAG) <Jesse.Boyce@ontario.ca>; Collie, Connor (MAG) <Connor.Collie@ontario.ca>; Cloc-Reception (MAG) <Cloc.Reception@ontario.ca>; SCJ-CSJ Div Court Mail (JUD) <scj-csj.divcourtmail@ontario.ca>
> **Subject:** LAT's Notice of Appearance : McLean v. TD Home and Auto Insurance et al. : 718/24
>
> Good Afternoon,
>
> Please find attached the Licence Appeal Tribunal's Notice of Appearance and covering letter which are being served in accordance with the *Rules of Civil Procedure*.
>
> Best Regards,
>
> **Milene Maciel (Pronouns: she/her)** (learn more)
>
> Law Clerk
>
> Tribunals Ontario/ Legal Services

Court File No./N° du dossier du greffe : DC-24-00000718-00JR

E: milene.maciel@ontario.ca

W: tribunalsontario.ca

Confidential message which may be privileged. If received in error, please delete the message and advise me by return email.

Message confidentiel dont le contenu peut être privilégié. Si reçu par erreur, veuillez supprimer ce message et aviser l'expéditeur par retour de courriel.

Internal

If you wish to unsubscribe from receiving commercial electronic messages from TD Bank Group, please click here or go to the following web address: www.td.com/tdoptout
Si vous souhaitez vous désabonner des messages électroniques de nature commerciale envoyés par Groupe Banque TD veuillez cliquer ici ou vous rendre à l'adresse www.td.com/tddesab

NOTICE: Confidential message which may be privileged. Unauthorized use/disclosure prohibited. If received in error, please go to www.td.com/legal for instructions.
AVIS : Message confidentiel dont le contenu peut être privilégié. Utilisation/divulgation interdites sans permission. Si reçu par erreur, prière d'aller au www.td.com/francais/avis_juridique pour des instructions.

Internal

AR_Affidavit_37_Filed_Under Seal_Rule 13.1_Filed_Served_with e-receipt.pdf
2832K

Gmail Mr. Kevin McLean <mcleansettlement@gmail.com>

Re: LAT's Notice of Appearance : McLean v. TD Home and Auto Insurance et al. : 718/24

Mr. Kevin McLean <mcleansettlement@gmail.com> Wed, Jan 8, 2025 at 12:36 PM
To: "Nieuwland, Matthew" <Matthew.Nieuwland@tdinsurance.com>
Cc: Div Court Schedule <DivCourtSchedule@ontario.ca>, "Boyce, Jesse (MAG)" <Jesse.Boyce@ontario.ca>, "SCJ-CSJ Div Court Mail (JUD)" <scj-csj.divcourtmail@ontario.ca>, "Maciel, Milene (MAG)" <Milene.Maciel@ontario.ca>, "Collie, Connor (MAG)" <Connor.Collie@ontario.ca>, "Im, Judie (She/Her) (MAG)" <Judie.Im@ontario.ca>, "Pasquini, Heather" <Heather.Pasquini@tdinsurance.com>, Isibhakhomen.Imafidon@ontario.ca

January 8, 2025

URGENT – IMMEDIATE NOTICE PROVIDED TO THE ONSC DIVISIONAL COURT ONCE IT BECAME KNOW TO THE APPLICANT – AS OF TODAY'S DATE

VIA EMAIL

Regarding the below (pursuant to the Consolidated Practice Direction on sending emails and enclosing documents by the document naming protocol contained therein)

Court file number: Court File No. DC-24-00000718-00JR
Type of document: email
Short title of proceeding: McLean v. TDHA et al
Party: Mr. Kevin A. McLean, self-represented, Applicant, e: mcleansettlement@gmail.com;

Re: confirmation of my objection to any involvement of The Honourable Madam Justice Shore on grounds of an objectively perceived reasonable apprehension of bias based upon, inter alia, her previous position

Dear ONSC (Divisional Court):

I write further to the above. I attach affidavits #15 and #16 (with e-receipt for one of the affidavits) which condescended upon particulars of the conflict of interest and conduct of one Mr. Andrew Papadimtriopoulos from the time of my arrival in Toronto, and his relationship with the family law firm of Epstein Cole LLP.

I confirm that my objection remains at first instance to the direction of Madam Justice Shore and I respectfully submit, if necessary, that it must be set aside. To the extent that a motion is required, I am amenable to having those materials prepared and filed, and then served on the respondents and any interested persons including the above-named gentleman.

In the spirit of efficiency, I say that this was one of the many reasons that the Tribunal has not filed the record of proceeding on a forthwith basis.

Thank you.

Warm regards,

Gmail

Mr. Kevin McLean <mcleansettlement@gmail.com>

Re: LAT's Notice of Appearance : McLean v. TD Home and Auto Insurance et al. : 718/24

Mr. Kevin McLean <mcleansettlement@gmail.com> Wed, Jan 8, 2025 at 12:54 PM
To: "Nieuwland, Matthew" <Matthew.Nieuwland@tdinsurance.com>
Cc: Div Court Schedule <DivCourtSchedule@ontario.ca>, "Boyce, Jesse (MAG)" <Jesse.Boyce@ontario.ca>, "SCJ-CSJ Div Court Mail (JUD)" <scj-csj.divcourtmail@ontario.ca>, "Maciel, Milene (MAG)" <Milene.Maciel@ontario.ca>, "Collie, Connor (MAG)" <Connor.Collie@ontario.ca>, "Im, Judie (She/Her) (MAG)" <Judie.Im@ontario.ca>, "Pasquini, Heather" <Heather.Pasquini@tdinsurance.com>, Isibhakhomen.Imafidon@ontario.ca

January 8, 2025

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Type of document: email
Short title of proceeding: McLean v. TDHA et al
Party: Mr. Kevin A. McLean, self-represented, Applicant, e: mcleansettlement@gmail.com;

Re: confirmation of my objection to any involvement of The Honourable Madam Justice Shore on grounds of an objectively perceived reasonable apprehension of bias based upon, inter alia, her previous position

Dear ONSC (Divisional Court):

I write further to the above. This will conclude the relevant materials filed in the Record of Proceeding which are: (i) my COI (NOM #6) submissions; and (ii) those of the Fictitious Respondent in TDGIC.

As noted at paragraph 9, Mr. Nieuwland signed, in his capacity as a member in good standing of the LSO and while not an "officer of the court" therein similar principles apply, as follows:

> "….Please also note Andrew Papadimitropoulos is in no way associated with Andy Gera, nor has Andrew Papadimitropoulos been involved in any way with this claim or access request."

Admittedly, it was rather serendipitous to find an anniversary card of Mr. Andrew Papadimtripoulos to Ms. Nicole Artopoulos and be able to compare the "As Per A. Nurse" forged signature on the first OCF-18 to that of his rather distinct writing. Consistent with my promptness here, I brought it to the attention of the Tribunal extremely promptly.

Trusting the Tribunal will be able to file all of the documents attached herein, as they are part of the "record of proceeding", I need not attend to an affidavit attaching them all.

I will await to hear from the respondents on my request for their consent to the relief I seek and ensuring that this ONSC proceeding is governed in accordance with the rule of law and the required independence of

guaranteed by the provisions of section 96 to 101 of the Constitution Act.

Thank you.

Warm regards,

Mr. Kevin A. McLean (B.A. (MCL), J.D., CIM)

On Wed, Jan 8, 2025 at 12:36 PM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

> January 8, 2025
>
> ***URGENT – IMMEDIATE NOTICE PROVIDED TO THE ONSC DIVISIONAL COURT ONCE IT BECAME KNOW TO THE APPLICANT – AS OF TODAY'S DATE***
>
> **VIA EMAIL**
>
> Regarding the below (pursuant to the Consolidated Practice Direction on sending emails and enclosing documents by the document naming protocol contained therein)
>
> Court file number: Court File No. DC-24-00000718-00JR
> Type of document: email
> Short title of proceeding: McLean v. TDHA et al
> Party: Mr. Kevin A. McLean, self-represented, Applicant,
> e: mcleansettlement@gmail.com;
>
> Re: confirmation of my objection to any involvement of The Honourable Madam Justice Shore on grounds of an objectively perceived reasonable apprehension of bias based upon, inter alia, her previous position
>
> Dear ONSC (Divisional Court):
>
> I write further to the above. I attach affidavits #15 and #16 (with e-receipt for one of the affidavits) which condescended upon particulars of the conflict of interest and conduct of one Mr. Andrew Papadimtriopoulos from the time of my arrival in Toronto, and his relationship with the family law firm of Epstein Cole LLP.
>
> I confirm that my objection remains at first instance to the direction of Madam Justice Shore and I respectfully submit, if necessary, that it must be set aside. To the extent that a motion is required, I am amenable to having those materials prepared and filed, and then served on the respondents and any interested persons including the above-named gentleman.
>
> In the spirit of efficiency, I say that this was one of the many reasons that the Tribunal has not filed the record of proceeding on a forthwith basis.
>
> Thank you.
>
> Warm regards,
>
> **Mr. Kevin A. McLean (B.A. (MCL), J.D., CIM)**

Gmail

Mr. Kevin McLean <mcleansettlement@gmail.com>

Re: LAT's Notice of Appearance : McLean v. TD Home and Auto Insurance et al. : 718/24

Mr. Kevin McLean <mcleansettlement@gmail.com> Wed, Jan 8, 2025 at 1:35 PM
To: "Nieuwland, Matthew" <Matthew.Nieuwland@tdinsurance.com>
Cc: Div Court Schedule <DivCourtSchedule@ontario.ca>, "Boyce, Jesse (MAG)" <Jesse.Boyce@ontario.ca>, "SCJ-CSJ Div Court Mail (JUD)" <scj-csj.divcourtmail@ontario.ca>, "Maciel, Milene (MAG)" <Milene.Maciel@ontario.ca>, "Collie, Connor (MAG)" <Connor.Collie@ontario.ca>, "Im, Judie (She/Her) (MAG)" <Judie.Im@ontario.ca>, "Pasquini, Heather" <Heather.Pasquini@tdinsurance.com>, Isibhakhomen.Imafidon@ontario.ca

January 8, 2025

URGENT – SNIC HAS NOT CONSENTED TO AN ADJOURNMENT OF THE HEARING PROPER IN THE TRIBUNAL PROCEEDING

VIA EMAIL

Regarding the below (pursuant to the Consolidated Practice Direction on sending emails and enclosing documents by the document naming protocol contained therein)

Court file number: Court File No. DC-24-00000718-00JR
Type of document: email
Short title of proceeding: McLean v. TDHA et al
Party: Mr. Kevin A. McLean, self-represented, Applicant, e: mcleansettlement@gmail.com;

Re: SNIC will not consent to a brief adjournment of the LAT Proceeding

Re #2: reiterated respectful requests herein for the below

Dear ONSC (Divisional Court):

I can now confirm that Mr. Nieuwland has confirmed on behalf of his sole client in the LAT Proceeding that his client [singular] will not consent to an adjournment. As such, I will exhaust the avenue of an adjournment motion and submissions therein and apprise the ONSC Divisional Court of the same with a status update when available. However, suffice it to say, I respectfully submit that the urgency which I conveyed in my JRPA Application, Applicant's Factum, and my affidavit #2 has increased.

If I obtain an adjournment, which I doubt I will with the current composition and issues with the LAT, I would kindly ask that you provide me with the invitation to the Case Center.

While I appreciate Ms. Lawrence's responses, prompt as they were, regarding an apparent, but unknown to me, apparent convention, that was in contradiction to the ONSC Divisional Court JRPA Guide[i] (i.e. an invitation will be sent out after the JRPA Application was brought), to only provide an invitation once there is a set hearing. I also respectfully submit that my interpretation, consistent with the only "Guide" I know, is consistent with the requirement of submitting documents promptly by way of uploading into Case Center (formerly Case Lines).

I will presume that my above requisitions have been filed and in light of the above. I appreciate that uploading is different than filing and the filing of the materials is the paramount documents but nonetheless, I am doing my best to be prompt and I, with great respect, submit that the Court should have access to the

whatsoever.

I also say so in light of Mr. Boyce confirming that he has what he believes to have the correct page count of the record of proceeding. I trust after he files and serves the same, he can upload the same into Case Center but for efficient and respectful communications between all, it would be helpful, no matter what the appearances are, to be able to refer to the same.

Also, I am contemplating the bringing of at least one motion (potentially on short leave) so even on that basis, I would ask that an invitation is sent to me so I can acclimate myself (which I say is also consistent with the document I received relating to my Certificate Of Perfection) and ensure that I am fully accustomed with the same.

If it requires a requisition, I will do so and request the invite regarding the same.

I appreciate that there have been quite a few emails from me but naturally the above potential conflict of interest, non-consent by SNIC to the adjournment request and increasing urgency required my drawing all to the attention to the Court and the respondents.

I confirm, as a courtesy, that when (as of recently)(I have been filing through the “civil submissions online” portal, I note that I am the “only party” and the other box is for “non-parties”. I believe that will need to be corrected for those parties that have presumptive standing under the JRPA in relation to my JRPA Application.

I trust that all of the above is sufficiently clear and unambiguous and I confirm that I will continue to rely on strict compliance with all laws and rules unless I say otherwise, and I confirm that I am held to the higher standard.

Thank you kindly.

---

[i] Perhaps I have an antiquated copy from the online version and I apologize in that regard if I do

Warm regards,

Mr. Kevin A. McLean (B.A. (MCL), J.D., CIM)

On Wed, Jan 8, 2025 at 12:54 PM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

> January 8, 2025
>
> ***URGENT – IMMEDIATE NOTICE PROVIDED TO THE ONSC DIVISIONAL COURT ONCE IT BECAME KNOW TO THE APPLICANT – AS OF TODAY’S DATE***
>
> **VIA EMAIL**
>
> Regarding the below (pursuant to the Consolidated Practice Direction on sending emails and enclosing documents by the document naming protocol contained therein)

THIS IS EXHIBIT "B" REFERRED TO IN THE
AFFIDAVIT OF Kevin B. McLean
AFFIRMED BEFORE ME, THIS 9th DAY
OF January 20 25

.....
.....
JER, ETC.

Vinh The Tran, Esq., LSUC #57761C
Lawyer, Notary, Oaths Commissioner
188 Bloor Dupont Street, Toronto, ON
M6G 1Z4, T: 647-209-7389
vtranlawyer@hotmail.com

This is the 15th Affidavit of Kevin A. McLean under TD's Claim Number 035325790-3 (the "Claim Number" or "TD Claim #3"), TD Insurance Policy Number #001013511806 (the "Policy Number"), LAT File Number "23-015662/AABS" (the "LAT File Number" or "LAT Proceeding") and was finalized and made on April 2, 2024

BETWEEN:

KEVIN ALEXANDER MCLEAN

APPLICANT/APPELLANT

AND:

TD INSURANCE MELOCHE MONNEX (SECURITY NATIONAL INSURANCE COMPANY)

RESPONDENT

Affidavit #15 of Kevin A. McLean

In a matter under the *Insurance Act*, RSO 1990, c I.8, (the "*Insurance Act*")

In the matter of an "**Application of an Injured Person**" ("**Application**" or "**AIP**") by the **Applicant** pursuant to subsection 280(2) of the *Insurance Act*, RSO 1990, c I.8., in relation to statutory **Accident benefits** and the following regulations including but not limited to:

i. *Statutory Accident Benefits Schedule*, O Reg 34/10 ("*SABS*"); and
ii. *Automobile Insurance*, RRO 1990, **Reg 664** ("*Reg 664*").

I, Kevin Alexander **McLean**, Disabled (B.A., J.D., CIM) of **Toronto, Ontario AFFIRM** THAT:

VOLUME #1: affirmation

1. I am the affiant (also defined as the "**Applicant**", "**Disabled Individual**" and/or "**CAT Impaired Individual**") herein and I affirm, under the pains and penalties of perjury, the following facts to be true. Where I have stated information on my belief, I have cited the source of my belief by references, citations, end-noting or otherwise.

2. Where I have used square brackets (i.e. [.....]), I have done so for ease of reference and to provide my evidentiary beliefs while citing the source of the same.

3. Where there are double underlined words, they are mine for ease of reference.

4 I have adopted the definitions from my served and filed evidence herein and the have same meaning herein as they do therein.

5. I adopt the definitions from the above noted legislation and regulations, including rules where not made under the *SPPA*, and they have the same meaning herein as they do therein.

6. Where I have included definitions, I am not making a legal argument in this affirm evidence but I have included the same for consistency purposes.

7. I affirm that where I have added emphasis is "copying and pasting" from any legislation, regulation or rule, the emphasis mine.

Volume #2: Authorities (BOA for NOM #6)

8. I have read and had compiled the following authorities and they will be, with perhaps additional authorities, my book of authorities for **NOM #6** herein [provided now as a courtesy]:

a. *Talisman Resort GP Inc. v. Keyser, Usling et al*, 2013 ONSC 1901; per Conlan J. ["*Talisman Resort*"]
b. *Personal Insurance Company v. Jia*, 2020 ONSC 6361 ["Jia"]
c. *Yellow Cedar v. Di Torio*, 2020 ONSC 5915 citing *MacDonald Estate v. Martin* ["Yellow Cedar"]
d. *Essa (Township) v. Guergis; Membery v. Hill*, 1993 CanLII 8756 (ON SCDC) ["*Essa*"]
e. *Eskandari v. Ratzman* 2023 ONSC 1674 ["*Ratzman*"]
f. *R. v. Smith*, 2020 ONCJ 611 ["*R. v. Smith*"]
g. *Felton Brushes Limited v Atlantis Properties Hamilton Inc.*, 2020 ONSC 2315 ["*Felton Brushes*"]
h. *Barnett, Re*, 1997 CanLII 851 (ON LST) ["*Barnett*"]
i. *Law Society of Ontario v. Collins*, 2021 ONLSTH 177["*Collins*"]
j. *Law Society of Ontario v. Sherman*, 2024 ONLSTH 26 ["*Sherman*"]
k. *Law Society of Ontario v. Fuhgeh*, 2020 ONLSTH 75 ["*Fuhgeh*"]
l. *Law Society of Ontario v. Dinnen*, 2019 ONLSTH 33 ["*Dinnen*"],[3] and
m. Others.

Volume 2(A): Affidavit #15 is without Exhibits

9. Now shown to me is **Exhibit "A"**, pages 1 to 81:

a. **Tab 1**:
   i. pages 1 to 48: emails of myself and from some of the recipients in the thread denoted under my email as **NOM #6**;
b. **Tab 2**:
   i. pages 49 to 51: emails from Ms. Moraes to LAT and myself, and myself";
c. **Tab 3**.
   i. Pages 52 to 64
      1. Part 1: emails from **Mr. Karat** to myself on January 25, 2024 (see. page 53 and 54);
      2. Part 2: cover letter from **Mr. Karat** to myself (without Mr. Nieuwland copied on the previous email) with the return address of SNIC Markham and the logo of **TD** Insurance Meloche Monnex. The cover letter is unsigned by **Mr. Karat** yet the Purported SNIC Response is signed by **Mr. Karat**,
      3. Part 3: screenshots of page 1 from the Purported SNIC Response wherein the name of THE insurance company is input, "Security National Insurance Company"
      4. Part 4: page 4 of the Purported SNIC Response, By-Law 7.1, section 6(1) with a focus on section 6(1)(d) and my inclusion of an issues involving, "facilitation of unauthorized practice of law but which licensee?"

4574 Electronically filed / Déposé par voie électronique : 18-Feb-2025
Toronto Superior Court of Justice / Cour supérieure de justice

d. **Tab 4:**
   i. Pages 63 to 64: example of one of the denial letters wherein SNIC Burlington (Persaud as the reference contact) was utilized as the address with the same logo as TD Insurance Meloche Monnex as the cover letter for the attached Purported SNIC Response by Mr. Karat via email on January 25, 2024;

e. **Tab 5:**
   i. Pages 65 to 69: the locations of TDGIC (Toronto) (an unnamed respondent and party in the Appeal and Purported SNIC Response), SNIC Markham and SNIC Burlington

f. **Tab 6:** page 70
   i. Excerpt from *Bament*;

g. **Tab 7:**
   i. Pages 70 to 81.
      1. Excerpts from *R. v. Smith*, 2020 ONCJ 611

Volume 2(B): Affidavit #15

10. This affidavit #15 is an extension of the notice provided in the IRB Appendix that has been filed with LAT as it relates to the following paragraphs therein:

> (*NOTA BENE*: Whether there is a "ghostwriter" or not, the admissions were made and the Applicant is relying upon them. Of course, there could be further repercussions or issues arising from a lawyer not inputting his name on various documents and "supervising", "encouraging" or "facilitating" breaches of the LSA and *By-Laws*, guidelines and his ROPC. To confirm, said lawyer hyperlinked above is NOT Mr. Nieuwland. It raises distinct issues regarding abuses of process that are distinct from NOM #5 and whether a former spouse of the Applicant's current spouse, who was named as the primary insured, is or was authorized to act, even in a potentially covert or surreptitious manner, based on a potential conflict of interest, and/or abusing the process of the LAT. Perhaps, this lawyer cited above coerced Mr. Karat to complete, sign and file the Purported SNIC Response which would make such unauthorized execution of the same all the more egregious and an abuse of process. If necessary to be argued, it may speak to why the IRB's have been delayed and withheld in such an unreasonable manner. There will also be some contextual evidence provided (if necessary) that Mr. Karat purportedly provided a response to a *PIPEDA* request with his name in the letter as the author but the metadata showed the name of "ANDY GERA" which is a fictitious name. When investigating the issue, "Andy" is the short name for the first name of the above noted lawyer and "Gera" means "generated" in Portuguese. Put another way, "Generated by Andy" when the document itself has no reference to the same but the metadata did. The reference to "Portuguese" translation is yet another compelling piece of evidence considering that the assistant that Mr. Nieuwland wished to have included in emails with the Applicant (as he represented that Ms. Michelle Moraes was his legal assistant when her signature block represented that she was the legal assistant to two female lawyers) is a P1 license holder who has acted for applicants before LAT. In her current role, she is "not providing legal services - employed" with TD Insurance Staff Legal. The Applicant has confirmed with Mr. Karat and Mr. Nieuwland that until Mr. Nieuwland confirms by affidavit that said individual (Ms. Moraes) is his legal assistant that she will not be included for, *inter alia*, concerns over whether Mr. Nieuwland has effective control over her non-licensee activities to him and whether they are following LSO *By-Law* 7.1 et al. The Tribunal will also be aware that it was Ms. Moraes that attempted to seek an adjournment of the agreed to case conference (until the nullity issue was found

and brought to the immediate attention of SNIC (including **Karat** and **Nieuwland**) from the May 2, 2024. Interestingly, when LAT confirmed with Ms. **Moraes** that under the New LAT Rules that a motion was required to seek an adjournment of the case conference, no motion was brought. Of course, it would have required legal counsel in **Mr. Nieuwland** to explain why he was not available as the issues in the Appeal and **Purported SNIC Response** involve **CAT Impairment**.

Moreover, in the "purported *PIPEDA* response", there was a reference to "internal" at the bottom of the document when it was sent externally to the "requestor" under that federal legislation (but the same named individual appellant herein) which is consistent with the emails of Ms. **Moraes** where there is a reference to "internal".

It is a difficult legal issue to determine, which has factual elements that need resolution, as to whether a ex-spouse or divorced spouse of the Applicant's current spouse is authorized to act against him (even covertly or surreptitiously – behind the names of others) but it would appear to be a form of "bad faith" and "abuse of process" to do so in a covert manner and only be discovered with forensic investigating or general investigation. Moreover, there is no dispute that that **Mr. Karat** was not authorized to SIGN even correspondence unless it was correspondence of a "routine administrative nature" and "directly supervised by the supervising lawyer" What is telling about the service of the **Purported SNIC Response** is that **Mr. Karat** did NOT include Mr. **Nieuwland** on said email when he did in the initial email on January 23, 2024 when Mr. **Karat** referenced the "**Karat** LAT Assignment" which was his handling of the LAT dispute. Moreover, it cannot go unnoticed by the Tribunal that **Mr. Karat** has been referenced in "two reported decisions" of which one is *Quinn v* ***Security National Insurance Company***, 2023 CanLII 58482 (ON LAT) and this very lawyer hyperlinked above is named therein. In any event, irrespective of whether the current speculation is that there may be more evidence involving abuse of process of LAT by SNIC, the **Purported SNIC Response** contains the relevant admissions regarding the IRB, regarding all essential elements to determine quantum for SNIC to make payments without further delaying the same.

Perhaps, it is even more concerning that from a Reg 664 award standpoint that the very hyperlinked lawyer above no longer represents himself to a lawyer on his LinkedIn but a "**Consequences Manager**". It is unclear if a "consequences manager" is only in the role of "providing legal services" and NOT practising law such that it would preclude him from handling matters involving "**CAT Impairment**". Whatever the role is of a "Consequences Manager", said lawyer who has worked with **Mr. Karat** on various files where he was "counsel", still leaves the undisputed issues of the admissions in the **Purported SNIC Response** and that **Mr. Karat** was unauthorized to SIGN the Responsive Pleading (also defined as "**Purported SNIC Response**").

If this lawyer (NOT **Mr. Nieuwland**) was the "Supervising Lawyer" of **Mr. Karat**, he would authorized the breaches of *By-Law* 7.1, section 6(1)(b) and (d) at the very least. Moreover, if this "Supervising Lawyer" (not named Mr. **Nieuwland**) was supervising **Mr. Karat** to engage in the unauthorized signing of the **Purported SNIC Response**, it provides further grounds for why the admissions are binding and cannot be retracted even though no steps have been taken to do so.

Perhaps, this is why Mr. Nieuwland included the name of a different respondent in the Nieuwland DOR. Further, it may be the reality that this is why Mr. Nieuwland was not willing to bring a motion to refile the Purported SNIC Response. While understandable as a matter of lawyer self-preservation, it does not absolve SNIC from its breaches of *SABS* and its continued unreasonable withholding or delay of payment of the IRB.

It also raises another complex academic issue in that the Tribunal has found that it cannot remove an adjuster from the underlying file but it certainly can find "abuse of process" on the facts that are subject to the Reconsideration Motion and certainly a separate motion if necessary involving this "ghostwriting lawyer" whilst Mr. Karat remaining the "sole signatory" of the Purported SNIC Response

Even if this lawyer or any other lawyer was completing the Purported SNIC Response, it remains Mr. Karat who executed the Purported SNIC Response without any explicit reference to any other lawyer therein or otherwise.

Perhaps, this "ghostwriting and covert supervising lawyer" was unaware that an unlicensed representative (non-lawyer or non-paralegal) was not authorized to sign a response, and certainly not a "response" involving CAT Impairment. While it may never be necessary to canvass these discrete issue in a separate motion or hearing, they will then stand as further grounds (somewhat of a pre-emptive reply) for a Reg 664 award with regard to ordering the full 50% penalty in this motion and any potential motions that deal with any periods after the IRB Denial Date (subject to it actually being a compliant denial with medical reasons and other reasons).

At the very least, they are very suspicious circumstances which further aggravating elements (if necessary) as to why a Reg 664 is required. Simply put, whether any of the above is true (or is faced with evidence in the responsive materials if tendered by the Payor in authorized fashion), it requires a strong message of deterrence – all subject to the whether the Appellant and SNIC potentially resolve the issues in the NOM #4 without the need for a hearing

Of course, if SNIC makes those payments, it avoids the risk of any costs at a hearing per se. If not, this is a certainly a form of notice to SNIC regarding the same and the requirement that any and all relevant individuals and persons provide affidavit evidence that "explains why" an unprecedented peculiar set of facts that LAT has never addressed before.]

Volume #3: Timing of this motion

Volume #3(A): My acting promptly

11. I have read the decision of *Talisman Resort*[1]. My review of *Talisman Resort* has led me to believe and act, in my view, promptly to provide advance notice to the Respondent SNIC, Karat, Nieuwland, Moraes, Russell and AP. As of April 2, 2024, Mr. Nieuwland has included an additional individual in Ms. Christina Ortiz who is unknown to me. I was about to have the previous version of this affidavit finalized and made yet Mr. Nieuwland included a new individual in his email without any formal introduction of her.

12. While I am considering filing for a judicial review, pursuant to the *JRPA* and/or appeal, pursuant to *LAIA*, regarding the **Lake Motion Decision** and **Logan Reconsideration Decision**, my review of the law leads me to believe that I have 30 days from March 22, 2024 which is on or around April 21, 2024.

Volume #3(B): acting in accordance with section 2 of the SPPA (most expeditious, cost-effective and just manner)

13. I believe if this **NOM #6** is granted in full or in certain parts that such a judicial review or appeal will not be necessary

14. I am seeking a final order in **NOM #6** that this **LAT Proceeding**, which I have defined as the "**SNIC Proceeding**" as **SNIC** was the underwriter or insurer of the Policy Number involving the Insurance Policy with the **Policy Holder** being my Spouse, Nicole Artopoulos ("**Female Spouse**" or "Nicole"), that this **SNIC Proceeding** has been irremediably tainted by my allegation and evidence of conflict of interest involving, *inter alia*, the ex-husband or divorced husband of Nicole in **Mr. Andrew Papadimitropoulos** (the "**Divorced Husband Conflicted Lawyer**") being involved in the following:

a. **TD Claim Numbers**;
b. **TD Claim Number** 3 or **TD Claim Number #3**;
c. **This SNIC Proceeding** or LAT Proceeding; and
d. Others.

15. My reason for seeking a final order, as it relates to the liability of the Respondent which is "**TD Insurance** Meloche Monnex (**Security National Insurance Company**) (see striking the **Purported SNIC Response** from the record of proceeding without leave to refile), with quantum of benefits to be assessed, is that I am unaware of any case law or jurisprudence where the conflicted counsel was an in-house counsel or in-house manager of *SABS* matters or LAT matters but was involved surreptitiously or clandestinely yet a fortuitous metadata finding (along with other evidence) provide circumstantial evidence of said lawyer's involvement.

16. I define these "**Matters**" as the "**TD Claim Number #3**" and the "**SNIC Proceeding**".

17. In these **Matters**, after my finding of the metadata, particularly the "descriptive metadata" of "**ANDY GERA**" as the "actual author" in the *PIPEDA* response that was purportedly authored by **Mr David Karat** (the "**Purported Author**") which also provided **Mr. Karat** as the purported contact point for further questions (the "**Purported Contact**"), I requested in the *PIPEDA* matter, which is also now a complaint but not relevant in the **SNIC Proceeding**, that the addressed individuals therein provide me the contact information of "**ANDY GERA**" TD Canada Trust (although my *PIPEDA* request was addressed to the division of "**TD SNIC**") did not respond from that time and have not responded. I provide this evidence for context.

18. Thereafter, I attempted to input and have researched the name of "**ANDY GERA**" and no name of "**ANDY GERA**" could be found as an employee, contractor or counsel to TD Bank Group including **TD Insurance** or any of the group of insurance companies listed (i) Primmum; (ii) **SNIC**; (iii) TD Home And Auto; (iv) TDGIC; or (v) otherwise.

19. I further could not find any licensee (lawyer or paralegal) in the **LSO** directory with said name.

20. I even input, by way of email, the name of "**ANDY GERA**" or "*Andrew Gera*" into follow-up emails under the *PIPEDA* matter and they all bounced back.

21. By way of reference to technological, investigative and research aids, I had or had others utilize various social media platforms, RocketReach, ZoomInfo, and others to determine if "**ANDY GERA**" was in any associated or affiliated with **TD Bank Group** or **TD Insurance**, and no results returned any match.

Volume 3(C): Ms. Nurse

22. By way of previous success in this realm, I was unable to have Ms. Alisha Anne-Nurse (also defined as the "Initial Adjuster" or "Former Adjuster") provide me with an email so I researched or had researched the name. I believe that I had tried some ten different permutations associated with Ms. Nurse's email address and they all failed mail I utilized alisha.anne@tdinsurance.com and it was successful.

23. I will note parenthetically that I learned on or around March 29, 2024 that Ms. Nurse's email was now causing a bounce back and was no longer active. Upon learning the same, I updated my address book to have her removed, and corresponded with Ms. Persaud and others to confirm that she was no longer employed or associated with TD Insurance.

24. Upon learning of the Actual COI[4] or Reasonably Perceived COI, I inquired with Mr. Karat and Mr. Nieuwland as to whether the Divorced Husband or Conflicted Lawyer had any involvement in the TD Claim Numbers (which I reference because there was a requirement to have the Insured Automobile repaired in September 2022 which was handled by my Spouse (Nicole) as she was the Policy Holder under the TD Insurance Policy) and they did not respond. In that regard and for this NOM #6, I will be relying on the law of adverse inference.

Volume #3(D): Mr. Karat

25. On or around March 30, 2024, I received an auto-reply from Mr. David Karat and it was different than the previous auto-replies which LAT will have in the record of proceeding demonstrating that Mr. Karat's outgoing emails to me referenced "Representing the Security National Insurance Company" and his auto-replies referenced "Representing TDGIC". To juxtapose, Mr. Karat's auto-reply on March 30, 2024 reference that he was "authorized to represent Primmum, TD Home and Auto, and TD General Insurance Company" but NOT SNIC. I found this strange.

26 In finding the auto-reply to be somewhat strange, I followed with the individuals noted above to confirm the same and, in my view, the legal consequences of the same as it relates to this SNIC Proceeding.

The Karat auto-reply

27. I also received an auto-reply from the Karat, and I noted the same with aforementioned individuals. It was then brought to my attention that there were similarities between the one email that I had received from TDIADR@tdinsurance.com and the auto-reply of the Karat. On March 31, 2024, I provided notice of the same, and other issues which sought a response on a with prejudice or without prejudice basis for resolution purposes, and I have not received a response as of today's date.

28. For ease of reference, I now copy and paste the same with the Karat's auto-reply and the one TDIADR@tdinsurance.com response to me on my former email lat@confidentialmclean.ca

Papadimitropoulos, Andrew Thu, Mar 28, 10:40 PM (2 days ago)

to me

Please be advised that I will be away from the office on March, 28, 2024 with limited access to e-mail and voicemail.

Regards,
Andrew

TDI ADR <TDIADR@tdinsurance.com>

Wed, Jan 17, 7:15 AM

to me

Please do not forward claims expenses to this mailbox

Internal

[no signature or name therein]

29. I believe and allege that the Karat sent me the email, albeit without revealing his name, on January 17, 2024.

30. I believe and allege that Mr. Karat's January 23, 2024 email to me which referenced the communication protocol involving directing LAT matters to himself and Mr. Nieuwland (copied on that email) was by advise or instruction of the **Karat** or **Conflicted Divorced Lawyer**.

Volume #4: Karat

Volume #4(A): Further particulars

31. I believe, based on the same public media profiles, that **Divorced Husband Conflicted Lawyer** has been a lawyer with **TD Insurance** since on or around 2018. I now believe and allege, after some 19 months after the Accident, that the **Divorced Husband Conflicted Lawyer** has been involved in the **TD Claim Numbers** and **TD Claim #3** despite never providing his exact legal name.

Volume #5: Ms. Morales is NOT the legal assistant to Mr. Nieuwland; Ms. Morales is the legal assistant to Ms. Klukowska and Ms. Saeed

32. I affirm that I believe that Ms. Morales is NOT the legal assistant to Mr. Nieuwland because I believe, based on review of the **LSA**, the **LSO** Bylaws, the **LSO** guidelines and the **ROPC** for lawyers and paralegals that a non-licensee (such as Ms. Morales when acting as a legal assistant for **TD Insurance** Staff Legal) is required to denote at all times who she is working under (by way of supervision, delegation and assignment of tasks and functions (see: By-Law 7.1: Operational Obligations And Responsibilities) – even a paralegal working under the supervision of lawyer licensee.

33. At all times herein and based upon my review, Ms. Morales' signature block references two female lawyers (Ms. Klukowska and Ms. Saeed).

34. I do not believe that either Ms. Klukowska or Ms. Saeed's names (in part or in whole) are aliases for "Matthew Nieuwland".

35. I re-affirm that Mr. Nieuwland has not provided me an affidavit (even in made form) that Ms. Moraes is his legal assistant. I do note that in a few emails that Mr. Nieuwland included Ms. Moraes' name as his legal assistant but she is not contained in his auto-reply and I believe that Mr. Nieuwland has the legal test backwards. In this regard, I do not believe it is sufficient for a lawyer to represent that an individual is his legal assistant in communications with a "third person" but rather it is the duty of the legal assistant (and the legal assistant's supervising lawyers) to ensure that in all communications with others that the role in which the legal assistant is acting and whom he or she is working under the supervision of, is clearly denoted.

36. I commenced drafting the above paragraphs prior to receiving the email from Mr. Nieuwland where he has now represented that his legal assistant is Mr Christiana Ortiz I believe and allege that this is consistent with my position that Mr. Nieuwland was not honest with me in representing that Ms. Moraes was his assistant

Volume #6: TD Bank's head office: the location

37. I affirm that I believe and allege that TD Bank's head office is at 66 Wellington West, Toronto, Ontario.

38. I affirm that I believe that based on the LSO Directory that Mr. Nieuwland (a lawyer licensee) and Ms. Moraes (a paralegal licensee although her current status is "employed – not providing legal services") are both employed or work at the private practice firm of "TD Insurance Staff Legal".

39. I believe that the locations of TD Bank and TD Insurance Staff Legal are in the same office building on Wellington Street West.

Volume #7: Ms. Moraes and her ability to speak Portuguese

40. In having Ms. Moraes public profiles review, I noted that she had promoted the country of Portugal and the Portuguese flag. I then thought to myself that the word "Gera" might be a reference to a different language so I, *inter alia*, contacted one of my Portuguese friends that I attended law school with in the mid 2000's to ask him, without influencing him, whether the word "gera" or "Gera" meant anything to him.

41. His response was to the effect, "Kev, gera, if it is a reference to a Portuguese word, means creates, generates or to make...something like that."

42 My response was one of astonishment, shock and I believe that I had that, colloquial speaking, "ah ha moment" or epiphany.

43. I believe that Ms. Moraes was the sender of the document to me, albeit by uploading, to the TD access requests portal. I believe that Ms. Moraes knows how to do the same. I believe that Ms Moraes was advised and instructed by the Divorced Husband Conflicted Lawyer to include the following:

a. Name of Mr. Karat as the purported author;
b. Mr. Karat as the purported contact point; and
c To include language like solicitor-client privilege and litigation privilege but I believe there was a
d.

44. I believe that Ms. Moraes knows that there was and is a potential conflict of interest in the TD Claim Number and the SNIC Proceeding

45. I believe that Ms. Moraes attempt to be, in my opinion and my qualifier, "clever" by doing the following:
a. Using a shortened version of the name "Andrew" in reference to the Divorced Husband Conflicted Lawyer; and
b. Her, at least, bilingualism, to use the word "Gera" for the word "generated", "created" or "made".

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46. I note that in reviewing Ms. Morales' LinkedIn, she some approximately four weeks ago had posted that she was looking for new employment with a job posting that was referenced by another person by way of expressing her interest in the same The job posting was eventually "filled".

Volume #8: Metadata[7]

47. The definition and interpretation of "Metadata" is end-noted above.

Volume #9: Descriptive Metadata[8]

48. The definition and interpretation of "Descriptive metadata" is end-noted.

Volume #10: the word "generated" in the world of metadata

49. I believe it is self-explanatory that there is metadata that is generated and created automatically and those aspects that are input. I believe Ms. Morales and/or the **Divorced Husband Conflicted Lawyer** input the name of the "actual author" albeit by way of what I allege is pseudonym of "Andy Gera" for the **Divorced Husband Conflicted Lawyer**.

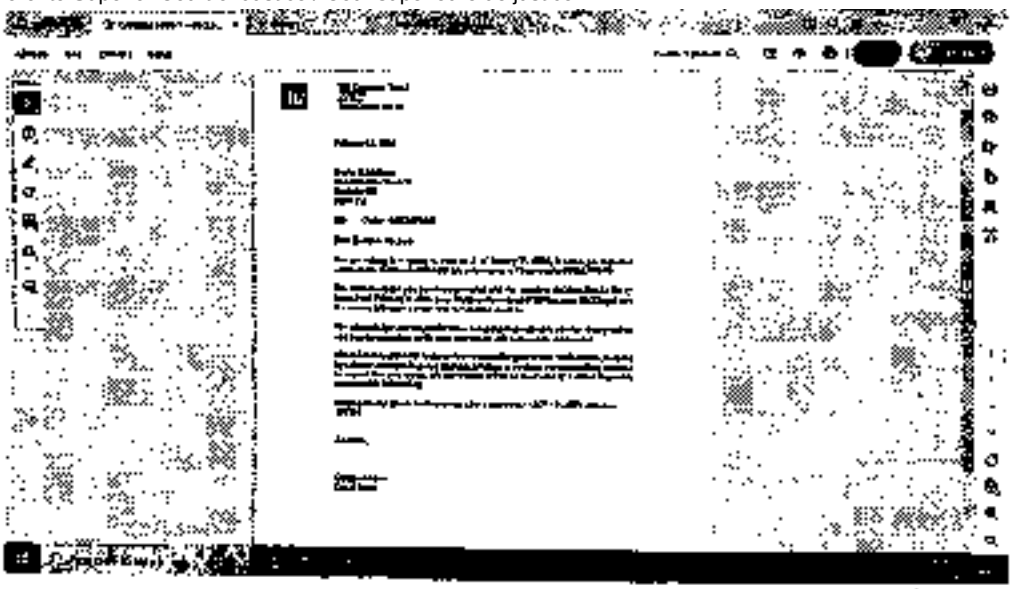
Volume #11: TD Insurance lawyers, paralegals and ADRR's use "Outlook"

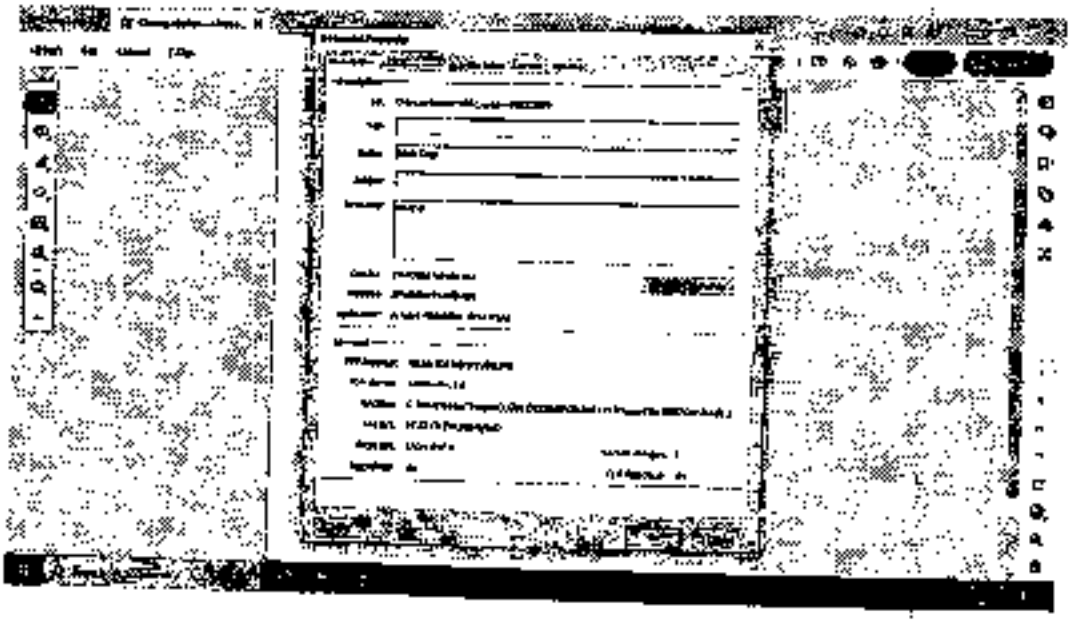
50. After investigating the emails involving some or all of the above, I found that the individuals at **TD Insurance, TD Insurance Staff Legal et al**, above use "Outlook". I am more familiar with "Gmail" and "Gsuite" so I reviewed some of the metadata therein and their IP addresses.

Volume #12: The "ANDY GERA" authored document

51. Now shown to me is a screenshotted copy of the *PIPEDA* response by the **Purported Author (Karat)** and the **Purported Contact Person (Karat)** for the *PIPEDA* matter, and the metadata in sequence.

52. Now shown to me is a screenshot of the letter that appears to have been authored by "David Karat" (albeit unsigned) and the metadata of that same document





Volume #13: The File Name of the ANDY GERA Authored Document

53 The file name of the *PIPEDA* response letter, which includes a correct **TD Claim Number** and an incorrect **TD** claim file number, was and is:

"Closing+Letter+-+McLean+-+035325790"

54. I still do not know what is meant by save for "reserve information" which has been redacted for "reserves".

55. For context, I have sought clarification of the same but without a response from "TD Canada Trust".

Volume #14: The ++ signs in the file name and the word "internal" (which is used for email)

56 After review, I count five plus signs. After review of some "Outlook" educational forums on why the usage of (+ signs), it appears that it is protocol to put (+++) when there are a total of three people in the thread. There are five plus signs in a letter but it has the "Internal" at the bottom which is, in my view, indicative of an email that was then copied and pasted from email to "Word". I cannot allege whether there is an additional individual or person involved as that can only be provided by responsive evidence.

57. I affirm under the penalty of perjury that I believe that there are, at least, four persons involved in this file and two of them are representing, pursuant to section 1(7) of the *LSA*, SNIC and those two individuals are:

a. Mr. David Karat by his signature of the **Purported SNIC Response**; and
b. The **Divorced Husband Conflicted Lawyer** also known as "**ANDY GERA**".

Volume #15: My allegation of a "scheme" to carefully avoid the "conflict of interest" issues between Nieuwland, Karat, Moraes and the Divorced Husband Conflicted Lawyer

58 I now allege that the four individuals of **Karat, Nieuwland, Moraes** and **the Divorced Husband Conflicted Lawyer** were all aware of the conflict of interest issues and their professional obligations but for one person with respect to professional obligations and that is Mr. **David Karat**.

59. I now quote from the following [emphasis is mine]:

Law Society of Ontario v. Collins, 2021 ONLSTH 177

[33] In *Crawford v. Law Society of Upper Canada*,[1] the hearing panel addressed the policy reasons for the rule

> Former licensees are **uninsured, and immune** from the regulatory and disciplinary control of the Law Society.... Former licensees do <u>not</u> contribute to the Compensation Fund, are not subject to trust accounting requirements, and are not subject to assessment of any fee taken. This presents an obvious and significant risk to the public, in that there is no recourse to the Law Society's regulatory structure and, generally, little to no recourse against the former licensee for **negligent** or **fraudulent** acts done in the course of unauthorized practice.

Volume #16: Mr. Nieuwland's continued insistance on me including Ms. Moraes in email threads and my refusal subject to an affidavit from him (see: *Eskandari v. Ranzman* 2023 ONSC 1674)

60. I again note that Mr. Nieuwland at various points requested that I include Ms. Moraes, his alleged legal assistant, in emails and I refused to do so for the aforementioned reasons. As I commenced drafting this affidavit in March 2024, I learned as of today's date that Mr Nieuwland's actual legal assistant is Ms. Ortiz. I again do not castigate Ms. Ortiz in any manner regarding the same.

61. I now believe that Mr. Nieuwland was requesting the same because he knew or had knowledge of the conflict of interest issues and he wished to distance himself from the same. However, I now believe, even more forcefully, that Mr. Nieuwland was an integral part of a "plan" or "scheme" to attempt to avoid me learning that the **Divorced Husband Conflicted Lawyer** was involved in the TD Claim Numbers and the SNIC Proceeding.

62. However, if that is factual and correct, and he was somehow assigned or delegated this LAT Proceeding or SNIC Proceeding along with Mr. Karat, they both have my empathies to some degree but I cannot excuse or condone the same considering the Purported SNIC Response has my Spouse's name therein. I do not take kindly to any involvement of the Divorced Husband Conflicted Lawyer being involved in the TD Claim Number and/or this SNIC Proceeding.

63 I believe that there would be emails between Karat and Moraes, and Moraes and the Divorced Husband Conflicted Lawyer. I believe that the Divorced Husband Conflicted Lawyer wished to not have any emails between himself and Mr. Nieuwland or Mr. Nieuwland insisted on the same. However, I will await the final completion of an investigation into the same by the OPCC.

Volume #17: Unable to take meaningful steps:

Another legal ground seeking a final order and I am putting Mr Nieuwland, who calls himself "counsel of record" on notice in relation to the upcoming responsive deadline date for NOM #4

64 I am providing this affidavit in made form but not yet notarized, but served and filed, for the purposes of allowing SNIC to resolve this matter in accordance with *SABS* and without the intervention of the LAT. If it is fails to do so with an authorized legal representative of SNIC, then I will proceed with my motion and require, albeit regrettably, the assistance and intervention of LAT.

Volume #18: Background on Ms. Klukowska and Ms. Saeed

65. I now copy and paste the following involving those two lawyers who Ms. Moraes represents in her signature block that she is legal assistant to:

Volume #18(A): Ms. Klukowska's cases

Ms. Klukowska, appears, from our research to only have been named as counsel in one case but for Security National Insurance Company: *Bahreran v SECURITY NATIONAL INSURANCE COMPANY*, 2023 CanLII 84411 (ON LAT).

Volume #18(B): *Ms. Saeed's cases*

a. *Paramasamy v TD General Insurance Company*, 2023 CanLII 72636 (ON LAT) ["*Paramasamy*"][9];
b. *Hazem vs. TD General Insurance Company*, 2023 CanLII 23602 (ON LAT) ["*Hazem*"][10];
c. *Ruchlemer v TD General Insurance Company*, 2022 CanLII 78789 (ON LAT) ["*Ruchlemer*"][11];

66. I allege that perhaps Ms. Saeed is the additional lawyer communicating with the Divorced Husband Conflicted Lawyer. I will provide her a copy of this affidavit in made form.

67. Now shown to me is a copy and paste involving Ms. Klukowska and Ms. Saeed, who are the two lawyers listed in the signature block of Ms. Moraes:

Mailing Name
Adrianna Klukowska
Law Society Number
82757T
Class of Licence Definitions
Lawyer (L1)
Real Estate Insured

No
Status Definitions
Practising Law - Employed
Business Name
Toronto Dominion Bank
Business Address
66 Wellington St W38th FloorToronto, OntarioM5K 1A2
Phone
1 416 599 3330

Arfa Saeed
Mailing Name
Arfa Saeed
Law Society Number
83824E
Class of Licence Definitions
Lawyer (L1)
Real Estate Insured †
No
Status Definitions
Practising Law - Employed
Business Name
TD Insurance Staff Legal
Business Address
66 Wellington St W38th FloorToronto, OntarioM5K 1A0
Phone
1 905 201 2565

68. I note that Ms. Saeed represents that her employer is that of "**TD Insurance Staff Legal**" yet Ms. Klukowska represents that her employed is "**TD Bank**".

69. I believe that Ms. Saeed and Ms. Klukowska need to be aware that their legal assistant was also purporting to act in this SNIC Proceeding but not the TD Claim Numbers.

Volume #19- background involving Ms. Moraes in her capacity as a licensed paralegal on other files at previous employment

70 If Ms. **Moraes** is the same "paralegal" (see: her **LinkedIn** profile that her paralegal was issued in 2019 from the **Canadian Business College**[13]) that has appeared in cases before **LAT**, then the Tribunal will be well aware of her name by the following:

a. *H.O. v Aviva Insurance Company of Canada*, 2020 CanLII 42669 (per: **Nidhi Punyarthi**) ("*HO Aviva*")[14];
b. **J W. v Coachman Insurance Company**, 2019 CanLII 122732 (ON LAT) ("***Coachman Preliminary Decision***")Wherein Ms. **Moraes** is referred to as the "**Legal Representative**";[14] and
c. *J.W. v. Coachman Insurance Company*, 2020 CanLII 27393 (per. Adjudicator Derek Grant[15]) (the "***Coachman Reconsideration Decision***") or "*Adjudicator Grant Reconsideration Dismissal*").

Volume #20: Another ground why I am seeking a final order, which is different from NOM #5, in that I am alleging that the Divorced Husband Conflicted Lawyer facilitated the unauthorized practice of Mr. Karat in SIGNING the Purported SNIC Response

71. While my position remains that **Mr. Karat** was unauthorized to **SIGN** the **Purported SNIC Response**, I am now alleging (see: supra) that the **Divorced Husband Conflicted Lawyer facilitated** the unauthorized practice and/or failed to prevent the unauthorized practice of **Mr. Karat**. I believe it is the former and I allege the same, and I challenge the **Divorced Husband Conflicted Lawyer** to swear evidence to the contrary.

72. If necessary, and if **SNIC** and I do not resolve this **SNIC Proceeding** (appreciating that there is a misnomer issue per se or still a substitution of name required), I will be relying not only on the *LSA*, By-Laws, and the ROPC but a case of *R. v. Smith* per Justice Nadel involving "forged documents", "false documents" and uttering the same.

73. To the extent that **Mr. Karat** proceeded to execute and sign the **Purported SNIC Response**, I believe it begs the question for LAT why he did not sign the very correspondence that enclosed the same when he served me with the **Purported SNIC Response**. Moreover, **Mr. Karat** is not signing the *PIPEDA* response.

74. In that regard, I rely on Felton Brushes, a decision of Sweeny J that finds that the requirements of an electronic signature

> [22] Further, the offer to surrender was not in writing. Article 1.17 of the Lease provides that termination of the lease must be "executed in writing by the party to be bound." In this case, the Landlord is the party to be bound. The email does not constitute execution in writing by Atlantis of the agreement to terminate the lease. There is no electronic signature on the email in accordance with section 11 of the *Electronic Commerce Act, 2000*, S.O. 2000, c. 17. The point of the formality is to ensure that the true intention of a party is captured. In the circumstances of this case, an unsigned email is not sufficient.

75. I further believe and allege that the "Efiled" associated with **Mr. Karat** on behalf of SNIC from the following sections from the ECA (Ontario):

> "**electronic**" includes created, recorded, transmitted or stored in digital form or in other intangible form by electronic, magnetic or optical means or by any other means that has capabilities for creation, recording, transmission or storage similar to those means, and "electronically" has a corresponding meaning; ("électronique", "par voie électronique")
> "**electronic agent**" means a computer program or any other electronic means used to initiate an act or to respond to electronic documents or acts, in whole or in part, without review by an individual at the time of the response or act; ("agent électronique")
> "**electronic signature**" means electronic information that a person creates or adopts in order to sign a document and that is in, attached to or associated with the document; ("signature électronique") [defined herein by myself as "**Electronic Signature**"]

76. I affirm that I believe that the **Purported SNIC Response** was an electronic document but the definition of "electronic agent" does not apply because "review" is required by the individual at the time of the response or acts like the "certification". I affirm that I believe and submit that the "EFiled" is a signature that a "person" created or adopted to sign the **Purported SNIC Response** and that is in the document of the **Purported SNIC Response**. I affirm that I query whether or not **Mr. Karat** was the person who completed, signed and filed the **Purported SNIC Response** even though his name is the only name by the "signature row" on the **Purported SNIC Response**. I affirm that I believe that TD SNIC is NOT a public body but rather an insurance company with SNIC being the "insurer" or the "underwriter".

77. However, I allege that any document can have a signature of an individual that is purporting to bind an insurance company but it may not be that Mr. Karat, in fact, engaged in the same.

78. I note the timing between the metadata of the Purported SNIC Response and the cover letter that Mr. Karat enclosed that utilizes the "Browne:CA" system along with "opentext".

79. I now quote from Justice Nadel in *R. v. Smith*, which involved former Office Darren Smith, and his, in my view, absolutely heinous conduct of signing (while may have been a matter of convenience and the intent of those individuals wishing to have their firearms surrendered and smelted) for those individuals as if they had signed the documents themselves. I would presume, and I believe that is sad if that did exist with our law enforcement in Hamilton or otherwise, that is has happened before without being noticed. In those matters, I affirm that I believe that it could be similar to this situation where the Purported SNIC Response demonstrates that Mr. Karat is the sole signatory when he may not have authorized the same.

80. While I obviously disagree with Adjudicator Lake's drawing to my attention part of Rule 24.1 but not deciding the same, I would presume and I believe to be that Vice Chair Lake or any tribunal decision maker would not decline to decide an issue where a lawyer licensee has facilitated or failed to prevent the facilitation of unauthorized practice. Moreover, I would hope that LAT would not be

81. I affirm and allege that in either scenario: (i) whether Mr. Karat, in fact, completed the Purported SNIC Response in the LAT Tribunals Ontario portal and electronically signed the Purported SNIC Response, or (ii) whether the Divorced Husband Conflicted Lawyer did it "as him", either are fatal to this LAT Proceeding, and irremediably taint the proceeding with either violations of the LSA and By-Laws OR violations of the LSA, By-Laws, ROPC For Lawyers and other legislation.

82. I cannot answer that question per se but I do allege that it was a combination of the two of them in some form and I do appreciate that Mr. Karat, now no longer authorized for SNIC, may have been coerced.

83. I affirm and allege that the Divorced Husband Conflicted Lawyer "shall be considered" representing SNIC in the SNIC Proceeding as a result of section 1(7)(a) and (c) (as there have not been any examinations for discovery).

84. Again, I was not present or in the "same space", "premises" or "office" as Mr. Karat or the Divorced Husband Conflicted Lawyer when the Purported SNIC Response was complete, then certified as "true and accurate" or "true and complete" but I will defer to the evidence of either of those individuals.

Volume #21: Why I allege that Mr. Nieuwland had no role (but knew of the conflict of interest issues)

85. I now provide the timing now of Mr. Nieuwland's auto-reply which was from January 23 or 24 which was a day before Mr. Karat's signing and filing (allegedly and purportedly if not by the Divorced Husband Lawyer "as him") so I allege that Mr. Nieuwland could not have been the direct supervising lawyer of Mr. Karat:

> **Nieuwland, Matthew <Matthew.Nieuwland@tdinsurance.com>**
> to me
>
> Please be advised that I am out of the office, returning on January 29, 2024. During this time, I will have limited access to email and voicemail. I will respond as soon as possible upon my return. Thank you, Matthew Nieuwland
>
> NOTICE. Confidential message which may be privileged. Unauthorized use/disclosure prohibited. If

received in error, please go to www.td.com/legal for instructions.
AVIS : Message confidentiel dont le contenu peut être privilégié. Utilisation/divulgation interdites sans permission. Si reçu par erreur, prière d'aller au www.td.com/francais/avis_juridique pour des instructions.

86. I believe that the **Divorced Husband Conflicted Lawyer** was the or a supervising lawyer as he is located in Markham (101 McNabb Street) along with **Mr. Karat**. Further, they are both employed by "**TD Insurance**" and have worked together on files such as *Quinn v.* **Security National Insurance Company**.

87. Further, I note that the three cases since 2018 (when the **Divorced Husband Conflicted Lawyer** joined **TD Insurance**) involve SNIC (x2) and **TD Insurance Meloche Monnex**:

Quinn v Security National Insurance Company, 2023 CanLII 58482 (ON LAT)

Ontario Licence Appeal Tribunal — Ontario

2023-06-29 | 14 pages

accident — psychological — treatment plan — impairments — attendant care

[..] **Andrew Papadimitropoulos**, Counsel Francine Papadopoulos, Counsel HEARD: by Teleconference: [...]

Mensah v TD Insurance Meloche Monnex, 2022 CanLII 4520 (ON LAT)

Ontario Licence Appeal Tribunal — Ontario

2022-01-26 | 8 pages

reasonably suited by education complete inability to engage — self-employment · pre-accident employment — accident

[...] **Andrew Papadimitropoulos**, counsel HEARD by Videoconference June 1, 2021 and October 19, 20, 21, 22, 2021 [...]

18-001613 v. Security National Insurance Company, 2019 CanLII 9628 (ON LAT)

Ontario Licence Appeal Tribunal — Ontario

2019-01-08 | 3 pages

conference — resumption — www.slasto.gov.on.ca — request for reconsideration — assessments

[...] For the Respondent: Andrew Papadimitropoulos Introduction [1] This request for reconsideration arises from a motion decision on December 11, 2018 denying a request to adjourn a case conference resumption on December 13, 2018. [...

Volume #22: I continue to rely upon *TDGIC v. Bennett*

88. I continue to rely upon the principle in Bennett in that, and I am paraphrasing that LAT finds a wilful misrepresentation when a person remains silent when they have have a duty to notify the LAT. I believe that all of the licenses, pursuant to their professional obligations, have a duty, at the very least, to notify LAT.

Volume #23: Conflicts of Interest

89. I now quote from the conflict of interest section of the LSO website:

> Conflicts of interest
>
> A conflict of interest exists when there is a substantial risk that a lawyer or paralegal's loyalty to or representation of a client would be materially and adversely affected by competing duties to another party or competing interests between the client(s) and the licensee. Because even well-intentioned licensees may not realize that the performance of their duties has been impaired, the rules address the risk of impairment rather than actual impairment. Substantial risk means a significant and plausible risk. It need not be certain or even likely, but it must be more than a mere possibility. Conflicts of interest may fall into one of the below categories:
> Personal interest conflicts
> A licensee's own interests can compete with the duty of loyalty owed to their client or their ability to independently represent their client's interests. A personal interest includes not only the licensee's own interests, but also the interests of others connected to the licensee, such as the licensee's partners, associates, or family members.
>
> (see: *https://LSO.ca/lawyers/practice-supports-and-resources/topics/the-lawyer-client-relationship/conflicts-of-interest*)

Volume #24: Another ground for why I am seeking a final order along with the return of any personal information that was inappropriately and, in unauthorized fashion, collected, used, accessed or disclosed (if LAT has authority or under *PIPEDA*; see: *Mansuri*)

90. I now quote from the case of *Jia* which was alarming to me when considering the above about the apparent rights of insurers on the *SABS* side of the ledger. In *Jia*, the Ontario Divisional Court found as a matter of law [emphasis is mine]:

> [6] It is established law that insurers may not use the same counsel in statutory benefits cases and in tort cases brought against them by the *same insured*. This is because the duties of an insurer (and therefore of its counsel) are different in these contexts, and as an accident benefits insurer, THE INSURER is entitled to receive, and is required to keep confidential, a great deal of sensitive personal information from claimants.

91. If the Divorced Husband Conflicted Lawyer has been receiving highly sensitive confidential information from myself to what I thought was directed to Ms. Nurse and Ms. Persaud as "claims adjusters" (when I was unaware he was or I allege the "ANDY GERA") then I will determine what relief to seek and under what jurisdiction. I believe and allege that he has and I allege he knew that was unlawful. I further allege that Mr. Nieuwland, Ms. Moraes and Mr. Karat knew that it was unlawful for them to be instructed, advised or facilitated by him, and receive documents that I delivered to Ms. Nurse and Ms. Persaud albeit under what I allege were false pretenses.

92. However, I now quote from *Mansuri*, a decision of Vice Chair McGee found at paragraphs 18 to 26 with emphasis being mine:

> *Findings on the jurisdictional issue*
>
> [18] The Tribunal is a statutory body. It is well settled that a statutory tribunal has no powers other than those it derives from legislation. The Supreme Court of Canada has long held that the exclusive jurisdiction of a statutory tribunal is subject to the residual discretionary power held by courts.[8] Because the Tribunal *lacks* inherent equitable jurisdiction, any authority to grant equitable remedies (such as declaratory relief) must be provided for in legislation.
>
> [19] I am persuaded by the applicants' submission that an order disqualifying counsel for a conflict of interest falls within the Tribunal's broad authority to decide disputes under s. 280 of the *Insurance Act*. In *Stegenga*, by which I am bound[16], the Court of Appeal held that the Tribunal has exclusive jurisdiction over a dispute if its "essential character" relates to entitlement to statutory accident benefits and their amount.[9] The Court also held that disputes involving an insurer's conduct[17] in handling a claim satisfy this requirement.[10]
>
> [20] This motion *calls into question* the respondent's handling of the applicants' claim[18], and I find that its essential character relates to a claim for accident benefits. I am unpersuaded by the respondent's submission that the Tribunal lacks the power to grant declaratory relief in this case because the motion itself does not involve determination of entitlement to or quantum of benefits. The underlying and ongoing disputes between the applicants and the respondent squarely engage questions of entitlement and quantum, and the outcome of this motion will impact the course of these underlying proceedings. The questions before me are neither hypothetical nor academic; they have direct bearing on the conduct of the litigation before this Tribunal.
>
> [21] I find that no excess of jurisdiction would flow if I were to order the relief sought in this motion. The Divisional Court in *Jia* took no issue with the Tribunal's decision to remove counsel based on a conflict of interest. I am not persuaded by the respondent's submission that it is impermissible to "read in" findings to case law that are not explicitly expressed, or that the Court of Appeal's decision in *Ridt* stands for such a proposition. *Ridt* was a case about the

principles of statutory interpretation and how ambiguity in legislative provisions should be resolved. The court's analysis in that case does not intersect with the jurisdictional issue before me. The inference the applicants ask me to draw from *Jia* is sound: if the Tribunal had exceeded its jurisdiction by declaring a conflict of interest and disqualifying counsel, the Divisional Court would have corrected that error when it directly addressed the matter on appeal.

[22] It is not enough to satisfy the basic common law requirement that a dispute has an essential character falling within the Tribunal's jurisdiction. The Tribunal's powers are subject to limits. Its orders must comport with its enabling legislation. The way an insurer *staffs* its claims is not a matter of Tribunal procedure or practice. As such, the Tribunal's power under s. 23 of the *SPPA* to make orders to control the conduct of its proceedings is not engaged. Compelling an insurer to remove a specific adjuster from handling a claim is not necessary or expedient for the Tribunal to carry out its duties, so the Tribunal's order-making authority under s. 3(2) of the *LAT Act* likewise does not apply. In the absence of statutory authority to make such an order, I find that the Tribunal lacks the power to disqualify an adjuster[9] from handling a claim. If I am wrong about the scope of the Tribunal's authority, and the Tribunal does have the power to disqualify an adjuster under the *SPPA* and the *LAT Act*, I would decline to exercise that authority on substantive grounds, for reasons I explain below.

[23] The *Schedule* is not a complete code governing the relationship between insurers and insured persons. That relationship is also governed by private law obligations and legislative schemes outside this Tribunal's jurisdiction. The applicants submit that the alleged misconduct of the adjuster in this case could amount to civil liability for intrusion upon seclusion, a common law tort established by the Ontario Court of Appeal in the 2012 case, *Jones v. Tsige*.[11] They also submit that the respondent disclosed confidential information several weeks before obtaining authorization to do so under the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5 ("*PIPEDA*").

[24] If the applicants believe that the adjuster's conduct constitutes a civil wrong, the appropriate forum to pursue a remedy is the civil courts, not this Tribunal. If the applicants maintain that the respondent has breached its obligations under *PIPEDA*, the federal Office of the Privacy Commissioner has jurisdiction to hear such a complaint.

[25] The Tribunal routinely adjudicates questions of insurer conduct under s. 10 of Regulation 664. If the applicants wish to pursue a remedy from the Tribunal, it is open to them to claim an award for unreasonable withholding or delay of benefits in the underlying proceedings.

[26] To conclude, the applicants have satisfied me that the ***Tribunal can disqualify counsel*** if it determines that a conflict of interest exists. Whether characterized as a "finding" or a "declaration," I find that an order disqualifying counsel is a *permissible exercise* of the Tribunal's authority to decide accident benefits disputes and make procedural orders in accordance with the *Insurance Act*, the *LAT Act*, and the *SPPA*. I further conclude that the Tribunal lacks the authority to bar an adjuster from handling a disputed accident benefits claim, or, in the alternative, that the facts before me do not.

4592 Electronically filed / Déposé par voie électronique : 18-Feb-2025
Toronto Superior Court of Justice / Cour supérieure de justice

Volume #25: Another ground for why I am seeking a final order (abuse of process): respondent can no continue defending the Appeal

93. I now quote from *Law Society of Ontario v. Chung*, 2021 ONLSTH 44, the Law Society Hearing Tribunal found [emphasis is mine]:

> [134] **Dishonest conduct** by a licensee has a significant impact not only on the licensee's clients. More broadly, "a breach of integrity such as this has a corrosive impact on public confidence in the legal profession and the administration of justice": *Christie* at para. 37

94. *I ask the question reflexively, is this why Mr. Karat was utilized by name and signature on the Purported SNIC Response?*

95. I believe that this is why the **Divorced Husband Conflicted Lawyer** utilized a non-licensee in **Mr. Karat** as opposed to Ms. Moraes who is a licensed paralegal – even though my position remains that Ms. Moraes could not sign the Purported SNIC Response for the following reasons:

a. Paralegals are not authorized to provide legal services in claims where CAT Impairment is involved or at issue (see: *Dunkha*); and
b. Ms. Moraes' current status as "employed – NOT provided legal services".

96. I believe that these issues are far more serious than a mere nullity *per se* but rather invoke a different type of level of sanction by LAT for disqualification and striking for dishonest and intentional abuses of process.

Volume #26: Further case on signing of documents by non-lawyers or non-licensees (by implication or analogy): *LSUC v. Barnett*

97. I note the case of *LSUC v.* Barnett (albeit *prior* to the *Access to Justice Act* 2006) was summarized as follows and the "rule" historically:

> Particular 2(d) He entered into a business arrangement with the real estate agent and a mortgage consultant which:
>
> > i. provided for a discount on legal fees incurred by a person who used the services of the three participants in the business arrangement;
> > ii. placed him in a position where his obligations to a client might conflict with those of the other parties to the business arrangement;
> > iii. called for the other members of the business arrangement to ***SIGN*** his letterhead;

98 In *Barnett*, the Law Society Tribunal found that the "Commentary" in "Rule 16, Commentary 3.(1) was of some assistance:

> Particular 2(d)(iii) does not refer to a specific rule but the Law Society argues that Rule 16 Commentary 3.(l) is of some assistance. That Commentary reads as follows
>
> A lawyer may not permit a non-lawyer to:
>
> (l)***SIGN*** correspondence containing a legal opinion, but the non-lawyer who has been specifically directed to do so by a supervising lawyer may ***SIGN*** correspondence of a routine administrative

nature, provided that the fact such person is a non-lawyer is disclosed, and the capacity in which such person signs the correspondence is indicated;

Volume #27: The Karat LAT Assignment to "bundle" this LAT Dispute

99. I believe that the **Divorced Husband Conflicted Lawyer** empowered **Mr. Karat** to handle this **SNIC Proceeding** while he had "effective control" and perhaps "absolute control" over **Mr. Karat** or he was engaging in the utilization of his name to avoid the Actual COI and Reasonably Perceived COI. I will await their evidence in this regard.

100. I note the following in relation to the Federal Model Code of Conduct with the "*nota bene's*" are "*nota benes*" which are my opinions:

> **6.1-3** A lawyer **MUST NOT** permit a non-lawyer [**Karat**] to:
>
> *(a) accept cases on behalf of the lawyer [**nota bene: Karat LAT Assignment on behalf of whom], except that a non-lawyer [Karat] may receive instructions from established clients if the supervising lawyer [nota bene: who is the Supervising Lawyer] approves before [nota bene: when did work commence? Before the **Karat LAT Assignment**] any work commences;*
>
> *(b) give legal advice [nota bene. **Karat's** client was **SNIC**; was he giving legal advice or merely given authority from **SNIC**? If so, who was the person at **TD Insurance Meloche Monnex (SNIC)** that gave him authority; was it a lawyer? Was it a non-lawyer?];*
>
> *(d) act finally [nota bene: filing a pleading that takes position of striking or withdraw a final position] without reference to the lawyer [nota bene no reference to any lawyer in the pleading; the cover letter is from SNIC with "TD Meloche Monnex" as the sender] in matters involving professional legal judgment;*
>
> *(e) be held out as a lawyer [nota bene. **Karat** did not hold himself out as a lawyer but rather an unlicensed non-legal representative];*
>
> *(f) appear in court or actively participate in formal legal proceedings on behalf of a client [nota bene: **Karat** actively participated in the formal legal proceedings as they commenced on December 24, 2023 by the: (i) **Karat LAT Assignment** on Jan. 23, 2024; (ii) the completed, executed and filed responsive pleading on Jan 25, 2024; (iii) the **Purported Karat COS**] except as set forth above or except in a supporting role to the lawyer appearing in such proceedings;*
>
> *(g) be named in association with the lawyer in any pleading [nota bene: **Karat** was NOT named in association with any lawyer in a pleading but on his own. This appears to be a more egregious breach], written argument or other like document submitted to a court;*
>
> *(h) be remunerated on a sliding scale related to the earnings of the lawyer, unless the non-lawyer is an employee of the lawyer [nota bene: **Karat** is not an employee of a lawyer or law firm per se but rather, perhaps, an employee or contractor of an insurance company];*
>
> *(i) conduct negotiations with third parties, other than routine negotiations if the client [nota bene: SNIC] consents and the results of the negotiation are approved by the supervising lawyer [nota bene: who is or was the supervising lawyer?] before action is taken;*
>
> *(j) take instructions from clients, unless the supervising lawyer has directed the client to the non-lawyer for that purpose and the instructions are relayed to the lawyer as soon as reasonably possible;*

*(k)**SIGN** correspondence [nota bene: signing a pleading is far more than signing correspondence] containing a legal opinion [nota bene: the pleading contains legal positions, opinions, legal conclusions and points of law involving the application of legal principles and legal judgment regarding the objectives and circumstances of person.*

*(l)**SIGN** correspondence [**nota bene: interestingly Karat did not SIGN the cover letter enclosing the Purported SNIC Response; Karat also did not SIGN the correspondence in the purported PIPEDA response**], unless*

(i) it is of a routine administrative nature,
*(ii) the non-lawyer has been specifically directed to **SIGN** the correspondence by a supervising lawyer.*
(iii) the fact the person is a non-lawyer is disclosed, and
(iv) the capacity in which the person signs the correspondence is indicated;

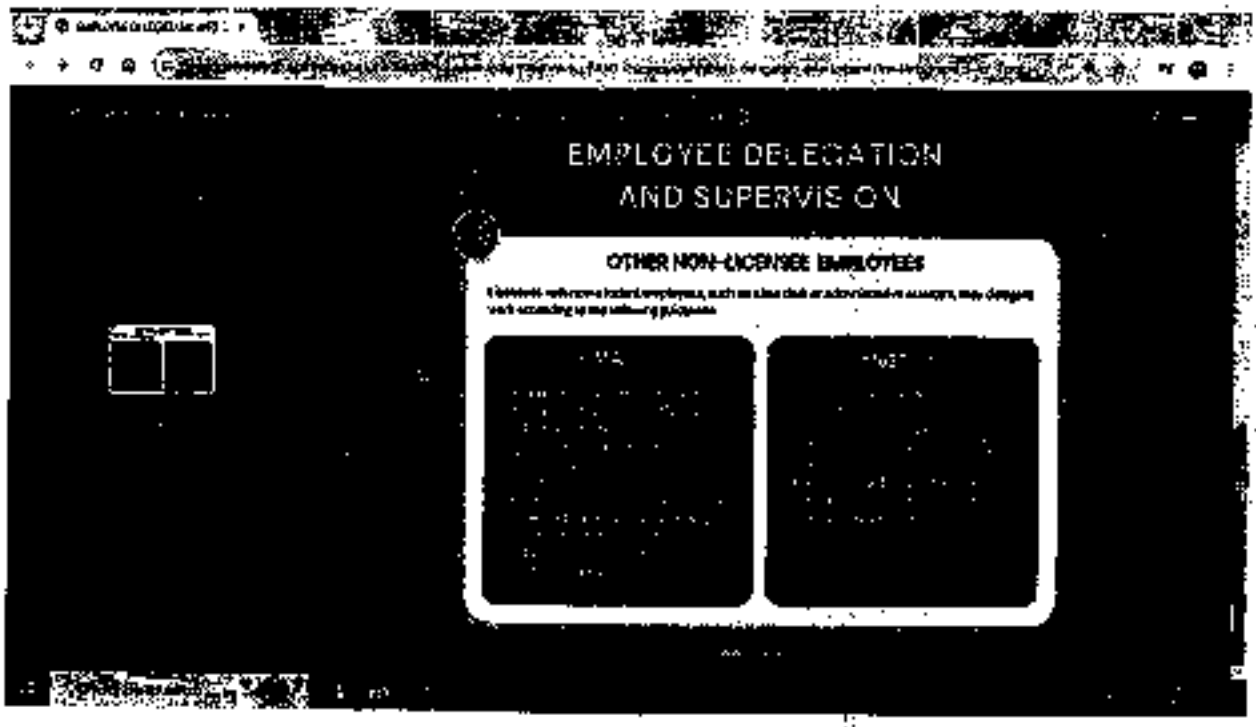
101. Now shown to me is a copy and paste from the LSO website regarding

Employee Delegation and Supervision

Lawyers and paralegals **MUST** assume *complete professional responsibility* over *their practices* including over the work of their employees. This **INCLUDES**:

- ensuring tasks and functions are properly delegated or assigned, and
- directly and adequately supervising any law or paralegal students, licensing candidates, and *NON-LICENSEE* employees (e.g., law clerks, administrative assistants, etc.) performing tasks on their behalf. [*nota bene*: **whose behalf was Karat performing tasks on behalf**].

For a high-level overview of the employee delegation and supervision requirements, see the Law Society's Employee Delegation and Supervision Quick Reference Guide



However, licensees **MUST** not allow any student or *NON-LICENSEE* employee to perform any of the duties that only a licensee may perform. This rule applies at the licensee's practice and at any satellite office of the practice

Volume #28: Tasks and functions that may not be assigned: general

102. Now shown to me is section six of By-Law 7.1 and I note the following with "*nota benes*" and square brackets being my opinions:

> 6. (1) A licensee **SHALL** not permit a *NON-LICENSEE*
>
> (a) to give the licensee's client [*nota bene*: why Karat and Nieuwland have different clients?] legal advice;
>
> (b) to act on behalf of a person in a proceeding before an adjudicative body, other than on behalf of the licensee in accordance with subsection 5 (1), unless the *NON-LICENSEE* is authorized under the *Law Society Act* to do so;
>
> (c) to conduct negotiations with third parties, other than in accordance with subsection 5 (2);
>
> (d) to ***SIGN*** correspondence, other than correspondence of a routine administrative nature; or

(e) to forward to the licensee's client any document, other than a routine document, that has not been previously reviewed by the licensee.

103. I do not follow how any supervising lawyer at the LSO could believe that it could authorize a non-licensed individual to sign a responsive pleading in this LAT Proceeding; particularly involving CAT Impairment.

104. While Mr. Karat appears to be no longer authorized for SNIC, I do not agree or consent that said removal of Karat resolves the issue of the Purported SNIC Response under NOM #5 or NOM #6 (to be served and filed).

105 I note section 3(2) of *By-Law 4* (which is Licensing):

Assignment of tasks, functions: general

3. (1) Subject to subsection (2), a licensee may assign to a non-licensee tasks and functions in connection with the licensee's practice of law or provision of legal services in relation to the affairs of the licensee's client.

Assignment of tasks, functions: affiliation

(2) A licensee who is affiliated with an entity under *By-Law 7* may assign to the entity or its staff, tasks and functions in connection with the licensee's practice of law or provision of legal services in relation to the affairs of the licensee's client only if the client consents to the licensee doing so.

106. I note the language under ss. 3(2) of *By-Law 7.1* (Organizational Obligations and Responsibilities) and is "a licensee affiliated with an entity under *By-Law 7*".

107 In light of the issues with the Purported SNIC Response identifying SNIC as the Respondent and TDGIC being in the Nieuwland DOR, I do not know who the client is or would be when applies to those sections of By-Law #4.

108. *By-Law 7* does not use the language of "entity" but "affiliated entity". Affiliations is "Part IV" of *By-Law 7* (Business Entities).

109. I now quote from the above with my square brackets being my identification of a potentially relevant individual or a relevant issue by a reflexive or rhetorical question:

Interpretation:
31. (1) In this Part,

"affiliated entity" means one [*nota bene*: Karat] or more persons none of whom are licensed or otherwise authorized to practise law or provide legal services in or outside Ontario [*nota bene*: Karat];

"licensee" includes a permitted group of licensees.

Interpretation: "affiliation"

(2) For the purposes of this Part, a licensee [*nota bene*: AP] affiliates with an affiliated entity [*nota bene*: Karat] when the licensee [*nota bene*: AP] on a regular basis [see: *Quinn* v. *SNIC*, six day hearing in 2022 with decision released in June 29, 2023[36]] joins with the affiliated entity [Karat] in the delivery

or promotion and delivery of the services of the licensee [*nota bene*: AP] and the services of the affiliated entity [*nota bene*: Karat as ADR Specialist].

Ownership of practice, *etc.*

32. A licensee who affiliates with an affiliated entity shall,

(a) own the professional business through which the licensee practises law or provides legal services or comply with Part III [*nota bene*: possibly AP],

(b) maintain control over the professional business through which the licensee practises law or provides legal services [*nota bene*: AP – does he?]; and

(c) carry on the professional business through which the licensee practises law or provides legal services, other than the practice of law or the provision of legal services that involves the delivery of the services of the licensee jointly with the services of the affiliated entity, from premises that are not used by the affiliated entity for the delivery of its services, other than those that are delivered by the affiliated entity jointly with the delivery of the services of the licensee.

[*nota bene*. Karat and AP at same location, was this reason for the shift from Nurse to Persaud in Summer 2023? Was it a rouse? Was it an attempt to distance from SNIC Markham yet the Purported SNIC Response reverts back to SNIC Markham?]

VOLUME #29: Conclusion

110. I affirm that I have served and filed this affidavit as soon as I was able to do so and as promptly as I was able based on the evidence that I received, further investigations, and the lack of response from the individuals and persons named herein.

111. I now allege on this April 1, 2024 that this SNIC Proceeding has been irremediably tainted by the Divorced Husband Conflicted Lawyer, Karat, Nieuwland and Morais.

112. With due respect and objectivity, in my view, I do not say that they were all "willing participants" and some may have been "coerced" by the "consequence manager" in the Divorced Husband Conflicted Lawyer. I again allege that this is why Ms. Morais was looking for employment elsewhere some four weeks ago on her LinkedIn profile. I again allege this is why Mr. Karat is now no longer authorized for Security National Insurance Company. I again, now, allege that this is why Mr. Nieuwland refused to bring a motion to correct the respondent's name and his filing of the Nieuwland DOR Non Respondent.

Electronically filed / Déposé par voie électronique : 18-Feb-2025
Toronto Superior Court of Justice / Cour supérieure de justice

113. While I appreciate that the allegations are of a serious nature, I believe and allege that the lack of denials by the named individuals in the emails along with the substituting of "assistants", Mr. Karat's recent de-authorization for SNIC, and any appearance of a lawyer for an insurance acting against, in part, his ex-wife and her current husband is an appearance of a conflict of interest worthy of disqualification of Mr. Nieuwland and Mr. Karat. I reference Mr. Karat as he is not a "claims adjuster" and Vice Chair McGee found in Mansuri (or at least on those facts) that a claims adjuster could not be disqualified by LAT. I submit that LAT has the power to disqualify not only those legal representatives who are listed as lawyer licensees or paralegal licensees but also ADR Specialists and those individuals who are deemed ("shall be considered") to be representing a person in a proceeding by their acts and conduct pursuant to section 1(7)(a) and (c). I challenge each and every individual so named in this affidavit (where applicable to each) to swear contrary evidence to my evidence on belief herein.

114. I affirm this Affidavit #15 for no improper purpose and in relation to my NOM #6, general purposes and ancillary purposes (known and unknown).

affirmed before me at Toronto, Ontario
On this 17th day of April 2024

Mr. Kevin A. McKeen (B.A., J.D., CIM)

With The Translation

[1]Defined as "TD SNIC" as "Security National Insurance Company" as provided as the name of the insurance company that Ms. Persaud and Ms. Nurse were acting as "claims adjusters"
[2]Meloche Monnex Inc ("MMI"), carrying on business under the name of Security National Insurance Company, He v. Meloche Monnex, 2022 ONSC 974 (CanLII), at para 2, <https://canlii.ca/t/jnlt0#par2>, retrieved on 2024-01-04
[3]*DINNEN – Conflict of Interests – Failure to Serve – Failure to Supervise – The Lawyer's office prepared a will for an elderly client – He reviewed the will but did not meet with the client to get instructions or attend when the client signed the will – The Lawyer failed to assume complete responsibility for his practice and to directly supervise non-lawyer staff when he delegated those tasks to them – He also failed to competently serve that client – The Lawyer acted in a conflict of interest when he represented the estate trustee once the will was contested on the basis that the testator was not mentally competent to sign it – He had an interest in defending the quality of his firm's services and he or his staff were likely to become witnesses – There was a substantial risk that his loyalty to, or representation of, his client would be materially affected by these personal interests – The Lawyer's licence was suspended for 45 days and he was to take three additional hours of continuing professional development in relation to conflicts of interest.*
[4]I note that in her [Moraes] email to LAT, Ms. Moraes only referenced being a legal assistant to Ms. Klukowska and Ms. Saeed.
[5]*Talisman Resort v Keyser, Usling et al*, 2013 ONSC 1901 (CanLII), <https://canlii.ca/t/fvwz7>
[6]Defined in the NOM #6
[7]https://en.wikipedia.org/wiki/Metadata#:~:text=Metadata%20means%20%22data%20about%20data,Purpose%20of%20the%20data : Metadata means "data about data". Metadata is defined as the data providing information about one or more aspects of the data; it is used to summarize basic information about data that can make tracking and working with specific data easier
[8]Descriptive metadata enables discovery, identification, and selection of resources. It can include elements such as title, author, and subjects
[9](see: Applicant was successful against "TDGIC" (not the Respondent of SNIC). Importance of issues involving "dates of denial);
[10]see: Distinction when the named title is "adjuster" compared to that of Mr. Karat (ADR Specialist)).
[11]TD having issues with receipt of documents and claiming an OCF-3 was not received. [13] I find that the applicant provided an OCF-3 before the 104-week mark. The application can proceed to a three-day videoconference hearing; [14] The letter dated October 22, 2015 confirmed that the respondent was in possession of the OCF-3. In fact, the respondent reviewed the OCF-3 and determined that the applicant was not eligible for the IRB or NEB. In the same letter, the applicant was informed of her right to dispute the respondent's determination; [17] The respondent relies upon *JV vs. TD Insurance Meloche Monnex*, 2019 CanLII 110091, and *C.G. vs. Pembridge Insurance Company*, 2020 CanLII 51276 in support of its position that a complete claim for an IRB must be made within 104 weeks. In both cases, the OCF-3 was submitted after 104 weeks. This case is distinguishable as the applicant did submit a completed OCF-3 within 104 weeks. [18] In my view, the respondent's argument regarding Dr. Greenspan noting that she did not meet the substantial inability test in the OCF-3 is something that can be addressed at the substantive issue hearing. Preliminary issues are very technical in nature. The question here is whether or not she submitted the OCF-3 within the 104-week mark. Based on the evidence before, I find that the applicant did comply with the requirements under sections 36(2) and (3) of the *Schedule*. (nota bene: no issue of not complying with OCF-3 herein when it relates to NOM #4)
[12]See:
[13]Ms. Moraes was fully entitled to act, in her capacity as a "licensed paralegal" as the matter involved only minor injuries and NOT CAT impairment. The Application was dismissed as the HO applicant had injuries that were predominatly minor but there were issues of late production by the Applicant in breach of a case conference order.
[14](nota bene: while noting Mr. Karat determined the form to use, completed and solely executed the Purported SNIC Response in "e-filed" form whilst representing and admitting that he was NOT a "legal representative". It also appears that Mr. Karat admitted in the Purported SNIC Response that he was not covered by any exemption under the LSA or By-Laws as a "non-licensee without a P1 license" to provide legal services or practise law in Ontario, and, consequently, this LAT Proceeding herein. It is further notable that Mr. Karat was never the "claims adjuster" in the underlying file with the TD Insurance Claim # and he admitted as much in his January 23, 2024 email to myself);
[15]Pursuant to s. 17(2) of the *Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009*, S.O. 2009, c. 33, Sched. 5, I have been delegated the responsibility to decide this matter in accordance with the applicable rules of the Tribunal (see. paragraph 4); I.W.'s Request for Reconsideration is dismissed (see: paragraph 5). It was quite a technical case considering that some hooligans engaged in violent criminal activity towards a driver of a taxi after some misunderstandings regarding directions to their desired location albeit falling asleep in the cab at the same time. The taxi driver (I.W.) sustained injuries when his mobile was taken from him and then four cowardly individuals engaged in assaulting and battering him. I presume (without knowing) that the I.W. realized that these degenerate individuals (two of which were arrested) were impecunious or judgment proof, and he advanced his rights as the incident being an "Accident" when technically the conduct of the passengers in his vehicle was not in the nature of an "motor vehicle accident" but criminal conduct

[16]LAT is of the view that it is bound by stare decisis and decision of the Ontario courts
[17]SNIC herein
[18]Although Mr. Mansuri was pointing the proverbial COI finger at counsel for the Respondent (Dominion)
[19]What if the adjuster is merely referenced in letters and not executing the same, and was away for four months by her auto-reply and it is likely that "AP" was drafting these letters covertly?
[20]This would presume that Af and Karat would meet the test of joining on a regular basis

THIS IS EXHIBIT "A" REFERRED TO IN THE AFFIDAVIT OF KEVIN A. MCLEAN AFFIRMED BEFORE ME, THIS 2nd DAY OF APRIL 2024

A COMMISSIONER

Vinh The Tran, Esq., LSUC #97261C
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Electronically filed / Déposé par voie électronique : 18-Feb-2025
Toronto Superior Court of Justice / Cour supérieure de justice

Re: April 2, 2024 – emails under 6th NOM

Re: 23-015662 AABS (the "LAT Proceeding") - potential sixth notice of motion – separate and distinct from 5th notice of motion – conflict of interest – the acting of "Andy Gera" – irremediably tainted this LAT proceeding – abuse of process

MOTIONS/6th NOM
Search for all messages with label MOTIONS/6th NOM
Remove label MOTIONS/6th NOM from this conversation

Electronically filed / Déposé par voie électronique : 18-Feb-2025
Toronto Superior Court of Justice / Cour supérieure de justice

Kevin McLean

Wed, Mar 27, 1:37 PM (6 days ago)

David, Matthew, James.V.Russell, Michelle, Andrew.papadimitropoulos, me

Dear Sirs/Mesdames: many of you herein are aware of the email issues that I have had but some are not. For an unknown reason, I was able to send emails but not receive some or all for a brief period of time. I am getting caught up to speed and do have the decision of Vice Chair Logan that I am reviewing. In brief, said Vice Chair has found that Vice Chair Lake's "Order" is not a decision that disposes of the appeal. As such, I will likely now bring this motion as that will dispose of the appeal and is imperative to be determined before any such case conference.

Apologies for the tech issues but the new email is copied herein and this email will be discontinued in about a week or sooner. Thank you.

Yours truly,

Mr. Kevin A. McLean (B.A., J.D, CIM) ("**McLean**" or "**Disabled Individual**") (he/him)
(e): lat@confidentialmclean.ca
(f): 647.370.6208

DISCLAIMER

- **SPECIFIED ELECTRONIC RECEIPT ADDRESS**: this secure email was solely created, by McLean (who owns the domain), as an electronic mail address for delivery and receipt of communications and records with the License Appeal Tribunal ("**LAT**") for the file "23-015662/AABS" involving McLean and TD Insurance and its underwriter, Security National Insurance Corporation ("**SNIC**") (defined as "**TD SNIC**");

- ***DUTY OF CONFIDENTIALITY***: *The contents of this email, and its attachments are confidential, solely for the specified purposes above, and intended for the recipient specified in message only. It is strictly forbidden to share any part of this message with any third party, without a written consent of the sender.*

- ***DICTATION OF EMAIL or Assistance from Third Parties (no waiver of confidentiality or privilege)***: this email may have been created using voice recognition software and McLean reserves the right to correct any spelling, grammar and syntax upon further review.

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Toronto Superior Court of Justice / Cour supérieure de justice

On Mon, Mar 25, 2024 at 4:34 PM Kevin McLean <kat@confidentialmclean.ca> wrote:
March 25, 2024

Re: potential sixth Notice of Motion: abuse of process – independent ground – independent motion from NOM #5 – courtesy notice

Dear Sirs/Mesdames:

I hope you are well.

In light of what I have discovered (see: Appendix #2; in "draft form") recently involving the potential that this "Andy Gera"[ii] is one Andrew Papadimitropoulos (defined herein after as "**AP**", "**Mr. AP**", or "**Andrew P**" also known as *Andy Gera*) has been engaged in the provision of legal services and the practice of law including *potential representation of a person* in a proceeding before an adjudicative body, I intend to bring a sixth notice of motion involving the above. I am still having the law reviewed in this area because it is not your "standard conflict of interest" (i.e. a lawyer against a former client) but it certainly fits within the flexible doctrine of "abuse of process" and whether the conduct offends amounts to the same. In this vein, I quote the following from CUPE:

> This concept of abuse of process was described at common law as proceedings "unfair to the point that they are contrary to the interest of justice" (*R. v. Power*, 1994 CanLII 126 (SCC), [1994] 1 S.C.R. 601, at p. 616), and as "oppressive treatment" (*R. v. Conway*, 1989 CanLII 66 (SCC), [1989] 1 S.C.R. 1659, at p. 1667). McLachlin J. (as she then was) expressed it this way in *R. v. Scott*, 1990 CanLII 27 (SCC), [1990] 3 S.C.R. 979, at p. 1007:
>
> > . . . abuse of process may be established where: (1) the proceedings are oppressive or vexatious; and, (2) violate the fundamental principles of justice underlying the community's sense of fair play and decency. The concepts of oppressiveness and vexatiousness underline the interest of the accused in a fair trial. But the doctrine evokes as well the public interest in a fair and just trial process and the proper administration of justice.

Of course, this normally happens in the context of a claimant or plaintiff but it can occur in situations of defending a claim.

I kindly refer you to the Federal Mode Of Conduct for lawyers with my annotations and analysis (see: Appendix #3).

While the Federal Mode of Conduct for lawyer is different than the LSO By-Laws, I have included By-Law 7.1, section 6 herein:

> 6. (1) A licensee **SHALL NOT** permit a ***non-licensee***,
>
> (a) to give the licensee's client [nota bene: why **Karat** and Nieuwland have different clients] legal advice;
>
> (b) to act on behalf of a person in a proceeding before an adjudicative body, other than on behalf of the licensee in accordance with subsection 5 (1), unless the ***non-licensee*** is authorized under the *Law Society Act* to do so;
>
> (c) to conduct negotiations with third parties, other than in accordance with subsection 5 (2);

(d) to ***SIGN*** correspondence, other than correspondence of a routine administrative nature; or

(e) to forward to the licensee's client any document, other than a routine document, that has not been previously reviewed by the licensee.

In relation to the potential representation of a persona in a proceeding component, I note that under the *LSA*, representation in a proceeding does not need to be "overt" or "public" but a person (authorized or unauthorized) can represent a person in a proceeding by the mere determination of what, when, whom, where and how to file and serve of documents "SHALL BE CONSIDERED" representing a person (SNIC) in a proceeding. Even though Mr. Karat's name is on the Purported SNIC Response and he was the sole signer of the Purported SNIC Response, this does not mean, by virtue of section 1(7)(a) and (c) of the LSA that "AP" could not also be representing SNIC in this SNIC Proceeding.

This, of course, does not absolve the breach of the LSA and its By-Laws by Mr. Karat solely executing the Purported SNIC Response which is a nullity and an abuse of process in of itself as SNIC never sought to even attempt to remedy the same.

Of course, if a lawyer had stepped forward and asserted himself as counsel of record (by filing a DOR) for SNIC and bringing a motion to correct the same, we may have a different set of facts and circumstances. Unfortunately, we do not. We have an unmitigated mess as follows which includes but not limited to.

1. Mr. Karat, who is an ADR (not the Claims Adjuster as that is Ms. Persaud and formerly it was Ms. Nurse) is the sole and de facto unlicensed representative, without an exemption under the LSO By-Laws of SNIC;
    a. Mr. Karat is an unlicensed representative who has executed the Purported SNIC Response and the Purported Karat COS;
2. Mr. Nieuwland is the sole legal representative of TDGIC (a non-insurer and non-underwriter as it relates to the Insurance Policy);
3. Mr. Nieuwland has been requesting that I include Ms. Moraes as his legal assistant when her signature block does not include his name as a supervising lawyer of her (see: issues surrounding "effective control" et al);
4. Ms. Moraes is a licensed P1 holder but currently, in her role (with no castigation at all of her or her current role) with TD Insurance Staff Legal is "employed – not providing legal services";
    a. It appears that she could, subject to a supervising and directing lawyer with the LSO engage in "mediation of ancillary issues involving CAT Impairment" but there is nothing to mediate per se but rather the determination of my CAT Impairment by LAT;
5. It appears, subject to any written denial within 24 hours by any and all individuals of my assertions (which I will presume to be true and correct in substance), that one Mr. AP (the former spouse of my current spouse and whose name of the insured in the Purported SNIC Response) is also representing SNIC albeit in a covert manner; and
6. A variety of independent breaches of the LSA, its By-Laws, guidelines, rules and ROPC (where applicable).

In conclusion on this front, we have two individuals representing SNIC and one acting for a non-respondent and non-party in TDGIC. We have an odd situation where Ms. Moraes already has two lawyers that she is the legal assistant to and Mr Nieuwland claimed that Ms. Moraes is also his legal assistant when her signature block does not represent the same. We also have Mr. Karat's signature block in outgoing emails shows that he is "**Representing the Security National Insurance Company**" which is consistent with the Purported SNIC Response.

While it is often unlikely that any lawyer will admit to a conflict of interest, it is the appearance of a conflict of interest that offices. The factual matrix demonstrates a long list of issues that evidence a conflict of interest and non-compliance with SABS including, from the outset, the insurance benefits package being sent to the wrong address, by change of postal code, yet my Spouse (AP's former spouse) receiving her accident benefits package to the correct postal code.

and non-conflicted lawyer licensee appointed forthwith.

I am still looking into the issue of what a "consequences manager" entails and how that factors into the issues herein. Whatever that title may entail, the LSA and By-Laws are clear that Mr. Karat could not sign the responsive pleading in the form of the Purported SNIC Response.

If the "Karat LAT Assignment" was one from Mr. AP, then this will speak volumes to the abuse of process. Of course, it comes back yet again to the appearance of a conflict of interest and whether an individual lawyer's personal interests affect his ability to be impartial. This is also supplemented by Ms. Persaud being away from September to around January 2024 (which has been confirmed independently by other persons that there were no such calls from her during that time) yet the letters from September to December 2023 reference Ms. Persaud. I further note a litany of calls from Ms. Persaud to my health practitioners that were bordering on harassment, or at least redundant in nature.

Irrespective of whom assigned this LAT assignment for Mr. Karat to handle the LAT dispute, and who was the supervising lawyer of Mr. Karat (as an unlicensed individual and an ADR), supervising lawyers were NOT authorized to PERMIT Mr. Karat to represent SNIC in this SNIC Proceeding and/or SIGN the responsive pleading. If he did so on his own, then it matters not as it is a breach of the LSA and its By-Laws.

If my **Reconsideration Motion** is granted, the hearing of this motion will not be necessary. However, I felt it was only courteous to draw this to your attention (with copying of the same solely on this email and solely for these purposes) and provide a courtesy notice.

I have also provided at Appendix #4 my current analysis of the case of *Dunkha* as it relates to the issues herein. It was not known to me that the lawyer who was overseeing Mr. Graber in Mr. Fallotta was suspended from practising law. No such issue arises here.

Of course, this makes resolution all the more difficult and perhaps why there has not been compliance with SABS for an extended period of time and why SNIC continues to be in a state of non-compliance. I remain ready, willing and able to have substantive and productive settlement discussions with an authorized independent (also with the appearance of independence) legal representative (which must be a lawyer licensee as this Appeal involves my CAT Impairment). However, the issue arises as to whether the facts to be alleged and affirmed will lead to this LAT Proceeding being irremediably tainted.

To conclude, I in no way confirm, concede or accept that Ms. Moraes is the assistant to Mr. Nieuwland. Moreover, I repeat and rely on all of my previous positions as it relates to nullities, abuse of process and the relief sought therein. However, I had to draw this notice to your attention in light of the upcoming timelines and deadlines for responses to motion, case conferences et al. I reserve the right to rely upon this correspondence should there be any further breaches.

I will supplement this with further information, evidence and law as it becomes known to me but I will fully expect and require that if this motion is opposed that all relevant individuals provide evidence in response.

I cordially remind all lawyer licensees of their professional obligations and Ms. Moraes of her obligations as a licensed P1 holder. I further draw Mr. Karat's attention to the LSA and its By-Laws with specific reference to section 26.1 of the *LSA*.

I was looking forward to working with an ADR and Mr. Nieuwland to resolve this matter in accordance with SABS and away from the former adjusters in Ms. Nurse and Ms. Persaud (with an interesting switch from Markham to Burlington by way of office locations which now appears to be disingenuous) but it appears that the underlying TD Claim # and this LAT Proceeding has had a similar individual making such determinations therein and in relation to section 1(7) of the LSA albeit not coming forward with his name. Why would he (AP) not do so? The question answers itself.

Moreover, why would the metadata have the name of "Andy Gera" when Mr. David Karat is not "Andy Gera"? With the now learned evidence, that question also answers itself.

conference. If I do not hear from you on a forthwith basis of what you propose and steps you [SNIC] are taking to remedy the same, I will presume that a motion is required to be served and filed.

I reserve the right to draw this correspondence to the attention of LAT or any other persons that I may deem necessary if SNIC does not comply with all of its outstanding obligations forthwith.

Thank you kindly.

APPENDIX

Appendix #1

Representation in a proceeding

(7) Without limiting the generality of paragraph 3 of subsection (6), doing any of the following shall be considered to be representing a person in a proceeding:

1. Determining what documents to serve or file in relation to the proceeding, determining on or with whom to serve or file a document, or determining when, where or how to serve or file a document.
2. Conducting an examination for discovery.
3. Engaging in any other conduct necessary to the conduct of the proceeding. 2006, c. 21, Sched. C, s. 2 (10).

Appendix #2: copied and pasted from the filing of this morning with LAT and served upon you albeit in relation to the IRB Calculations

(NOTA BENE: Whether there is a "ghostwriter" or not, the admissions were made and the Applicant is relying upon them. Of course, there could be further repercussions or issues arising from a lawyer not inputting his name on various documents and "supervising", "encouraging" or "facilitating" breaches of the LSA and By-Laws, guidelines and his ROPC. To confirm, said lawyer hyperlinked above is NOT Mr. Nieuwland. It raises distinct issues regarding abuses of process that are distinct from NOM #5 and whether a former spouse of the Applicant's current spouse, who was named as the primary insured, is or was authorized to act, even in a potentially covert or surreptitious manner, based on a potential conflict of interest, and/or abusing the process of the LAT. Perhaps, this lawyer cited above coerced Mr. Karat to complete, sign and file the Purported SNIC Response which would make such unauthorized execution of the same all the more egregious and an abuse of process. If necessary to be argued, it may speak to why the IRB's have been delayed and withheld in such an unreasonable manner. There will also be some contextual evidence provided (if necessary) that Mr. Karat purportedly provided a response to a PIPEDA request with his name in the letter as the author but the metadata showed the name of "Andy Gera" which is a fictitious name. When investigating the issue, "Andy" is the short name for the first name of the above noted lawyer and "Gera" means "generated" in Portuguese. Put another way, "Generated by Andy" when the document itself has no reference to the same but the metadata did. The reference to "Portuguese" translation is yet another compelling piece of evidence considering that the assistant that Mr. Nieuwland wished to have included in emails with the Applicant (as he represented that Ms. Michelle Moraes was his legal assistant when her signature block represented that she was the legal assistant to two female lawyers) is a P1 license holder who has acted for applicants before LAT. In her current role, she is "not providing legal services – employed" with TD Insurance Staff Legal. The Applicant has confirmed with Mr. Karat and Mr. Nieuwland that until Mr. Nieuwland confirms by affidavit that said individual (Ms. Moraes) is his legal assistant that she will not be included for, inter alia, concerns over whether Mr. Nieuwland has effective control over her non-licensee activities to him and whether they are following LSO By-Law 7.1 et al. The Tribunal will also be aware that it was Ms. Moraes that attempted to seek an adjournment of the agreed to case conference (until the nullity issue was found and brought to the immediate attention of SNIC (including Karat and Nieuwland)) from the May 2, 2024. Interestingly, when LAT confirmed with Ms. Moraes that under the New LAT Rules that a motion was required to seek an adjournment of the case conference, no motion

issues in the Appeal and Purported SNIC Response involve CAT Impairment.

Moreover, in the "purported PIPEDA response", there was a reference to "internal" at the bottom of the document when it as sent externally to the "requestor" under that federal legislation (but the same named individual appellant herein) which is consistent with the emails of Ms. Moraes where there is a reference to "internal".

It is a difficult legal issue to determine, which has factual elements that need resolution, as to whether a ex-spouse or divorced spouse of the Applicant's current spouse is authorized to act against him (even covertly or surreptitiously – behind the names of others) but it would appear to be a form of "bad faith" and "abuse of process" to do so in a covert manner and only be discovered with forensic investigating or general investigation. Moreover, there is no dispute that that Mr. Karat was not authorized to SIGN even correspondence unless it was correspondence of a "routine administrative nature" and "directly supervised by the supervising lawyer". What is telling about the service of the Purported SNIC Response is that Mr. Karat did NOT include Mr. Nieuwland on said email when he did in the initial email on January 23, 2024 when Mr. Karat referenced the "Karat LAT Assignment" which was his handling of the LAT dispute. Moreover, it cannot go unnoticed by the Tribunal that Mr. Karat has been referenced in "two reported decisions" of which one is *Quinn v Security National Insurance Company*, 2023 CanLII 58482 (ON LAT) and this very lawyer hyperlinked above is named therein. In any event, irrespective of whether the current speculation is that there may be more evidence involving abuse of process of LAT by SNIC, the Purported SNIC Response contains the relevant admissions regarding the IRB regarding all essential elements to determine quantum for SNIC to make payments without further delaying the same.

Perhaps, it is even more concerning that from a Reg 664 award standpoint that the very hyperlinked lawyer above no longer represents himself to a lawyer on his LinkedIn but a "**Consequences Manager**". It is unclear if a "consequences manager" is only in the role of "providing legal services" and NOT practising law such that it would preclude him from handling matters involving "CAT Impairment". Whatever the role is of a "Consequences Manager", said lawyer who has worked with Mr. Karat on various files where he was "counsel", still leaves the undisputed issues of the admissions in the Purported SNIC Response and that Mr. Karat was unauthorized to SIGN the Responsive Pleading (also defined as "**Purported SNIC Response**").

If this lawyer (NOT Mr. Nieuwland) was the "Supervising Lawyer" of Mr. Karat, he would authorized the breaches of By-Law 7.1, section 6(1)(b) and (d) at the very least. Moreover, if this "Supervising Lawyer" (not named Mr. Nieuwland) was supervising Mr. Karat to engage in the unauthorized signing of the Purported SNIC Response, it provides further grounds for why the admissions are binding and cannot be retracted even though no steps have been taken to do so.

Perhaps, this is why Mr. Nieuwland included the name of a different respondent in the Nieuwland DOR. Further, it may be the reality that this is why Mr. Nieuwland was not willing to bring a motion to refile the Purported SNIC Response. While understandable as a matter of lawyer self-preservation, it does not absolve SNIC from its breaches of SABS and its continued unreasonable withholding or delay of payment of the IRB.

It also raises another complex academic issue in that the Tribunal has found that it cannot remove an adjuster from the underlying file but it certainly can find "abuse of process" on the facts that are subject to the Reconsideration Motion and certainly a separate motion if necessary involving this "ghostwriting lawyer" whilst Mr. Karat remaining the "sole signatory" of the **Purported SNIC Response**.

Even if this lawyer or any other lawyer was completing the Purported SNIC Response, it remains Mr. Karat who executed the Purported SNIC Response without any explicit reference to any other lawyer therein or otherwise.

Perhaps, this "ghostwriting and covert supervising lawyer" was unaware that an unlicensed representative (non-lawyer or non-paralegal) was not authorized to sign a response, and certainly not a "response" involving CAT Impairment. While it may never be necessary to canvass these discrete issue in a separate motion or hearing, they will then stand as further grounds (somewhat of a pre-emptive reply) for a Reg 664 award with regard to ordering the full 50% penalty in this motion and any potential motions that deal with any periods after the IRB Denial Date (subject to it actually being a compliant denial with medical reasons and other reasons).

At the very least, they are very suspicious circumstances which further aggravating elements (if necessary) as to why a Reg 664 is required. Simply put, whether any of the above is true (or is faced with evidence in the responsive materials if tendered

SNIC potentially resolve the issues in the NOM #4 without the need for a hearing.

Of course, if SNIC makes those payments, it avoids the risk of any costs at a hearing per se. If not, this is a certainly a form notice to SNIC regarding the same and the requirement that any and all relevant individuals and persons provide affidavit evidence that "explains why" an unprecedented peculiar set of facts that LAT has never addressed before.]

Appendix #3:

1. Federal Model Code Of Conduct is merely a model as the regulation of legal services

6.1-3 A lawyer <u>MUST</u> <u>NOT</u> permit a non-lawyer [Karat] to:

*(a) accept cases on behalf of the lawyer **[nb: Karat LAT Assignment on behalf of whom], except that a non-lawyer [Karat] may receive instructions from established clients if the supervising lawyer [nb: who is the Supervising Lawyer]** approves before [nb: when did work commence? Before the **Karat** LAT Assignment] any work commences;*
*(b) give legal advice [nb: **Karat**'s client was SNIC: was he giving legal advice or merely given authority from SNIC? If so, who was the person at TD Insurance Meloche Monnex (SNIC) that gave him authority: was is a lawyer? Was it a non-lawyer?];*
(d) act finally [nb: filing a pleading that takes position of striking or withdraw a final position] without reference to the lawyer [nb: no reference to any lawyer in the pleading; the cover letter is from SNIC with "TD Meloche Monnex" as the sender] in matters involving professional legal judgment;
*(e) be held out as a lawyer [nb **Karat** did not hold himself out as a lawyer but rather an unlicensed non-legal representative];*
*(f) appear in court or actively participate in formal legal proceedings on behalf of a client [nb: **Karat** actively participated in the formal legal proceedings as they commenced on December 24, 2023 by the: (i) **Karat LAT Assignment** on Jan. 25, 2024; (ii) the completed, executed and filed responsive pleading on Jan 25, 2024; (iii) the **Purported Karat COS**] except as set forth above or except in a supporting role to the lawyer appearing in such proceedings;*
*(g) be named in association with the lawyer in any pleading [nb: **Karat** was NOT named in association with any lawyer in a pleading but on his own. This appears to be a more eggregious breach], written argument or other like document submitted to a court;*
*(h) be remunerated on a sliding scale related to the earnings of the lawyer, unless the non-lawyer is an employee of the lawyer [nb: **Karat** is not an employee of a lawyer or law firm per se but rather, perhaps, an employee or contractor of an insurance company];*
(i) conduct negotiations with third parties, other than <u>routine</u> negotiations if the client [nb: SNIC] consents and the results of the negotiation are approved by the supervising lawyer [nb: who is or was the supervising lawyer?] before action is taken,
(j) take instructions from clients, unless the supervising lawyer has directed the client to the non-lawyer for that purpose and the instructions are relayed to the lawyer as soon as reasonably possible;
*(k)**<u>SIGN</u>** correspondence [nb: signing a pleading is far more than signing correspondence] containing a legal opinion [nb: the pleading contains legal positions, opinions, legal conclusions and points of law involving the application of legal principles and legal judgment regarding the objectives and circumstances of person. Most importantly,:*

*(l)**<u>SIGN</u>** correspondence **[nb: interestingly Karat did not <u>SIGN</u> the cover letter enclosing the Purported SNIC Response; Karat also did not <u>SIGN</u> the correspondence in the purported PIPEDA response]** , unless*

(i) it is of a routine administrative nature,
*(ii) the non-lawyer has been specifically directed to**<u>SIGN</u>** the correspondence by a supervising lawyer,*
(iii) the fact the person is a non-lawyer is disclosed, and

Appendix #4: *Dankha v Intact Insurance Company*, 2023 CanLII 62892 (ON LAT),

2. It is notable that in Dankha, **Manweel Dankha**, was in an automobile accident in July 2016 and sought benefits, and was denied at some point thereafter. After nearly six years since the Accident, the Tribunal held a case conference on March 8, 2022 and the matter as ordered to proceed to a written preliminary issue hearing.

3. The parties (Manweel Dankha and Intact) filed their submissions and evidence in 2022.

4. The key line from Vice Chair McGee was at paragraph 2, sentence 3, "In reviewing those submission, the Tribunal identified a procedural concern as to whether the applicant's representative [Mr. Grabar] was authorized to act in this matter." It was not until June 20, 2023 (see: paragraph 5 of Dankha) that the Tribunal wrote to the parties asking questions as to whether the applicant's [Manweel Dankha] representative [Grabar] was acting within the permissible scope of the practice for a Class P License- holder as set ou in the Law Society of Ontario's By-Law 4 and the Paralegal rules of Conduct ("Paralegal Rules"), and if Mr. Grabar is unauthorized to act in the matter, how should the Tribunal proceed?"

5. Strangely, counsel for Intact did not reply to the Tribunal's request.

Ms. Watson's positions advanced in Dankha v. Intact: Grabar's conduct was authorized and acceptable

6. However, Ms. Watson (presumably a lawyer: NTD) of Centennial Law Group, replied on behalf of the applicant (Manweel Dankha) as follows:

a. "*Grabar submitting documents under Advisement of Falletta*":
   i. At the time Mr. Grabar filed the preliminary issue submissions, he was authorized to communicate and submit documents under the *advisement* of Mr. Gerry Falletta see: suspended lawyer[iii]) former counsel [see. Mr. Niewuland has represented to the Appellant that he is counsel of record but for TDGIC) of record in the matter;
      I. (see: Mr. Karat filed the Purported SNIC Response with no evidence that Mr. Niewland was
b. "*Falletta oversaw Grabar's handling of file*":
   i. Ms. Watson[iii] advised that Mr. Falletta oversaw Mr. Grabar's handling of the file;
      I. (see: Karat LAT Assignment on January 23, 2024)
c. "*Applicant requested Grabar*":
   i. Applicant (MD) had personally requested Mr. Grabar's direct involvement in the case;
d. "*Beg for forgiveness after breaches*":
   i. Ms. Watson had recently took carriage of the file and asked the preliminary issue hearing proceed as scheduled.

Vice Chair McGee finds otherwise

7. Vice Chair McGee disagree and found as follows at paragraph 7:

a. Little evidence that Mr. Grabar was supervised by a lawyer in this proceeding;
   i. **NO DOR FROM LAWYER FOR NAMED PARTY**: Although Mr. Falletta attended the case conference in this matter along with Mr. Grabar on March 8, 2022 where the issued of CAT IMP was "ADDED", there was no declaration of representative in association from Mr. Falletta for this specific applicant (M. Dankha);
   ii. **REPRESENTATIVE NAME IN APPEAL**: Mr. Grabar is listed as the applicant's representative in the "APPEAL" (the word "Application" was used by Vice Chair McGee);

Mr. Grabar's name alone was on the written submissions executed and filed with the Tribunal;

iv. **Correspondence from whom**: all correspondence in evidence was sent on behalf of the applicant (MD) to the respondent (INTACT) by Mr. Grabar or his legal assistant;

v. **P1 outside of scope**: Mr. Grabor was and is acting outside of the scope of his practice: after the issue of CAT Impairment was added on March 8, 2022, a lawyer ATF to paralegal in relation to CAT impairment claims is found in section 5.1 of LSO By-Law 7.1:

> 1. This subsection of By-Law 7.1 permits a P1 holder to PARTICIPATE in MEDIATION of *ancillary issues* relating to CAT Impairment claims under a lawyer's supervision. The By-Law is explicit that ancillary issues do NOT included issues:
>
> a. Relating to;
>
> b. CAT IMP
>
> i. Determination.

8. There is a technical issue in that a P1 license holder must be in the non-licensee category to participate in the "mediation of ancillary issues". Further, Vice Chair McGee reference that there must be lawyer supervision of the P1 license holder if that P1 license holder is engaged in the mediation of ancillary issues of CAT Impairment. The Appellant believes that she is correct in that statement by reference to By-Law #4, section 4.(1) and (2) which references "direct supervision" Further, the word "participate" relates to the non-licensee P1 holder "participating" but not "representing" or "controlling" the mediation of the ancillary issues relating to CAT IMP.

Importance herein: Mr. Karat had less standing that Mr Grabar at first instance. and CAT Impairment was at issue from the time of the Appeal

9. The Appellant identified the jurisdictional and procedural concerns in early February 2024 which was only a week or so after the executing and filing of the Purported SNIC Response and a few days after the Nieuwland DOR for a non-respondent. Moreover, the Appellant did not receive a copy of the signed COS by Mr. Karat until February 14, 2024. The Appellant promptly severed his NOM #5 thereafter on SNIC, Karat and Nieuwland, and then perfected his NOM #5 a week or so thereafter.

10. The jurisdictional and procedural concern involving Mr. Karat were as follows:

a. Whether he was authorized to execute (SIGN) a "Response" with the "Response Form" he determined, complete, executed and file the same with LAT where CAT Impairment was at issue in the Appeal; and

b Whether he was authorized to sign the Karat COS on January 25, 2024 and file the same with LAT that confirmed that he had served his solely signed Purported SNIC Response?

Did Karat execute and file the Purported SNIC Response under advisement of a lawyer? Did a lawyer oversee Mr. Karat's signing and filing of the Purported SNIC Response and Purported Karat COS?

11. There is no evidence in the record that Mr. Nieuwland, in fact and at law, oversaw Mr. Karat's completion, execution and filing of the Purported SNIC Response. Moreover, the service of the Purported SNIC Response was done exclusively by Mr. Karat (see: January 25, 2024). There is no evidence of any advisement or overseeing Mr. Karat's purported filings which involved his SIGNING of the documents with only his own name and reference to himself a long with his phone number and the address of SNIC.

12. Like in Dankha, whether SNIC requested Mr. Karat's direct involvement, and assigned him to handle the LAT dispute has no consequence in law. SNIC's instructions do not override the requirements and obligations to retain a representative that has authority under the LSA to SIGN pleadings and file the same with administrative

LAT dispute and the responsive pleadings, Mr. Karat would remain unauthorized in law.

Correspondence

13. Mr. Karat emailed the Applicant on January 23 and 25, 2024 and February 14, 2024. Mr. Karat is the only individual that has signed and filed documents of consequence herein for SNIC.

14. While Ms. Moraes purported to provide dates for a case conference, she then requested an adjournment by way of her email to the Appellant and LAT. LAT promptly informed her that she had to bring a motion if she wished to do so. Of course, since Ms. Moraes is not "providing legal services" at this time, she is unable to execute any motion at all but moreover certainly not in relation to an issue involving CAT Impairment. It is now not unsurprising why no adjournment motion was advanced by Ms. Moraes but why would Mr. Nieuwland not bring a motion if that date was at issue (after already agreeing to the same)? Mr. Nieuwland filed a DOR for TDGIC and not SNIC.

15. As of late March 2024, the most Mr. Nieuwland has been able to say which is paraphrased, "I am counsel of record", "We will oppose your motions", and "please include my assistant, Ms. Moraes". After learning that Ms. Moraes was not representing that he was Mr. Nieuwland's assistant, the Appellant removed her from any emails until there was confirmation that she was Mr. Nieuwland's legal assistant as there was an issue, inter alia, of whether he had "effective control" over her provision of services (perhaps another individual who is ghostwriting).

16. If Ms. Moraes' position, based on her status of "not providing legal services - employed", is that she is deemed or, in fact, not to be providing legal services, then this speak to the knowledge that her and Mr. Nieuwland had (if she is his assistant in fact or at law)

---

[a] Denoted in the metadata of a purported PIPEDA response with the name of Mr. David Karat as the alleged author of said purported PIPEDA response
[b] https://lso.ca/public-resources/finding-a-lawyer-or-paralegal/directory-search/member?MemberNumber=63117 , https://lawsocietytribunal.ca/document-html/failure-22b-120r-mavis/
[c] https://lso.ca/public-resources/finding-a-lawyer-or-paralegal/directory-search/member?MemberNumber=74858U

Yours truly,

Mr. Kevin A. McLean (B.A., J.D, CIM) ("**McLean**" or "**Disabled Individual**") (he/him)
(e): lat@confidentialmclean.ca
(f): 647.370.6208

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created, by McLean (who owns the domain), as an electronic mail address for delivery and receipt of communications and records with the License Appeal Tribunal ("**LAT**") for the file "23-015662/AABS" involving McLean and TD Insurance and its underwriter, Security National Insurance Corporation ("**SNIC**") (defined as "**TD SNIC**");

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Electronically filed / Déposé par voie électronique : 18-Feb-2025
Toronto Superior Court of Justice / Cour supérieure de justice

On Thu, Mar 14, 2024 at 11:26 AM Kevin McLean <lat@confidentialmclean.ca> wrote:
Dear Sirs/Mesdames:

I write further to the above. I confirm that you have not denied (which I take as an admission) that the name of the individual noted above was involved in the underlying TD Claim number and this LAT proceeding. Such conduct was and is entirely unacceptable considering the above and previously noted (implicitly or explicitly).

As such, I confirm that this may be a potential sixth notice of motion if my Reconsideration Motion is not granted in full. Thank you.

Yours truly,

Mr. Kevin A. McLean (B.A., J.D, CIM) (**"McLean"** or **"Disabled Individual"**) (he/him)
(e): lat@confidentialmclean.ca
(f): 647.370.6208

Electronically filed / Déposé par voie électronique : 18-Feb-2025
Toronto Superior Court of Justice / Cour supérieure de justice

...

Kevin McLean <mcleansniclat@gmail.com> Thu, Mar 28, 10:39 PM (5 days ago)

to carol.persaud, elisha.anne, David, Matthew, James.V.Russell, Michelle, Andrew.papadimitropoulos

March 28, 2024

Dear Sirs/Mesdames:

As I have not had any confirmation that one "AP" (defined for ease of reference) will no longer be involved in the TD Claim #, this LAT Proceeding and any future LAT proceedings, my affidavit is being finalized and then to be notarized. I may serve and file said affidavit in made form due to the long weekend for many.

In this vein, I am contemplating seeking relief that will require a new adjuster on the TD Claim number for my belief, only formed recently and as a result of, inter alia, the "Andy Gera" reference albeit in the purported PIPEDA response. While I presume everyone herein is aware that administrative tribunals are more relaxed on the evidentiary formalities, I intend to bring evidence by way of "similar fact evidence" which is presumptively inadmissible but I would say admissible in this LAT Proceeding herein. I will have those particulars in my affidavit which I believe (if I am not miscounting) is affidavit #15.

When reviewing the case law, with cases like that of *Mansuri*, the law is well-settled that LAT has the power to disqualify counsel. Obviously, a disqualification of Mr. Nieuwland would be in the nature of disqualifying TD Insurance Staff Legal (as he has it a "private practice firm"). However, this is where this fact pattern becomes unique in the most euphemistic sense of the word. Mr. Nieuwland would be disqualified (which is not the true essence of the NOM #6) from acting for TD General Insurance which is not the insurer. This would be weirdly of assistance in some respects as that would disqualify Mr. Nieuwland from so acting for TDGIC but then may open the door to him filing a DOR for SNIC. In a way that absolves him of the misfiled DOR for TDGIC. As such, the focus of this NOM #6 is the exclusion of "AP" from any "representation of a person in a proceeding" which would obviously be SNIC by way of his connection with Mr. Karat (see: for example, *Quinn v. SNIC*). The case of *Mansuri* is quite clear that *PIPEDA* matters are dealt with separately from LAT and so are any potential causes of action in tort or otherwise (i.e. equitable claims or sui generis).

While I have never formally met "AP" to my knowledge, the appearance of a conflict or bias, especially when SNIC was making so many different decisions or deeming decisions by failures to respond under SABS, is sufficient. As noted, I did not have any emails with Ms. Persaud until late December 2023 and early January 2024. Upon closer review, while Ms. Persaud is mentioned in letters in 2023 and onwards, it is more by way of reference to her. I will have to inspect further but it appears that I was somewhat taking it as authored by Ms. Persaud when it is more referenced to her, phone number and fax number. Does this mean that "AP" was drafting and finalizing all of the letters since the DOL? I cannot prove that he was but my evidence will follow.

While I respect the "communication protocol" that Mr. Karat requested, and will continue to respect the same in substance, I have included Ms. Nurse and Ms. Persaud on this thread as it was brought to my attention that as it relates to this NOM #6, they are entitled to notice as per some of the relief I will be seeking. While Vice Chair McGee was of the view that LAT could not disqualify an adjuster, there were no factual issues about who the adjuster was, whether they were in contact with the insured and so on. Returning to Ms. Persaud's absence from September 2023 and onwards (with due respect for her privacy as I do not need reasons per se) as evidenced by her auto-reply (albeit unbeknownst to me), I fact checked this issue with those that Ms. Persaud had telephone conversations with prior to her absence. It was confirmed that they had not heard from Ms. Persaud since September 2023 either. If not Ms. Persaud or Ms. Nurse, then whom? I believe that question answers itself.

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Toronto Superior Court of Justice / Cour supérieure de justice
Court File No./N° du dossier du greffe : DC-24-00000718-00JR

unsuccessfully. It appears that the applicant (Murtaza Mansuri) was somewhat sensitive along with his brothers, who were also in car accidents albeit with different insurance companies, about the cross-referencing and collating of information therein to determine veracity (turning mostly on attendant care benefits). Even if Mr. Murtaza Mansuri was successful in his motion, which he was not, it would have been the disqualification of counsel for Dominion of Canada General Insurance Company ("Dominion Insurance Company"). Dominion Insurance Company would then been able to obtain new counsel and return to the defence of the Mr. Mansuri's appeal.

However the issue is much different herein because disqualification of Mr. Karat would be disqualification of a de facto representative albeit unauthorized to do so. This would leave no de facto representative for SNIC.

It is section 1(7)(a) and (c) that independently dispose of the issue because Mr. Karat admitted on January 23, 2024 that he was ASSIGNED this LAT dispute in the form of his handling of the same. He obviously went further than mere handling and SIGNED the responsive pleading. In this vein, he as a "non-licensee" and "unlicensed representative" had to derive his assigned powers, albeit in breach of the LSA and its By-Laws from some individual purporting to have those powers of assignment. Moreover, even though a lawyer may be "not on the record" or "counsel of record" at any point, it does not mean that they are NOT respresenting a person in a proceeding. The Legislature was clear in this regard by using the words "SHALL BE CONSIDERED". For example, if AP told Mr. Karat which form to use, when to use it, how to use it, and when, where and how to file and serve the same, AP is a de facto representative of SNIC in this SNIC Proceeding.

The blatant breach of the law was the "SIGNING" by Mr. Karat of the Purported SNIC Response. I need not get into whether Mr. Karat was "strong armed" or "coerced" but there had to be a supervising person or supervising lawyer for the steps he took.

By-Law 7.1 is clear in this regard that such powers of a non-licensee (even if that non-licensee is a P1 holder) must be in connection with providing those services to the licensee or licensee firm (i.e. TD Insurance Staff Legal).

AP is not employed by TD Insurance Staff Legal but employed, by reference to the LSO Directory, by TD Insurance. SNIC is an insurance company within the TD Insurance Group of Companies. SNIC is the insurer and underwriter of the Insurance Policy. Therefore, SNIC is the only insurer, respondent and potentially "respondent party" albeit not so for failing to comply with the various pieces of legislation, regulations and New LAT Rules.

SNIC is also the only insurance company named in the Purported SNIC Response and by reference to the cover letter Mr. Karat sent to me WITHOUT Mr. Nienwland copied therein.

There is also no dispute that AP has acted for SNIC in LAT proceedings and so has Mr. Karat. Therefore, it has become obvious now why the TD Claim # has been so mismanaged and not in accordance with the law. I say that is a form of actual bias or even malice. At the very least, it is the appearance of bias.

Again, the oddity and overriding issue is what remedy could be fashioned in this NOM #6 to allow SNIC to be represented? I say that SNIC had the opportunity to retain outside counsel or different counsel and chose not to. However, that would still not solve the conflict of interest issue if AP was still the "guiding force" or "ultimate counsel" providing instructions or even advice to the appearance of an "outside counsel".

In attempting to find cases where such a weird fact pattern has occurred, one case was brought to my attention that is Yellow Cedar v. Di Torio, 2020 ONSC 5915. I am still reviewing it but the analogy appears to prevail even where the defendants were seeking to remove a law firm (Bennett Jones LLP) where a lawyer at the "firm" (here a lawyer at TD Insurance) was not the lawyer with carriage of the litigation matter.

[46] This argument brings me back to the case-law that the Defendants have relied upon. One case in particular, *Talisman Resort v. Keyser, Usling et. al.* (2013 ONSC 1902) is striking as it is a case that features in a number of the footnotes in the Defendants' factum. In that case, Conlan J. described the nature of the motion he was faced with as follows (at paragraph 5):

for Talisman because of an actual or perceived conflict of interest in that a partner in that law firm (but not the lawyer with carriage of the matter), Serafino Mantini ("Mantini"), (i) is a witness and (ii) has a personal interest in the litigation in that Mantini is the sole shareholder of Talisman's corporate shareholder and, as a mortgagee, is owed a substantial amount of money from Talisman.

What is important to note about Talisman is the timing of the motion must be promptly and I must not sit on my now knowledge or I will be estopped (colloquially speaking) from later complaining.

In my view, unless SNIC has some creative solutions as how best to mitigate these issues after an order of permanent exclusion of AP and any persons he has so tainted (I say so relating to the legal effects and consequences of the same) such as Mr. Karat, Claims Adjusters, Mr. Nieuwland and potentially Ms. Moraes (see: "Andy Gera" with "Gera" meaning "generated" in Portuguese). If there was an "Andy Gera" or "Andrew Gera" working at TD and had such an email that did not bounce back, then one could see the other side of the coin or play devil's advocate but no such individual exists.

It also seems admitted that the adjusters need to change locations so to speak by Ms. Nurse (Markham) to Ms. Persaud (Burlington) but that clearly has not had the presumed underlying effect or an attempt at the appearance of one.

My position will have to be that these are irremediable nullities and egregious violations of the law that will, for the reasons in NOM #6 and affidavit #15, strike all documents filed on behalf of SNIC without leave to amend or refile. Weirdly, there will not be any prejudice to SNIC as I will still be required (where applicable) to show evidence as to the quantum of benefits, and if another proceeding arises, the order will have an effect to govern the future proceedings.

In conclusion, I provide this courtesy notice to you of what is to come and remain available on a with prejudice / without prejudice basis to resolve with an authorized and independent lawyer licensee representative of SNIC.

Warm regards,

Mr. Kevin A. McLean (B.A., J.D., CIM)
("Appellant", "Applicant", or "Insured Person")

(e): **MCLEANSNICLAT@GMAIL.COM**
(p): 647.513.1270
(a): 410-775 King Street West, Toronto, Ontario, M5V 2K3

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Kevin McLean <mcleansniclat@gmail.com> Sat, Mar 30, 2:11 PM (3 days ago)

to David, Matthew, James.V.Russell, Michelle, Andrew.papadimitropoulos, carol.persaud, alisha.anne

March 30, 2024

Dear Sirs/Mesdames:

I have received an auto-reply which is below (see: Appendix). It is self-evident that Mr. Karat's signature block has changed from the January 23 and 25, 2024 along with the February 14, 2024 outgoing emails to me (see: **Affidavit #13, Exhibit "A", pages 4 to 6)** and his auto-reply emails to me (see: **Affidavit #13, Exhibit "A", pages 11 to 13**).

As such, this is further evidence that supports the focus of my to be served NOM #6 and the affidavit material to support the same.

We were obviously aware that Mr. Karat had been on the file in *Quinn v. SNIC*[ii] (with counsel in AP and FP); and *Kopylets v. Primmum*[iii] (with McCague Borlack LLP).

I will provide you with the kind notice that I may have this new and fresh evidence in a separate affidavit or combined in one affidavit. I will likely have to provide the affidavits in made form and then notarized form due to the long weekend for many.

I again urge you to provide me with any existing lawyer that has filed a DOR on behalf of Security National Insurance Company in order for me to take meaningful steps herein. Until that occurs, I am unable to do so and the entire LAT proceeding has been frustrated.

I will continue to review the jurisprudence in this regard and see how tribunals and courts handle such a unique matter to avoid any further tainting of this LAT Proceeding (if possible). I am also focused on how to ensure that matters are handled in accordance with SABS after the conclusion of this LAT Proceeding.

It is trite that this new fresh evidence supports my above positions and evidence filed and to be served and then filed. In particular, Mr. David Karat was and is the only "on the record" representative (albeit not authorized with the LSO to have signed the Purported SNIC Response) and now he is no longer authorized with SNIC. While this email is under this thread, I may rely on the same for "general and future purposes".

I reserve the right to bring this correspondence to the attention of LAT for any lawful purposes.

Thank you.

Appendix

Karat, David 1:24 PM (9 minutes ago)

to me

Hello and Thank you for your email.

Kindly note that the office will be closed on Friday, March 28, 2024 and will be reopening on Monday, April 1, 2024. During this time I will not have access to email or phone.

Yours truly,

101 McNabb St., Markham, ON L3R 4H8
T: 877-855-3767 Ext 260263 | F 416-774-3120 | david.karat@tdinsurance.com
Also authorized to represent Primmum Insurance Company, TD General Insurance Company, and TD Home and Auto Insurance Company

[i]Quinn v Security National Insurance Company, 2023 CanLII 58482
[ii]Kopylets v Primmum Insurance Company, 2023 CanLII 65759

Warm regards,

Mr. Kevin A. McLean (B.A., J.D., CIM)
("Appellant", "Applicant", or "Insured Person")

(e): **MCLEANSNICLAT@GMAIL.COM**
(p): 647.513.1270
(a): 410-775 King Street West, Toronto, Ontario, M5V 2K3

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...

Kevin McLean <mcleansniclat@gmail.com> Sat, Mar 30, 2:19 PM (3 days ago)

To David, Matthew, James.V.Russell, Michelle, Andrew.papadimitropoulos, carol.persaud, alisha.anne

March 30, 2024

Dear Sirs/Mesdames:

I write to confirm that I have received auto-replies from "AP" and Ms. Moraes which confirms that they have received the above emails. I am pleased to know the same as they will have the chance to respond to my sixth notice of motion. I will revert back with the relevant law and evidence.

I will note that if Mr. Karat was and is not authorized to have solely signed the Purported SNIC Response on behalf of SNIC, and Mr. Niewland is only authorized to act for TDGIC, then this leaves a lawyer at the same office address as Mr. Karat in Markham, Ontario (namely 101 McNabb Street, Markham, Ontario, L3R 4H8).

In my view and it will be my position that this was the facilitating of unauthorized practice and/or the failing to prevent unauthorized practise. I confirm that such a motion in NOM #6 is distinct from NOM #5 and focuses on those licensee(s) that facilitated, instructed, advised, or even coerced Mr. Karat to do the same by general assignment or specific assignment. In order to face this NOM #6, those individual(s) that authorized and assigned the activities and functions to Mr. Karat so that he could solely sign the Purported SNIC Response, then file it and serve it upon me, will need to swear evidence.

Thank you.

Appendix

Papadimitropoulos, Andrew Thu, Mar 28, 10:40 PM (2 days ago)

to me

Please be advised that I will be away from the office on March, 28, 2024 with limited access to e-mail and voicemail.

Regards,
Andrew

...

[Message clipped] View entire message

Moraes, Michelle Thu, Mar 28, 10:40 PM (2 days ago)

To me

advised that I will be out of the office starting Monday, April 1, 2024, returning Tuesday, April 2, 2024, with limited access to email or voicemail. I will respond to your message at the earliest opportunity upon my return.

Should you require immediate assistance, please reach out to Kris Biri at nova.biri@tdinsurance.com.

Warm regards.

Mr. Kevin A. McLean (B.A., J.D., CIM)
("Appellant", "Applicant", or "Insured Person")

(e): **MCLEANSNICLAT@GMAIL.COM**
(p): 647.513.1270
(a): 410-775 King Street West, Toronto, Ontario, M5V 2K3

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...

[Message clipped] View entire message

K

Kevin McLean <mcleansniclat@gmail.com> Sat, Mar 30, 3:00 PM (3 days ago)

to David, Matthew, James.V.Russell, Michelle, Andrew.papadimitropoulos, carol.parsaud

March 30, 2024

Dear Sirs/Mesdames:

I confirm that I have received a bounce back from Ms. Nurse as her email is no longer active and not receiving emails. As such, I have removed her from the email thread. I wish her well.

Despite Mr. Karat's admitted lack of authorization for SNIC, I will keep him on the email thread until or if SNIC appoints a duly qualified lawyer licensee to handle the TD Claim and SNIC Proceeding which involves CAT Impairment.

In the spirit of comprehensiveness, I can alert you that I *will* take a page out of the "Mosa book" (*see: Mosa v. BelairDirect Insurance Company*, 2022 CanLII 11164; wherein counsel for Mr. Mekonen Mosa in Mr. Michael Bishop, barrister and solicitor at Harvey Katz Law Group in Hamilton, with the LSO sought relief by way of his reply when an unauthorized representative in Ms. Heather Morrow (ADRR) filed materials in relation to his motion for particulars) and seek relief to strike any filed materials by any individual on behalf of SNIC or any non-respondent or non-party. This would apply to the NOM #4 as well and the LAT Order of February 14, 2024 that requires the party that responds to do so by April 11, 2024.

positions and NOM #6. Any such duly qualified representative would still need to face the nullity issues, and then obtain an order to re-file the Purported SNIC Response. As this is a CAT Impairment Appeal with much outstanding. I will not consent to any attempted adjournments or delays. I do not say that to be difficult but to assure that you are aware of my position if SNIC is seeking to obtain new counsel, and said counsel is aware of the scope of the potential engagement.

Thank you.

Warm regards,

Mr. Kevin A. McLean (B.A., J.D., CIM)
("Appellant", "Applicant", or "Insured Person")

(e): **MCLEANSNICLAT@GMAIL.COM**
(p): 647.513.1270
(a): 410-775 King Street West, Toronto, Ontario, M5V 2K3

§ ***DUTY OF CONFIDENTIALITY:*** *The contents of this email, and its attachments are confidential, solely for the specified purposes above, and intended for the recipient specified in message only; and* § ***DICTATION OF EMAIL or Assistance from Third Parties (no waiver of confidentiality or privilege):*** *this email may have been created using voice recognition software and the author reserves the right to correct any spelling, grammar and syntax upon further review.*

...

Electronically filed / Déposé par voie électronique : 18-Feb-2025
Toronto Superior Court of Justice / Cour supérieure de justice
Court File No./N° du dossier du greffe : DC-24-00000718-00JR

Kevin McLean <mcleansniclat@gmail.com> Sun Mar 31, 2:17 PM (2 days ago)

David, Matthew, James.V.Russell, Michelle, Andrew.papadimitropoulos, carol.persaud

March 31, 2024

Re: courtesy notice – regarding NOM #6 – potential for fruitful with prejudice discussions or without prejudice discussion as a result of some of the below

Dear Sirs/Mesdames:

I write further to the above. I am sending this on a courtesy basis to hopefully open up some productive dialogue with an independent representative for SNIC so this LAT Proceeding can be handled professionally, maturely and most expeditiously. At this stage, we are certainly not even close. As always, this is dictated with voice-recognition software along with assistance so pardon some of "rough draft" and collated nature of the same. However, urgency is required on my side and there have been many developments this week that bear on the issues herein.

I am providing this correspondence as a courtesy to you and so that we do not waste further resources of LAT on matters that are uncontroversial. In my view, this should also assist with any resolution. I am also doing out of an abundance of caution and for record keeping purposes.

Part 1: Upon Further Review

Upon further review of the auto-reply from **Andrew P.** and the language in one email from TDIADR@tdinsurance.com to me. I note some similarities between the two emails sent in the following:

1. **Font** (sans serif or **Arial**);
2. **Font size**;
3. **Style of writing**;
4. **Word choice**;
5. **Spelling** (**e-mail** vs. email); and
6. **Other particulars.**

(see: Appendix #1).

I further note that TDIADR@tdinsurance.com has been on some 32 email threads since mid January 2024 and I believe (subject to review) that said email was included by LAT at first instance. I cannot fault LAT for doing so as that may be standard protocol especially when I had named TD Insurance (TD Insurance Meloche Monnex Security National Insurance Company).

What I can fault TD Insurance Meloche Monnex (SNIC) for doing, if this is correct that "TDIADR" and "Andrew P" both sent the emails below (which we know one is him). As you know, there is now a live issue of "conflict of interest" or at least the appearance of conflict of interest. It goes without saying that the evidence of this "Andy Gera Authored Document" under PIPEDA led to a train of inquiry and investigation.

To be objective and detailed, I have included some other auto-replies for those persons where I have received auto-replies (see: **Appendix #2 to Appendix #5**). As it is now the end of March 2024, I am required, by cases like Talisman, to ensure that such a motion is brought promptly subject to any resolution between myself and SNIC on what is within the ambit of the pleadings. This is obviously not the route that anyone wishes to take when trying to resolve matters with the insurer (SNIC), which must be resolved in accordance with SABS, but these are the cards I was dealt. It would be fatal for me to sit on these new facts as of the end of this week and not advance the same. Without castigating anyone, there is at least the appearance of a conflict of interest in the mind of a reasonable person. My view is that it is best that anyone who is subject to the appearance of a conflict, as the Insurance Policy has my Spouse as the primary insured along with BMW Financial Services Inc. (a division of

If I do not have confirmation from Andrew P. or SNIC regarding him by the next business day (subject to any global resolution of all issues herein), then I have to proceed with my motion. It may be that it is decided on May 3, 2024 but it has to be brought.

I am not looking to point fingers but I believe LAT can take judicial notice that any time two people get divorced (as I am from a divorced family), there are aspects that one's mind may not know that conflict with that undivided duty of loyalty to their client. That being said, now that Mr. Karat is no longer authorized for SNIC, I had to turn my mind (as I am not getting direct responses or any to my queries) as to whom could have been the "supervising lawyer" for Mr. Karat. I wish to also make clear that Mr. Karat has been pleasant and professional with me but there is an issue as to whether that "signed and filed" response is authorized by the LSA and its By-Laws. It is admittedly a very lengthy affidavit that I have drafted and being reviewed as it covers a variety of areas of law and with this Ms. Moraes being an accomplished paralegal but with a different status currently, along with Mr. Nieuwland saying that she is his assistant but the signature block does not add up, I am finding some of these aspects to be deeply concerning.

I have no issue with hard fought litigation on its merits as I am getting help from a variety of sources but so long as it is hard fought on the facts and the law. There is obviously no requirement to settle but it appears that the case conference spirit is to come to said case conference ready to settle. We have had no movement there at all for obvious reasons. I appreciate we cannot discuss or put into evidence any such discussions so I will simply leave it at that and not for the truth of any contents.

I continue to find it troubling that we have SNIC as the respondent in the Purported SNIC Response and Mr. Nieuwland representing TDGIC. As you can see from my letter to LAT (without knowing of my email issues), the naming of parties is not merely cosmetic when considering enforcement of orders.

The issue of whom is behind TDIADR is even more concerning because I included said email in good faith, for settlement offers and other correspondence. However, the only two emails of relevance to this LAT Proceeding are that of Mr. Karat (SNIC) and Mr. Nieuwland (TDGIC).

I am trying to approach this from a standpoint of being empathetic to one degree but also focused on if there is any predilection to resolve this matter before the April 11, 2024 deadline. In that vein, I am obviously not going to negotiate with Andrew P. in any way and if he has any role in this file or the TDIADR email (and I do not have confirmation he has no role moving forward by end of business day tomorrow) because that would destroy my factual and legal position.

If I do not have any type of offer or attempt to resolve the issues herein by end of business day tomorrow by an independent authorized representative for SNIC (which I presume can be Mr. Nieuwland if he is truly independent and there is no appearance of bias or conflict), then I will presume that I need to proceed with my NOM #6 which will come with an "made affidavit" and "motion form", and then the written argument. Due to the long weekend for my service providers, I will see if there is any response from SNIC on a with prejudice or without prejudice basis, and provide you copies in advance.

Part 2: Other issues that arise by not resolving any outstanding issues now – the substantial issues

As I see it, this NOM #6 has fatal consequences for SNIC in this proceeding and perhaps even some of the individuals. When using the word "fatal", I mean in the legal sense of the word. I see it as such because cases like Mansuri (where the disqualification motion failed) or cases like *Jia* (where it succeeded), dealt with outside counsel and had them removed. In those scenarios, the worst situation for the respondents therein was the loss of an outside counsel and retaining new counsel.

However, in this SNIC Proceeding, with Mr. Karat no longer authorized for SNIC, Mr. Nieuwland acting for TDGIC, this information connection between him and Ms. Moraes as his purported legal assistant, and the "Andy Gera" authored document for a PIPEDA response (which is certainly a different name than David Karat), I am of

The issue turns on remedies. Can the Tribunal disqualify counsel that are not "technically on the record for SNIC"? I believe that it can based on section 1(7)(a) of the LSA in that even an individual in the "background" who makes those determinations of who, when, where and how to file "**SHALL BE CONSIDERED**" to be representing a party in a proceeding.

I also appreciate that the "response form" does say "claims adjuster" but I do not see any way around the "signing" aspect even when it is done electronically (see: ECA, *Fenlon Brushes*).

It has now dawned me that it would have been impossible for Mr. Nieuwland to be the supervising lawyer for the filing and signing of the Purported SNIC Response as his auto-reply was on in colloquial terms, the minute he was copied by Mr. Karat as "counsel" on January 23, 2024. Therefore, Mr. Karat could not have done this on his own.

The question that I wrestled with is who could that be that was supervising, delegating or assigning that task to him. This is particularly apposite because had had worked with AP and PP on *Quinn v. SNIC* and Mr. Dugas in *Kopylets v. Primmum*. I see that Mr. Karat is still authorized for Primmum Insurance Company but not SNIC. I will have to check if we cannot gain any traction on resolving issues or narrowing them as to whether Mr. Dugas has any role in this SNIC Proceeding.

I have had Ms. Moraes' researched and she has acquitted herself quite well as a paralegal in LAT hearings. However, I do not see any law that would support her delegation of tasks to Mr. Karat. Obviously, Mr. Karat appears to have passed his paralegal educational requirements but has chosen to not to pursue them or obtain that P1 license. I do not say that pejoratively as that is his choice.

We now have a situation of Ms. Nurse no longer being with TD with her bounce back emails and my continuous requesting of which of the six physiotherapy (of 26) that she disallowed without reasons. Is she now a witness? Can she be summoned?

I do not see this as a mere procedural concern where SNIC then obtains external counsel because who on behalf of SNIC would be giving instructions to external counsel? As such, and since there has not been any denial by Andrew P. or others on his behalf that he is involved in this file, and I say as a "cover representative of SNIC in this proceeding" (see: section 1(7) of the LSA), then the only ways to avoid such a notice of motion as I respectfully see them are:

1. Andrew P. provides an undertaking that he will no longer be involved in this LAT Proceeding or the TD Claim # (as I anticipate that there will certainly be issues beyond this LAT Proceeding irrespective of results); or
2. This LAT Proceeding and all outstanding matters are settled by consent, and I inform LAT that they are so settled to our satisfaction with the benefit of me having ILA.

While we have the NOM #5 where Vice Chair Lake declined to decide and if I am reading the "tea leaves" correctly there, it is that LAT wishes for us to move ahead with the IRB motion (as that is purely quantum) and make use of a closed door, private and without prejudice case conference. Therein again lies the problem because if there is an appearance of conflict of interest or an actual one, we are wasting the time of LAT and their astute case managers and whomever presides over a case conference. Even selfishly, I believe it will be time wasted and deepen the conflict between us.

As I am writing this, due to urgency, the authorities are being compiled for me and the draft orders sought as they are technical. It appears from Mansuri that Vice Chair McGee found that she did not feel that LAT had the authority to disqualify an adjuster but obviously could disqualify counsel. I say that in this scenario, and subject any responsive evidence to my affirmed evidence, that LAT would have the authority to disqualify an adjuster if there was a conflict with a lawyer licensee (or the appearance of) like Andrew P. as Nicole Antopoulos' name is in both pleadings. This would mean the disqualification of Ms. Persaud although I have never received a signed document from her or an email in reply from her. We will see what this week brings in this regard. The way in

representative of record" with Mr. Karat like he did in Quinn? I think that question answers itself.

Then, is it better or worse if a counsel, in such a situation, is acting for SNIC or representing SNIC albeit in a landestine or covert (even if using those words innocently) manner? I say it is worse for a variety of reasons that I will provide in my final affidavit albeit on belief. I will be affirming that if Andrew P.'s name was on a DOR, the first motion that would have been brought would have been for an immediate striking of the same and any consequential relief.

Part 3: Some of the case law (some new and some old) that has been found and its application for this potential NOM #6

CONFLICT OF INTEREST PRINCIPLES _V3

Re: disqualified from handling the herein claimants' matters and that separate counsel and adjusters are required to handle each separate matter.

March 28, 2024: Karat no longer authorized for SNIC

Mr. Nieuwland acting for TDGIC (IRB response due on April 11, 2024)

Nurse gone altogether

eaves: AP and Persaud

Legal Test: General Principles

1. **Standard of proof: balance of probabilities**; test: objective (reasonable person test):
   a. established on a balance of probabilities
   b. that a fair-minded and reasonably informed member of the public would conclude that the removal of Andrew P. as a "deemed representative of SNIC" by virtue of s. 1(7) of the LSA and Karat, and any of those that Andrew P. and Karat have instructed, advised, or counselled (unauthorized or authorized) is necessary for the proper administration of justice (see: *MacDonald Estate v. Martin*, 1990 CanLII 32 (SCC), [1990] 3 S.C.R. 1235 at paragraph 47.
2. **Legal question**: whether there is an appearance of a conflict of interest? (see: *Puhl, supra*, at paragraph 18.)
   a. also reasonable perceptions of conflicts of interest (MacDonald Estate v. Martin);
      i. My position: an objective person would find an appearance of a conflict of interest and that it filtered or permeated down to Mr. Nieuwland, Ms. Moraes, Mr. Karat, Ms. Persaud and Mr. Nurse.
3. **Power in tribunal**: section 23(3) (see: Mansuri);
   a. **Power in court**: inherent;
      i. Test in Mansuri: In *Jia*, the court upheld a reconsideration decision in which the Tribunal disqualified the insurer's counsel whom it found to be in a conflict of interest [handling two distinct aspects; Tribunal and Court found that there is an extra sensitivity to the receipt of information, personal information and personal health information on the SABS side [my position: yet another issue involving conflict of interest];

Tribunal's jurisdiction. The applicants also refer me to the Tribunal's authority under the *Statutory Powers Procedure Act*, RSO 1990, c S.22 ("*SPPA*") to make orders with respect to the procedures and practices that apply in a proceeding, and to the Tribunal's authority under the *Licence Appeal Tribunal Act, 1999*, SO 1999, c 12, Sched G ("*LAT Act*") to determine all questions of fact or law that arise in matters before it.

4. **Necessary for proper administration of justice**: It is grounded in the Court's objective to safeguard the **proper administration of justice.** *Puhl v. Katz Group Canada Ltd.*, [2006] O.J. No. 4596 (S.C.J.) at paragraph 23.

a. My position: the Tribunal has the statutory power to control the same and an undertaking by AP or global resolution that avoids any further issues is the only way to avoid this NOM #6. However, would an undertaking even accomplish it? The language would be crucial.

5. **Balancing**: integrity of the legal profession and high standards as justice system as a whole vs. litigant (SNIC) has the right to choose counsel and mobility in the legal profession.

a. My position: there is no issue of mobility in the legal profession. Further, there is no issue of SNIC's right to choose counsel as it has selected external counsel before in McCague Borlack and presumably others;

6. **ROPC**: Court may consider any APPLICABLE RULES OF PROFESSIONAL CONDUCT. Where there is a rule or guideline or ethical principle directly on point, the Court ought to consider it but is not bound by it. *MacDonald Estate, supra*, at paragraph 21;

a. My position: I believe this is where the issues will be most damning to SNIC and those individuals noted;

7. **Motion timing**: Motion must be brought early on (see Talisman Resort);

a. My position: hence the timing of the previous correspondence and this letter;

8. **Choice of counsel**: Canadian Courts exercise the highest level of restraint before interfering with a party's choice of counsel"[2] – *Kaiser*, 2011 CarswellOnt 12822 (Court of Appeal for Ontario) at paragraph 21

a. My position: I do not believe that this motion is about "choice of counsel" but rather a representative in AP that is "deemed to be a representative" by the LSA under section 1(7) et al;

9. **Mobility in the legal profession**: The desirability of permitting reasonable mobility in the legal profession

a. My position: this value does not arise as there is no mobility issue.

10. Tainting of evidence:

a. My position: this is where responsive evidence by certain individuals will be required but it is likely an irremediable set of nullities and abuses of process that cannot be cured;

11. Real possibility of mischief: Justice Cronk of the Court of Appeal for Ontario in *Kaiser, supra*, "there must be a possibility of real mischief should a removal order be refused" (paragraph 21);

a. **My positon**: this appears to be more fitting for the court context but nonetheless the appearance of conflict is there and I believe I can prove the same on the metadata (which no individual has represented that there is an "Andy Gera");

Will the representative appear as a witness? [nb: there are multiple from de-facto, deemed and de jure albeit one for a non-respondent and non-party

12. The Divisional Court, in *Essa (Township) v. Guergis* ((1993) 15 O.R. (3d) 573, 1993 CanLII 8756 rev'g (1993) 12 O.R. (3d) 97 1993 CanLII 8467) set out the following criteria for the Court to consider in a motion such as this:

a) the stage of the proceedings [nb: pre case conference];

b) the likelihood that the witness will be called [nb: I will call various individuals and/or they will have to give evidence in response to the motion];

good faith is at its highest and bad faith on the licenseees and others for the Respondent or a non-respondent; covert];

d) the significance of the evidence to be led [nb: not only affects the LAT Proceeding but underlying matter];

e) the impact of removing counsel on the party's right to be represented by counsel of choice [nb: none];

f) whether trial is by judge or jury [nb: Tribunal decision maker];

g) the likelihood of a real conflict arising or that the evidence will be "tainted" [nb: evidence has been tainted to some degree and can those who have interacted with Andrew P. disabuse their mind. Would a new external counsel even solve the issue? Depends on who is instructing and how covert those instructions are?];

h) who will call the witness if, for example, there is a probability counsel will be in a position to cross-examine a favourable witness, a trial judge may rule to prevent that unfair advantage arising [nb: strategic issue];

i) the connection or relationship between counsel, the prospective witness and the parties involved in the litigation [nb: If Mr. Nieuwland were counsel for SNIC, then this would be a concerning connection].

Part 4: The case of *Barnett v. LSUC* (prior to 2006 under the Access To Justice Act, 2006

In *Barnett*, the Law Society Tribunal found that the "Commentary" in "Rule 16, Commentary 3.(1) was of some assistance:

> Particular 2(d)(iii) does not refer to a specific rule but the Law Society argues that Rule 16 Commentary 3.(1) is of some assistance. That Commentary reads as follows:
>
> A lawyer may <u>not</u> permit a non-lawyer to:
>
> (1)***<u>SIGN</u>*** correspondence containing a legal opinion, but the non-lawyer who has been specifically directed to do so by a supervising lawyer may ***<u>SIGN</u>*** correspondence of a routine administrative nature, provided that the fact such person is a non-lawyer is disclosed, and the capacity in which such person signs the correspondence is indicated.

Barnett (albeit *prior* to the *Access to Justice Act 2006*) was summarized as follows and the "rule" historically was:

mortgage consultant which:

i. provided for a discount on legal fees incurred by a person who used the services of the three participants in the business arrangement;

ii. placed him in a position where his obligations to a client might conflict with those of the other parties to the business arrangement;

iii. called for the other members of the business arrangement to ***SIGN*** his letterhead;

Is this the modern day By-Law 7 issue as it relates to MDP's?

If so, I note the following under that By-Law #7 and its relevant sections:

By-Law 7 does not use the language of "entity" but "affiliated entity". Affiliations is "Part IV" of *By-Law* 7 (Business Entities) which makes it somewhat tricky to follow.

I now quote from section 31:

Interpretation:

31. (1) In this Part,

"affiliated entity" means one [nb: Karat] or more persons none of whom are licensed or otherwise authorized to practise law or provide legal services in or outside Ontario [nb: Karat];

"licensee" includes a permitted group of licensees.

Interpretation: "affiliation"

(2) For the purposes of this Part, a licensee [nb: AP] affiliates with an affiliated entity [nb: Karat] when the licensee [nb: AP] on a **regular basis** [see: *Quinn v. SMIC*, six day hearing in 2022 with decision released in June 29, 2023[iv]] joins with the affiliated entity [Karat] in the delivery or promotion and delivery of the services of the licensee [nb: AP] and the services of the affiliated entity [nb: Karat as ADR Specialist].

Ownership of practice, *etc.*

32. A licensee who affiliates with an affiliated entity shall,

(a) own the professional business through which the licensee practises law *or* provides legal services or comply with Part III [nb: possibly AP];
(b) maintain control over the professional business through which the licensee practises law or provides legal services [nb: *AP* – does he?]: and

law or provides legal services, other than the practice of law or the provision of legal services that involves the delivery of the services of the licensee **jointly** with the services of the **affiliated entity**, from premises that are **not** used by the **affiliated entity** for the delivery of its services, other than those that are delivered by the **affiliated entity jointly** with the delivery of the services of the licensee.

[nb: Karat and AP at same location and both under TD Insurance in Markham, Ontario. There appears to be something here with the switch from Ms. Nurse (Markham) to Ms. Persaud (Burlington)

This then take us back to the section under By-Law #7 with respect to what a non-licensee can do and it is only "supplement" which would not be signing and filing a pleading.

Part 5: The Federal Model Code of Conduct

Federal Model Code Of Conduct, section 6.1-3 with my annotations and reference to either "AP" and "Karat"; or "Nieuwland" and "Karat":

6.1-3 A lawyer **MUST NOT** permit a non-lawyer **(Karat)** to:

*(a) accept cases on behalf of the lawyer [nb: **Karat LAT Assignment on behalf of whom**], **except that a non-lawyer [Karat] may receive instructions from established clients if the supervising lawyer [nb: who is the Supervising Lawyer]** approves before [nb: when did work commence? Before the **Karat LAT Assignment**] any work commences;*
*(b) give legal advice [nb: **Karat**'s client was **SNIC**; was he giving legal advice or merely given authority from **SNIC**? If so, who was the person at TD Insurance Meloche Monnex **(SNIC)** that gave him authority; was it a lawyer? Was it a non-lawyer?];*
*(d) act finally [nb: filing a pleading that takes position of striking or withdraw a final position] without reference to the lawyer [nb. no reference to any lawyer in the pleading; the cover letter is from **SNIC** with "TD Meloche Monnex" as the sender] in matters involving professional legal judgment,*
*(e) be held out as a lawyer [nb: **Karat** did not hold himself out as a lawyer but rather an unlicensed non-legal representative];*
*(f) appear in court or actively participate in formal legal proceedings on behalf of a client [nb: **Karat** actively participated in the formal legal proceedings as they commenced on December 24, 2023 by the: (i) **Karat** LAT Assignment on Jan. 23, 2024; (ii) the completed, executed and filed responsive pleading on Jan 25, 2024; (iii) the **Purported Karat COS**] except as set forth above or except in a supporting role to the lawyer appearing in such proceedings;*
*(g) be named in association with the lawyer in any pleading [nb: **Karat** was NOT named in association with any lawyer in a pleading but on his own. This appears to be a more egregious breach], written argument or other like document submitted to a court;*
*(h) be remunerated on a sliding scale related to the earnings of the lawyer, unless the non-lawyer is an employee of the lawyer [nb: **Karat** is not an employee of a lawyer or law firm per se but rather, perhaps, an employee or contractor of an insurance company];*
*(i) conduct negotiations with third parties, other than routine negotiations if the client [nb: **SNIC**] consents and the results of the negotiation are approved by the supervising lawyer [nb: who is or was the supervising lawyer?] before action is taken;*

the non-lawyer for that purpose and the instructions are relayed to the lawyer as soon as reasonably possible;
*(k)**SIGN** correspondence [nb: signing a pleading is far more than signing correspondence] containing a legal opinion [nb: the pleading contains legal positions, opinions, legal conclusions and points of law involving the application of legal principles and legal judgment regarding the objectives and circumstances of person.]*

*(l)**SIGN** correspondence **[nb: interestingly Karat did not SIGN the cover letter enclosing the Purported SNIC Response; Karat also did not SIGN the correspondence in the purported PIPEDA response]** , unless*
(i) it is of a routine administrative nature,
*(ii) the non-lawyer has been specifically directed to **SIGN** the correspondence by a supervising lawyer,*
(iii) the fact the person is a non-lawyer is disclosed, and
(iv) the capacity in which the person signs the correspondence is indicated;

Part 6: Failing to prevent unauthorized practice or facilitating unauthorized practice

Without knowing for certain if anyone facilitated unauthorized practice or failed to prevent it, I raise this for the above courtesy reasons.

The issue again is Mr. Karat's competency per se but rather the language the Legislature passed and the LSO with the By-Laws

In *Crawford v. Law Society of Upper Canada*,[1] the hearing panel addressed the policy reasons for the rule (which also addresses non-licensees or unlicensed representatives by analogy):

> Former licensees are **uninsured**, and **immune** from the regulatory and disciplinary control of the Law Society.... Former licensees do not contribute to the Compensation Fund, are not subject to trust accounting requirements, and are not subject to assessment of any fee taken. This presents an obvious and significant risk to the public, in that there is no recourse to the Law Society's regulatory structure and, generally, little to no recourse against the former licensee for negligent or fraudulent acts done in the course of unauthorized practice.

In Collins, the Law Society Tribunal found (see: Law Society of Ontario v. Collins, 2021 ONLSTH 177):

> *COLLINS – Working With or Employing a Suspended Lawyer – Failing to Prevent the Unauthorized Practice of Law – Joint Submission – The Lawyer acknowledged that he had allowed a suspended lawyer to assist him in relation to a judicial review of an arbitration decision – This included allowing the suspended lawyer to do research, clerical work, and drafting and **filing court documents** -- The panel accepted the joint submission of a reprimand based on the parties' agreement and the Tribunal jurisprudence with respect to similar misconduct.*

In *Law Society of Ontario v. Chung*, 2021 ONLSTH 44, the Law Society Hearing Tribunal found:

broadly, "a breach of integrity such as this has a corrosive impact on public confidence in the legal profession and the administration of justice": *Christie* at para. 37

dishonest conduct is found by a licensee, it meets the test necessarily of an actual conflict of interest.

In *Law Society of Upper Canada v. Khan*, 2017 ONLSTH 83, the Law Society Hearing Tribunal found:

> *The Lawyer engaged in professional misconduct by: practising while suspended, **failing to prevent or facilitating the unauthorized practice of law** or the **unauthorized delivery of legal services**, and failing to supervise*
>
> On the above admitted facts, it is clear to us that the Lawyer not only allowed or failed to prevent unauthorized practice or unauthorized delivery of legal services, but also encouraged, aided and abetted unauthorized practice or unauthorized delivery of legal services by Mr. Hatzitrifonos.

The last sentence would be a matter of sworn evidence by those so involved (if at all and where applicable).

Part 7: The issue with the lack of appointing a lawyer licensee for SNIC – along with Mr. Karat no longer being authorized for SNIC

Eskandari v. Raizman 2023 ONSC 1674:

> Case law supports that it is an appropriate exercise of the court's discretion under subrule 15.04(9) to dismiss a claim where a party does not show an active interest in prosecuting the action: *AGC v. Madeleine Rundle c.o.b. NEC Plus Ultra*, 2013 ONSC 2747 at para. 7; *Pombo v. Canac* Kitchens, 2016 ONSC 1064 at para. 17.
>
> [24] Procedural fairness dictates that the defendants are entitled to some certainty on what claims against them are proceeding. Serving notices of intention to act in person has preserved the claims by Mr. Eskandari and Ms. Rabici in their personal capacities. However, the defendants cannot take meaningful steps to discover the minor plaintiffs' claims or take any steps affecting their interests **until a lawyer is appointed**. To hold otherwise would, in my view, run afoul of the requirement in subrule 15.01(1) of the *Rules* and the prohibition in s. 26.1(1) of the *Law Society Act* that procedurally preclude Mr. Eskandari from advancing the minor plaintiffs' claims without a lawyer. That is precisely what Mr. Eskandari would be doing if, for example, he were discovered on the minor plaintiffs' claims without a lawyer or he responded on the minor plaintiffs' behalf to any motions brought dealing with their interests.
>
> [25] In my view, in circumstances such as these where there is no cogent evidence supporting reasonable efforts by Mr. Eskandari to find counsel in his capacity as litigation guardian, it is unfair to the defendants to permit the claims of the minor plaintiffs to proceed. Doing so will only continue to hold up this litigation for seemingly non-committal efforts to find a new lawyer to occur.

faithfires. I, of course, do not consent to any adjournments to do so or to find new counsel as the time has long come and gone.

Any potential counsel must be alive to the issues herein and that such a motion would be brought in any event if there is not a global resolution with clear terms and conditions for both myself and SNIC.

Part 8: the (++++ signs) in the "Andy Gera PIPEDA Document" (along with references to internal)

As you know, I do not use any form of Outlook so I had to inquire into what the nature of the "+ + + + signs were and it relates to the adding of persons therein.

In referencing the letter (Andy Gera PIPEDA Document), I count five plus signs. I understand it is protocol to put (++) when there are a total of three people in the thread. There are five plus signs in a letter but it has the "internal" at the bottom which is indicative of an email that was then copied and pasted from email to "Word". This makes sense as follows as we have:

1. David Karat (paper author);
2. Andy Gera (metadata author);
3. Matthew Nieuwland (referenced);
4. The "Andy Gera" reference which is "Andy" and "generated" in Portuguese which I say respectfully is my un-denied theory of what is which brings in Ms. Moraes. (I only speak one language so it is a compliment); and
5. Potentially one other depending on internal protocol at TD Insurance (note: the "internal" is in the PIPEDA response letter by "Andy Gera" and in the "TDIADR" email).

Part 9: even if Andrew P. was not considered a representative under section 1(7) of the LSA

As noted by Justice Conlan in Talisman Resort, he found as follows with respect to the partner at Bennett Jones LLP in Mr. Mantini who did NOT have carriage of the file but who would be a material witness:

> [34] There is a very high likelihood that Mantini will be a material witness at trial, and he is certainly a key witness on the summary judgment motion brought by Talisman. **NOTWITHSTANDING THAT MANTINI IS NOT THE LAWYER WITH CARRIAGE OF THE FILE, I FIND THAT THIS FACTOR IS IN FAVOUR OF THESE DEFENDANTS.**

Part 9: The Tribunal cannot condone violations of the LSA, its By-Laws, and ROPC

As we know, Mr. Karat is not subject to the ROPC but licensees are. As I have learned from Dankha, the Tribunal cannot condone violations of the LSA and its By-Laws.

Part 10: Chandrarajah (see: *Chandrarajah vs. Economical Insurance*, 2024 CanLII 10566 (ON LAT))

authority in which the applicant could proceed without a properly constituted pleading. In this matter, there are a variety of grounds on which the Purported SNIC Response is not properly constituted and SNIC cannot proceed which are now growing.

Part 11: Conclusion

I sincerely hope that this letter was of assistance and provides a courtesy notice. If I do not hear from you, I will have to proceed and rely on this as yet another form of notice for a variety of issues. Moreover, I will continue having the materials prepared in any event.

It remains my view that no matter what the outcome of such a motion would be (if applicable) that Andrew P. cannot be involved in any manner and was not allowed to be prior. I trust that any such involvement by him will be restrained permanently on a go forward basis unless it is to provide a confirmation or undertaking regarding the same.

If any further evidence or case law is drawn to my attention, I will provide it to you as a courtesy.

Affidavit #15 will have much in the way of excerpts from the jurisprudence, legislation, by-laws, codes et al so that there is ample notice to all of you of all of the potential evidence to face.

I make unequivocally clear that I am deeply concerned about privacy issues and breaches, and it is yet another reason pursuant to Jia that these issues will have to be resolved in order to have a streamlined SABS matter post-facto this SNIC Proceeding.

Finally, I kindly remind you that I will seek relief in a reply (if applicable) to NOM #4 if Mr. Nieuwland files on behalf of TDGIC for consistency reasons et al. If a new counsel is appointed for SNIC, he or she will have to face the NOM #4 by the LAT Order on February 14, 2024, and I will not agree to any extension of time. Moreover, if any counsel is appointed for SNIC, his or her first order of business will be to bring a motion to obtain an order of permission to refile the Purported SNIC Response without any amendments. Thank you kindly and have a great rest of your long weekend!

Appendices

Appendix #1

Papadimitropoulos, Andrew Thu, Mar 28, 10:40 PM (2 days ago)

to me

Please be advised that I will be away from the office on March, 28, 2024 with limited access to e-mail and voicemail.

Regards,
Andrew

error, please go to www.td.com/legal for instructions.
AVIS : Messa

...

[Message clipped] View entire message

N

Nieuwland, Matthew Mon, Apr 1, 5:02 PM (21 hours ago)

to Christiana, me, David

I am the lawyer of record. The Declaration of Representative was served in January. There is no ambiguity. Please refrain from including individuals who are not involved in this LAT dispute in your correspondence.

Thanks,

Matthew Nieuwland | Lawyer | Claims Litigation Services | TD Insurance
66 Wellington Street West, 38th Floor, Toronto, Ontario, M5K 1A2
T: 905-201-4092 | F: 416-599-7439
Email: Matthew.Nieuwland@tdinsurance.com
Legal Assistant. Christiana Ortiz | T: 416-486-2547 | E: christiana.ortiz@tdinsurance.com

Privileged and/or Confidential

From: Kevin McLean <mcleansniclat@gmail.com>
Sent: Saturday, March 30, 2024 3:00 PM
To: Karat, David <David.Karat@tdinsurance.com>
Cc: Nieuwland, Matthew <Matthew.Nieuwland@tdinsurance.com>; Russell, James V <James.V.Russell@td.com>; Moraes, Michelle <Michelle.Moraes@tdinsurance.com>; Papadimitropoulos, Andrew <Andrew.Papadimitropoulos@tdinsurance.com>; Persaud, Carol <Carol.Persaud@tdinsurance.com>
Subject: Re: 23-015662 AABS (the "LAT Proceeding") - potential sixth notice of motion – separate and distinct from 5th notice of motion – conflict of interest – the acting of "Andy Gera" – irremediably tainted this LAT proceeding – abuse of process

[redacted]

March 30, 2024

Dear Sirs/Mesdames:

I confirm that I have received a bounce back from Ms. Nurse as her email is no longer active and not receiving emails. As such, I have removed her from the email thread. I wish her well.

Despite Mr. Karat's admitted lack of authorization for SNIC, I will keep him on the email thread until or if SNIC appoints a duly qualified lawyer licensee to handle the TD Claim and SNIC Proceeding which involves CAT Impairment.

In the spirit of comprehensiveness, I can alert you that I will take a page out of the "Mosa book" (see: *Mosa v. BelairDirect Insurance Company*, 2022 CanLII 11164; wherein counsel for Mr. Mekonen Mosa in Mr. Michael Bishop, barrister and solicitor at Harvey Katz Law Group in Hamilton, with the LSO sought relief by way of his reply when an unauthorized representative in Ms. Heather Morrow (ADRR) filed materials in relation to his motion for particulars) and seek relief to strike any filed materials by any individual on behalf of SNIC or any non-respondent or non-party. This would apply to the NOM #4 as well and the LAT Order of February 14, 2024 that requires the party that responds to do so by April 11, 2024.

Obviously, if SNIC appoints a qualified lawyer to act on behalf of it, this will not detract from my previous positions and NOM #6. Any such duly qualified representative would still need to face the nullity issues, and then obtain an order to re-file the Purported SNIC Response. As this is a CAT Impairment Appeal with much outstanding, I will not consent to any attempted adjournments or delays. I do not say that to be difficult but to ensure that you are aware of my position if SNIC is seeking to obtain new counsel, and said counsel is aware of the scope of the potential engagement.

Thank you.

Warm regards,

Mr. Kevin A. McLean (B.A., J.D., CIM)
("Appellant", "Applicant", or "Insured Person")

(e): MCLEANSNICLAT@GMAIL.COM
(p): *647.513.1270*
(a): 410-775 King Street West, Toronto, Ontario, M5V 2K3

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On Sat, Mar 30, 2024 at 2:19 PM Kevin McLean <mcleansnicdat@gmail.com> wrote:
March 30, 2024

Dear Sirs/Mesdames:

I write to confirm that I have received auto-replies from "AP" and Ms. Moraes which confirms that they have received the above emails. I am pleased to know the same as they will have the chance to respond to my sixth notice of motion. I will revert back with the relevant law and evidence.

I will note that if Mr. Karat was and is not authorized to have solely signed the Purported SNIC Response on behalf of SNIC, and Mr. Nieuwland is only authorized to act for TDGIC, then this leaves a lawyer at the same office address as Mr. Karat in Markham, Ontario (namely 101 McNabb Street, Markham, Ontario, L3R 4H8).

In my view and it will be my position that this was the facilitating of unauthorized practice and/or the failing to prevent unauthorized practise. I confirm that such a motion in NOM #6 is distinct from NOM #5 and focuses on those licensee(s) that facilitated, instructed, advised, or even coerced Mr. Karat to do the same by general assignment or specific assignment. In order to face this NOM #6, those individual(s) that authorized and assigned the activities and functions to Mr. Karat so that he could solely sign the Purported SNIC Response, then file it and serve it upon me, will need to swear evidence.

Thank you.

Appendix

Papadimitropoulos, Andrew Thu, Mar 28, 10:40 PM (2 days ago)

to me
Please be advised that I will be away from the office on March, 28, 2024 with limited access to e-mail and voicemail.

Regards,
Andrew

...

[Message clipped] View entire message

Moraes, Michelle Thu, Mar 28, 10:40 PM (2 days ago)

to me
ABSENCE ALERT Welcome to TD Insurance and thank you for your message. Please be advised that I will be out of the office starting Monday, April 1, 2024, returning Tuesday, April 2, 2024, with limited access to email or voicemail. I will respond to your message at the earliest opportunity upon my return.

Should you require immediate assistance, please reach out to Kris Biri at nova.biri@tdinsurance.com.

Mr. Kevin A. McLean (B.A., J.D., CIM)
("**Appellant**", "**Applicant**", or "**Insured Person**")

(e): MCLEANSNICLAT@GMAIL.COM
(p): *647.513.1270*
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On Sat, Mar 30, 2024 at 2:11 PM Kevin McLean <mcleansniclat@gmail.com> wrote:
March 30, 2024

Dear Sirs/Mesdames:

I have received an auto-reply which is below (see: Appendix). It is self-evident that Mr. Karat's signature block has changed from the January 23 and 25, 2024 along with the February 14, 2024 outgoing emails to me (see: **Affidavit #13, Exhibit "A", pages 4 to 6**) and his auto-reply emails to me (see: **Affidavit #13, Exhibit "A", pages 11 to 13**).

As such, this is further evidence that supports the focus of my to be served NOM #6 and the affidavit material to support the same.

We were obviously aware that Mr. Karat had been on the file in *Quinn v. SNIC*[1] (with counsel in AP and FP); and *Kopyteo v. Primmum*[2] (with McCague Borlack LLP).

I will provide you with the kind notice that I may have this new and fresh evidence in a separate affidavit or combined in one affidavit. I will likely have to provide the affidavits in made form and then notarized form due to the long weekend for many.

I again urge you to provide me with any existing lawyer that has filed a DOR on behalf of Security National Insurance Company in order for me to take meaningful steps herein. Until that occurs, I am unable to do so and the entire LAT proceeding has been frustrated.

I will continue to review the jurisprudence in this regard and see how tribunals and courts handle such a unique matter to avoid any further tainting of this LAT Proceeding (if possible). I am also focused on how to ensure that matters are handled in accordance with SABS after the conclusion of this LAT Proceeding.

It is trite that this new fresh evidence supports my above positions and evidence filed and to be served and then filed. In particular, Mr. David Karat was and is the only "on the record" representative (albeit not authorized with the LSO to have signed the Purported SNIC Response) and now he is no longer authorized with SNIC. While this email is under this thread, I may rely on the same for "general and future purposes".

I reserve the right to bring this correspondence to the attention of LAT for any lawful purposes.

Thank you.

Karat, David 1:24 PM (9 minutes ago)

to me

[Message clipped] View entire message

K

Kevin McLean <mcleansniclat@gmail.com> 9:58 AM (4 hours ago)

to Andrew.papadimitropoulos, James.V.Russell, Michelle, Matthew, Christiana, David

Dear Mr. Nieuwland: thank you for your email as it is appreciated. There is no ambiguity in your DOR but it is for a non-insurer and non-respondent in TDGIC. If you wish to bring a motion to attempt to obtain permission to correct the same, then please do so. Otherwise, I am simply providing notice to you as a courtesy. Mr. Karat remains the representative for SNIC by the Purported SNIC Response. I do not believe that you were his supervising lawyer for the filing, signing and serving of the Purported SNIC Response. Mr. Karat's auto-reply now shows he is not authorized for SNIC.

Please see Mr. Karat's signed Purported SNIC Response. *You have now added one Ms. Ortiz? Who is she?* (Pleasure to meet you Ms. Ortiz in any event.)

I am bringing a conflict of interest motion so I will need to include the various names of individuals who I say are in a conflict of interest. They are entitled to notice along with providing any responsive evidence where applicable. Affidavit #15 is being finalized and then notarized. Depending on timing, I will likely provide you with the "made affidavit" and then the notarized one.

I still do not have a legal representative for SNIC so I have to include the names by way of notice. They are copied yet again. Thank you in this regard. I await to hear from you on this new individual that you have included in Ms. Ortiz.

I intend to proceed with my conflict of interest motion as it must be brought promptly pursuant to cases like *Talisman Resort*.

If you say there is no ambiguity, *then who is "Andy Gera"?* Kindly provide me with the legal name of that individual or I will presume exactly what I have asserted. Thank you in this regard.

Lastly, because Ms. Nurse's email is no longer active with TD Insurance, I am contemplating in my motion #6 as to whether I also seek an order of disqualification against Ms. Persaud considering that I believe Mr. Andrew Papadimitropoulos, who I defined in the Affidavit #15 as the "**Divorced Husband Conflicted Lawyer**" (or with the same but with "**Manager**" in place of "Lawyer") may have influenced her and tainted her processes (and/or drafted many of the letters once she came on), and it is not possible for her to disabuse her mind from the same. While I was considering merely a motion to have him, Mr. Karat and others disqualified, this addition of a new name is all the more concerning now.

It would be improper on my part to advance such a motion and not provide notice. I do note that it may not be an "actual conflict" or the Tribunal may not find malice or actual conflict (but I say otherwise). That being said, there is a reasonably perceived conflict and it is my view you had knowledge or ought to have known of the same, and we now have another individual in your email who is unknown to me.

I appreciate your request above but I simply cannot have (as it relates to this thread herein) the Tribunal ask me if certain individuals received notice and had an opportunity to be heard. As it relates to this thread, your request is rejected in the most polite manner.

(Mr. Russell, as chief agent of Security National Insurance Company who was the insurer and underwriter for the Insurance Policy, would you kindly

from the email thread. All the best in the interim).

Warm regards,

Mr. Kevin A. McLean (B.A., J.D., CIM)
("**Appellant**", "**Applicant**", or "**Insured Person**")

(e): **MCLEANSNICLAT@GMAIL.COM**
(p): 647.513.1270
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Toronto Superior Court of Justice / Cour supérieure de justice
Court File No./N° du dossier du greffe : DC-24-00000718-00JR

Kevin McLean <mcleansnlclat@gmail.com> 10:38 AM (4 hours ago)

to Christiana, Matthew, Andrew.papadimitropoulos, James.V.Russell, David, Michelle

Dear Sirs/Mesdames:

I write regarding the above and Mr. Nieuwland's new inclusion of Ms. Christiana Ortiz. I cannot find any lawyer or paralegal in the LSO Directory with that name. As such, I will presume that this was Mr. Nieuwland's legal assistant at all times and Ms. Moraes was the legal assistant to Ms. Klukowska and Ms. Saeed. It provides further evidentiary grounds as to why a conflict of interest motion will be advanced and this squarely puts further spotlight on Mr. Nieuwland himself. I will add this to further affidavit(s). Thank you.

Brenda Victoria Avila Ortiz
Paralegal
Oakville, Ontario
P18969
Not Eligible to Provide Legal Services - No Proof of Insurance
show/hide more details about

Ana Yolanda Bernal Ortiz
Paralegal
Oshawe, Ontario
P05125
Not Providing Legal Services - Employed
show/hide more details about

Julian Humberto Castro Ortiz
Lawyer
Toronto, Ontario
77258V
In Private Practice
show/hide more details about

David Ricardo Menendez Ortiz
Lawyer
Ottawa, Ontario
83766F
In Private Practice
show/hide more details about

Adriana Maria Ortiz
Lawyer
Concord, Ontario
77764E
In Private Practice
show/hide more details about

Carlos Alberto Ortiz
Paralegal
Ottawa, Ontario
P05269
In Private Practice
show/hide more details about

Clara Maria de Ortiz
Lawyer
Gatineau, Quebec
71631B

show/hide more details about
Jorge Hernan Ortiz
Paralegal
Toronto, Ontario
P17543
To Be Confirmed
show/hide more details about
Rosamaria Ortiz
Paralegal
Hamilton, Ontario
P06959
Not Providing Legal Services - Employed
show/hide more details about
Ryan Bryce Reyes Ortiz
Paralegal
Richmond Hill, Ontario
P06840
Providing Legal Services - Employed
show/hide more details about
Steffi Ursula Goehlich Ortiz
Lawyer
-
30475L
Licence Surrendered - Retired
show/hide more details about
Karina Ortiz Herrera
Paralegal
-
P07323
Suspended Administratively
show/hide more details about
Diana Alejandra Ortiz Pacheco
Paralegal
Oakville, Ontario
P16239
Suspended Administratively

Warm regards,

Mr. Kevin A. McLean (B.A., J.D., CIM)
("**Appellant**", "**Applicant**", or "**Insured Person**")

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Toronto Superior Court of Justice / Cour supérieure de justice

Kevin McLean <mcleansniclat@gmail.com> 12:06 PM (2 hours ago)

to Matthew, Andrew.papadimitropoulos, James.V.Russell, David, Michelle, Christiane

Dear Sirs/Mesdames: I will presume that Ms Ortiz has been the legal assistant to Mr Nieuwland since this the commencement of this SNIC Proceeding. My position is that I was duped and misled with the reference to Ms Moraes being the legal assistant of Mr Nieuwland when her signature block represented otherwise. As such, this was an abuse of process and in my view and with great respect, dishonest conduct that falls right with the binding principles of law in cases like LSO v Chung.

I asked Mr Nieuwland to provide me an affidavit that Ms Moraes was his assistant and he refused. I now receive an email with Ms Ortiz copied and no explanation.

While I ruminated and wrestled with whether Mr Nieuwland was in a conflict of interest by association and communication with the likes of the Divorced Husband Conflicted Lawyer, my theory was that Ms Moraes was included as a conduit, as Mr Nieuwland insisted that Ms Moraes was included on email threads of which I refused until I had confirmation in evidentiary form from Mr Nieuwland, to relay those communications to the Divorced Husband Conflicted Lawyer.

While I was going to have affidavit # 15 notarized, my theory appears proven on this ground alone.

It is now my position that Mr Nieuwland cannot act in this SNIC Proceeding even if he obtained an order to amend the style of cause. I provide this as a courtesy notice to him and reference a case like SO v Fungeh. I find this somewhat sad and tragic as I was hopeful to work with Mr Nieuwland and Mr Karat but I must now bring my motion number 6 and you are all on notice of the above. Should external counsel be retained, I provide another courtesy notice that I will not consent to any adjournments or delays in filing responsive materials to outstanding motions and timelines. You will have my affidavit 15 in short order. Thank you.

Warm regards,

Mr. Kevin A. McLean (B.A., J.D., CIM)
("Appellant", "Applicant", or "Insured Person")

(e): **MCLEANSNICLAT@GMAIL.COM**
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evin McLean <mcleansniclat@gmail.com> 3:50 PM (2 hours ago)

to Matthew, Andrew.papadimitropoulos James.V.Russell, David, Michelle, Christiana

Re: NOM #6

Re #2: demand and notice regarding obligations of THE INSURER to only receive SPI and not "OTHER insurance companies"

Dear Sirs/Mesdames: the time is now almost 3:40 p.m EST and have not had any denials on the above. As a courtesy, I now attach the 47 pages which are appended to Exhibit "A" to my affidavit #15. It is primarily for NOM #6 but may also be used regarding any other outstanding motions, NOM #4 or for ancillary purposes.

I shall note now that it is somewhat paradoxical that Mr. Nieuwland would represent that other persons like Ms. Moraes are not involved in this file yet he previously represented to me that Ms. Moraes was his legal assistant

Ms Moraes attempted to inform me (or did inform me) that Mr. Karat was the "adjuster" when he was not. She then represented to me that she was Mr. Nieuwland's assistant but it was not in her signature block. Ms. Moraes then sought to have the case conference adjourned but now she is no longer on this file per se according to Mr. Nieuwland.

It is why the LSO has unequivocally passed by-laws and sections that speak to the issue of "effective control". It is now admitted by Mr. Nieuwland that he did not have "effective control" over Ms. Moraes activities and functions that he would assign to her or otherwise. Hence, my stern but polite position for him to provide me with an affidavit confirming, under oath, that she was his assistant. He failed to do so because he could not perjure himself in that regard.

There is now attempt to shift persons around and act as if they have nothing to do with the very underwriter in SNIC that is the PAYOR of previous benefits.

Without excluding other evidence that will be required to face this NOM #6, I look forward to his evidence and condescending upon particulars in this regard. If any persons who are named in this Affidavit #15 fail to respond to specific evidence, and my beliefs while citing the source, I will ask that the NOM #6 proceed by default.

My self-evident position was that Mr. Nieuwland could not file any responsive materials in relation to NOM #4 until he filed a DOR for SNIC. My additional position is that he is now saddled with being part of the conflict of interest issues by his written representations, which I say were incorrect at the very least, but also by his including of a new colleague in Ms. Ortiz (with no fault of her obviously as she did not include herself) to the exclusion of Ms. Moraes.

Respectfully, you cannot "run and hide" from these issues as they override any other issues in this SNIC Proceeding. They need to be faced head on by all of us and we need to get to the truth. I say this because of cases like *Jia*, and I am terribly concerned that any documents and personal information that I provided to the names that I was providing to were in good faith. You can kindly take this email as notice that nothing of a sensitive or personal nature will be provided until this issue is resolved and I have a fulsome and compliant *PIPEDA* response which may require further intervention by the Federal Privacy Commissioner of Canada.

It is unclear if LAT has the authority to grant the type of injunctive relief I would be seeking to have certain conflicted unauthorized recipients receive very sensitive personal information ("PI") and personal health information ("PHI") which is normally an order requiring an affidavit or destruction or the return of that personal information without retaining any of the same. This again leads me to my next issue as we still do not have counsel for SNIC.

I take heed of the ONSC language in *Jia* which is in my paragraph 94 of my Affidavit #15 (for full disclosure and courtesy purposes:

> [94] I now quote from the case of *Jia* which was alarming to me when considering the above about the apparent rights of insurers on the *SABS* side of the ledger. In *Jia*, the Ontario Divisional Court found as a matter of law [emphasis is mine]:

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Toronto Superior Court of Justice / Cour supérieure de justice

[6] It is established law that insurers may not use the same counsel in accident benefits cases and in tort cases brought against them by the same insured. This is because the duties of an insurer (and therefore of its counsel) are different in these contexts, and as an accident benefits insurer, **THE INSURER** is entitled to receive, and is required to keep confidential, a great deal of sensitive personal information from claimants.

Simply put, if NOT THE INSURER, then NOT entitled to receive the SPI.

I have been more than forthcoming and in good faith that I was sending highly sensitive personal information and personal health information to Ms. Nurse (who is no longer with TD Insurance), then to Ms. Persaud (who is apparently in the Burlington office of SNIC who does not a working fax most of the time), then Ms. Nurse, Ms. Persaud and Ms. Kaur by service of the Appeal, and then to Mr. Karat and Mr. Nieuwland. I did so to Mr. Karat as he represented to me that he was representing "THE SECURITY NATIONAL INSURANCE COMPANY" His auto-reply now says he is no longer authorized.

I continue to request that Ms. Persaud provides me a breakdown of the amounts paid by SECURITY NATIONAL INSURANCE COMPANY for medical and rehab benefits and which sessions with my former physiotherapist were denied (i.e. 6 of 26), and I still do not have a response in that regard. It is impossible to advance my rights when there are no responses of which such a response should take no more than ten minutes to say, "sessions #2, #4, #8, #15, #18, and #21" (for example as I do not know) were denied. This matters as certain physiotherapy sessions were different in scope and treatment. Moreover, it matters for the calculation of interest as well.

At no point did the Insurance Policy have any reference whatsoever to "TDGIC". Mr. Nieuwland is now acting as if this is some sort of trivial issue about which underwriter is the respondent which is absurd to say to the least. Moreover, I never consented to my personal information and personal health information being received by any "conflicted individuals" or different "insurers" so that is an unequivocal breach of *PIPEDA* but that is for a different email account and issue. In the spirit of brevity, I provide this formal notice to any individual who was not authorized "**TD Insurance Meloche Monnex**" (in reference to the alumni and professional insurance program with SNIC as the underwriter and NOT Primmum although TD Insurance defines them as the same).

As you undoubtedly know, the insurance company for the tortfeasor (Ms. Carey) is that of Pembridge Insurance Company which is part of the Allstate Group of Insurance Companies. I cannot speak to the truth of the contents of our dialogue since Fall 2022 but imagine if in the middle of those discussions, it changes from my contact at Pembridge (which we are on the 9th I believe) to "Allstate Insurance Company of Canada" or any of the others where Mr. London Bradley is the "chief agent". I would not have any further communication with that purported representative of "Allstate" as that is not "Pembridge". They are part of the Allstate group of companies but "Pembridge Insurance Company". Perhaps, I should not have been forthcoming with whom I thought I was communicating with Ms. Nurse because I informed her (or so I thought) that I required the SABS component to be resolved before I can attempt to settle the underlying claim with Pembridge Insurance Company.

Again, it is **THE INSURER** that is entitled to receive the sensitive personal information ("**SPI**") and not any insurer that is misnamed or at the whim of Mr. Nieuwland to file a DOR concerning the same. It is for some of those reasons that this NOM #6 must proceed and any ancillary relief can be determined by LAT.

What next? Someone in this email thread will inform me that Primmum Insurance Company is the new "underwriter". In that scenario, at least, Primmum is under the defined "TD Insurance Meloche Monnex" but this would still be flatly wrong as a matter of law.

I do not consent to any of this conduct, and thankfully, and you can be guaranteed of this point: until there is full compliance (see also: infra) with the *Insurance Act*, *SABS*, *PIPEDA* et al, I will NOT be disclosing (or providing access) any PI, SPI or PHI, and certainly never attending any purported request for an IE (with of course medical reasons and other reasons being required at first instance). This in turn is the point about an "IE" that is supposed to be "independent" but we have an issue in this LAT Proceeding and TD Claim #3 as to whether there was an actual conflict of interest issue.

In conclusion, this is a formal notice to any individuals who have received PI (also defined as "**PII**" for the identifiable component), SPI (although not defined under *PIPEDA* but there are references in *PIPEDA* bulletins to the same), and PHI that they are to provide me a list of what they received (i.e. list of records or documents with descriptions), copies of the

that after it is received. I will have the **NOM #6** tailored to what LAT can and cannot grant and what will be consistent with the SPPA with respect to being most expeditious, cost-effective and just.

I do not see anything that precludes Mr. Nieuwland from filing a DOR on behalf of SNIC. I can then have assurances that he is acting for SNIC. Once he does so, then I can communicate with him separately on all other matters and we can work together. I will presume that Ms. Ortiz was and is his legal assistant and she can be copied therein. As it relates to this NOM #6, it has to proceed in light of the above and if certain matters are resolved under PIPEDA, then I can inform LAT that there is no issue of crossover on that specific issue (whatever it may be).

I may formalize this letter further but for the time being, this will suffice. I remind any and all of their distinct professional obligations (where applicable) and the requirements for "handling an insurance file" and the "handling" (colloquially speaking) of **PI**, **SPI** and **PHI**. Thank you.

Warm regards,

Mr. Kevin A. McLean (B.A., J.D., CIM)
("Appellant", "Applicant", or "Insured Person")

(e): **MCLEANSNIC1.AT@GMAIL.COM**
(p): *647.513.1270*
(a): 410-775 King Street West, Toronto, Ontario, M5V 2K3

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Toronto Superior Court of Justice / Cour supérieure de justice
Court File No./N° du dossier du greffe : DC-24-00000718-00JR

Ex "A", Tab 2

Re: Select Emails from Ms. Moraes

Re #2: no reference to Mr. Nieuwland in her signature block yet she is communicating with LAT as such

Re #3: the one lawyer, Ms. Saeed, that she is legal assistant to has acted regularly for TD General Insurance Company (perhaps this is the connection)

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Toronto Superior Court of Justice / Cour supérieure de justice

[redacted]

Moraes, Michelle <Michelle.Moraes@tdinsurance.com> Tue, Jan 30, 10:44 AM

to LATregistrar, me

Hello,

Please see attached correspondence dated January 30, 2024.

Sincerely,

Michelle Moraes | Legal Assistant to Adrianna Klukowska and Arfa Saeed | Claims Litigation Services | TD Insurance
Pronouns: she/her/hers
TD Tower, 66 Wellington Street West, 38th Floor, Toronto, Ontario M5K 1A2
T: 905-209-4439 | F: 416-599-7439

Email: michelle.moraes@tdinsurance.com

Privileged and/or Confidential

Please confirm receipt of the enclosed information via reply email.
This email and any attachments are confidential and are intended only for the person(s) to whom it is addressed. If you have received this information in error, please delete/destroy it and any attachments and notify me immediately by return email.

Internal

Moraes, Michelle <Michelle.Moraes@tdinsurance.com> Tue, Jan 30, 10:42 AM

to me

Hello,

Our availability is as follows:

May 2, 2024 (All day);
May 29 and 30, 2024 (All day);
June 5 and 6, 2024 (All day).

Kindly advise if you will correspondence with LAT with both of our availabilities.

Looking forward to hearing from you.

Sincerely,

Michelle Moraes I Legal Assistant to Adrianna Klukowska and Arfa Saeed I Claims Litigation Services I TD Insurance
Pronouns: she/her/hers
TD Tower, 66 Wellington Street West, 38th Floor, Toronto, Ontario M5K 1A2
T: 905-209-4439 I F: 416-599-7439

Email: michelle.moraes@tdinsurance.com

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Please confirm receipt of the enclosed information via reply email.
This email and any attachments are confidential and are intended only for the person(s) to whom it is addressed. If you have received this information in error, please delete/destroy it and any attachments and notify me immediately by return email.

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AVIS : Message confidentiel dont le contenu peut être privilégié. Utilisation/divulgation interdites sans permission. Si reçu par erreur, prière d'aller au www.td.com/francais/avis_juridique pour des instructions.

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Toronto Superior Court of Justice / Cour supérieure de justice

EXHIBIT "A", TAB 3

Re: David Karat outgoing emails with reference to his representation of "SECURITY NATIONAL INSURANCE COMPANY"

Electronically filed / Déposé par voie électronique : 18-Feb-2025
Toronto Superior Court of Justice / Cour supérieure de justice

Karat, David <David.Karat@tdinsurance.com> Thu, Jan 25, 10:35 AM

to me

Good Morning Mr. McLean,

I hope this email finds you well.

Kindly see the attached correspondence with today's date along with the Response from an Insurance Company.

I kindly ask that you please confirm receipt of this email.

Thank you,

David Karat | Claim Specialist (ADR), Claims Department | TD Insurance
101 McNabb St., Markham, ON L3R 4H8
T. 877-855-3767 Ext. 260263 | F: 416-774-3120 | david.karat@tdinsurance.com

Representing the Security National Insurance Company

Safeguarding our customers' information is fundamental principle of TD Bank Group. Email is not considered a secure form of communication as the information sent via email is masked in this email. We recommend that you use caution when sending email messages to us and that you do not include confidential information, such as account numbers or other personal data in those messages.

Internal

Electronically filed / Déposé par voie électronique : 18-Feb-2025
Toronto Superior Court of Justice / Cour supérieure de justice

Karat, David <David.Karat@tdinsurance.com> Thu, Jan 25, 10:35 AM

to me

Good Morning Mr. McLean,

I hope this email finds you well.

Kindly see the attached correspondence with today's date along with the Response from an Insurance Company.

I kindly ask that you please confirm receipt of this email.

Thank you,

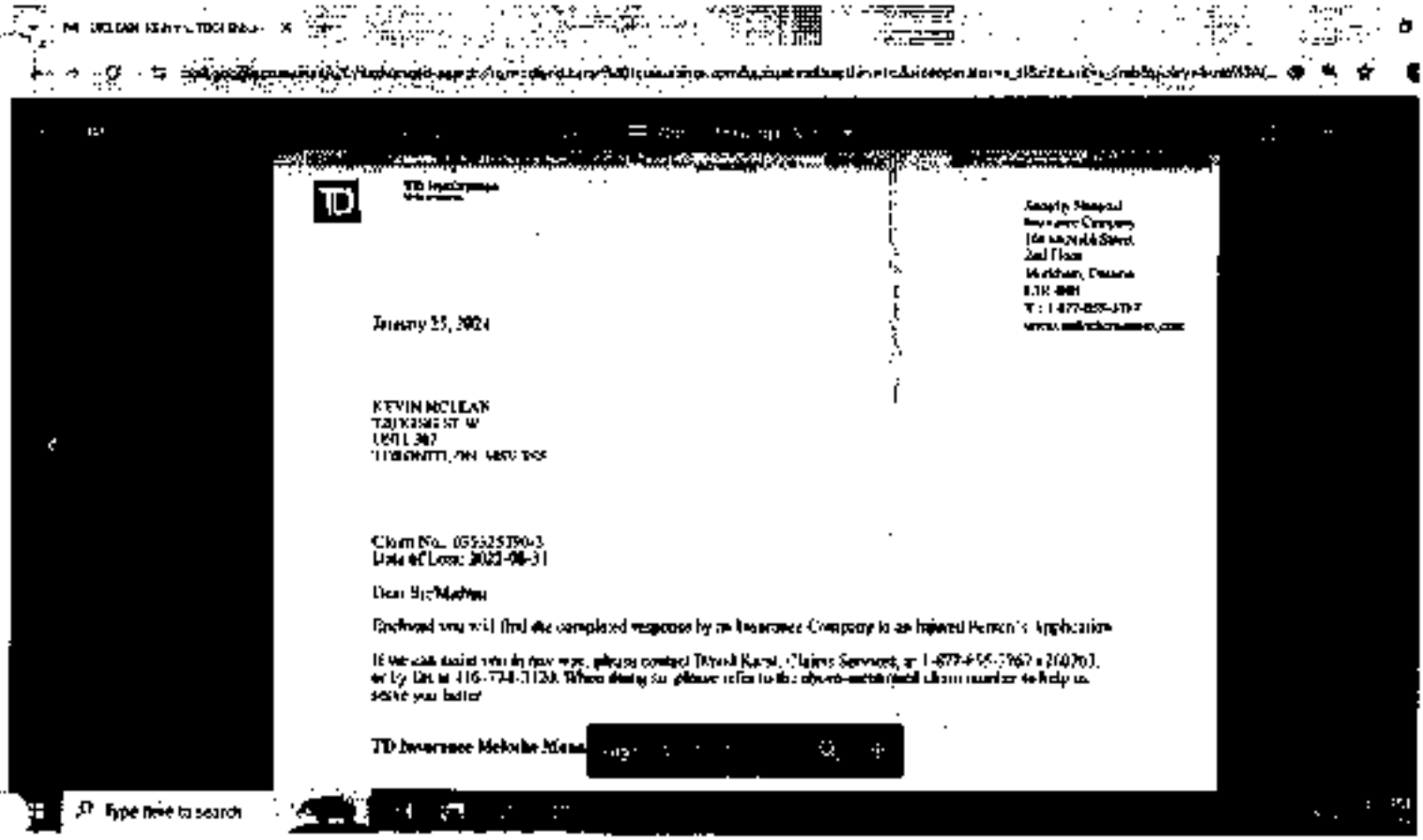
David Karat | Claim Specialist (ADR), Claims Department | TD Insurance
101 McNabb St., Markham, ON L3R 4H8
T: 877-855-3767 Ext 260263 | F: 416-774-3120 | david.karat@tdinsurance.com

Representing the Security National Insurance Company

Safeguarding our customers' information is fundamental principle of TD Bank Group. Email is not considered a secure form of communication as the information sent via email is masked in this mail. We recommend that you use caution when sending email messages to us and that you do not include confidential information, such as account numbers or other personal data in those messages.

Re: Cover Letter to the served response by AN Insurance Company

Re #2: Return address: Security National Insurance Company, 101 McNabb Street, 2nd Floor, Markham, Ontario L3R 4H8
www.melochemonnex.com
Logo: TD Insurance Meloche Monnex
[nota bene: no signature on this correspondence by Mr. Karat]



TD

January 25, 2024

KEVIN MCLEAN
[redacted]

Claim No. 0555253903
Date of Loss: 2023-08-31

Dear Sir/Madam:

Enclosed you will find the completed response by an Insurance Company to an Injured Person's Application

If we can assist you in any way, please contact [illegible], Claims Services, at 1-877-[illegible] x 210703, or by fax at 416-[illegible]. When doing so, please refer to the above-noted claim number to help us serve you better.

TD Insurance Meloche Monnex

Type here to search

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Exhibit "A", Tab 3, part 3

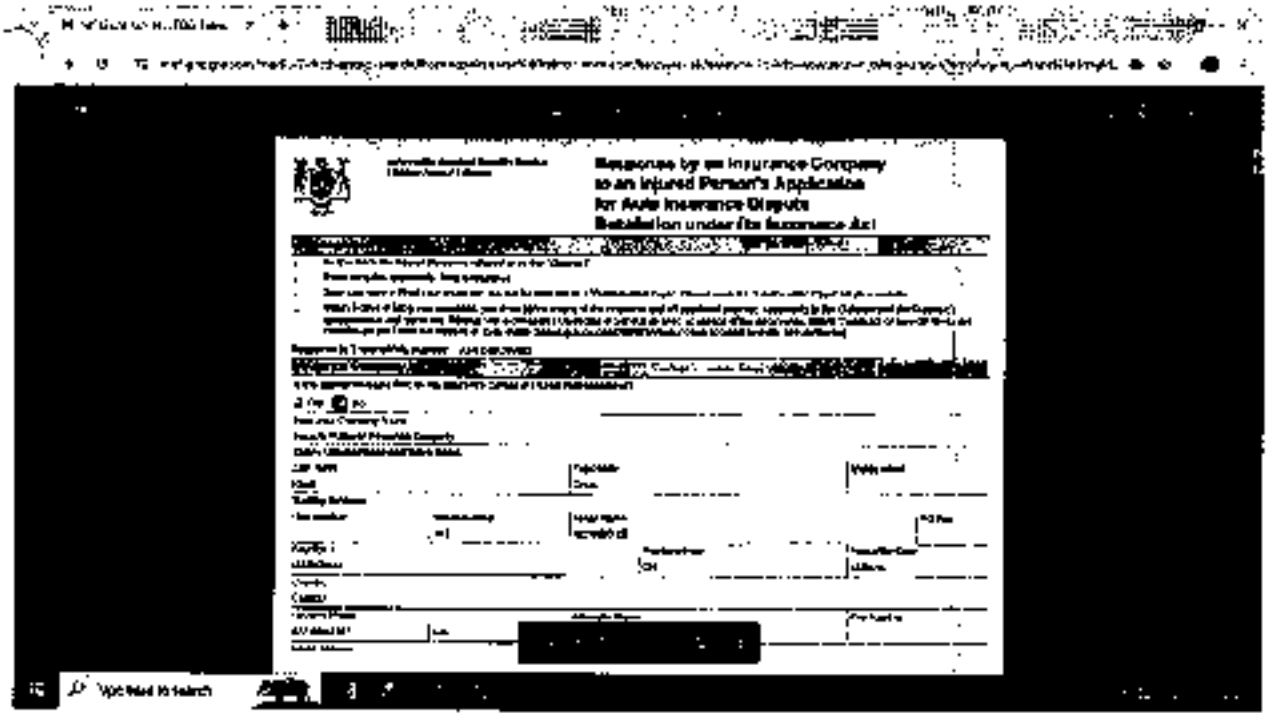
Re: Copy and Paste from the Purported SNIC Response

Insurance Company Name

Security National Insurance Company

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Toronto Superior Court of Justice / Cour supérieure de justice

Court File No./N° du dossier du greffe : DC-24-00000718-00JR



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Toronto Superior Court of Justice / Cour supérieure de justice

Exhibit "A", Tab 3, Part 4

Re: Page 4 of Purported SNIC Response

Re #2: Mr. Karat, or perhaps someone on his behalf, certified all the statements in the respondent AND attachments were TRUE and COMPLETE. (nb: there were no attachments).

Re #3: Mr. Karat, or perhaps someone on his behalf, signed (which was prohibited by By-Law 7.1, section 6 of the LSO By-Laws as non-licensees are NOT even entitled to sign correspondence UNLESS it is of a routine administrative nature. Correspondence is NOT pleadings.

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By-Law 7.1

OPERATIONAL OBLIGATIONS AND RESPONSIBILITIES

https://lso.ca/about-lso/legislation-rules/by-laws/by-law-7-1

Tasks and functions that may not be assigned: general

6. (1) A licensee SHALL NOT permit a non-licensee,

(a) to give the licensee's client legal advice;

(b) to act on behalf of a person in a proceeding before an adjudicative body, other than on behalf of the licensee in accordance with subsection 5 (1), unless the non-licensee is authorized under the *Law Society Act* to do so;

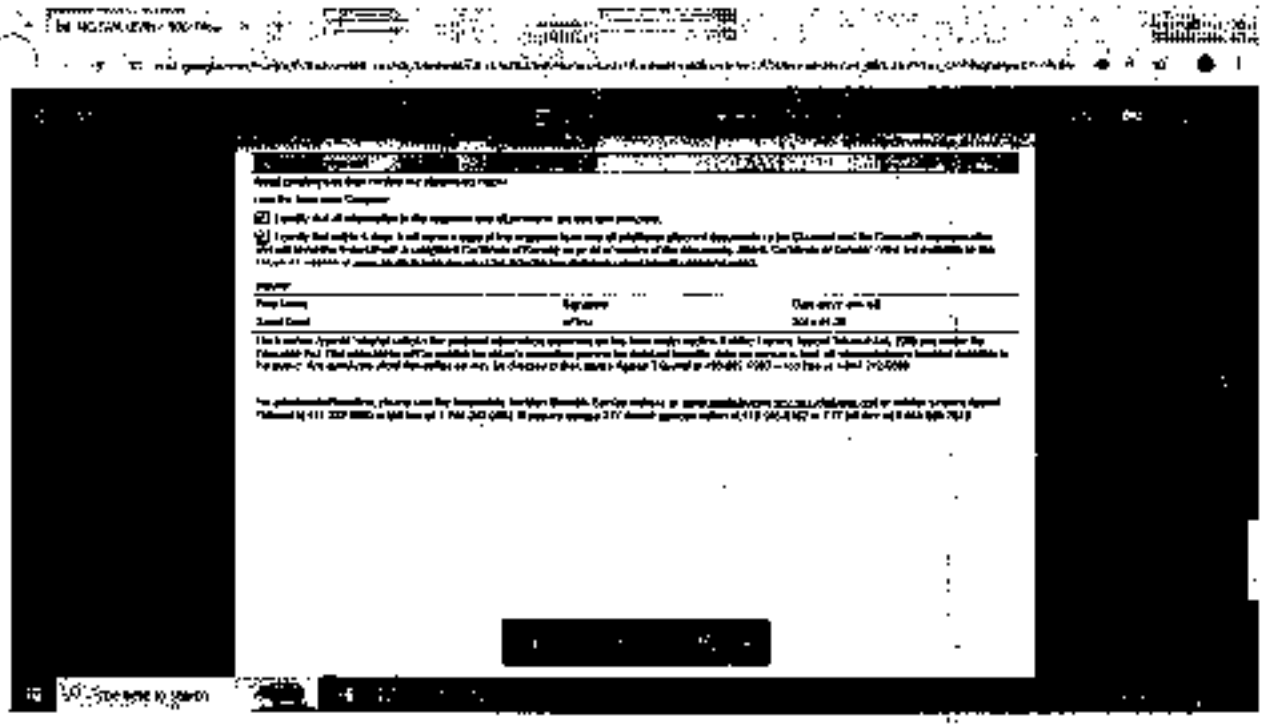
(c) to conduct negotiations with third parties, other than in accordance with subsection 5 (2);

(d) to SIGN correspondence, other than correspondence of a routine administrative nature; or

(e) to forward to the licensee's client any document, other than a routine document, that has not been previously reviewed by the licensee.

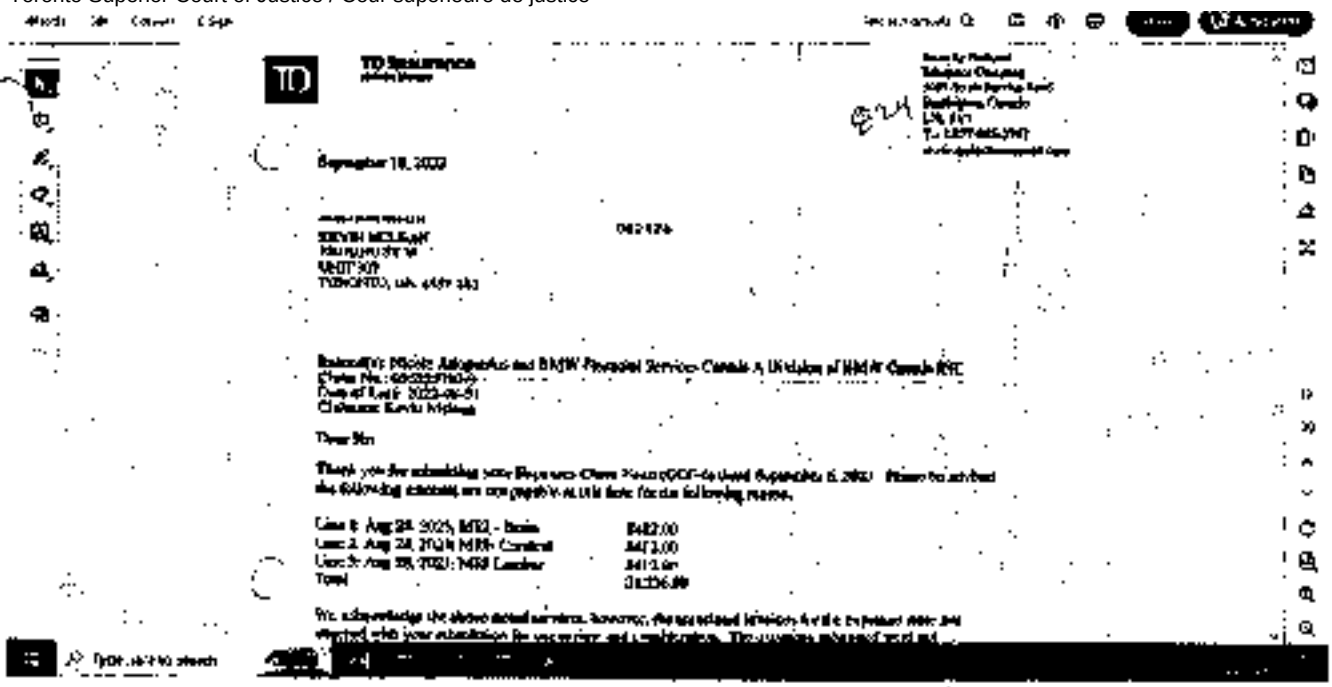
1. *Is Mr. Karat considered a non-licensee under By-Law 7.1?*
    a. Yes
2. *Is a Response filed and signed with LAT correspondence of a routine administrative nature?* No (see: *Van Hodge*, per Adjudicator Lake (as she then was; a response is considered a "responsive pleading".
3. *Does this Appeal involve the Applicant being CAT Impaired or the appearance of CAT Impaired?* Yes
4. *Would a paralegal been authorized to sign and file the Purported SNIC Response?* No (see: *Dankha*)
5. *Therefore, which Licensee failed to prevent Mr. Karat from engaging in the unauthorized practice of law?*
    a. **This is a matter for responsive evidence to the motion.**
    b. **The Appellant alleges that it was and is the Divorced Husband Conflicted Lawyer as he has worked with Mr. Karat on Quinn v. SNIC;**
    c. **Perhaps, Mr. Nieuwland will confirm in evidence that it was he who was supervising Mr. Karat to execute the same. However, this would be the facilitation of unauthorized practice of law as the Appeal involves CAT Impairment. This is a different issue than that of nullity.**

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Toronto Superior Court of Justice / Cour supérieure de justice
Court File No./N° du dossier du greffe : DC-24-00000718-00JR

Re: Denial letter in October 2023 – Ms. Persaud as the contact person – no signature from Ms. Persaud – Address is SNIC (Burlington)



TD Insurance

September 18, 2023

Re: Insured: Nicole Adegoke and BMW Financial Services Canada A Division of BMW Canada INC
Claim No.: 000000718-00
Date of Loss: 2023-06-01
Claimant: Kevin Mclean

Dear Sir,

Thank you for submitting your Repairers Claim Form(OCF-18) dated September 6, 2023. Please be advised the following amounts are applicable at this time for the following reasons.

Line 8: Aug 28, 2023: MRI - Brain	$482.00
Line 9: Aug 28, 2023: MRI- Cervical	$472.00
Line 9: Aug 28, 2023: MRI Lumbar	$472.00
Total	$1,426.00

We acknowledge the above noted services, however, the requested invoices for the treatment were not received with your submission for your review and consideration. Therefore, we are unable to

(Markham) and SNIC Burlington

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Toronto Superior Court of Justice / Cour supérieure de justice

1. Now shown to me is the hyperlink for the physical location of TDGIC in Toronto, Ontario:

TDGIC

https://www.google.com/maps/place/3650+Victoria+Park+Ave,+North+York,+ON+M2H+3B2/@43.8081029,-79.3381034,3a,90y,247.37h,93.6t/data=!3m7!1e1!3m5!1s57l-yOcBycs3xm_Mt5nblg!2e0!6shttps:%2F%2Fstreetviewpixels-pa.googleapis.com%2Fv1%2Fthumbnail%3Fpanoid%3D57l-yOcBycs3xm_Mt5nblg%26cb_client%3Dmaps_sv.tactile.gps%26w%3D203%26h%3D100%26yaw%3D250.34853%26pitch%3D0%26thumbfov%3D100!7i16384!8i8192!4m7!3m6!1s0x89d4d374eff9e1c7:0x8633795ee38a633!8m2!3d43.8078866!4d-79.3388681!10e5!16s%2Fg%2F11b8y91ig2?entry=ttu

3650 Victoria Park Ave
Toronto, Ontario



Ex. A, Tab 5, part B

2. Now shown to me is an image from the inside of the building of SNIC in Markham (defined as "**SNIC Markham**") and

SECURITY NATIONAL INSURANCE COMPANY in MARKHAM

101 McNabb St., Markham ON L3R 4H8, Canada



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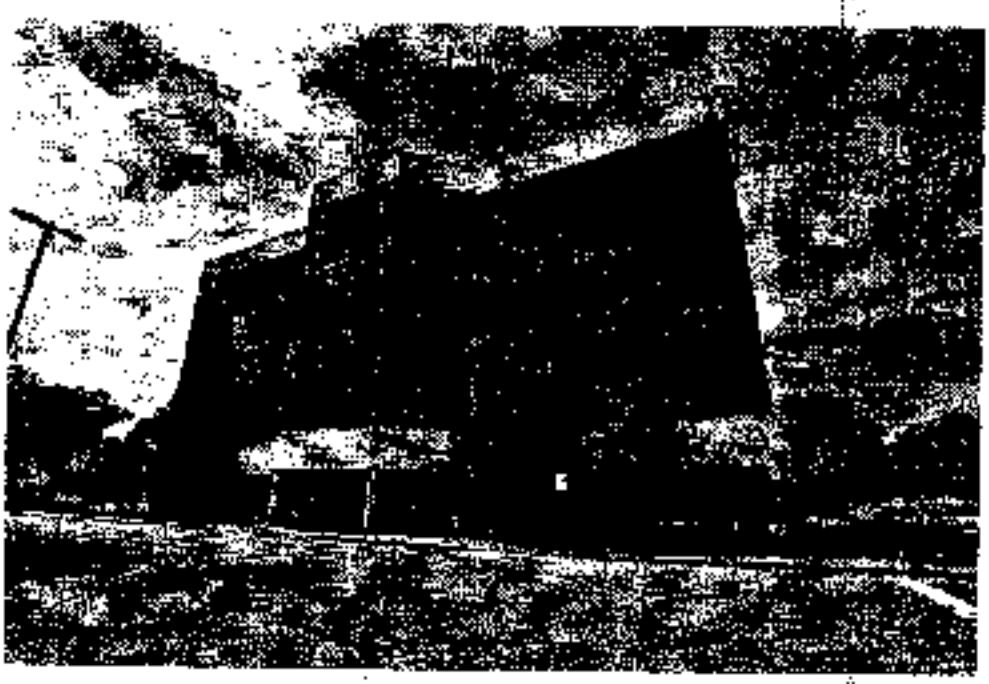


Ex. A, Tab 5, part C

3. Now shown to me is a copy and paste of the address of SNIC Burlington (Persaud) with an image of the office building or commercial building:

SNIC (Burlington)

5045 S Service Rd
Burlington, ON L7L 5Y7
(905) 681-6773



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Toronto Superior Court of Justice / Cour supérieure de justice

Exhibit "A", Tab 6, Barnett

The Old Commentary under Rule 16 read as follows:

Particular 2(d)(iii) does not refer to a specific rule but the Law Society argues that Rule 16 Commentary 3.(l) is of some assistance. That Commentary reads as follows:

> A lawyer may not permit a non-lawyer to:
>
> (l) sign correspondence containing a legal opinion, but the non-lawyer who has been specifically directed to do so by a supervising lawyer may sign correspondence of a routine administrative nature, provided that the fact such person is a non-lawyer is disclosed, and the capacity in which such person signs the correspondence is indicated;

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Appendix #1: R v. Smith

[2] Darren Smith, badge No. 907, is a police officer employed by the Hamilton Police Service (HPS). On two occasions, first in 2017 and then in 2018, he was dispatched to homes in Hamilton to pick up firearms for surrender to the police. On each occasion he lodged the surrendered items appropriately with the HPS property branch.

[3] Betty Grant is the HPS civilian employee responsible for, among other things, seeing to the destruction of surrendered weapons. After each surrender, she directed Officer Smith, [in police parlance she "tasked" him], to obtain and then to provide to her *either* a "waiver" form, a "Firearms Destruction/Receipt/Disposal Waiver", signed by the owner of the weapon documenting that owner's surrender of the weapon to the HPS for disposition of it by the HPS or a statement from the owner signed in Officer Smith's duty notebook to a similar effect.

[4] Officer Smith did neither on either occasion. Rather, he obtained the requisite waiver forms, and in each case, he completed the form *in its entirety*. He signed the name of the owner on the form in the spot where the owner of the weapon was required to sign. Then, he signed his own name to the form attesting to having witnessed the ostensible signature of the owner. He did so without documenting in any way that *he* signed the name of the owner. He then uploaded the waiver forms that he had created into the HPS document management system, called NICHE, so that Ms. Grant could access them and print them out.

[5] When Officer Smith's actions came to light, he was charged with one count of forgery and one count of uttering respecting each of the waivers that he created and submitted. He was essentially charged as follows [1].

> [i] that between July 3, 2018 and July 22, 2018, Darren Smith knowingly made a false document, namely, that he forged a signature with intent that it be acted upon or used as genuine and thereby committed forgery, contrary to s. 367 of the *Criminal Code*;
>
> [ii] that on July 22, 2018, he knowingly used a forged document; namely, a Hamilton Police Service Firearms Destruction Waiver, as if the document was genuine, contrary to s.368(1.1) of the *Criminal Code*;
>
> [iii] that on November 30, 2017, he knowingly made a false document; namely, that he forged a signature with intent that it be acted upon or used as genuine and thereby committed forgery, contrary to s. 367 of the *Criminal Code*; and,
>
> [iv] that on November 30, 2017 he knowingly used a forged document; namely, a Hamilton Police Service Firearms Destruction Waiver, as if the document was genuine, contrary to s. 368(1.1) of the *Criminal Code*.

Justice Nadel found the following facts at paragraph 15 and onwards with emphasis being mine and end noting:

The Jolly Surrender, 2017

[15] Audrey Jolly is the surviving spouse of Ronald Jolly. They were married for 64 years. They operated a back-hoe business together and Mrs. Jolly was very familiar with her husband's signature.

[16] In 2017, Ronald Jolly was dying from Parkinson's disease compounded by a form of dementia. He was under palliative care in their home at 200 West 33rd Street, Hamilton. In November of 2017 Audrey opened a letter from the RCMP that was addressed to her husband. By this letter the RCMP notified Ronald Jolly of his need to renew his licences for his rifle and his shotgun. Mrs. Jolly spoke to her husband about the letter and she testified that he advised her that he did not want to renew his licences.

[17] So, she contacted the RCMP who directed her to contact the HPS to arrange to surrender the guns. She did so. She did not have Ronald Jolly's power of attorney.

[18] Mrs. Jolly did not recall the specific date when Officer Smith came to her house and picked up her husband's long guns. However, Officer Smith made cursory notes of his attendance in his duty notebook of that time. He noted that on Tuesday, November 21, 2017 at 10:50 a.m., he attended at 200 West 33rd Street. He noted down the particulars of the two guns that he took from that residence. Later during that shift he properly lodged the weapons into the HPS property branch. A portion of Officer Smith's duty notebook from that time containing his notes about attending the Jolly home was filed as Exhibit 12.

[19] Officer Smith never spoke to or met Ronald Jolly[i]. When Officer Smith came into the Jolly living room Ronald Jolly was lying in a hospital bed in a bedroom of the home. The door to that bedroom was open and there was a line of sight into it from the home's living room. So, Officer Smith *may* have been able to see Ronald Jolly; but, Officer Smith never spoke to Ronald Jolly and never entered his bedroom.

[20] Officer Smith was only in the Jolly home for about *five minutes* to pick up the guns. He never asked Audrey Jolly to SIGN anything and she never saw him again. (other than at this trial).

[21] Some time later, on December 21, 2018, HPS Detective Brian Smyth[ii] called upon Mrs. Jolly and asked her if the signature on a waiver document that he showed her was written by her husband.

[22] Smyth showed her what became Exhibit 3 at this trial. She told him and she confirmed to me at trial that it was not her husband's signature. She also gave Smyth her husband's Driver's Licence, which did contain Ronald Jolly's true signature[iii]. That was made Exhibit 4.

[23] Ronald Jolly *died* on November 24, 2017.

[24] As noted above, Betty Grant, the HPS civilian employee, was responsible for, among other things, seeing to the destruction of surrendered weapons. Despite being a civilian employee of the HPS she was authorized to direct police officers to complete "Tasks" arising out of weapons being surrendered to the HPS. She required a DESTRUCTION WAIVER before she could authorize and arrange for Jolly's guns to be destroyed by having them *smelted* at a local steel mill.

[25] On November 28, 2017 at 3:59 p.m., *Betty Grant* wrote to Officer Smith and directed him to provide her with documentation that she required before she could *initiate* the destruction of the weapons that Officer Smith had obtained from Audrey Jolly.

[26] As noted, Ms. Grant was authorized to direct Officer Smith to comply with the "tasking" directive that she sent to him. She classified the priority of the task that she had set for him as "High". She wrote to Officer Smith in the following terms:

> "You submitted to (sic) long arms for destruction however I require the Destruction waiver or a copy of your signed notebook. Please scan into NICHE and advise. Thanks BG"

her for any further or other information about the task that she had directed him to complete. The Destruction waiver that Ms. Grant referred to is a document available to police officers on the HPS *intranet*".

[28] On November 30, 2017, Officer Smith completed the waiver that Brien Smyth showed to Audrey Jolly on December 21, 2018. He wrote all of the information that was added onto the pre-printed waiver form, (other than the page number that appears on the top of the document, which is the page number of this item in the defence disclosure package.)

[29] The information and markings that Officer Smith added to the pre-printed form included signing a SCRAWLED SIGNATURE with a large "R" and a large "J" PURPORTING to be the signature of Ronald Jolly He also signed the form with his own signature attesting to having *witnessed* Ronald Jolly's signature. A photocopy of this document, being Exhibit 3, is attached to these reasons.

[30] The form directs the officer witnessing the document to attach the form to the officer's original report and to then forward the document to central records. This instruction is consistent with Ms Grant's direction to Officer Smith to scan the waiver into the NICHE system and to advise her that he had done so.

[31] Officer Smith complied with Ms. Grant's tasking directive. He documented that he had completed the waiver report on November 30, 2017 at 4:40 p.m. and he documented that he had entered the waiver into NICHE on that same date and at that same time.

[32] Officer Smith's duty notebook for November 30, 2017 contains no reference to any attendance on Ronald Jolly nor any attendance at the Jolly home.

[33] Relying on the *Jolly waiver* that Officer Smith created and filed in NICHE, Ms. Grant arranged for Ronald Jolly's guns to be destroyed by having them smelted at Dofasco on April 11, 2018.

The second instance of former Officer Smith engaging in forged documents

The second instance of former Office Smith engaging in forging documents for an individual purporting to sign the document in their name albeit performed and conducted by now former

The law as enunciated of forgery and uttering a forged document by Honourable Justice Natel

Justice Natel articulated the statements of law as it related to forgery and uttering forged documents or false documents at paragraphs _____ to _____:

The Shkumat Surrender, 2018

[34] Ruth Shkumat and her sister, Jean Ventura, were the surviving children of their mother and father who died in 2017 and 2018 respectively. In 2018 the sisters were in the process of emptying out their parents' home at 262 East 13th Street, in Hamilton. During those efforts Jean Ventura found her father's duck-hunting rifle as well as some ammunition, a shotgun shell and a broken flare. The sisters decided to hand in these items to the HPS

[35] They left the items on the lid of a freezer in their parent's basement to be available for pick up by the HPS.

[36] Ms. Ventura's husband called the HPS to tell them about the items and the sisters' desire to hand them in As a result, Officer Smith was dispatched to and attended at 262 East 13th Street on June 13, 2018. Jean Ventura recalled the date as she had arranged for a charitable furniture pick-up for that date. By coincidence, Officer Smith attended that day, too.

attendance on June 13, 2018 was filed as Exhibit 8. Subsequently, Officer Smith lodged a bolt action Cooey 78 rifle, 37 .22 calibre shells and one 12-gauge shotgun shell with the HPS property branch.

[38] Officer Smith told the sisters that he was not certain about whether he ought to take the flare. He left the home briefly to make an inquiry about whether he could take it too. That, at least, is what Ms. Shkumat inferred, and I so find. Officer Smith came back and told her that he could take the flare and did so, although what he did with it thereafter is unknown, as he did not lodge it in property.

[39] As noted, the flare was broken.

[40] Before Officer Smith left Ms. Shkumat asked him if she had to sign anything. He told her, "No" and left. He was only at the home for perhaps 20 minutes and the longest period of his attendance was the time that he took to find out if he could take the flare.

[41] Before Officer Smith left, he said that he needed a name and a number, and he took down Ruth Shkumat's name and her telephone number. The number she gave him rang at her home address at 2 Clifton Road in Dundas, Ontario.

[42] The sisters never saw or met with Officer Smith subsequently. They sold their parents' home in September of 2018.

[43] On June 15, 2018 at 11:19 a.m., Betty Grant tasked Officer Smith in the following terms:

> "You submitted a rifle and ammo for destruction however I require the firearm waiver or a copy of your signed notebook to destroy. Please scan into NICHE and advise. Thanks BG"

[44] Ms. Grant went on sick leave for about two months after tasking Officer Smith with this duty. When she returned to work, she caught up with her work and on August 13, 2018 she noted that the waiver that she had tasked Officer Smith to obtain was now on file.

[45] On July 22, 2018, Officer Smith scanned a waiver into NICHE to meet the requirements of the task that Betty Grant had assigned to him. That waiver was ostensibly signed on July 3, 2018 by Ruth Shkumat. Ruth Shkumat's purported signature was attested to by Officer Smith as a police officer witnessing that signature.

[46] The precise date when Officer Smith created this document is unknown. It was not signed by Ruth Shkumat on June 13, 2018. It had to have been created between the date when Betty Grant tasked him on June 15, 2018 and prior to Officer Smith scanning the document into NICHE on July 22, 2018.

[47] On December 21, 2018, Detective Brien Smyth attended upon Ruth Shkumat at her home address in Dundas, Ontario, (after first going to 262 East 13th Street in Hamilton, where, of course, he did not find her.)

[48] Detective Smyth showed Ms. Shkumat a waiver ostensibly dated on July 3, 2018 and ostensibly signed by her. This document was filed as Exhibit 7. Smyth asked her if she had signed it. She told him and confirmed to me that the signature on the document was not her signature and that she had not signed the document.

[49] Smyth asked her if she would sign a new version of that document and she did so on December 21, 2018, after which Smyth witnessed her signature. The waiver that she signed for Smyth was filed as Exhibit 6. The waiver that she did not sign was filed as Exhibit 7. Copies of the Jolly waiver, (Exhibit 3), and these Shkumat waivers are appended to these reasons.

[50] Ms. Grant arranged to have the firearm that Ms. Shkumat surrendered smelted on April 16, 2019.

[51] Ms. Grant testified at length to many of the aspects of her responsibilities for the HPS.

[52] When a firearm is lodged for destruction she does as complete a history of the weapon and the people involved with the weapon as she can to ensure its provenance and its relevance to any other occurrences. As well she contacts the RCMP to keep them informed about the destruction of any firearm.

[53] Ms. Grant testified that she tasked Officer Smith with obtaining the waivers because she required them before she could proceed with having the weapons smelted.

The Law by Justice Natel

Justice Natel found:

False Document

[54] The *Code* defines "false document" in s. 321:

"false document" means a document

(a) the whole or a material part of which purports to be made by or on behalf of a person

(i) who did not make it or authorize it to be made, or

(ii) who did not in fact exist,

(b) that is made by or on behalf of the person who purports to make it but is false in some material particular,

(c) that is made in the name of an existing person, by him or under his authority, with a fraudulent intention that it should pass as being made by a person, real or fictitious, other than the person who makes it or under whose authority it is made;[3]

Forgery

[55] The offence of forgery is contained in s. 366 of the *Code*.

366. (1) Every one commits forgery who makes a false document, knowing it to be false, with intent

(a) that it should in any way be used or acted on as genuine, to the prejudice of any one whether within Canada or not; or

(b) that a person should be induced, by the belief that it is genuine, to do or to refrain from doing anything, whether within Canada or not.

Making false document

(2) Making a false document includes

(a) altering a genuine document in any material part;

(b) making a material addition to a genuine document or adding to it a false date, attestation, seal or other thing that is material; or

(c) making a material alteration in a genuine document by erasure, obliteration, removal or in any other way.

(3) Forgery is complete as soon as a document is made with the knowledge and intent referred to in subsection (1), notwithstanding that the person who makes it does not intend that any particular person should use or act on it as genuine or be induced, by the belief that it is genuine, to do or refrain from doing anything.

(4) Forgery is complete notwithstanding that the false document is incomplete or does not purport to be a document that is binding in law, if it is such as to indicate that it was intended to be acted on as genuine.

Exception

(5) No person commits forgery by reason only that the person, in good faith, makes a false document at the request of a police force, the Canadian Forces or a department or agency of the federal government or of a provincial government.

False Document: Materiality

Justice Nakel continued with

Discussion

False Document – Materiality

[68] I begin with the issue of whether the waivers that Officer Smith created were false documents.

[69] As applied to this case, a false document means a document the whole or a material part of which purports to be made by or on behalf of a person who did not make it or authorize it to be made. Obviously neither Ronald Jolly nor Ruth Shkumat made either document. They did not sign their names to the waivers, although each of the two documents created by Officer Smith purport to be signed by them.

[70] The defence contends that the purported signatures written by Officer Smith are not a material part of either document.

[71] In my view that submission is incorrect. I find that if these documents had been submitted to NICHE without a signature Betty Grant would not have accepted them nor would she have acted upon them. She would not have accepted them any more than a payee would accept a cheque without a payor's signature, or any more than a pharmacy would accept a prescription without a doctor's signature or any more than Service Ontario would accept a motor vehicle ownership transfer without a signature.

[72] Indeed, in any endeavour to be documented, a signed document demonstrates that signer's agreement to the document's terms by virtue of their signing. The signatures of Ronald Jolly and Ruth Shkumat were material to those waivers. The task Ms. Grant set for Officer Smith was to obtain a signed waiver or a signed notebook

[73] Similarly, if the required signature was not material, there would be no need for a witness to that signature. Documents that ask for a witness to a signature require the witness to authenticate the signature precisely *because* the signature is material to the document.

[74] I am of the view that resort to the reported cases is unnecessary to determine whether the signatures on these waivers is a material part of these documents. I find and rule that in each case the signature of the maker of the document was and is a material part of the document.

[75] Nonetheless, resort to the controlling authority would require the same conclusion.

[76] In *R. v. Gaysek*, 1971 CanLII 11 (SCC), [1971] S.C.R. 868, an inventory contained false entries despite being certified [nb: see the word certified in the Response Form] as true and correct. The lies about the entries did not change the nature of the document, it remained a purportedly true inventory. Yet, the inventory was false for the purposes for which it was created. Likewise, Officer Smith created these waivers and used them as purportedly true documents. But they were false documents for the purposes for which they were created.

[77] In *R. v. Ogilvie* (1993), 1993 CanLII 3510 (QC CA), 81 C.C.C. (3d) 125 (Que. C.A.) Justice Fish explained what *Gaysek* stood for. He wrote that *Gaysek* decided that "a document which is false *in reference to the very purpose for which it was created*" is one that is false in a material particular, within the meaning of s. 321 of the *Criminal Code*. So, in order to be a false document, the document in question must not simply "tell a lie"; it must be false in relation to the purpose for which it was created.[6] That is clearly true, too, with respect to the two waivers that Officer Smith created.

Authorization

Justice Natet continued:

Authorization

[78] As noted above at paragraph [54] the *Code* defines "false document" to mean a document the whole or a material part of which purports to be made by or on behalf of a person who did not make it or authorize it to be made. (emphasis added) The defence contends that neither waiver created by Officer Smith is a false document because Ronald Jolly authorized Officer Smith to create a waiver for him and likewise, Ruth Shkumat authorized Officer Smith to create a waiver for her.

[79] Merely stating those propositions demonstrates their wrongness. Officer Smith never spoke to Ronald Jolly. Audrey Jolly did not have Ronald Jolly's power-of-attorney. Ronald Jolly was dead when Officer Smith purported to write Ronald Jolly's signature on the waiver that he, (Officer Smith), created. Officer Smith never asked Audrey Jolly for her authorization to sign any documents

behalf. Neither Ronald Jolly nor Audrey Jolly authorized Officer Smith to sign the waiver that Officer Smith created. In my view there is no basis in law or on these facts to support a finding that either Ronald Jolly or Audrey Jolly authorized Officer Smith to create the waiver that Officer Smith fabricated. I make that finding to the exclusion of any reasonable doubt.

[80] I make the same findings and to the same degree with respect to the Ruth Shkumat waiver. Officer Smith never asked Ruth Shkumat or Jean Ventura for their authorization to sign any documents on their behalves nor did he ask them for their authorization to sign any documents on behalf of their father or their father's estate. Neither Ruth Shkumat nor Jean Ventura authorized Officer Smith to sign the waiver that Officer Smith created. In my view there is no basis in law or on these facts to support a finding that either Ruth Shkumat or Jean Ventura authorized Officer Smith to create the waiver that Officer Smith fabricated.

[81] The defence contends that even if the Jollys or Ruth Shkumat or Jean Ventura did not formally authorize Officer Smith to sign a waiver as he did, by their action of surrendering weapons to the HPS they consented to Officer Smith creating the waivers. At the very least, the defence contends that Officer Smith had their implied authority to do so. Mr. McGilly submits that support for this submission can be gleaned from *R. v. Ewanchuk*, 1999 CanLII 711 (SCC), [1999] S.C.J. No. 10. There, Major J. at paragraph [31] said, "The doctrine of implied consent has been recognized in our common law jurisprudence in a variety of contexts but sexual assault is not one of them. There is no defence of implied consent to sexual assault in Canadian law."

[82] The doctrine of implied consent is often discussed in allegations arising out of contact sports, especially hockey. The comment by Lacourciere J.A., in *R. v. Leclerc*, 1991 CanLII 7389 (ON CA), [1991] O.J. No. 1533 (C.A.) is useful. He said: "The weight of judicial authority appears to be that a player, by participating in a sport such as hockey, impliedly consents to some bodily contact necessarily incidental to the game, but not to overly violent attacks, all of which should be determined according to objective criteria."

[83] While there is no similarity to the facts in this case, there is a principle that can be gleaned from Justice Lacourciere's comment; namely, attempting to determine if there is some necessary implication grounded in the act of voluntarily surrendering a firearm to a local police service.

[84] I do not find that there is any necessarily incidental obligation on a surrenderer to sign the kind of waiver required by the HPS and hence no implied consent is given by the surrenderer to have a police officer do so for them. At most a mutual signing of a bare receipt by the surrenderer and the receiving police service *might* necessarily be implied in turning over an unwanted firearm to a local police service. However, even that potentially limited implication is uncertain. I say that because *R. v. Wills*, 1992 CanLII 2780 (ON CA), [1992] O.J. No. 294 (C.A.) sets out the elements for a valid consent, including an implied consent, (albeit in the context of waiving the right to be secure from an unreasonable search and seizure).

[85] *Wills* provides the elements of a valid consent whether express or implied as follows:

> (i) there was a consent, express or implied;
>
> (ii) the giver of the consent had the authority to give the consent in question;
>
> (iii) the consent was voluntary in the sense that that word is used in Goldman, and was not the product of police oppression, coercion or other external conduct which negated the freedom to choose whether or not to allow the police to pursue the course of conduct requested;[7]
>
> (iv) the giver of the consent was aware of the nature of the police conduct to which he or she was being asked to consent;
>
> (v) the giver of the consent was aware of his or her right to refuse to permit the police to engage in the conduct requested; and,

Mens Rea of Forgery

Justice Natel continued with the *mens rea* of forgery:

***Mens Rea* for the Offence of Forgery**

[92] As noted above in paragraph [11] the defence position is it cannot be found to the exclusion of any reasonable doubt that Officer Smith had the necessary *mens rea* for the offence of forgery. Hence, a review of the law respecting the *mens rea* of forgery is required.

[92] Marshall J.A. in *R. v. Foley*, 1994 CanLII 9760 (NL CA), [1994] N.J. No. 166 is my starting point. There, under the heading, "The ingredients of forgery" one finds[9]:

> **18** In a leading English forgery case, Welham v. Director of Public Prosecutions (1961) A.C. 103, Lord Denning at pp. 132-133, singles out the following passage from Vol. 2 of East's Pleas of the Crown at p. 852 as best expressing the common law definition of forgery:
>
> ... Forgery at common law denotes a false making (which includes every alteration of or addition to a true instrument), a making *malo animo*, of any written instrument for the purpose of fraud and deceit. ...
>
> **20** ... [T]he making of a false document is the essence of forgery at common law. It remains so in today's Criminal Code. This is apparent from s. 366(1) which sets out the essential ingredients of forgery.
>
> **21** ... [T]he scope of the *actus reus* and *mens rea* of forgery now depend upon the provisions of the Criminal Code which supersedes the common law.
>
> **22** There is a view that the concept of deception as an element of forgery has been expanded in the Code to transcend that of fraud which the common law required to ground a forgery conviction. In this context the following distinction, ... between the intents to deceive and to defraud, ... is apropos:
>
> To deceive is ... to induce a man to believe that a thing is true which is false, and which the person practising the deceit knows or believes to be false. To defraud is to deprive by deceit: it is by deceit to induce a man to act to his injury. More tersely it may be put, that to deceive is by falsehood to induce a state of mind; to defraud is by deceit to induce a course of action.
>
> **23** Proponents of the proposition that the intent component of forgery has been expanded beyond fraud in the Code point to paragraph (b) of s. 366(1) in support of their contention. This provision, they advocate, merely requires that the forger induce a state of mind that a document, which he or she knows to be false, is genuine. Inasmuch as this paragraph is expressed disjunctively from the preceding paragraph (a), which does invoke prejudice, they posit that the statutory offence of forgery requires merely an intent to deceive. Relating this specifically to s. 366(1)(b), this viewpoint asserts that the requisite intent is to falsely induce a state of mind by creating the impression that the document is genuine. ***Under this submission there would be no need to go further to establish an intent to defraud or even to cause prejudice.*** (emphasis added)
>
> **24** This expanded view of the intent of the offence of forgery, together with a concise resumé of the debate surrounding this subject in Canadian law over the years, is expounded in R. v. Sebo (1988) 1988 ABCA 200 (CanLII), 60 Alta. L.R. (2d) 53 (Alta. C.A.). ...

[93] Accordingly, I next turn to *Sebo*.

[94] In *Sebo* Kerans J.A. retraced the history of the Canadian law of forgery to determine whether a conviction for forgery required proof of an intention to defraud or whether proof of an intention to deceive sufficed. Despite the legal acumen demonstrated by Justice Keran's exegesis of the law of forgery, I am content to skip to his conclusion, which I adopt. He concluded:[10]

388, the offence of use, trafficking or possession of forged document], beyond rational dispute even though they might be said to have a harsh effect. Today's Code reflects the view that it is better to have a definition that catches the utterer and the forger who hope never to cause harm even at the risk of catching those who ... not only did not hope to gain advantage but also did not create a significant risk of harm. ...

I accept that, as a result, s. 324(1)(a), [now s. 366(1)(a)], is anomalously superfluous. The best explanation of the anomaly is that the Code emphasizes that it catches both the old and the new mental element, ...

In conclusion, I agree ... that **an intent to defraud and an awareness of the precise intent of the forger are not required mental elements of the offence of uttering**. ... (emphasis added)

I must now deal with the principal argument for the defence. ...

The argument incorrectly assumes that an intent to defraud is required by the Code for a conviction for forgery. I earlier dealt with the intent for forgery and uttering in order to dispose of this. The intent required of each is the same. (emphasis added)

[95] Accordingly, the intention required to be proved to ground a conviction for forgery is merely the intention to deceive. The Crown is not required to prove the forger had an intention to defraud, which is to say that for a conviction for forgery the Crown need not prove that Officer Smith intended to cause prejudice or harm.

[96] I reject the defence submissions that Officer Smith's actions were no more than carelessness or negligence.

[97] Clearly Officer Smith was a careless forger in one respect. He knew that Ronald Jolly was very ill, but he was careless in not determining if Mr. Jolly was still alive when he forged his signature. As a result of that carelessness, he forged Mr. Jolly's signature several days after Mr. Jolly had died.

[98] These forgeries were not careless acts otherwise. A look at the ostensible signatures shows that Officer Smith scrawled signatures that started with the correct initials of Ronald Jolly's and of Ruth Shkumat's names. Those actions were obviously intentional. Moreover, merely recounting the steps he had to take shows that Officer Smith's actions were not the product of mere carelessness

[99] Officer Smith had to, in each case, receive and read the task set for him by Ms. Grant. He had to obtain a waiver form in each case. He had to fill out the form in each case. He had to forge the signatures on each form and then he had to submit the forms that he created in NICHE. That is not a description of carelessness. That is intentionally mendacious behaviour.

[100] Likewise, Officer Smith's actions were not the product of negligence in the sense of failing to take proper care in the performance of his duties. He rejected and abdicated his sworn duty in these cases. These were not acts of negligence. They were acts of malfeasance.

[101] Regardless of what motivated Officer Smith to create these two forgeries, his intention to deceive by committing them has, in each case, been proved to the exclusion of any reasonable doubt.

Uttering

7. Justice Natel continued under uttering:

The Counts of Uttering

[102] The defence submits that Officer Smith's use of the forged waivers; viz. scanning or uploading them in the HPS NICHE system, were acts so negligible as not to amount to "using" the forgeries. Hence, he is not guilty of the two counts of uttering them contrary to s. 368(1.1) of the *Code*.

[103] Respectfully, I do not accept that submission. As noted by Mr. Leach in his submissions in reply, whether one hands a forged cheque to a teller in person or deposits it into an ATM that forged cheque is "used" in either case. Moreover, Mr. Leach points to the definition of

material on which is recorded or marked anything that is capable of being read or understood by a person, computer system or other device, ..." (emphasis added)

[104] Additionally, in *R. v. Stevenson*, 1980 CanLII 2930 (ON CA), [1980] O.J. No. 1621 (C.A.), the court held that putting a **false affidavit** into a photocopy machine to copy it was a "use" of it. Further, Justice Kerans, in *Sebo*, notes that *R. v. Harris*, (1965) Crim. App. R. 330 (U.K. C.C.A.) provides that when a photocopy of a forgery is made for wider distribution that too is a "use" and therefore an uttering of the forged original.

[105] I am satisfied to the exclusion of any reasonable doubt that by uploading the two waivers *that he forged* into the HPS NICHE system Officer Smith **used** the two waivers. I find, to the exclusion of any reasonable doubt, that Officer Smith is guilty of the two counts of uttering with which he is charged.

---

[1] The "gun owner" but effectively incapacitated
[2] Different "Smyth" and not the accused
[3] Is the Karat COS his "true signature"?
[4] Not publically available but "internal to the HPS"

Electronically filed / Déposé par voie électronique : 18-Feb-2025
Toronto Superior Court of Justice / Cour supérieure de justice

This is the 16th Affidavit of Kevin A. McLean under TD's Claim Number 035325790-3 (the "Claim Number" or "TD Claim #3"), TD Insurance Policy Number #00101311806 (the "Policy Number"), LAT File Number "23-015662/AABS" (the "LAT File Number" or "LAT Proceeding") and was finalized and made on April 6, 2024

BETWEEN:

KEVIN ALEXANDER MCLEAN

APPLICANT/APPELLANT

AND:

TD INSURANCE MELOCHE MONNEX (SECURITY NATIONAL INSURANCE COMPANY) [1] [2]

RESPONDENT

Submitted Pursuant to LAT Rule 13.1 by way of motion relief sought

13. ACCESS TO HEARINGS

13.1 GENERAL PUBLIC ACCESS

The Tribunal may limit access to a record of proceedings or, during a proceeding, make an order at the request of one of the parties or on its own motion, limiting public access to all or part of any document or record or hearing to protect confidentiality of personal or sensitive information, as it considers appropriate in relation to:

a. Matters involving public security,
b **Intimate financial or personal matters;**
c. Other matters where, having regard to the circumstances, the desirability of avoiding disclosure thereof in the interests of any person affected or in the public interest outweighs the desirability of adhering to the principle that the hearings, documents or records be open to the public

In a matter under the *Insurance Act*, RSO 1990, c I.8, (the "*Insurance Act*")

Electronically filed / Déposé par voie électronique : 18-Feb-2025
Toronto Superior Court of Justice / Cour supérieure de justice

In the matter of an "Application of an Injured Person" ("Application" or "AIP") by the Applicant pursuant to subsection 280(2) of the *Insurance Act*, RSO 1990, c I.8., in relation to statutory Accident benefits and the following regulations including but not limited to:

i. *Statutory Accident Benefits Schedule*, O Reg 34/10 ("*SABS*"); and
ii. *Automobile Insurance*, RRO 1990, Reg 664 ("*Reg 664*").

I, Kevin Alexander **McLean**, Disabled (B.A., J.D., CIM) of Toronto, Ontario **AFFIRM** THAT

VOLUME #1: affirmation

1 **I am the affiant (also defined as the "Applicant", "Insured Person", "Disabled Individual" and/or "CAT Impaired Individual") herein and I affirm, under the pains and penalties of perjury, the following facts to be true. Where I have stated information on my belief, I have cited the source of my belief by references, citations, end-noting or otherwise.**

2 **Where I have used square brackets (i.e. [.....]), I have done so for ease of reference and to provide my evidentiary beliefs while citing the source of the same.**

3. **Where there are double underlined words, they are mine for ease of reference**

4. **I have adopted the definitions from my served and filed evidence herein and the have same meaning herein as they do therein.**

5. **I adopt the definitions from the above noted legislation and regulations, including rules where not made under the *SPPA*, and they have the same meaning herein as they do therein.**

6. **Where I have included definitions, I am not making a legal argument in this affirmation/evidence but I have included the same for consistency purposes.**

7 **I affirm that where I have added emphasis in "copying and pasting" from any legislation, regulation or rule, the emphasis mine**

8. **When referring to Nicole, I am referring to my Spouse, who has the current legal name of Nicole Artopoulos, and is the policyholder referenced in the Appeal and the Purported SNIC Response.**

Volume #2: Detailed Particulars

9 **I will be providing some detailed particulars here to support my allegations and evidence, and my position that the Conflicted Lawyer has been involved in this TD Claim Number since the Date Of Loss (or "DOL") but has done so, in my opinion, in a surreptitious and clandestine manner. I now believe, after review of the evidence in my 15 affidavits and otherwise that he has been, in whole or in part, responsible for the decisions made by the Respondent Insurer (SNIC) by way of letters that referred to Ms. Nurse and/or Ms. Persaud.**
→ Divorced husband conflicted lawyer

10. **I provide this evidence solely for the purposes herein but for one exception and that may be for my second PIPEDA request in the year of 2024 which is broader than the first PIPEDA request in 2024**

Volume #3: Myself and my spouse (the sole policyholder listed in the Appeal and Purported SNIC Response)

11 I met my Spouse ("Nicole") when I was in law school with her sister ("Ashley") on or around 2007. Nicole and I dated for a period while I was in law school and I would take the train from law school to Toronto to spend time with her. During the majority of the times, I would stay at the Sheraton in downtown Toronto.

12. As I became more acquainted with her family, her family was kind enough to allow me to stay in their home

13. I summered (after 1st year and 2nd year law school) at a litigation boutique in Toronto. Despite interviewing all three days at national law firms (and Goodman & Carr), I was not fortunate enough to obtain a summer position with those firms.

14. While I had a variety of articling positions lined up in Toronto for the summer of 2008, my parents wished for me to test the Vancouver market. I interviewed with two large scale firms in Vancouver that had broader based articles, and I was able to successfully obtain a position over, in my view, three more qualified candidates that I. As such, I returned to Vancouver, purchased a condo, and commenced my articles in 2008.

15. Nicole and I both did not wish for the relationship to come to an end as a result of distance and she was gracious enough to offer to move to Vancouver with me. While Nicole was an undergraduate at University of Toronto, she was able to enroll in summer classes at UBC and even took summer courses therein

16. She returned to Vancouver at various points and enrolled in further education in Vancouver but our relationship did not succeed at first instance for a variety of confidential reasons.

17. Nicole and I did not speak from the period of approximately 2011 to 2018 (April).

18. On April 8, 2018 (when I was some four or five years into my business career which had commenced part time while I was practising law), I received a "direct message" on an Instagram account that I controlled, and it was Nicole. I was stepping into a meeting with a supplier of beauty products that I was selling on one of the platforms in which a company I was director and officer of, was selling. She asked if she could call me and after, and I confirmed she could.

19. At the time, I was not seeing anyone on a romantic level. We spoke for several hours and she had informed me, of relevance here, that she had started a business importing wine from Europe, she had got married for a brief period but was currently separated and heading towards divorce. I extended my empathies towards her and wished her well in that regard.

20. She appeared to be most intrigued with some of the decisions of myself and the LSBC and what had transpired, and my business career. I explained the upshot of the same, and that I was then involved a challenge to the underlying legislation of the LPA (soon to be defunct) with the AGBC (not a damages case *per se*).

21. She inquired if I still owned my condo and I informed her that I had sold it a while back when the market was "hot" as I put it.

22 After that discussion, we spoke for the next couple days at various times, and on April 10, 2018 at approximately ten a.m. PST and 1 a.m. EST, she asked me if I had any interest in coming to see her in Toronto. I said that I would, and I booked a flight for the next morning, packed some items, and flew out on April 11, 2018. As I was unable to obtain a taxi after packing my items as I had somehow misplaced my phone charger while packing and my phone was dead so I walked from Downtown Vancouver to the Vancouver International Airport with two of my barrister bags which was about 15 km and I arrived around six a.m. at the airport.

23 I took an 8:30 a.m. flight and arrived in Toronto around four p.m. in the afternoon. Nicole greeted me at the airport but she was without a vehicle so we took a cab from the airport. I asked her about her vehicle and she informed it was a "long story". I later learned that the Divorced Husband Conflicted Lawyer had entered her vehicle (a silver BMW at the time) and taken the insurance from said car, which required her to obtain a new insurance policy with TD SNIC and that is why she was unable to drive to pick me from the airport. I

believe TD SNIC would have record of the same in the Spring of 2018. I ask, request and demand that it produce the same if the responding party wishes to oppose this NOM #6 or any individuals wish to challenge any of my evidence herein or otherwise. I believe the **Divorced Husband Conflicted Lawyer** used the FOB he retained possession of to do the same.

24 I offered to stay in a hotel for the first while but she kind enough to allow me to stay with her. As my business was primarily e-commerce at said time and I was able to operate logistics remotely, I would work through the day and we would meet for dinner or coffee at a restaurant across the street from her condo (Unit 410 at 775 Tecumseth Street, Toronto, Ontario) called Ovest.

25. After a couple week period, I informed her that my lease was to expire in about three months so I informed her if she wished to continue the relationship or a potential future together, I would appreciate knowing the same. She confirmed that she did and we worked out some ground rules on the sharing of expenses in the condo, food, board, et al. I provided notice to my landlord in Vancouver, sold my vehicle, and paid for the sending of my remaining property (which took several trips of friends being granted access to my condo and then shipping for me) and inventory to Toronto

26 From April 2019 to present, I have resided at 410-775 King Street West, Toronto, Ontario, M5V 2K3 (the "Condo" or "Unit 410")

27. I officially became an Ontario resident in 2019.

28. When referring to Unit 410, I am referring to the following property and common areas:

PIN 76320 0101 LT *Interest/Estate* Fee Simple

Description UNIT 10, LEVEL 4, TORONTO STANDARD CONDOMINIUM PLAN NO. 2320 AND ITS

APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET

OUT IN SCHEDULE A AS IN AT3346065, CITY OF TORONTO

Address 775 KING STREET WEST, SUITE 410

TORONTO

Volume #3: The Conflicted Lawyer and my unfortunate interactions albeit not by any formality

29. I have never met, formally or informally, the **Conflicted Lawyer**.

30. As Nicole and I re-established our trust and confidence in one another (primarily her trust and confidence in myself), along with more collective freedom than in her early educational years and my vocational career in law, I learned that she was separated from the **Conflicted Lawyer** since a time in 2017, and they were unable to resolve their differences between them without counsel

31. I did learn that each the Conflicted Lawyer and Nicole were represented by counsel in seeking to resolve their differences.

32. When Nicole invited me to stay with her at the Unit 410 condo ("Unit 410" or "Condo"), she provided me with a FOB that was circular and much smaller than the one she had. I inquired as to the difference and she informed me that the Conflicted Lawyer was refusing to return the FOB he had at one point but it had been deactivated.

33. I inquired when she anticipated receiving the return of it, and she said she was leaving it in her lawyer's hands. I did not take issue with that but I did inquire if there was a safety concern for her, and she said it is somewhat but Goldview Property Management Inc. ("Goldview") had informed her in writing that said FOB was deactivated and that the concierge staff were on alert if the Conflicted Lawyer attempted to enter the Minto Buildings.

34. I informed her that it was my experience to not allow matters like that to sit with lawyers as safety can be compromised at any second particularly if there was a changeover in concierge. I referred her to an experience that I had in my apartment in Vancouver

35. I affirm that I never met any of her lawyers or law firms that were representing her in any matters, and I was not privy to any communications

36 However, in the Spring and Summer of 2018, Nicole informed me whilst sitting on the couch and the other time while on the balcony of Unit 410, that faces the courtyard that in a trembling voice that "Andrew" was in the courtyard and "*It is Andrew again*" (more of a yell the second time)

37 On the first occasion, I said to her, "*What does he look like?*" She did not have any pictures so she described him to me as taller than I was by about two inches, dark coloured hair and wearing jeans and Spring jacket

38 I said, "*Does he have a car?*" She said, "**Mercedes Benz. Black.**" As deposed earlier, at that time, I was in the best physical shape of my life, and I took the back flight of stairs down and sprinted around the other side of one of the **Minto Buildings** (78 Tecumseth) and sought him out.

39. I was, in fact, yelling his name, "Andrew, Andrew, Andrew" as I passed the Shoppers Drug Mart going Eastbound. I could not find him until I saw a similar looking person on the Northbound side of the street getting into a black Mercedes and then drive off. As all of my affidavits have been, I cannot confirm it was him per se but I believe Nicole would know what he looked like, and he was in the courtyard

40. At that time, I had come to know the head concierge (Vlad) quite well and he had included me as a resident of Unit 410. However, since this first time of Andrew showing up, he was on the lookout for him in the directory.

41. On the second occasion, I immediately went directly to the concierge and informed them of the same, and to ensure that all video camera footage was saved. After running out that time and with the delay of speaking to the concierge, as Vlad only worked until three p.m., and this second occasion occurred around 5:45 p.m., I went out to see if I could find him but to no avail.

42. Out of an abundance of caution, I confirmed with concierge on duty (not Vlad) that Andrew's name was not in the record or directory of residence and he confirmed the same

Volume #4: the Aftermath and subsequent issues

43. After some of these issues did not arise, for a period of time Nicole would drive to meet her lawyers and I would accompany her as a passenger, and work remotely while she attended the same.

44. I did not get engaged with any of these issues but for my concerns of her safety and our collective safety. As such, I would always accompany her to her vehicle in the underground parking lot area and meet her at the loading zone, so she would not encounter any situation where she was alone and without cell phone reception.

between Tecumseth and Fabulous Pridays

45. At some during the Fall of 2018 (which was after our first trip to Greece in that summer of 2018), Nicole received a very concerning phone call where a person was merely "heavy breathing" on the phone, and she asked me to trace it. At the time that was a "pay phone" on King Street on north side of the street, between Tecumseth and Bathurst, which I traced the phone number to. I ran out to check to see if any one was still there but no one was.

46. I saved the phone number into my one of my secure files and I believe that this was the phone number as it was remains written down: 416-703-7140.

47 When the police arrived, I informed them of the recent occurrences involving the Conflicted Lawyer, and my concerns. I walked with the police to said pay phone and they tried to see if there was any way to check any footage from around the area. They later informed me that they could not or there was nothing that would show a clear picture or image of the same from any cameras from in the area

48. At this time, Nicole had informed me and I verily believed then and now that they were embroiled in some issues regarding reaching an agreement on the issues from their brief marriage. In the Fall of 2018, Andrew still retained a FOB to the Minto Buildings.

Volume #5: The Return of the FOB through counsel to Nicole and then to me

49. At some time in the Winter of 2018 and early 2019, Nicole had informed me that they had reached a resolution and that the FOB was being returned It remains unclear to me when such agreement was consummated and whether it was a formal agreement executed by both parties to the same, or whether was it done by partly oral and partly written through their counsel.

50. At some time thereafter, Nicole and I drove (myself as the passenger) to her then lawyer's office and she obtained some of the property that was in his possession, which include said FOB, and she provided it to me I then returned the FOB I was using at the time and had said FOB that Andrew had "use" and "control" of, reactivated.

51. In 2019 Nicole and I sojourned to Dusseldorf, Germany for one of her business trips and I was able to work remotely and make new contacts in the industry that I worked in

52. During that time I had to conduct a hearing in the BCCA against the Attorney General of BC, albeit remotely, which I later learned upon our return that I was successful.

53. In 2019, prior to our second trip to Greece, I proposed to Nicole and we were engaged. We were set to have our wedding in 2020 at Casa Loma with the dinner thereafter at Alo restaurant, where I paid the deposits for these events along with florists and photographers, but like many, the pandemic struck and we were delayed until 2022.

54 In the summer of 2022, we had a massive flood in our apartment after the unit above left the vanity sink on, after leaving for a trip, and we were displaced for the majority of the Summer of 2022 when we intended to have our wedding.

55 On August 31, 2022, the MVA occurred. I repeat and rely upon my evidence from that time and I again note that my spouse (Nicole) received her accident benefits package within a week or so but mine was later as it had the incorrect postal address.

Volume #6: Repeat and rely upon previous evidence of what I deemed "strange occurrences" or "not coincidental" – which I say are indicative of "bad faith", "malice" and "conflict of interest"

56. I repeat and rely upon what I deemed "strange occurrences" and further evidence upon investigation, which included and includes but not limited to (in no particular order):

a. The immediate error in my postal code which was the same as Nicole's;
b. The "spam faxes";
c. The April 20, 2023 letter with the "as per A. Nurse" printed purported signature which referenced "no medical evidence" on file that supported my injuries being outside of the MIG despite the October 2022 MRI report that was delivered to SNIC Markham (attention. Ms. Nurse);
d. The without notice removal from Ms. Nurse from the TD Claim Number 3 and from SNIC Markham to Ms Persaud at SNIC Burlington;
e The timing, which was when I made my first PIPEDA request in January 2023, of when the Divorced Husband Conflicted Lawyer switched from his title on LinkedIn being a "lawyer" to "consequence management" while maintaining his office location address of SNIC Markham;
f. An apparent letter from TD Insurance regarding my PIPEDA request which was from a woman in New Brunswick with no reference to TD Insurance and having my phone number incorrect which I informed the concierge was not my phone number;
g The references to mail delivered which I never received;
h The references to denials for certain benefits on certain dates when there is no record of the same;
i. The apparent mathematical calculations in the April 20, 2023 letter which appeared to me to keep me some few cents under $3,500 when combining the amounts of the medical and rehab benefits paid directly to my Beneficiary Bank Account and the amounts in the April 20, 2023 letter;
j. Ms. Persaud's auto-reply being on from September 2023 to January 2024 despite receiving letters from SNIC that referenced Ms Persaud;
k. The, in my view, harassing phone calls to my physiotherapy clinic inquiring if I was still attending physiotherapy which I confirmed I was and was substantiated by the confirmations by Rehab Mechanics;
    i. (I confirm that those phone calls have stopped since I put Ms. Persaud on notice of the same and I thank her for discontinuing the same as she has access to me via email);
l. A letter from SNIC, which referenced Ms. Persaud, claiming it never received any of the UHN Notification information regarding my brain MRI,
m. The refusal of SNIC to pay for the BMW Parkview Invoice when I was informed and verily believe to be true that it was as a result of the Accident;
n. An email to my email account for privacy requests that reference a TD Claim Number but with the hyphen (-2) which is not my file number;
o The request to no longer have me fax and consent to email which I declined at the time as my PIPEDA request had not been complied with,
p TD Insurance referencing in the 2023 PIPEDA request that if I disagreed with its response to PIPEDA that I could raise the issue with LAT within two years which I was dumbfounded by considering that LAT does not investigate and adjudicate PIPEDA matters;
q. Ms. Nurse's email no longer being active as of last week,
r. Mr Nieuwland's representation to me that Ms. Moraes was his assistant when he has now provided the name of his assistant being Ms. Ortiz;
s. The "Andy Gera Metadata Discovery";
t. The response from the email account of TDIADR asking that I not provide any evidence of expenses to said email account which I believe to the Divorced Husband Conflicted Lawyer;
u Ms Persaud not responding to any emails that I have sent her but my receipt of some letters that reference Ms Persaud in said letters after my sending of emails;
v. The now auto-reply of the Divorced Husband Conflicted Lawyer until April 9, 2024,
w The inconsistency between Mr. Karat's outgoing emails in representing SNIC and his auto-reply emails;
x Mr Karat's now auto-reply that he no longer acts for SNIC;
y Mr Nieuwland's continued acting for TDGIC of which was not denoted in the Appeal, Purported SNIC Response or the Insurance Policy,
z. Ms Moraes' LinkedIn profile some five weeks ago demonstrating that she was looking for work elsewhere (which I cannot blame her considering the events that have unfolded over the last five weeks to eight weeks);

aa. Mr. Nieuwland being out of office from January 24, 2024 to January 29, 2024 when Mr Karat signed the Purported SNIC Response on January 25, 2024 at approximately 11 a.m. EST;
bb. Mr. Karat not including Mr. Nieuwland on the email when he served me with the Purported SNIC Response that he solely signed and delivered to me via email wherein he asked me to confirm receipt and I did (exclusively to him);
cc. Mr. Karat not signing the correspondence enclosing the Purported SNIC Response but signing the Purported SNIC Response,
dd. Mr. Karat's historical working with the Divorced Conflicted Lawyer in the matter titled Quinn v. Security National Insurance Company which I say constitutes a "regular basis",
ee. A non-licensee signing a responsive pleading when the Appeal involves my CAT Impairment, issues of CAT Impairment or the appearance of CAT Impairment;
ff. Ms. Moraes attempting to or seeking to adjourn the scheduled May 2, 2024 case conference whilst referencing her supervising lawyers of Ms. Saeed and Ms. Klukowska but NOT Mr. Nieuwland; and
gg. Other particulars referenced in my previous evidence.

Volume #7: My beliefs and allegations for NOM #6

57. I believe that the **Divorced Husband Conflicted Lawyer**, in whole or in part, drafted, revised and completed the Purported SNIC Response.

58. I believe that the **Divorced Husband Conflicted Lawyer** is the individual referenced in the "Andy Gera Document" and the actual author in the metadata of the PIPEDA response to my first PIPEDA request in the year of 2024 at TDIns. a

59. I believe that the **Divorced Husband Conflicted Lawyer** had a role in the instructing, authorizing or completing of the "As per A. Nurse" alleged signature. I have inquired into who the individual is with the initials of "K r W" and not received a response. (see: April 20, 2023) a

Volume #8: Conclusion

60. I believe that my life, liberty, health and security remain threatened so long as there is not an order disqualifying and restraining the **Divorced Husband Conflicted Lawyer** from the TD Claim Number, this SNIC Proceeding and any future LAT proceedings that arise out of the same events. any involvement

61. While this affidavit #16 is primarily purposed for this **SNIC Proceeding**, I may also rely upon it regarding my second PIPEDA request of the year of 2024 to obtain access to any and all personal information that has been collected, accessed, used and disclosed along an accounting of any disclosures to other organizations besides "TD Bank Group" (as it relates to my second PIPEDA request of 2024) that it *may* have engaged in the same.

62. I believe that the **Divorced Husband Conflicted Lawyer** has a grudge against me, has malice towards me and has acted in "bad faith" towards me. I believe that if "Andy Gera" was not the **Divorced Husband Conflicted Lawyer**, he or other individuals on those email threads would have provided me the contact information for "Andy Gera". None have done so as of today's date. L

63. I respectfully seek the orders in my NOM #6 along with the procedural orders sought therein regarding timing of responsive submissions (if any) and any responsive evidence from the named individuals hereon if they are ready, willing and able to swear or affirm evidence under oath to face each and every sentence of my affirmed evidence to date and hereon.

64. I affirm that I will NOT be providing any further documents to TD Insurance (including SNIC or any other insurance company under my SABS benefits as an Insured Person) until this motion is heard and decided and I have a compliant response under PIPEDA to my satisfaction and/or resolved by the OPCC and/or the federal courts. I am unable to take any "meaningful steps" (see: Raizman) until a lawyer is appointed for SNIC

65. While I am seeking an order under my NOM #6 under LAT Rule 13.1 (as denoted above), I shall serve a copy of this affidavit upon the name individuals in the emails denoted in Affidavit #15

66. I may supplement this affidavit with another affidavit that provides further particulars but my hope is that upon being served with this affidavit #16, the respondent SNIC, Mr. Karat, Mr. Nieuwland et al, along with the CEO of TD Insurance in Mr. Russell, will take the decisive step to appointed outside counsel who is independent of all of the individuals herein.

67. As it relates to Ms. Persaud, I will need to have her sworn evidence that she has had no involvement with the Divorced Husband Conflicted Lawyer, in order for me not to seek herein or later to have her disqualified. / in the TD Claim Appeal,

68. As a final point of evidence, which I find ironic, I note that today is one year from the last day in which SNIC has paid me directly any funds for any medical and rehab benefits or section 25 expenses, and I do not have any demand to have those amounts repaid to it, or any claim from TD SNIC to repay any funds prior to that. to my Benefits Book Award,

69. I do not see any value in a stay of proceeding like Mansuri as I wish to have any and all issues herein decided on their merits (where applicable) but only if TD SNIC retains outside counsel to represent it which I respectfully submit and believe requires at least one lawyer licensee, as per the CAT Impairment issues I have sustained a result of the MVA by reference to four MRIs et al, who is independent of the impugned individuals herein.

70. I affirm this Affidavit #16 for no improper purpose and in relation to my NOM #6, general purposes and ancillary purposes (known and unknown).

affirmed before me at Toronto, Ontario
On this 9th day of April 2024

Mr. Kevin A. McLean (B.A., J.D., CIM)

Vinh The Tran, Beg.
Unlimited No Expiration
NO ILA PROVIDED.
Identification Confirmed.

[1]Defined as "TD SNIC" as "Security National Insurance Company" as provided as the name of the insurance company that Ms. Persaud and Ms. Nurse were acting as "claims adjusters"
[2]Meloche Monnex Inc. ("MMI"), carrying on business under the name of Security National Insurance Company, He v. Meloche Monnex, 2022 ONSC 974 (CanLII), at para 2. <https://canlii.ca/t/jmlv0#par2>, retrieved on 2024-01-04

Electronically filed / Déposé par voie électronique : 18-Feb-2025
Toronto Superior Court of Justice / Cour supérieure de justice

Court File No./N° du dossier du greffe : DC-24-00000718-00JR

Submission for Tribunal File Number 23-015662/AABS

General Information

Company/Firm Name (if applicable)

Person Submitting Documents

Last Name	First Name	Middle Initial
McLean	Kevin	

Mailing Address

Unit Number	Street Number	Street Name	PO Box
	775	KING ST W	

City/Town	Province/State	Postal/Zip Code
TORONTO	ON	M5V2K3

Country

Canada

Daytime Phone	Ext.	Alternate Phone	Ext.	Fax Number
647 513-1270				

Email Address

mcleansniclat@gmail.com

Documents Submitted

1 . Affidavit

Affidavit_AR_Affiavit 16_Apr_6_2024_Document.pdf

Acknowledgement

Read carefully and then confirm the statements below.

I am the Claimant

☑ I certify that all information above and in the attachments are true and complete.

☑ I certify that within 5 days, I will serve a copy of the attached documents on all other parties and will serve the Tribunal with a completed Certificate of Service as proof of service of the documents. (Blank 'Certificate of Service' forms are available on the Tribunal's website at www.slasto-tsapno.gov.on.ca/lat-tamp/en/automobile-accident-benefits-service/forms/).

Date of submission 2024-04-06

***AABS File Number*: "23-015662/AABS"[1]**

BETWEEN:

Kevin Alexander McLean

APPLICANT/APPELLANT

AND:

Security National Insurance Company (also defined by TD Insurance as "TD Insurance Meloche Monnex" as it relates to the "Alumni and Professionals insurance program underwritten by **SNIC**)

RESPONDENT

Re: In a matter of an **Appeal** (also defined as "**Application**", "Application Of Injured Person" or "Application") by the **Appellant** (also defined as "**Applicant**")[2] under the *Insurance Act*, RSO 1990, c I.8 et seq (the "*Insurance Act*") in the above noted **AABS Claim Number** (also defined as "**SNIC** Proceeding")

*Re (SABS): In a matter under the following regulations: (i) SABS and (ii) Reg 664 (by contextual reference without seeking any penalties or interest as no payment is sought under SABS by virtue of being a **Preliminary Motion** or **Jurisdictional Motion**)*

Re: Written Submissions of the Appellant for his COI Disqualification Motion of the **Divorced Husband Conflicted Lawyer** and all those associated, affiliated, partnered, managed or supervised by him in TD Claim #3 and this SNIC Proceeding herein et al (see: **LAT Rule 15.1**)

APPLICANT/APPELLANT

Mr. Kevin A. McLean (B.A., J.D. CIM)
410-775 King Street West,
Toronto, Ontario, M5V 2K3

Telephone: 647.513.1270
Email: MCLEANSNITLAT@GMAIL.COM

RESPONDENT
Security National Insurance Company ("SNIC")

Address for Service in the Purported **SNIC** Response and Cover Letter[3] serving the Appellant the same:

Suite 200-101 McNabb Street, Markham, Ontario, L3R 4H8

AND TO:

Unlicensed Non-Exempt Representative of **SNIC** ("**Non-Exempt Non-Licensee**"):

Mr. David **Karat:**

(**Non-Licensee** or **Unlicensed Representative** of **SNIC**,

employed by TD Insurance[4] at the premises situated at 101 Mcnabb St, Markham, Ontario, L3R 4H8 ("**TD Insurance Markham**" or "**SNIC Markham**")[5]; 101 McNabb Street (no unit number) **Markham**, Ontario, L3B 4H8 (t): 877 855-3767 E-mail or fax: *none listed* in the **Purported SNIC Response** ("**Karat**", "**ADR Representative**", "**ADRR**", "**ADR Specialist**" or "**Sole Signatory**"(of the "**Purported SNIC Response**");
AND TO:
COUNSEL FOR A NON-RESPONDENT AND NON-PARTY *by way of the* ***Purported Nieuwland DOR***
Legal Representative for TD General Insurance Company ("TDGI"): Mr. Matthew **Nieuwland**, Barrister and Solicitor with the **LSO** (**LSO** No. 71045A (in "*private practice*" with "**TD Insurance Staff Legal**") ((L1 Licensee[6] with **LSO**[7], employed by **TD Insurance Staff Legal** at the premises situated at 66 Wellington St W, Toronto, Ontario, M5K 1A2) ("**Nieuwland**") Email in **Nieuwland DOR Non-Respondent** matthew.nieuwland@tdinsurance.com[8]
AND TO:
Mr. Andrew Papadimitropoulos

(**L1 Licensee**[9] with **LSO**, employed by "**TD Insurance"** at the premises situated at 101 Mcnabb St, Markham, Ontario, L3R 4H8 ("**TD Insurance Markham**" or "**SNIC Markham**")[10]:

> (also known as "**ANDY GERA**"[11] and defined as the "**Divorced Husband Conflicted Lawyer**" or "**Conflicted Lawyer**");

(e): andrew.Papadimitropoulos.@tdinsurance.com

AND TO:

Michelle Moraes

(**P1 Licensee**[12] who is currently "employed" by "**TD Insurance Staff Legal**" but not providing legal services to "**TD Insurance Staff Legal**" ("**Not Providing Legal Services Employed**")[13] at the 66 Wellington St W, 38th Floor, Toronto, Ontario, M5K 1A2)

("**Moraes**" or "**Non-Nieuwland Legal Assistant**" who is the legal assistant to **Ms. Adrianna Klukowska**[14] and **Ms. Arfa Saeed**)

(e): Michelle.moraes@tdinsurance.com

AND TO:

AND HER SUPERVISING LAWYERS

Ms. Adrianna Klukowska:

> (L1 Licensee[15] with the **LSO**, employed by "**Toronto Dominion Bank**" ("**TD Bank**") at the premises situated at 66 Wellington St W38th FloorToronto, Ontario, M5K 1A2) ("**Klukowska**" or "**TD Bank Employee**");

(e): Adrianna.klukowska@tdinsurance.com

Ms. Arfa Saeed ("Saeed"):

> (L1 Licensee[16] with the **LSO**, employed by "**TD Insurance Staff Legal**" situated at the

premises at 66 Wellington St W, 38th FloorToronto, Ontario, M5K 1A0)[17]

(e): Arfa.saeed@tdinsurance.com

(all individuals collectively defined as the "Impugned Individuals"

Part 1: Background, Timing of the Motion, and Orders Sought

1. The **Appellant** was involved in a automobile accident on August 31, 2022 and sought benefits pursuant to *SABS* from the insurer and underwriter in **SNIC**[18]. The **Appellant** received some benefits, after **TD SNIC** determined he was "**Insured Person**" under *SABS* as per his *spousal status* with the sole policyholder ("Nicole")[19], but not in accordance with *SABS*. He filed an **Appeal** on December 24, 2023.[20] This motion calls into question the handling of the *accident benefits file* of this Appellant by the respondent insurer, (**SNIC**) a non-insurer (**TDGIC**)[21] [22], the "**Legal Staff**" of "**TD Insurance**"[23], due to an **Actual COI**[24] or **Perceived COI,** and that its *essential character* relates to a claim for accident benefits. The Tribunal is authorized to determine all questions of law and fact before it.[25] The outcome of this motion will drastically impact the course of the underlying proceeding which is why it has been brought promptly by the Appellant. An applicant, in order to demonstrate *good faith* in advancing a conflict of interest motion[26], is required to bring its motion promptly[27] once there is evidence of a conflict of interest.[28] [29]

Part 2: Primary Issues

2. *Must the **Conflicted Lawyer** be disqualified and permanently restrained from his deemed, yet clandestine and concealed, representation of TD Insurance (SNIC), under section 1(7)(a) of the LSA[30], and handling of the **TD Claim Numbers**, the **SNIC Proceeding** and any **Related Future Proceedings** as a result of an actual COI ("**Actual COI**") or reasonably perceived COI ("**Perceived COI**")? If so, which **Associates**, **Partners**, **Affiliates**, **Affiliated Entities**, **Advisees**, and fellow Licensees at "TD Insurance" ("TDI") must also be disqualified and permanently restrained by their involvement with the tainted **Conflicted Lawyer**?*

Volume 3: Ex-Husband lawyer covertly and deviously representing SNIC [31]

3. The knowledge of an associate, affiliate, partner, assignee *et al*, working at **TD Insurance** on the **TD Claim Numbers** or this **LAT Proceeding** surely[32] must be deemed to also be the knowledge of the barrister and *vice versa*.[33] [34]In Ontario, common-law spouses have the *same rights* to *spousal support* as married couples: as long as they have been living together for at least three years.[35] Spousal privilege under the *Canada Evidence Act* does not survive divorce[36]. The **Conflicted Lawyer** has duties to **Nicole**

post-separation and in perpetuity, and by extension the **Appellant**, by way of some form of separation agreement, known to him. As such, the **Conflicted Lawyer** has personal interests and others duties to "third persons" that conflict with his duty of loyalty to and representation of his client and employer.[37]

Volume #4: False & Forged Documents, and uttering the same to hide a name of Conflicted Lawyer

4. **Nurse**'s email is no longer active[38] but an issue has arisen with the purported signature (see: **Appendices**)[39], in the Nurse OCF-18 document (the "**Nurse OCF-18 Document**")[40]. The alleged signature of **Nurse** is *printed* (*no*t signed) with "as per A. Nurse" with indecipherable initials above (Ki W.).[41] However, "*as per*" means "on behalf" of another person or entity and the *initials* demonstrate that another individual *printed* her name purporting to be Nurse.

5. Moreover, the "**Andy Gera Document**" is yet another document wherein on first glance, **Karat** is the *alleged author* but the metadata shows that the *actual author* is "**Andy Gera**" which no individual or person for the **Respondent** has denied is the **Conflicted Lawyer**. The importance of this circumstantial evidence cannot be understated as per the statements of law in *Martin* by Sopinka J.[42] Citing *R. v. Smith,*[43] a "**false document**"[44] is a document that (a) the whole *or* material part of [it] which *purports* to be made by or behalf of a person who did not make it *or* authorize it to be made, (b) that is made by or on behalf of the person who purports to make it *but* is *false* in some material particular, OR (c) made by an existing person, by him, with a *fraudulent intention* that it should pass as being made by a person, *other than* the person who makes it or under whose *authority* is made. The offence of **forgery** is: every one commits forgery who makes a false *document*, **knowing** it to be false with intent that it should in any way be used or acted on as genuine *to the prejudice* of any one else. In the context of insurance law and breaches of confidence and privacy rights, prejudice is *presumed* after this Appellant had provided highly sensitive personal and confidential information ("**SPI")**[45] to **TD SNIC** in situations of confidence, via fax, to it.[46]

6. The materiality requirement under a **false document** requires: is false in reference to the *very purpose* for which it was created.[47] The intent requirement under *forgery* is merely the '**intention to deceive'**.[48]

7. The act of *uttering* a false document or forged document turns on "use" and even putting a "false document" into a photocopy machine[49] is a use and meets the requirement for "uttering".

8. It is unequivocal that the "**Andy Gera Document**" was authored by "Andy Gera" and not David **Karat**. It is not denied that "Andy Gera" is the **Conflicted Lawyer**. Kart did not sign the "**Andy Gera Document**" so there is no issue of attestation or signature (unlike the **Purported SNIC Response**). However, the **Andy Gera Document** is *false* in reference to the *very purpose* for which it was created, under *PIPEDA* and tied to the **Appeal**, in that it references **Karat**[50] as not the only the author but the *contact individual* for any issues arising therein. Moreover, it likely meets the test of section 321(1)(c) of the *Code* as Mr. **Karat** is an existing person but there is a *fraudulent intention* that it [document] should pass as **Karat** 'authored' other than the person (**Conflicted Lawyer)** who made or authored it it.

9. It is trite that **Nurse OCF-18 Document** is false in a *material part* because it was made on her behalf ("*as per A. Nurse*") but she did NOT make it; made by or on behalf of the person (Nurse) who purports to make it but it is false because "as per" would have the signature of the individual (not named Ms. Nurse) who did so [whomever "*Ki W*" is or was] on behalf of **Nurse** – <u>not</u> "as per A. Nurse". Therefore, whoever sent, via mail, the **OCF-18 Nurse Document** *<u>uttered</u>* a false and forged document.

10. The **Purported SNIC Response** has only two possibilities: (i) either Mr. **Karat** in fact signed[51] the responsive pleading, which was and is, *inter alia*, a breach of By-Law 7.1, section 6(1)(d) and an offence under section 26.1 of the *LSA* which presumes that "Andy Gera" (**Conflicted Lawyer**) assigned him the task and function to do[52] what he could not do as a non-licensee[53] ; OR (ii) it is a false and forged document which was uttered when "certified" and "signed" by **Karat** in the Tribunals Ontario (LAT Portal).

11. It is now admitted, by Nieuwland, that Moraes was <u>not</u> the legal assistant to **Nieuwland** but his actual legal assistant was and is Ms. Christiana Ortiz ("**Ortiz**").[54] [55]It is now unequivocal that **Nieuwland** could **<u>not</u>** have been the supervising lawyer of Mr. **Karat** when he purportedly signed the **Purported SNIC Response** on January 25, 2024 as **Nieuwland** was *out of office* from January 24 to 29, 2024[56]. "Andy Gera" (**Conflicted Lawyer**) was and is the supervising lawyer of Karat.

Volume #5: Duty of Good Faith; Appearance of a COI and Presumed Prejudice

12. **TD Insurance**, in its capacity as an *accident benefits insurer*, owes the Appellant a *duty of good faith*[57], utmost trust and *fair dealing*, arising out of its fiduciary obligations (duty of loyalty and to avoid conflicts of interest).[58] Apart from its fiduciary obligations, **TD Insurance** also has an obligation to ensure that the information supplied to it by its insured is kept confidential.[59] Section 439 of the *Insurance Act* reiterates this implied principle by stating that "no person shall engage in any *unfair* or deceptive act or practice". **TD SNIC** is also bound by *PIPEDA*[60]. It is the fiduciary duties of **TD SNIC that** are so damning to it in this application.[61] The fiduciary must put the interests of the other party above their own and **avoid any conflicts of interest**. A fiduciary relationship is based on trust, and the fiduciary is expected to act with **honesty**, **integrity**, and **loyalty**.[62]

13. The requirement for document exchange between the parties begins *as soon as the application* is filed[63] with the Tribunal (see: **Rule 9.1**). [64] [65] [66] The Legislature passed section 1(7)[67] of the *LSA* in 2007 which deems persons who make "behind the scenes" *determinations* to be representing a person even if they do not file a **DOR** with LAT. [68] [69] [70] There is a strong inference that legal professionals and affiliated entities who work together share confidences.[71]

14. The *legal burden* for disqualification of a licensee[72] for **Perceived COI** and those affiliated, associated, partnered with or supervised by a licensee (on or "off the record") is on a *balance of probabilities*.[73] The *legal test* for disqualification for a **Perceived COI** of a licensee is whether a fair minded and reasonably informed member of the public would conclude that the removal of the **Conflicted Lawyer** and all those that were associated, affiliated, or part of the same "group" is **necessary** for the *proper administration of justice.*[74] Courts balance: (i) maintaining respect for the integrity of and high standards of the legal profession and justice system as a whole *versus* (ii) a *litigant* (see: **SNIC**) having the right to choose *its counsel* and and allowing reasonable mobility in the legal profession.[75] In answering the issue, Courts consider NOT only whether there is an *actual* conflict of interest ("**Actual COI**") but also whether a conflict could reasonably be perceived in all of the circumstances; specifically, the appearance of a **COI**

(the "**COI Appearance**"). Courts consider any applicable rules of professional conduct, *By-Law*s, rules, guidelines or ethical principles directly on point.[76]

15. Courts are entitled to remove a "law firm", "law group", "association, affiliation or partnership of licensees and non-licensees" even if the licensee perceived to be in a conflict of interest is NOT "advocate" or "counsel of record".[77] It must be remembered that to, some degree, all members of a law firm (and certainly the modern day MDP's, partnerships or associations of licensees and non-licensees for assignment of handling of LAT Disputes to a non-licensee in Mr. Karat on January 23, 2024) are identified as "one" in the eyes of the law. [78] [79] [80] LAT has the authority and has removed paralegal licensees (**Mr. Grabar**) when CAT Impairment is at issue.[81] LAT has the authority and has excluded ADR Specialists (**Ms. Morrow**) from filing documents even on motions – let alone a responsive pleading.[82] The Tribunal cannot condone or excuse violations of the LSA and its *By-Law*s, including guidelines and *ROPC*.[83] [84]

Volume #6: Unassailable Conclusions[85]

16. *By-Law* 7.1 is unequivocal and *unambiguous* that a non-licensee like **Karat** was not permitted to **SIGN** (the word on the form is "file" (not sign[86])) a "responsive pleading"[87] like the **Purported SNIC Response**. **Karat** was **NOT** the claims adjuster as that was Nurse and is **Persaud**. The **LAT Response Form** is not "correspondence"; specifically pleadings are not equivalent to correspondence, and certainly not correspondence of a "*routine administrative nature*".

17. *By-Law* 7 and 7.1 intersect and cross-reference each other under ***By-Law* 7.1** as follows: "Assignment of tasks, functions: general" 3. (1) Subject to subsection (2), a licensee *may* assign to a *non-licensee* tasks and functions in connection with *the* licensee's practice of law ... in relation to the affairs of the licensee's client. "Assignment of tasks, functions: AFFILIATION" (2) A licensee who is affiliated with an entity under *BY-LAW 7* may assign to the entity or ITS[88] staff, tasks and functions in connection with the licensee's practice of law ... in relation to the affairs of the licensee's client *only if* the client **consents** to the licensee doing so. "**Affiliation**" is defined and interpreted under *By-Law* 7, Part IV, section 31[89] which defines an "**Affiliated Entity**": one or more persons NONE of whom are licensed to practise law or

provide legal services in Ontario.[90] With the fortuitous *metadata discovery* of, "**ANDY GERA**", in the *PIPEDA* response [91], when combing with the decision of *Quinn*[92], the **Conflicted Lawyer** and **Karat** would likely meet the test of an "**affiliation**" by "**regular basis joining of their services**". **Karat** and the **Conflicted Lawyer** work from the same premises at **SNIC Markham**. *Why the usage of the name of "Andy Gera" as the "actual author" in the PIPEDA response over the legal name of the* ***Conflicted Lawyer****?* The **Conflicted Lawyer** knew that he could not engage in any conduct necessary for the proceeding[93] in the context of Nicole being the policyholder in the Insurance Policy, and the Appellant's current spouse.[94] [95] *Why would* ***Nieuwland*** *misrepresent that Ms. Moraes was his legal assistant when she was not?* This again turns on the language of "**regular basis**" and "premises". If this was a "*one-off"* as Ms. Moraes was NOT his legal assistant, which she was not and is not (as that is Ms. Ortiz), then **Nieuwland** and **Moraes** would not meet the definition and interpretation of "affiliated" and "affiliation".[96] It is also unambiguous that **Moraes** was representing to LAT[97] when seeking an adjournment of a "case conference"[98] who her supervising lawyers were, and *neither* of them were **Nieuwland**.

18. The *PIPEDA* response is dispositive in finding a Perceived COI herein because **Nieuwland**'s name is mentioned therein, the TD Claim number is *incorrectly* cited and numbered, Mr. **Karat** is the "fictitious author", "**ANDY GERA**" is the actual author, Ms. Moraes is of "**Portuguese**" descent[99] , and no one has responded to the Appellant request, for weeks, as to the legal name of "Andy Gera" and his role at TD Insurance. Andy is short for "Andrew" and "Gera" means "generated" or "created" in **PORTUGUESE** which means "*Andy Generated*" or "*Andrew Papadimitropoulos Created*". [100] [101] [102] [103]

19. It amounts to *irreconcilable conflict* for all of those licensees and non-licensees who have been involved in the **TD Claim #3** and this **SNIC Proceeding** to continue acting for the accident benefits insurer (TD **SNIC** or any TDGIC masquerading as the "insurer" and "underwriter") when it is entitled to receive a great deal of sensitive information from this **Appellant** but it did not disclose the **COI** of the **Divorced Husband Conflicted Lawyer**[104] to the Appellant and perhaps other individuals impugned herein. **SPI**[105] is interpreted by the **OPPC** and in *Wakeling*[106], and there is no question that **SNIC Markham**[107] has

received vast amounts of confidential information from this Applicant albeit while failing to notify him that it would be used by, and in the hands of a **Conflicted Lawyer** in unauthorized fashion. It is why the ONSC in *Jia*[108] referred to the duties of an INSURER (and THEREFORE OF **ITS** COUNSEL[109]). Before this Appellant can even consider engaging in the *LAT Rules* by exchanging personal information, confidential information or **SPI**, exchanging settlement offers, or any further good faith efforts before and leading up to the case conference, the **Conflicted Lawyer** must be disqualified forthwith along with any of the Associates, Partners, Affiliated Entities or Assignees along with any non-licensees or licensees that have been tainted by communications with him. [110] [111] [112] [113]

Volume #7: Orders Sought[114]

20. The Appellant respectfully submits that an actual conflict of interest must be found by LAT on the "**dishonest conduct**" by this **Conflicted Lawyer** (licensee) which not only affect his client (TD Insurance – SNIC) but a breach of integrity such as this has a *corrosive impact* on public confidence in the legal profession and the administration of justice[115]. This statement of law dovetails with LAT's objectives, pursuant to section 23(3) of the *SPPA*, to SAFEGUARD the PROPER ADMINISTRATION OF JUSTICE.[116] However, this higher *standard is not required to be met herein; the only issue to be decided herein is whether there is a an **appearance of a conflict of interest** from the vantage point of an objective person?*[117] While the respondent insurer and all so associated with the **Conflicted Lawyer** breaching their duties of good faith and fair dealing, and their *fiduciary duties*, the question answers itself. There is no question that all of the **Impugned Individuals** are integral witnesses[118] [119] to, at the very least, motions on costs and Reg 664 awards. The **Appellant** respect seeks the orders in the **NOM #6** .[120] [121] All of which is *respectfully submitted* to LAT on this **April 8, 2024**.



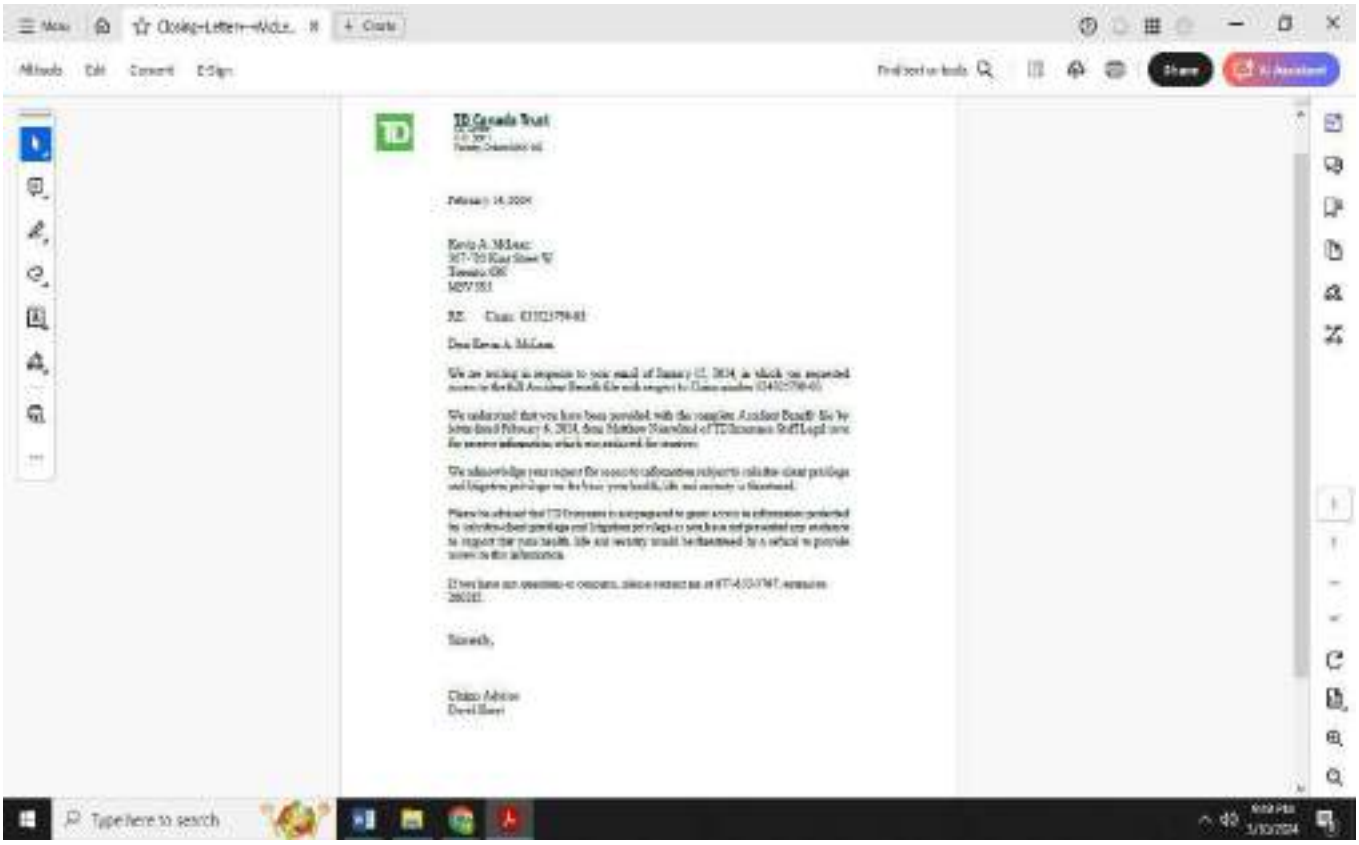
Moving Party

APPENDICES

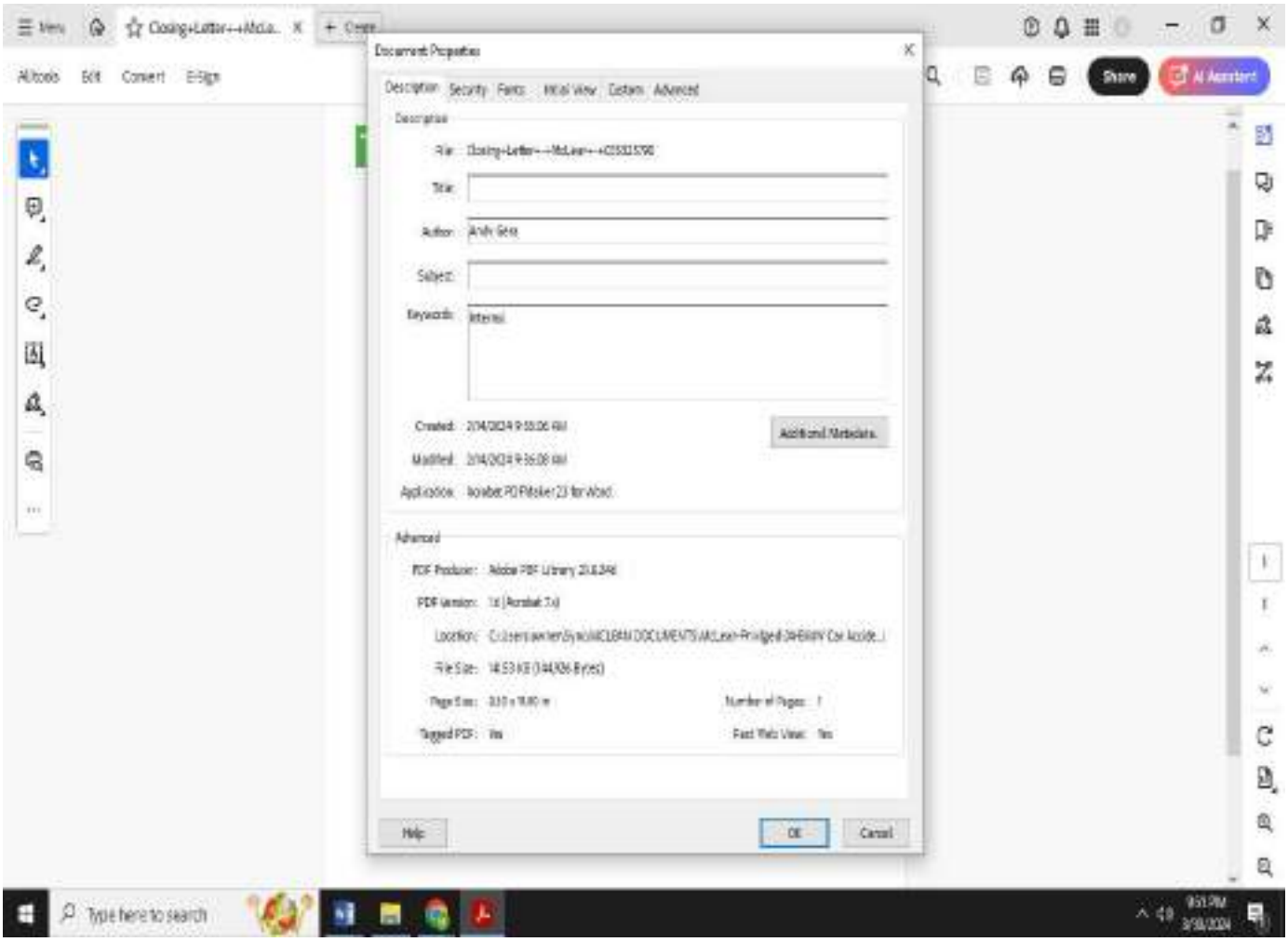
Appendix #1:

Appendix #1(A): The *PIPEDA* response to the Appellant's *PIPEDA* request with Mr. David **Karat** as the "purported author" and "contact person"

Nota bene: this document references the TD Claim #3 which is the subject of this LAT Proceeding herein (see: **23-015662/AABS)**

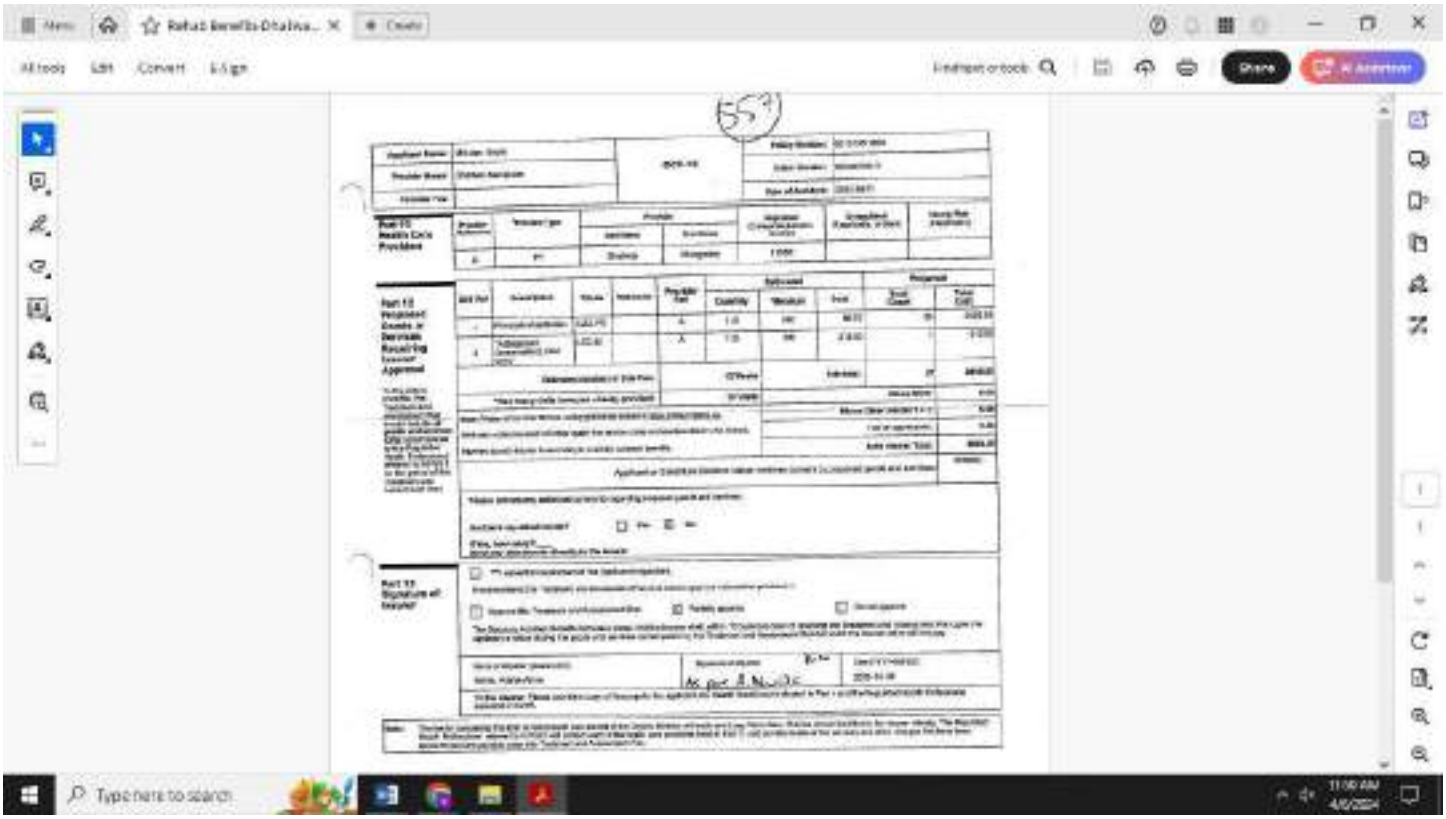


Appendix #1(B): The actual author of the *PIPEDA* response to the Appellant's *PIPEDA* request


Document Properties
Description
Security
Fonts
Initial View
Custom
Advanced
Author
Andy Gess
Subject:
Keywords:
Created:
Modified:
Application:
Advanced
PDF Producer:
PDF Version:
Location:
File Size:
Page Size:
Number of Pages:
Tagged PDF:
Fast Web View:
Help
OK
Cancel
Share
AI Assistant
Type here to search

Electronically filed / Déposé par voie électronique : 18-Feb-2025
Toronto Superior Court of Justice / Cour supérieure de justice

Appendix #2: The Fictitious Nurse Signature



ENDNOTES

[1]"Automobile Accident Benefits Service (AABS) Claim" means an application to the LAT pursuant to s. 280(2) of the *Insurance Act* seeking resolution of a dispute involving statutory accident benefits
[2]Please see: New LAT Rules or "LAT Rules", R. 2.1 and 2.2 for interchangeability between **Appellant** and Applicant
[3]See: Appendices and **Affidavit #15**;
[4](previously authorized for **SNIC** but not at the time of NOM #6)
[5]See: **HR INDEX**, Tab 3, page 99;
[6]71405A
[7]https://lso.ca/public-resources/finding-a-lawyer-or-paralegal/directory-search/member?MemberNumber=71405A
[8]See: **HR INDEX**, Tab 4, page 120 and 121
[9]Law Society Number: 58696I
[10]https://lso.ca/public-resources/finding-a-lawyer-or-paralegal/directory-search/member?MemberNumber=58696I
[11]See: **HR INDEX**, Tab 3, page 14
[12]https://lso.ca/public-resources/finding-a-lawyer-or-paralegal/directory-search/member?MemberNumber=P15557
[13]A paralegal who is employed by an organization such as government, an educational institution, a company, a society, trade union, etc., and who does not provide legal services.
[14]https://lso.ca/public-resources/finding-a-lawyer-or-paralegal/directory-search/member?MemberNumber=82757T
[15]82757T
[16]83824E
[17]https://lso.ca/public-resources/finding-a-lawyer-or-paralegal/directory-search/member?MemberNumber=83824E
[18](which TD provides a definition on its website of "**TD Insurance Meloche Monnex**" (collectively, "TD **SNIC**" or "**TDMM SNIC**")
[19]See: **Affidavit #**15 and #16
[20]The other material facts are well known to the Tribunal as this **NOM #6** primarily concerns issues of law to be decided.
[21]See: **HR INDEX**, Tab 3, page 98;
[22][under the Insurance Policy, *Insurance Act* and unnamed in the **Appeal** and **Response** signed by a non-licensee]
[23]https://www.canadianlawlist.com/listingdetail/company/td-insurance-staff-legal-757005/
[24]See: **HR INDEX**, Tab 21, **Affidavit #**15, paragraph 89;
[25](see: *LATA*, section 3(2); *Mansuri*).
[26]See: **HR INDEX**, Tab 6, page 140;
[27]See: **HR INDEX**, Tab 6, page 141;
[28](see: *Talisman Resort*; *Yellow Cedar*, Tab 6, page 139, paragraph 37).
[29]The previous decisions of the Tribunal of Vice Chair Lake spoke to how early in the stage of the proceedings this SNIC Proceeding was.
[30]See: **HR INDEX**, Tab 4, pages 114 to 121
[31]and acting against ex-wife policyholder (where she has an interest in his income and outcome of SNIC Proceeding) and her Spouse (Appellant) in an accident benefits claim where SNIC owes Appellant a duty of good faith and fiduciary duties
[32]See: **HR INDEX**, Tab 30, pages 341 to 353; The NSCA in *Basinview* found, citing *Fisher*, that it was not an excuse for the lawyer licensee to say that since he was NOT aware of what Mrs. Fisher told *his* associate, he should be allowed to continue to act against her.
[33]In *Basinview*, the NSCA citing *McCallum* which cited the CBA: ...indeed all rules relating to conflict of interest, is that it will encompass and include not only the lawyer acting personally but also those associated with him in the practice of law.
[34]This is a distinction between *Mansuri* and this motion. If the **Conflicted Lawyer** is found to even have the appearance of a **COI** ("**Perceived COI**"), then all those associated with him must be disqualified
[35]https://www.legalline.ca/legal-answers/spousal-support-in-common-law-break-ups/#:~:text=In%20Ontario%2C%20common%2Dlaw%20spouses,a%20relationship%20of%20some%20permanence.
[36](see*: R. v. Al-Enzi* (Ont CA, 2021)).
[37]The Conflicted Lawyer cannot avoid the requirements, obligations and duties of such a separation agreement, by avoiding a public court proceeding, by usage of *pseudonyms*, *aliases*, and conduits for him to retain a clandestine supervisory and managerial role, while still practising law in an employed capacity for TD Insurance in determining which documents to use, file, and serve on whom, and when, where, and how to do the same. The Conflicted Lawyer cannot have Mr. **Karat** solely sign the Purported SNIC Response, then instruct him to serve the Appellant without Mr. Nieuwland in the office and on the email. With the Conflicted Lawyer, also rising to the level of "consequence manager" (as ironic as that is now), he had to, on behalf of TD SNIC, act consistently with the fiduciary duties

owed by TD SNIC to the Appellant, and even unlawful receipt of confidential information and SPI is sufficient to have tainted all of the named individuals.

[38](invalid recipient email response)

[39]which appears to be a systemic issue or a consistent issue with the **TD Claim Number** and **SNIC Proceeding**, which is the above heading,

[40]See: **Affidavit # 3, Exhibit "A", pages 555 to 557**; see: Appendices; see: **HR INDEX**, Tab 29;

[41]If there was no "as per" or "initials" above the "*as per A. Nurse*", it may have satisfied the signature requirement.

[42]In dealing with the question of the use of confidential information we are dealing with a matter that is usually not susceptible of proof. As pointed out by Fletcher Moulton L.J. in **Rakusen**, "that is a thing which you cannot prove" (at p. 841). I would add "or disprove". If it were otherwise, then no doubt the public would be satisfied upon proof that no prejudice would be occasioned. Since, however, it is not susceptible of proof, the test must be such that the public represented by the reasonably informed person would be satisfied that no use of confidential information would occur. That, in my opinion, is the overriding policy that applies and must inform the court in answering the question: Is there a disqualifying conflict of interest? (also the procedural order sought puts those to the evidentiary test)

[43](see: **HR INDEX**, Tab 3 page 108 and onwards)

[44]See: **HR INDEX**, Tab 3, page 76

[45]See: **HR INDEX**, Tab 1, page 186; paragraph 67 of *Wakeling*

[46]See: **HR INDEX**, Tab 31, page 358

[47](see: *Gaysek* and *Ogilivie*).

[48]While this is not a hearing on criminal liability, the issue of whether TD (TDI and SNIC), along with **Karat** and Andy Gera intended to deceive the Appellant in receiving access to personal information, referenced in the Appeal for the just conduct of this SNIC Proceeding, and it is unequivocal that they did. If Andy Gera existed, the response would have included his name or TD would have explained why he was the actual author as opposed to Mr. **Karat**.

[49](see: *R. v. Stevenson*, 1980 CANLII 2930 (ONCA)

[50]Karat is in a lesser position that than of the suspended lawyer that Mr. Ian Collins was working with in LSO v. Collins, 2021 ONLSTH 177;

[51]See: **HR INDEX**, Tab 3, page 94

[52]See: by way of example, January 23, 2024 email of Mr. Karat to Appellant where he represented "Representing Security National Insurance Company" and that he had been "ASSIGNED", as the ADR [sic], to handle this LAT dispute.

[53](and Andy Gera is fully responsible for his ATF of **Karat** with facilitating unauthorized practise)

[54]See: **HR INDEX**, Tab 3, page 68; (**NEW SIGNATURE BLOCK OF MR. NIEUWLAND**)

[55]This was a **wilful misrepresentation** by **Nieuwland** as the Appellant challenged him to provide even an un-commissioned affidavit that Ms. Moraes was his assistant and he refused or neglected.

[56]See: **HR INDEX**, page 19; **Affidavit #**15, page 16, paragraph 85

[57]**HR INDEX**, Tab 31, page 356

[58]See: **HR INDEX**, Tab 31 page 360, paragraph 37, *Dervisholli v. State Farm* citing *Beasley and Scott v. Barrand*, 2010 ONSC 2095 at paragraph 34: [34] The relationship between an insured and an insurer in accident benefits matters involves a duty of good faith, a fiduciary obligation; the relationship between plaintiff and defendant in a tort action does not. The obligation, if any, to pay accident benefits is very different from the exposure, if any, that a defendant faces in a tort action.

[59]See; **HR INDEX**, Tab 31, page 360, paragraph 41

[60]See: **HR INDEX**, Tab 32, page 369

[61](compared to a claim for example by the Appellant against Pembridge Insurance Company and the torfeasor herein where no fiduciary duty could exist from Pembridge to the appellant or even a duty of good faith for that matter).

[62]The above conduct, particularized in affidavit evidence herein, are the antithesis of good faith and discharging fiduciary duties.

[63]The Appeal was filed on December 24, 2023

[64]The Appellant cannot even engage in document listing and production of the same or receipt until this motion is decided. Moreover, he cannot waste resources engaging in settlement offers or attending a case conference until an independent lawyer is appointed to **SNIC**

[65](hence "**ILA**" and "**ILR**").

[66]No case conference summaries can be filed ten days before May 2, 2, 2024 along with consequential orders to be made at said case conference in light of this blatant conflict of interest.

[67]("*Representation of a Person in a Proceeding*")

[68]When any person determines what documents to serve or file in relation to the proceeding, determines on or with whom to serve or file a document or determining when, where or how to serve or file a document, he, she, or it **SHALL BE CONSIDERED** to be representing a person in a proceeding

[69](see: **HR INDEX**, Tab 5, page 116).

[70](see: **HR INDEX**, Tab 5, page 116); Further, if any person engages in "**ANY OTHER CONDUCT NECESSARY**" to the conduct of the proceeding, he, she or it **SHALL BE CONSIDERED** to be representing a person in a proceeding.

[71]See: **HR INDEX**, Tab 30, page 344

[72]The **Divorced Husband Conflicted Lawyer** is a "counsel" and a lawyer license, as is Mr. Nieuwland.

[73](see: **HR INDEX**, Tab 5, page 125; *Talisman Resort*, paragraph 14).

[74](see: **HR INDEX**, Tab 5, page 126; *Talisman Resort*, paragraph 14, citing *MacDonald Estate v. Martin*, 1990 CanLII 32 (SCC) at paragraph 47
[75](see: **HR INDEX**, Tab 5, page 126; *Talisman Resort*; citing *Martin*, supra, at paragraphs 16, 21, and 27).
[76](*Martin* at paragraph 21).
[77](see: **HR INDEX**, Tab 5, page 129; *Talisman Resort*, paragraph 40).
[78](see: *Forward v. Zurich Insurance Co.*, [2002] A.J. No. 664).[*nota bene*: In the modern day LSO context, the **Conflicted Lawyer** and **Karat** are "affiliated", "associated", in "partnership" or part of an MDP. The same was applicable to Nurse and the **Conflicted Lawyer**. While Nieuwland and Ortiz and Nieuwland and Moraes worked at a different premises under TD Insurance [Staff Legal], they all maintain the same domain for emails so they are identified in part "one in eyes of the law" Of course, external firms [like McCague Borlack] to TD Insurance are not considered one in the eyes of the law].
[79]In this context, Nurse, **Karat** and **Conflicted Lawyer** work from the same premises in **SNIC** Markham, and Nieuwland (and Moraes), for TD Insurance Staff Legal, in downtown Toronto. None of them work from the offices of TDGIC. Persaud purports to be working from **SNIC Burlington (see: HR INDEX, Tab 3, page 101)**. The Tribunal is authorized to disqualify and remove counsel, including a law firm (which compromises of lawyers, paralegals, and administrative staff), so it has the power to remove licensees that are in-house licensees at an employer if there is an appearance of a conflict of interest.
[80](see: *Jia*).
[81]see: *Dankha*).
[82](see: *Mosa*; **HR INDEX**, tab 19, page 231 to 234
[83]see: *Dankha*; **HR INDEX**, Tab 18, page 227 to 230
[84]For the definitive statements of law on the change from "right to counsel" to "representatives" et al, see: **HR INDEX**, Tab 15 (*Caruso*).
[85]See: **HR INDEX**, Tabs 7 to 9;
[86]For example, see the case of Barnett, Re, 1997 CanLII 851 (ON LST) at **HR INDEX**, Tab 14, page 198 to 200
[87]*By-Law* 7.1, section 6(1)(d) prohibits a non-licensee **signing** any correspondence unless it is of a "routine administrative nature".
[88]The affiliated entity's staff
[89](see: **HR INDEX**, Tab 7, page 148; section 31 of Part IV, "Affiliations")
[90]Mr. **Karat** is an individual and he is a person and he is not licensed to practise law or provide legal services as he is not exempt under the *By-Law*s to provide legal services (see also: **Purported SNIC Response** with online form with "*question mark icon*"). Affiliation is "interpreted" as when a licensee (see: **Conflicted Lawyer** and Nieuwland) affiliates with an **Affiliated Entity** (**Karat** and Moraes albeit different premises) when the LICENSEE on a REGULAR BASIS joins with the **Affiliated Entity** in the delivery of the services OF the Licensee AND the services of the **Affiliated Entity**.
[91](see: tied to the **Appeal** under "documents needed")("**Actual Author Discovery**" or "**Andy Author Discovery**")
[92]*Quinn v. SNIC*;
[93](which the *PIPEDA* response was on some levels); the Appellant says it goes much further than that but it raises the obvious question as to what if the Appellant did not receive the PIPEDA response and discovery the "true and actual author" of Any Gera? It is a scary thought which is a hypothetical that need not be answered.
[94]As such, the **Conflicted Lawyer** SHALL BE CONSIDERED to have represented and representing **SNIC** (or **TDGIC**) in this **SNIC** Proceeding.
[95]Despite a request from the **Appellant**, no such letter has been provided to the Tribunal (nota bene: see letter from **Conflicted Lawyer** in different proceeding seeking an unlawful reconsideration to delay matters in *AJ v.* ***SNIC***). *How could the* ***Conflicted Lawyer*** *remove himself as he did not file a DOR?* He would have to write a letter to LAT and the **Appellant** that he is no longer representing the Respondent and provide an undertaking to this effect.
[96]Therefore, Mr. Nieuwland could not have had "effective control" over the non-licensee in Ms. Moraes (see: *By-Law* 7.1, section 1(2); **HR INDEX**, Tab 8, page 152). Notably, Mr. **Karat** did not sign the *PIPEDA* response letter or the cover letter enclosing the **Purported SNIC Response** but he signed the **Purported SNIC Response**. While section 3(1) and (2) authorize a licensee to assign to a non-licensee tasks and functions in connection with the licensee's practices of law in relation to the affairs of the LICENSEE's CLIENT. If the licensee is affiliated with an entity under *By-Law* 7 (known as an "**Affiliated Entity**") he or she may assign to the **Affiliated Entity** OR its staff, tasks and functions in connection with the licensee's practice of law in relation to the affairs of the licensee's client *ONLY IF* the client consents to the licensee doing so (see: *By-Law* 7.1, section 3(2)).
[97]See: **HR INDEX**, Tab 3, page 83 and 84 (emails of Ms. Moraes with her supervising lawyers being Ms. Klukowska and Ms. Saeed (NOT Mr. Nieuwland)
[98]Appears she did not have access to the schedule of certain persons
[99](see: **LinkedIn profile**)
[100]Ergo, the **Conflicted Lawyer** is the actual author of the *PIPEDA* response and a representative of **TD Insurance** in this **SNIC Proceeding. Nieuwland** could not be the "staff" of the "**Affiliated Entity**" in Mr. **Karat**. The "staff" at TD Insurance Staff Legal are the staff to "TD Insurance" and not an "**Affiliated Entity**" per se, and some (NOT NONE) at TD Ins. Staff Legal are licensed to practise law or otherwise provide legal services in Ontario
[101]Ms. Moraes has only been at **TD Insurance Staff Legal** for approximately ten months (after having a successful paralegal career at PI litigation firms in North York or North Toronto) so she could never meet the requirement of joining on a regular basis with licensees like the **Conflicted Lawyer**. There is *no evidence* from Mr. Nieuwland that he has ever joined on a regular basis with Mr. **Karat** for the

delivery of his licensee services and the services of the "**Affiliated Entity**" in Mr. **Karat**. There IS evidence that the **Conflicted Lawyer** and **Karat** have joined historically, on a regular basis, in the delivery of the licensee's services to **SNIC** along with the services of the **Affiliated Entity** (Mr. **Karat** as an **ADR Representative** or **ADR Specialist**) (see: *Quinn v. SNIC*). Further there is no prohibition upon having two lawyer licensees as representatives for one client (**SNIC**) as that occurred in *Quinn v. SNIC* with the **Conflicted Lawyer** and Ms. Francine Papadopoulos.

[102]An issue arises as which lawyer between Ms. Saeed and Ms. Klukowska is acting as a conduit to have confidential information received from the **Conflicted Lawyer** to Ms. Moraes (see: "**ANDY GERA**") with one of those lawyers having "effective control" over the services of Ms. Moraes to them. It is strongly alleged that it is counsel that has acted for **SNIC** as that is, at law, respondent insurer and respondent underwriter herein and Ms. Klukowska has acted for **SNIC** in *Baheeran v. **SNIC***, 2023 CanLII 84411 whereas Ms. Saeed has only acted for TD General Insurance Company. Of course, with the return addresses of **SNIC Markham** and **SNIC** Burlington, Ms. Moraes could only engage in the provision of legal services to THE LICENSEE and has expressly agreed WITH THE LICENSE that THE licensee shall have effective control over the individual's (Moraes) provision of services to THE licensee. *So, what happened in April 2024?* **Nieuwland** finally included, which is an admission at law, the name of his SOLE legal assistant which was and is Ms. Ortiz. *Low and behold*, an auto-reply from Ms. Klukowska (but not Ms. Saeed) after receipt of emails from the **Appellant** that she was away from the office until Saturday, April 6, 2024 and to contact HER assistant in none other than Ms. Moraes. In the alternative, if it is Ms. Saeed because of her historic representation of **TDGIC**, then it is even worse. Hence, the "five plus signs" in the "*PIPEDA* response letter". Even in an MDP, the most Mr. **Karat** could do was *supplement* the "licensed activity" (see: *By-Law* #7, Part III, section 15). This is where section 1(8) and 1(7) are clearly delineated in terms of boundaries, along with *By-Law* #7.1, section 6) if Mr. **Karat** was an employee of "**SNIC**". If he was, then under section 1(8)2., he could select, draft, complete and revise a document (which would be the "Response Form") to which the corporation is a party (**SNIC**, as **SNIC** is a party under the *New LAT Rules* and the Insurance Act to the **SNIC** Proceeding). However, Mr. **Karat** could not determine what documents to serve and file in relation to the proceeding, determining on or with whom to serve or file a document or determining when, where, or how to serve or file a document, OR engaging in any other conduct necessary of this **SNIC** Proceeding. Notably, the **Purported SNIC Response** was delivered with a cover letter (which is and was correspondence) but WITHOUT the signature of Mr. **Karat** on behalf of TD Insurance Meloche Monnex (a "return" to the return address of **SNIC Markham** for Mr. **Karat** and the **Conflicted Lawyer** albeit not coming to the forefront due to a known conflict).[102]The Conflicted Lawyer's **OWN INTERESTS** and/or his DUTIES to THIRD PERSONS are substantial risks of his loyalty to or representation of a client [**SNIC**] that have materially and adversely affected his employer (TD Insurance with specifics to TD Insurance Meloche Monnex (**SNIC**)). Simply put, the **Conflicted Lawyer**'s conduct and usage of names like "**ANDY GERA**" cannot be "free as possible" from conflicts of interest.[102][102] Disqualification of conflicted licensees and non-licensees must be granted when there is overwhelming evidence of dishonestly held concealed conduct.

[103]Notably, the PIPEDA response is not competent as one of the grounds for denying access to the Appellant is "save for 'reserve information' [sic] which was redacted for 'reserves' [sic]". TD Insurance is required to comply with PIPEDA and it has created unknown language and provisions for denying the Appellant access to *his personal information*.

[104](see: **HR INDEX**, Tab 11, page 181; *Jia*, paragraph 6)

[105]See: **HR INDEX**, Tab 25, pages 271 to 278

[106]See: **HR INDEX**, Tab 12, page 186, paragraph 67: intrusions into matters such as one's financial or health records, sexual practices and orientation, employment, diary or private correspondence amount to highly offensive. It is trite that an "non-conflicted lawyer" would have a right to view this within the parameters of a SABS case but NOT a conflicted lawyer.

[107](with ironically the **SNIC** Burlington fax rarely working)

[108]See: **HR INDEX**, page 22; **Affidavit #**15, paragraph 90

[109]For the change of language by the Access To Justice Act, 2006 from counsel to representative, see: Caruso at **HR INDEX**, Tab 15

[110](see: *Montreal Trust Company of Canada v. Basinview Village Ltd.*, 1995 CanLII 4247 (NSCA); . It is unethical for **Nieuwland** to continue (in light of his "baiting and switching" with a legal assistant not supervised by him – even if he filed a DOR for **SNIC**

[111]The **Appellant** has put TD **SNIC** on notice that they will not receive a scintilla more of any personal information or SPI from him until this is resolved herein and by way of *PIPEDA* with the OPCC.

[112]The damage is done but this is about a prompt motion being brought to "stop the bleeding" and ensure independent counsel are appointed by the Respondent (if any counsel is able to).

[113] It is far too late now to insist on "**Chinese Walls**" or "*cones of silence*".

[114]An example of ancillary relief would be similar to the order in *de Rosa* where the information of the Appellant, that was unlawfully received, is forthwith turned over to independent counsel or to LAT for inspection and review in "camera".

[115]See: **HR INDEX**, Tab 3, page 24; paragraph 93 of **Affidavit #**15;

[116]See: *Jia; Mansuri*; and *Puhl v. Katz Group Canada Ltd.*, [2006] O.J. No. 4596 (S.C.J.) at paragraph 23; see: **HR INDEX**, Tab 3, page 60.

[117]See: **HR INDEX**, page 59;

[118]See: **HR INDEX**, Tab 5, page 126 (the "Lawyer as a Witness"). In *Talisman Resort*, it cannot be understated that Mr. Mantini was NOT the court advocate on the record but it was a female partner at Bennet Jones LLP

[119]See: **HR INDEX**, Tab 10, page 169 to 179;

[120]This does not preclude **SNIC** from retaining outside counsel but it should do so sooner than later as there is a deadline of April 11, 2024 for a response by the PAYOR (**SNIC**) regarding outstanding IRB. However, in light of the spousal interest that Nicole has in the

income of the Appellant, and the blatant conflict of interest of the Conflicted Lawyer (Divorced Husband), then whether Mr. **Karat** was a bridge to Ms. Moraes and then Mr. Nieuwland and/or Mr. **Karat** was a direct bridge (or block-chain) to Mr. Nieuwland for the purposes of a "consequence manager" in the Divorced Husband Conflicted Lawyer is immaterial herein. There is an appearance of a conflict of interest herein and Mr. Nieuwland certainly did not assist his cause by not swearing an affidavit that Ms. Moraes was his legal assistant then relenting and finally admitting that his assistant was one Ms. Ortiz.

[121]Unlike *Mansuri,* the Appellant is not seeking a stay but ready to proceed in accordance with the law but it requires an independent lawyer for SNIC to deal with the issues of CAT Impairment "head on" (pardon the pun considering this Appellant's head hit the steering wheel after being "hit from behind" at high velocity"). Of course, if the **Conflicted Lawyer** and any disqualified individuals ("guilt by association" if you will) breach this order, the recourse is contempt under section 13(c) of the *SPPA.* MRIs and Metadata never lie because they are independent evidence. It should come as no surprise that as of the date of this submission, the auto-replies of Mr. **Karat** and **Conflicted Lawyer** are yet again on and returning to office some time next week. Hiding names in "code" and "metadata" and now running from the truth. It is important to note that these types of actual conflicts of interest where a former spouse acts directly against his ex-wife or indirectly against her and her current spouse not only damage the integrity of the legal profession and the administration of justice, they unnecessarily deplete the resources of LAT, harm relationships on the other side but also cause damage and destroy the hard working staffers, non-licensees *et al* at TD Insurance. The Appellant's **Affidavit #**16 demonstrates that not only is this a perceived conflict of interest but this **Conflicted Lawyer** (aka Andy Gera) was an individual that held onto a FOB and key to access the very unit 410 where the Appellant and his current spouse reside for nearly a year after their separation. The **Conflicted Lawyer** was coming unannounced into the "courtyard" of the Minto Building (775 King Street West) even when the Appellant had arrived in Toronto (see: 2018). The **Conflicted Lawyer** only returned the "key and FOB" after some level of resolution was reached (unknown to the Appellant) which the Appellant had to have said FOB re-activated and programmed with the property manager at Minto Buildings. While the Appellant is unaware of any type of contractual documents between Nicole and the **Conflicted Lawyer** exist, one would presume that they were standard type documents for "no contact", "non-interaction" and "distancing themselves from one another". Certainly, the **Conflicted Lawyer**'s duty to Nicole would extend in this context in the **TD Claim Numbers** and the SNIC Proceeding, and using "fake names" and acting through conduits is not merely the perception of a conflict of interest but **AN ACTUAL CONFLICT OF INTEREST**. The Tribunal can take judicial notice of the fact as to why this Appellant has been denied his benefits even when formal admissions were made in a responsive pleading in January 2024 by Mr. **Karat**, and Mr. **Karat**'s tie to "Andy Gera". There is now evidence of the same with **Nurse**'s email being an invalid recipient, Mr. **Karat** no longer authorized for SNIC, Ms. Moraes no longer the fictitious legal assistant of Mr. Nieuwland and so on.

Tribunal File Number: 23-015662/AABS

In the matter of an Application pursuant to section 280(2) of the Insurance Act, RSO 1990, c I.8, in relation to statutory accident benefits.

Between:

Kevin McLean

Applicant

and

TD General Insurance Company

Respondent

SUBMISSIONS OF THE RESPONDENT RE: CONFLICT OF INTEREST

PART I – ISSUES

1. The Applicant seeks an order disqualifying the following persons from representing the respondent and/or handing this matter due to a conflict of interest:

a. Mr. Andrew Papadimitropoulos;
b. Mr. David Karat;
c. Mr. Matthew Nieuwland;
d. Ms. Michelle Moraes;
e. Ms. Adrianna Klukowska; and
f. Ms. Arfa Saeed.

2. The Respondent requests that the Applicant's motion be dismissed, with costs payable to the Respondent, in the amount of $10,000.00.

PART II – CONFLICT OF INTEREST

3. Matthew Nieuwland is the lawyer for the Respondent. A declaration of representative was filed on January 30, 2024.[1]

4. Ms. Christiana Ortiz is the legal assistant of Matthew Nieuwland.

5. Mr. David Karat is the Alternative Dispute Resolution officer appointed by the Respondent to handle the LAT application.

6. Ms. Michelle Moraes was previously the legal assistant of Matthew Nieuwland but is no longer involved in this matter.

7. All other parties cited by the Applicant, including Mr. Andrew Papadimitropoulos, Ms. Adrianna Klukowska and Ms. Arfa Saeed, have never been involved in the handling of this matter.

8. The Applicant has provided no evidence of their involvement in this matter.

9. The Respondent sent correspondence to the Applicant on March 26, 2024,[2] addressing his concerns regrading a potential conflict of interest. The letter states:

Author of the letter dated February 14, 2024

- Letter was drafted by TDI Privacy with approval from TDI Legal and David Karat.
- Please note Andy Gera prepared the standard format template used in the Privacy Access Request letter. Andy Gera is no longer with TD Insurance, nor did he have any involvement with this access request.
- Please also note Andrew Papadimitropoulos is in no way associated with Andy Gera, nor has Andrew Papadimitropoulos been involved in any way with this claim or access request.

[1] Declaration of Representative of the Respondent dated January 29, 2024.
[2] Correspondence from the Respondent dated March 26, 2024.

10. A conflict of interest occurs when an individual's personal interests – family, friendships, financial, or social factors – could compromise his or her judgment, decisions, or actions in discharging his or her job duties.

11. The Applicant has provided no evidence of a conflict of interest or of an appearance of a conflict of interest as it relates to the parties handling this matter, namely: Matthew Nieuwland, David Karat, or Christiana Ortiz.

PART III – COSTS

12. The Tribunal's authority to award costs comes from two sources: (1) s. 17.1 of the *Statutory Powers and Procedure Act* ("*SPPA*"); and, (2) Rule 19.1 of the *License Appeal Tribunal Rules of Practice and Procedure* ("*Rules*").

13. The *SPPA* allows an order for a party to pay "all or part of another party's costs in a proceeding.". S. 19.6 of the LAT *Rules* outlines the amount of costs shall not exceed $1,000.00 for each motion, case conference or hearing.

14. Rule 19.1 provides that costs may be requested in a proceeding where a party believes that another party has acted unreasonably, frivolously, vexatiously or in bad faith.

15. Rule 19.5 sets out the powers of the Tribunal in deciding whether to order costs and the amount of costs. The Tribunal shall consider all relevant factors including:

(i) The seriousness of the misconduct;
(ii) Whether the conduct was in breach of a direction or order issued by the Tribunal;
(iii) Whether or not a party's behaviour interfered with the Tribunal's ability to carry out a fair, efficient and effective process;
(iv) Prejudice to other parties; and

(v) The potential impact an order for costs would have on individuals accessing the Tribunal system.

16. The Applicant's conduct is frivolous and vexatious. The matter is just over 100 days old. As of April 9, 2024, the Applicant has sent at least 535 emails[3] (this is a conservative estimate) to counsel for the Respondent since January 2024. This excludes emails sent to the adjuster on the file or to the TD privacy department.

17. The Applicant has also filed no fewer than eight (8) motions. He has also made two (2) requests for reconsideration.[4] The Applicant has incurred tremendous time and expense in reviewing and responding to these motions.

18. The Applicant's motions are unreasonable, frivolous, and vexatious. The Applicant has made wide ranging and baseless allegations in his motions, including that the Respondent has engaged in "abuse of process" and that a "conflict of interest" exists despite providing no credible evidence for same. Such allegations are serious and should not be advanced lightly. The Applicant has proceeded with these vexatious and baseless motions despite possessing no evidence for his claims.

19. Attached is the Motion Order of Vice-Chair, Lindsay Lake, dated February 29, 2024,[5] wherein the Vice-Chair references that at the time of that decision, the Applicant had already filed six (6) motions.

20. Please find attached the decision of Adjudicator Christopher Evans in *Syed v. Security National Insurance Company*, 2023 ONLAT, where he ruled that where motions are "groundless" or "inflammatory", it was appropriate to award costs in the amount of $1,000 for each motion.[6]

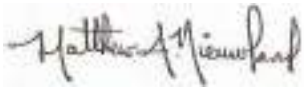
[3] Correspondence Received from the Applicant Since January 2024.
[4] Reconsideration Order of E. Louise Logan, Vice-Chair, Delegate, dated March 21, 2024.
[5] Motion Order of Vice-Chair, Lindsay Lake, dated February 29, 2024.
[6] *Syed v. Security National Insurance Company*, 2023 ONLAT at para 135.

21. The Respondent submits that it should be entitled to the maximum amount of costs awardable under the LAT *Rules*; $1,000.00 per motion and $1,000 per reconsideration request, for a total of $10,000.00.

PART IV – ORDER REQUESTED

22. The Respondent requests that the Applicant's motion be dismissed, with costs payable to the Respondent, in the amount of $10,000.00.

All of which is respectfully submitted this 11th day of April 2024.



_____
Matthew Nieuwland
TD Insurance Staff Legal

Lawyer for the Respondent,
TD General Insurance Company

TAB 1

Licence Appeal Tribunal

Automobile Accident Benefits Service
15 Grosvenor Street, Ground Floor,
Toronto, ON M7A 2G6
Telephone: 416-326-1356
Toll Free: 1-888-444-0240
TTY: 1-800-855-0511
Email: LATregistrar@ontario.ca
Toll Free: 1-844-618-2566
Website: tribunalsontario.ca/lat

Important Information

- If you have a representative for a matter before the Tribunal, have them fill in this form clearly and completely and provide it to the Tribunal **and** all other parties immediately (available at tribunalsontario.ca/lat).
- Only persons licensed by the Law Society of Upper Canada (LSUC) **or** who fall within the exceptions or exemptions approved by the LSUC may represent a party before the Tribunal.
- For the current list of exemptions for unlicenced representatives, visit the LSUC website at lsuc.on.ca or contact them at 416-947-3300 or toll-free 1-800-668-7380.

Tribunal File No. 23-015662/AABS

Representative Information

Last Name	First Name	Initial
Nieuwland	Matthew	

Company Name
TD Insurance Staff Legal

Address

Unit Number	Street Number	Street Name	PO Box
38th Floor	66	Wellington Street West	

City/Town	Province	Postal Code
Toronto	Ontario	M5K 1A2

Telephone Number	Fax Number
905-201-4092	416-599-7439

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Court File No./N° du dossier du greffe : DC-24-00000718-00JR

I am representing:

Name of Party:

Last Name	First Name

OR

I am representing:

Name of Insurance Company

TD GENERAL INSURANCE COMPANY

Before the Licence Appeal Tribunal in the matter of

Name of Applicant:

Last Name	First Name
MCLEAN	KEVIN

and Name of Respondent:

Last Name	First Name
TD GENERAL INSURANCE COMPANY	

Acknowledgement

check one

☒ I acknowledge that I am licensed by the Law Society of Upper Canada (LSUC) to provide legal services.

My LSUC No. is 71405A

☐ I acknowledge I am an unlicensed representative covered by an exemption allowed by the LSUC.

The exemption I fall under is

Last Name	First Name
Nieuwland	Matthew

Signature

Signature of Representative	Date (yyyy/mm/dd)
Matthew Nieuwland Digitally signed by Matthew Nieuwland Date: 2024.01.29 11:00:40 -05'00'	2024/01/29

The Licence Appeal Tribunal collects the personal information requested on this form under section 3 of the *Licence Appeal Tribunal Act, 1999*. This information will be used to determine appeals under this Act. After an appeal is filed, all information may become available to the public. Any questions about this collection may be directed to the Licence Appeal Tribunal at 416-326-1356 or toll-free at 1-888-444-0240.

TAB 2

TD Canada Trust
TD Centre
P.O. Box 1
Toronto, Ontario M5K 1A2

March 26, 2024

Kevin A. McLean
307-720 King Street W
Toronto, ON
M5V 3S5

RE: Claim: 035325790-03

Dear Kevin A. McLean

We are in receipt of your emails dated March 1, 2024 (3) / March 2, 2024 (4) / March 6, 2024 (2) / March 10, 2024 (2) / March 20, 2024 / March 22, 2024 & March 23, 2024 (2) requesting the following:

1) Accident Benefits File as per PIPEDA:
    - A copy, with applicable redactions ** was provided to you on February 6, 2024 via eClaims; however the link expired. Another link was provided to you on March 19, 2024.
    - The correct claim number, as you confirmed, is 035325790-3, and the previous 034325790-03 was simply a typographical error.
2) "*Select days of when I was a driver of the Insured Automobile (June 6 and 7, 2022) and August 31, 2022 from the TD Mydriving App*"
    - As per our previous letter date June 21, 2023, we are unable to provide you with the information requested regarding the vehicle driving times. To proceed with this part of your request, we require consent from the vehicle owner.
3) Author of the letter dated February 14, 2024
    - Letter was drafted by TDI Privacy with approval from TDI Legal and David Karat.
    - Please note Andy Gera prepared the standard format template used in the Privacy Access Request letter. Andy Gera is no longer with TD Insurance, nor did he have any involvement with this access request.
    - Please also note Andrew Papadimitropoulos is in no way associated with Andy Gera, nor has Andrew Papadimitropoulos been involved in any way with this claim or access request.
4) "*Name of any and all privacy officers for TD Bank and any of its directly or indirectly owned subsidiaries including Security National Insurance Company*."
    - You may reach TD's Chief Privacy Officer, Jane Stubbington at TD.Privacy@td.com.
        - Emails sent to this email address are reviewed and may be redirected to the appropriate area(s) for further review and response.

- Please note the following email address: tdiprivacyaccessrequests@tdinsurance.com is for outgoing correspondence and is not monitored on a regular basis.

In order to address your requests in a timely manner we request you direct your correspondence to the following:

- **LAT Proceedings: Matthew Nieuwland**, TDI Staff Legal.
  - matthew.nieuwland@tdinsurance.com (905-201-4092)
- **Claims Related Matters:** Carol Persaud, Claims Services.
  - carol.persaud@tdinsurance.com (877-855-3767, extension 300086)

If you have any questions or concerns, please contact the individuals noted above.

Sincerely,

TD Insurance Privacy

** Access request packages will not include any information already available through normal business processes; information on non-Canadian operations; or audio/video tapes (unless details of date, time and location are provided).

Any material that may reveal confidential commercial, proprietary, or legally privileged information or which relates to a formal dispute resolution process has been omitted or severed where possible.

Please note that our response is limited to your personal information and any information regarding third parties has been severed, redacted, or entirely removed from these records to protect the privacy of those third parties.

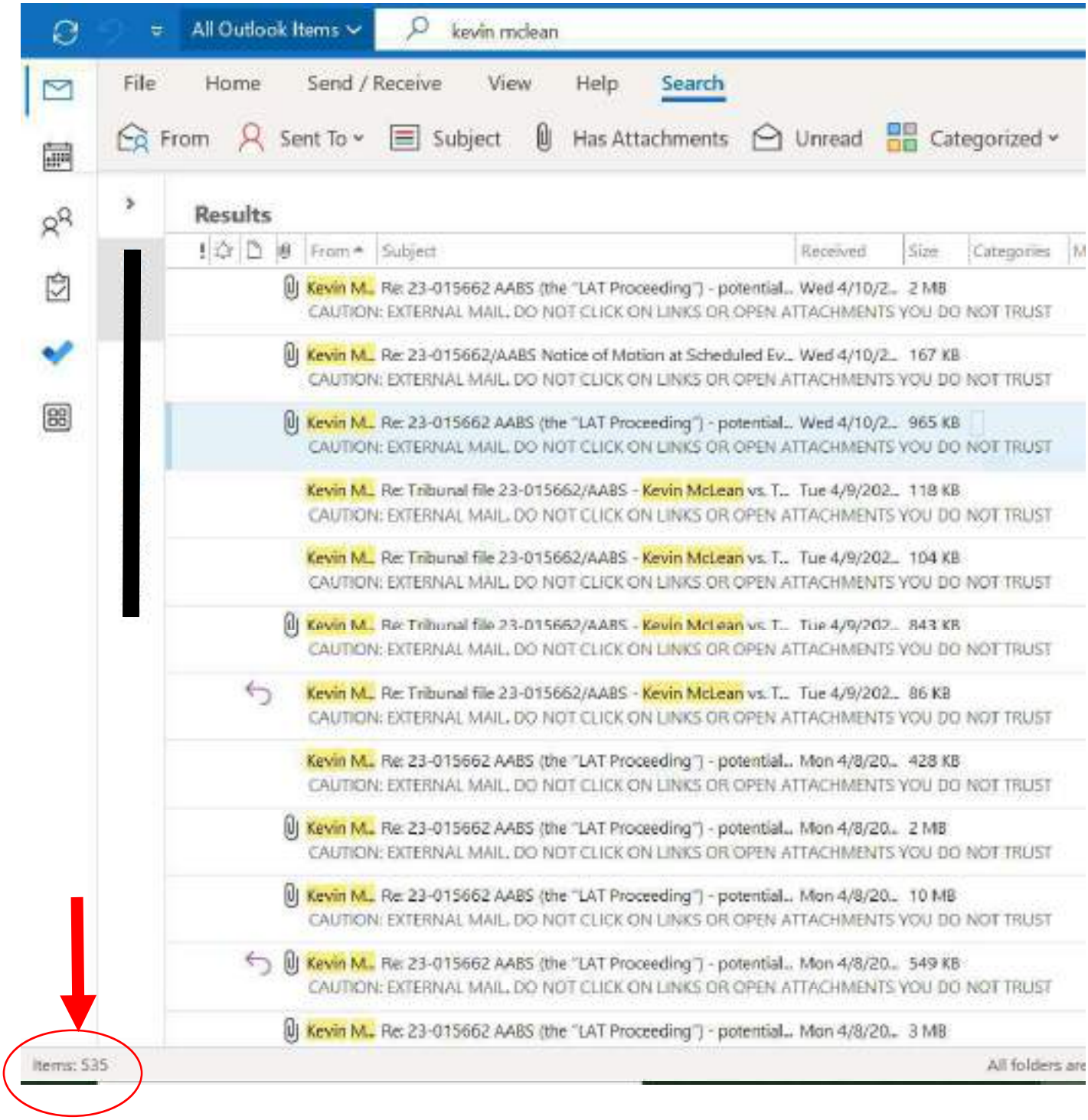
For security reasons, system identification data and account numbers have been masked in this request. If you require this information, please call us and it will be sent to you under separate cover.

Please be aware that there is a possibility of transaction discrepancies and inconsistencies, due to delays in updating financial information. In the normal course of processing day-to-day transactions and other financial arrangements, data may change between the date of the information request and the delivery of response.

Electronically filed / Déposé par voie électronique : 18-Feb-2025
Toronto Superior Court of Justice / Cour supérieure de justice

TAB 3

Counsel for the Respondent has received 535 emails from the Applicant since the file was assigned in January 2024:



Electronically filed / Déposé par voie électronique : 18-Feb-2025
Toronto Superior Court of Justice / Cour supérieure de justice

TAB 4

Tribunals Ontario — Tribunaux décisionnels Ontario

Licence Appeal Tribunal — **Tribunal d'appel en matière de permis**

Ontario

RECONSIDERATION ORDER

Before:	E. Louise Logan Vice-Chair, Delegate
Date of Order:	March 21, 2024
Licence Appeal Tribunal File Number:	23-015662/AABS
Case Name:	Kevin McLean v. TD General Insurance Company
For the Applicant:	Kevin McLean, Self-represented

ORDER

[1] The applicant filed a request for reconsideration on March 15 and 19, 2024, in respect of the Motion Order of Vice-Chair Lindsay Lake ("Order") that was released to the parties on February 29, 2024. The Order denied the applicant's request that the Tribunal:

i. "Order that the style of cause is amended to the name of the Respondent insurance company (Security National Insurance Company) denoted in the Purported Response herein;"

ii. "A declaration and order that the Purported Response is a nullity and void, and struck from the record;"

iii. "An Order that the Nieuwland DOR is a nullity and void and struck from the record;"

iv. "A Declaration and Order that the Respondent has engaged in abuses of process particularized herein, and is prohibited from filing any Response herein;"

v. In the alternative, "to the extent that the Respondent files and serves a motion, by a duly authorized legal representative (lawyer) of the Respondent, and obtains permission to file a Response past the required deadline issues by the LAT with, in fact, listing all documents and attaching the same therein behalf [sic], paragraphs 2, 5, 6, 8 and 10 of the Purported Response shall be struck without leave to amend on grounds of abuse of processes;" and

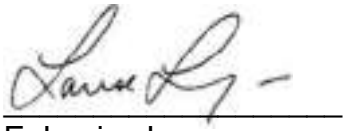
vi. "Costs in favour of the Applicant and against any culpable persons for any of the above pursuant to, inter alia, the SPPA and the Decision of Volson."

[2] Pursuant to s. 17(2) of the *Adjudicative Tribunals Accountability, Governance and Appointments Act*, 2009, S.O. 2009, c. 33, Sched. 5, the Executive Chair has delegated to me authority to deal with such matters.

[3] Rule 18.1 of the *Licence Appeal Tribunal Rules, 2023* ("Rules") provides that the Tribunal may reconsider any decision that finally disposes of an appeal if the request for reconsideration is made within 21 days of the date of the decision. In this case, although the request was made within the 21-day deadline, Vice-Chair Lake's Motion Order is not a decision that finally disposes of an appeal. The proceeding in this matter remains ongoing with a case conference scheduled for May 2, 2024 at 9:00 AM EST.

[4] As this proceeding remains ongoing, I find the applicant's request for reconsideration is regarding an Order that does not finally dispose of the appeal. Accordingly, I find the applicant's request was not filed in compliance with Rule 18.1.

[5] On this basis, the applicant's request for reconsideration is dismissed.



E. Louise Logan
Vice-Chair, Delegate
Licence Appeal Tribunal

Released: March 22, 2024

Tab 67

Court File No. DC-24-0000071800JR

ONTARIO SUPERIOR COURT OF JUSTICE (DIVISIONAL COURT)

BETWEEN:

KEVIN ALEXANDER MCLEAN

APPLICANT

- AND -

TD HOME AND AUTO INSURANCE COMPANY, SECURITY NATIONAL INSURANCE COMPANY, TD GENERAL INSURANCE COMPANY, EXECUTIVE DIRECTOR, LICENCE APPEAL TRIBUNAL, HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, REPRESENTED BY EXECUTIVE CHAIR OF TRIBUNALS ONTARIO IN MR. SEAN WEIR, THE ATTORNEY GENERAL OF ONTARIO

RESPONDENTS

Applicant's Index for motion number four ("Motion #4")
Date of service and filing: December 23, 2025
URGENT RELIEF REQUEST EXCLUSIVELY OF THE PRESIDENT OF THE Divisional Court PURSUANT TO, INTER ALIA, SECTION 76 OF THE CJA

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Tab 1

ONTARIO SUPERIOR COURT OF JUSTICE
(DIVISIONAL COURT)

BETWEEN:

KEVIN ALEXANDER MCLEAN

APPLICANT

- AND -

TD HOME AND AUTO INSURANCE COMPANY, SECURITY NATIONAL INSURANCE COMPANY, TD GENERAL INSURANCE COMPANY, EXECUTIVE DIRECTOR, LICENCE APPEAL TRIBUNAL,
HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, REPRESENTED BY EXECUTIVE CHAIR OF TRIBUNALS ONTARIO IN MR. SEAN WEIR, THE ATTORNEY GENERAL OF ONTARIO

RESPONDENTS

APPLICANT'S COURTESY WRITTEN SUBMISSION OR FACTUM FOR MOTION #4 – ABSENT FORM 37(A)
URGENTLY MADE AND TENDERED
Date: December 23, 2025

SUBJECT: MOTION TO COMPEL CURRENT REGISTRAR TO COMPLY WITH HER CURRENT DUTIES AND THE EXTANT DUTIES OF THE FORMER REGISTRAR BY WAY OF THE PRESIDENT OF THE DIVISIONAL COURT DIRECTING HER TO COMPLY WITH DUTIES

FILED EXCLUSIVELY IN (VIA MAIL OR DROP OFF FILING)

DIVISIONAL COURT
130 Queen Street West
Toronto, Ontario

FILED EXCLUSIVELY TO PURSUANT TO SECTION 76 OF THE CJA

PRESIDENT OF THE Divisional Court
Notice via: email and fax

NOTICE OR SERVICE ON:

REGISTRAR OF THE Divisional Court
By way of personal service on the Registrar of the Divisional Court
Email: Roxanne.parris@ontario.ca

NOTICE OR SERVICE ON:

Former Registrar Ms. Tasheka (Tasha) Gentles
Email: Tasheka.gentles@ontario.ca

PART I: STATEMENT OF MOTION FOR RELIEF EXCLUSIVELY IN THE PURVIEW OF THE PRESIDENT OF THE DIVISIONAL COURT

I. THE AXIOMATIC NATURE OF ACCESS TO JUSTICE AND PROCEDURAL INTEGRITY

1. It is a venerable and long-standing legal axiom that *lex dila*—the protracted delay of justice—operates as a *de facto* negation of judicial remedy. A modern corollary to this principle posits that the attenuation of procedural access constitutes an equivalent deprivation, encompassing not merely formalistic procedural rights but the substantive entitlements of the litigant. It is respectfully submitted that the administrative stagnation currently characterizing the operations of the Office of the Registrar precipitates a state of profound procedural paralysis, thereby precluding the timely adjudication of the merits. While the overarching objective of the *Rules of Civil Procedure, R.R.O. 1990, Reg. 194* (the "*Rules*") remains the expeditious, just and cost-effective resolution of disputes on their merits, the attainment of such an objective is rendered an impossibility in the absence of a *bona fide*, diligent, and transparent processing of submitted electronic filings. Pursuant to section 63 of the *Legislation Act, 2006, S.O. 2006, c. 21, Sched. F*, the law is perpetually speaking, and the present tense shall be applied to circumstances as they arise. Furthermore, section 64 of the said *Act* mandates that all enactments be interpreted as remedial, receiving such fair, large, and liberal construction as best ensures the attainment of their objects. The legislative intent underlying the 2006 amendments to the *Courts of Justice Act, R.S.O. 1990, c. C.43* (the "*CJA*"), specifically regarding Part V, "Administration of the Courts," reflects a deliberate and substantial shift in the administrative paradigm. Pursuant to section 71 of the *CJA*, court administration must be executed to: (a) maintain the independence of the judiciary as a separate branch of government; (b) recognize the respective roles and responsibilities of the Attorney General and the judiciary in the administration of justice; (c) encourage public access to the courts and public confidence in the administration of justice; (d) further the provision of high-quality services to the public; and (e) promote the efficient use of public resources. It is self-evident that judicial independence is being compromised by the systemic failures detailed within the evidentiary record of this JRPA Proceeding, including the *Compendium for NOM #3* (December 11, 2025 (mail filed) and the *Motion Record for Motion #4*. The Former Registrar, as an employee of the Ministry of the Attorney General, abjectly defaulted in the execution of her ministerial duties. Consequently, immediate intervention and direction from the President of the Divisional Court are required *in limine* to ensure the

judiciary must discharge its constitutional obligations. Public access to the Divisional Court is being actively discouraged by the particularized misconduct of the Former and Current Registrars, thereby eroding public confidence and resulting in a maladroit utilization of public resources. A primary objective of the OCPP, as articulated by the Lieutenant Governor in Council with the imprimatur of the Civil Rules Committee, was to streamline the filing of materials for the Superior Court of Justice and the Divisional Court. This was achieved by truncating the bifurcated model of "Registrar Acceptance" and "Registrar Confirmation" into a singular model, abolishing the required acceptance by the Registrar, of filing "Subject to Confirmation" (see: *Rule 4.05.2.1*). By operation of *O. Reg. 226/25, s. 4* (assented to October 3, 2025), certain subrules were rendered inapplicable to ensure harmony with the *Justice Services Online* ("JSO") Portal. Specifically, *Rule 4.05.2.1(7)* excludes the application of: (a) *Rule 4.05(4.2)* regarding the necessity of a notice of accepted filing; (b) *Rule 4.05(7)* regarding the date of electronic issuance; and (c) *Rule 4.05(8)* regarding issuance outside of business hours. The abolition of the prerequisite for Registrar "acceptance" *ipso facto* heightens the Registrar's duty to provide timely confirmation. This constitutes a public legal duty owed directly to the filing party. The Registrar's obligations under *subrule 4.05.2.1(4)* are tantamount to a guarantee of the Court's accessibility, a matter assigned by law to the administration of the judiciary. Although *subrule 4.05.2.1(5)* stipulates that a document is deemed filed or issued on the date indicated in the confirmation sent by the Registrar, the administrative apparatus has failed to facilitate this requirement, creating an *ultra vires* barrier to litigation. Furthermore, the removal of the traditional four o'clock and five o'clock deadlines for electronic submissions was intended to prevent the expiration of limitation periods based on mere technicalities, ensuring the *status quo ante* is preserved through diligent filing. Pursuant to section 78 of the *Legislation Act, 2006*, where power is conferred to perform a certain act, all necessary incidental powers are deemed included. As elucidated by the Supreme Court of Canada in *ATCO Gas & Pipelines Ltd. v. Alberta (Energy & Utilities Board), 2006 SCC 4* at para. 51, and reaffirmed in *Green v. Law Society of Manitoba, 2017 SCC 20* at para. 42, enabling statutes must be construed to include powers practically necessary to achieve the legislated scheme. Following the reasoning in *Cash Converters Canada Inc. v. Oshawa (City), 2007 ONCA 502*, general powers granted to public bodies ought to receive a broad and generous interpretation. Therefore, pursuant to the amendments to the *Rules*, including *Rule 68.05 et al.*, the Former Registrar was invested with a public legal duty to act, which she omitted to exercise but coupled, through court staff as the mouthpiece for her duties, that the

Divisional Court was no longer, arbitrarily, with the requirements under the Rules of Civil Procedure and the requirement of the word "shall". Section 79 of the *Legislation Act, 2006* mandates that powers conferred may be exercised, and duties imposed shall be performed, whenever the occasion requires. The Registrars, both past and present, are bound by these statutory impositions. Following the relief of duties of the Former Registrar from her position, the Current Registrar was under an **immediate obligation** to rectify the extant administrative deficiencies. The integrity of the adjudicative process is inextricably linked to the ministerial regularity, consistency, and even-handedness of the filing system; the former cannot subsist where the latter has become functionally moribund. *Prima facie*, the current administrative failures necessitate judicial oversight to restore the efficacy of the *Rules*. Subsequent to the service of a *Form 68A* upon the Respondents—within the specific context of a self-represented litigant—the failure to satisfy the mandatory jurisdictional prerequisites concerning service, filing, and the provision of an affidavit or certificate of service (constituting "**Delivery**" pursuant to *Rule 1.03* of the *Rules of Civil Procedure*) has resulted in a substantive and ongoing forfeiture. This omission precludes the Respondents from maintaining standing to oppose the application under the *Judicial Review Procedure Act* ("*JRPA*") and further abrogates their entitlement to receive a Notice of Steps ("**NOS**") or the Service of Documents ("**SOD**"). By virtue of the Respondents' failure to present evidentiary materials within the thirty-day limitation period following the service of the Applicant's Application Record on December 10, 2024, coupled with the subsequent neglect to deliver responsive facta within thirty days of the service of the Applicant's Factum on December 12, 2024, the conduct in question transcends mere professional negligence. *Post facto* analysis suggests a desperate reliance upon the intervention of the Judiciary to provide a *deus ex machina* for the Respondents' procedural dereliction. It is extrapolated from the labyrinthine nature of these omissions that a concerted effort exists to impede the progression of justice—an *acta* necessitating the robust invocation of the Court's inherent supervisory jurisdiction.

2. The non-opposition to Motion #3, consistent with the Respondents' inertia regarding Motions #1 and #2 in early 2025, establishes a *prima facie* case that the **Respondent Insurance Companies** were engaged in systemic malfeasance, including allegations of pecuniary impropriety and extortion, through the duration of January 2025. It is further asserted that the Licence Appeal Tribunal ("LAT"), through its agents, maintained surreptitious and clandestine communications with the **Respondent Insurance Companies**. The provision, by the LAT to the Respondent Insurance Companies, of a template Notice of Appeal ("NOA"), incongruent with *Form 38A*,

demonstrates an attempt to manufacture a veneer of procedural compliance and somewhat of a "gang attack", consistent with previous theft and fraud at the time, and illegal bootstrapping through a "tag team" style approach. Notwithstanding the LAT's failure to file a "Defence" pursuant to *Rule 77.03* or a "First Defence" by any of the Respondents, the tribunal initiated a case conference request under *Rule 77.05*—an act that is *void ab initio*. The LAT has operated in total disregard of the *Judicial Review Procedure Act*, the *Statutory Powers Procedure Act*, and the *Insurance Act*, alongside attendant regulations such as *SABS*, *Reg 283*, and *Reg 664*. Given that the LAT has previously been found to lack institutional independence (*vide: Shuttleworth v. Ontario (Safety, Licensing Appeals and Standards Tribunals)*) and impartiality, the current trajectory of these proceedings necessitates a rigorous application of equitable principles by the Divisional Court through its President of the Divisional Court.

3. In the Canadian constitutional framework, superior court justices are subject to the regulatory oversight of the *Canadian Judicial Council*, an entity vested with federal statutory powers to investigate and sanction judicial officers whose conduct erodes public confidence. The integrity of the "due administration of justice" is paramount. It is submitted that the perfunctory and arguably incompetent remarks of Madam Justice Shore, by quotations attributed to her by the SCJ RMO, on October 10, 2025, regarding the availability of transcripts to an Authorized Transcriptionist ("ATO") regarding case conferences involving civil matter (not family law matters), constitute unrepentant misconduct when scrutinized against the backdrop of **undisclosed prior judicial involvement (the "UPJI")** with the Applicant. The causal and inferential nexus between the "signed arrest warrant"—characterized erroneously as an "Intake Court Endorsement" at first instance then by falsification by subsequent filing in November 2025 when the date of Intake Court Endorsement [Sic] was September 23, 2024 and the Applicant was arrested pursuant to an undisclosed arrest warrant contrary to section 29 of the Criminal Code —and the signatory actions of the Former Registrar in relation to the same necessitates scrutiny generally and specifically herein. Pursuant to the *Criminal Code*, specifically *section 2* and *subsection 3(2)*, as well as *Rule 1.03* of the *Criminal Proceeding Rules*, the definition of a "clerk of the court" is expansive. However, the disappearance of official records and the abrupt departure of the Former Registrar on December 3, 2025, coincide too precisely with the Applicant's efforts to compel disclosure.

4. The representations made by counsel for the Crown (Mr. Sinnadurai) on June 25, 2025, (which were followed by representations on July 4, 2025) asserting a lack of evidence regarding the filing of a *Criminal Code Form 2*

Information in August 2024 to October 2024 represent the falsification of documents by law enforcement and the continuation of the fraud by the MAG (criminal counsel). The assertion by Mr. Sinnadurai, a counsel to Madam Justice Shore in open public court proceedings wherein she, in fact and at law, defamed a litigant to all 93 SCJ judges in the Toronto Region, that courts of competent jurisdiction do not retain copies of "signed arrest warrants" unless filed in a courthouse is an *ultra vires* legal position that contradicts the retention protocols established by the *Canadian Judicial Council*. While an issued and signed document may not be also filed in the "Originating Court Level" and "Originating Courthouse" but also may not be filed in a "Transferee Court Level" or "Transferee Courthouse", the Originating Courthouse must still retain its copy of the same.

5. The Applicant has correctly characterized these clandestine events as "*Ex Parte In Camera* Unrecorded Hearings." Given the admission by the Deputy Attorney General ("DAG") in November 2025, with thanks to the DAG, that no statutory directions were issued under *section 74* of the *Courts of Justice Act* to destroy documents, any such destruction by judicial officers or court staff was conducted without legal authority. *Ipso facto*, those criminal proceedings are a nullity and certainly not court documents with an Indictment being required by the Criminal Proceeding Rules to be filed via email with an SCJ courthouse and an arrest warrant being a document that must be endorsed by the presiding judge or a clerk of the court. The principles enunciated in *R. v. Jordan* further bolster the conclusion that the Respondents' strategic delays were based on knowledge of fraud, which the supervisory jurisdiction of the Ontario SCJ had a duty to hear and decide along with the duties of the Managers of Court Operation to forthwith transfer all relevant documents, papers, things et al to the SCJ 361 University Courthouse along with the prescribed certificate, have rendered a fair trial or a trial at all an impossibility and, in effect, the constructive quitting on their ability to convicting the Applicant of a fictitious criminal offence (or whatever criminal offences were misguided by Indictment at first instance) subject to falsification on the legal standard of beyond a reasonable doubt. The transition of various counsel from "counsel of record" to a status of withdrawal or non-opposition confirms a broader pattern of complicity. When a litigant provides an exacting factual recounting and analytical precision that goes unanswered, the conclusion becomes self-evident: the fraudulent nature of the underlying process prevents any ethical advocate, licensed by the LSO, from filing a responsive document without furthering a contempt of court. The "civil arena" demands that the pen serves as a more potent instrument than the sword; however, the Respondents have proven incapable of meeting the requirements of actual effort, skill, and

precision required to sustain their position. The status of the Responding Parties in Notice of Motion #3, who have elected a posture of non-opposition, is analogous to the invocation of a right to silence for some who were involved in the fraudulent charade on top of the fraud, bribery and extortion that have tainted this JRPA Proceeding. This *status quo ante* confirms the total absence of substantive contestation regarding the relief sought.

III. THE CIRCUMSCRIBED JURISDICTION OF THE REGISTRAR

6. A fundamental distinction must be maintained between the concepts of "consent" and "non-opposition." The *Jurisdiction of the Registrar*, as delineated in *Rule 37.03* of the *Rules of Civil Procedure*, is strictly *intra vires* only in specifically enumerated, non-discretionary circumstances. Under *Rule 37.03(c)*, the authority of the Registrar is confined to administrative orders, such as the amendment of pleadings or the removal of a **lawyer of record** which is tied to the definition of "lawyer's office" (which requires reference to the last filed document by the lawyer's office (nota bene herein, none of the lawyer's offices and their licensees had filed a single document). It is a legal impossibility for the Registrar to grant the substantive relief sought in a ***JRPA Application***, as such power remains the exclusive province of the judiciary but the Registrar may grant certain types of orders "on consent". A ministerial act—comprising the filing, stamping, or docketing of documentation by way of mere confirmation—is an "**executory",** which is the carrying out of a law, function devoid of discretionary latitude. The Registrar, pursuant to *Section 98* of the *Courts of Justice Act, R.S.O. 1990, c. C.43*, performs a role that is strictly subservient to the legislative and judicial mandate. The transmission of a Compendium to the Presiding Motions Judge is a quintessential ministerial duty which is effected by uploading to Case Center; its non-performance constitutes a palpable dereliction of office. Such administrative inertia necessitates the intervention of the judiciary via the prerogative writ of *mandamus*, compelling the performance of a duty unlawfully withheld. Judicial independence is a foundational, unwritten constitutional principle, as articulated by the Supreme Court of Canada in *Reference re Remuneration of Judges of the Provincial Court of Prince Edward Island, [1997] 3 S.C.R. 3*. This principle encompasses both individual and institutional dimensions. Institutionally, it is mandated that the judiciary remains a sequestered branch of government, insulated from Executive or Legislative encroachment or interference. Within this constitutional framework, the failure to process time-sensitive submissions constitutes an impermissible interference with the judicial independence of the Divisional Court. Adjudicative and administrative independence are accompanied by corresponding privileges which reside exclusively with the judiciary. As noted in the *Reference*

matters that may appear trivial, such as determining courthouse hours of operation—threatens the integrity of the judicial branch. By extension, the administrative omission of the Registrar in processing filings by "mere confirmation" (with the abolished acceptance by the Registrar being so required) disrupts the sphere of exclusive judicial jurisdiction. Lexicographical authorities provide essential clarity regarding the nature of the conduct at issue. *Black's Law Dictionary* (9th Ed.) defines "**interference**" as the act of meddling in another's affairs or as an obstruction or hindrance (see: *Lepp v Toronto Star Newspapers Limited, 2022 CanLII 39874 (ON SCSM)*). Furthermore, "**obstruction**" is understood as the act of hindering from passage, action, or operation. *Black's Law Dictionary* (2nd Ed.) defines "**obstruct**" as the interposition of obstacles or impediments to the hindrance or frustration of an act or service, specifically as to obstruct an officer in the execution of a duty.

7. While the criminal standard of "obstruction of justice" under *Section 139* of the *Criminal Code, R.S.C. 1985, c. C-46*, is not directly at issue—the former requiring a standard of proof beyond a reasonable doubt—the statutory language provides a profound syllogism for the present administrative dereliction. *Section 139(2)* prohibits the intentional attempt to obstruct, pervert, or defeat the course of justice. The "**course of justice**" has been interpreted to encompass proposed or contemplated judicial proceedings (*R v Spezzano (1977), 34 CCC (2d) 87 (ON CA)*). Such proceedings include those before a decision-making body whose authority is derived from statute and which is required to act in a judicial manner, a category into which this *JRPA* proceeding squarely falls. The *actus reus* of obstructing justice is established by any act that possesses a "**tendency**" to defeat or obstruct the course of justice; the mere attempt is sufficient to constitute the offense (*R v Hearn, 1989 CanLII 3938 (NL CA)*). It is further established that an error in judgment or a mistake of law does **not** constitute a valid defense where the specific intent to obstruct or attempt to obstruct is present (*R v Watson, 2010 ONSC 6765*; *R v Beaudry, 2007 SCC 5*). Conversely, the general offense of obstruction under *Section 127(2)*, as it then was, is left undefined, but as stated in *Criminal Law* (2nd Ed.) by **Mewett & Manning**, the offense is complete once a willful **attempt** to impede occurs, provided the action has the potentiality to obstruct or pervert the course of justice. Intent by knowledge or wilfulness is not part of the civil standard and certainly not for the Current Registrar who is bound by her statutory and prescribed oaths (see: the duties of impartiality, faithfulness and compliance with all laws).

8 The potentiality for obstruction is illustrated by the **removal** or destruction of official instruments. In *R v Zeck (1980), 53 CCC (2d) 551 (ON CA),* the **removal** of **parking tags** was found to amount to an obstruction of justice as it prevented the recipients from responding to the tickets, thereby incurring increased costs and impeding the administrative process. By analogy, the failure of the Registrar to confirm submitted filings in the Ontario Courts Public Portal ("**OCPP**") or the removal of such filings from "received status" constitutes an interference that obstructs the Applicant's ability to proceed, thereby incurring increased costs and frustrating the administration of justice. However, without the removal, one may say that no such obstruction of justice has occurred but that is only "actual interference" per se. A "course of action" which does not actually interfere is sufficient and that is accomplished by delays and certainly delays in the face of demands for the public official to act in accordance with those legal public duties to act. Pursuant to *Section 76(1)* of the *Courts of Justice Act*, court staff, including the Registrar, must act at the direction of the Chief Justice in matters assigned, by law, to the judiciary. The systemic failure to process time-sensitive submissions represents an *ultra vires* usurpation of judicial authority by the Executive branch. The Rule of Law dictates that no individual, including the "gatekeepers" of the court, is superior to the law. The current administrative state of "learned helplessness" imposed upon the Applicant and the public is an affront to this principle. If all documents remain in "received status", the open court principle under the Charter is breached by the Executive Branch. As the erudite and Honourable Justice E. Morgan of the SCJ (see: T*oronto Star v. AG Ontario, 2018 ONSC 2586*), "Generally speaking, it is essential in a system that [page295] protects free expression and the press that "the media . . . should not have their right to report on proceedings . . . delayed for any greater period of time than a court believes is absolutely necessary". Just as justice delayed can be justice denied, so reportage delayed can be reportage denied (see: paragraph 67). The acceptance of filing fees by the state creates a quasi-contractual obligation to provide the necessary infrastructure for adjudication. To retain such consideration while maintaining a wall of silence is a breach of the fiduciary-like duty the state owes to the citizenry. It is déjà vu all over again for the Applicant who has tendered fees (prescribed) to the various courthouse in care of the SCJ RMO but without services provided in return. All informal and formal avenues of redress have been exhausted, yet the matter remains entombed in a state of administrative silence which is a "course of action", that a layperson may believe is not obstruction of justice because submitted filings were not "removed", but is nonetheless "obstruction of justice". The evidentiary threshold for *mandamus* is satisfied *prima facie*: there exists

clear legal right, a demand for performance, and a contemptuous refusal to act. There is no discretion under the Rules of Civil Procedure to not issue a Form 68B as the only discretion was time and reasonableness had to be imported into said time and within the context of an urgent JRPA Application. There is no discretion to not process filings in accordance with a represented timeframe of three business days or a reasonable timeframe in the context of a Form 37A duly paid for by the requirement of a payment portal with a credit card. This motion, though proceeding in the absence of a *Form 37A* due to the very administrative collapse it seeks to remedy, is brought *in limine* to restore the *status quo ante*. It is submitted that the Registrar must be compelled, *ipso facto*, to fulfill the ministerial duties of the office to prevent a permanent denial of natural justice. It is further asserted that the judicial apparatus must exercise its inherent jurisdiction to rectify these procedural distortions and ensure the primacy of the *Courts of Justice Act*.

PART II: THE BRIEF MATERIAL FACTS

9. The foundational material facts requisite for the adjudication of the present Motion #4 are herein elucidated. Recourse is had to the factual matrix delineated within the *First Updated Compendium for Notice of Motion #3*, which was duly submitted via postal filing on December 11, 2025 (see: Rule 4.05(5), and the contents thereof are hereby incorporated by reference as if fully set forth herein. It is reasonably inferred, through an analytical extrapolation of administrative conduct, that the management echelon within the Court Services Division of the Ministry of the Attorney General ("MAG")—distinguished from the Ministry's political executive—is beset by an internal systemic conflict. This discord appears to manifest between those vested with managerial stewardship and the clerical personnel tasked with ministerial execution. A truncated chronology of the personnel involved in the administration of this matter includes the following individuals, the identity of the formerly occupied Office of the Registrar being then unknown:

a. Jessa-Marie Clegg: Formerly designated as the Clerk of the Divisional Court, presently serving in the capacity of Assistant Trial Coordinator;

b. Ariel Lawrence: An Assistant Trial Coordinator within the Toronto Region of the Divisional Court who relayed the Madam Justice Shore, void ab initio, compulsory case conference requirement on January 7, 2025, but to never be heard from again;

c. Evelyne Ibula: Assistant Trial Coordinator of the Superior Court of Justice – Divisional Court; and

d. Rina Badwal: Single Judge Motions Coordinator within the Office of the Chief Justice (who was oddly not dealing with the setting of the Applicant's NOM #1 but a case conference of which Madam Justice Shore was prohibited from hearing by reference to Rule 77).

10. It is submitted that the Applicant has been subjected to a deleterious and ostensibly extrajudicial incursion, perpetrated through the instrumentalization of the criminal justice apparatus. *Prima facie* evidence suggests that the actions undertaken by *Madam Justice Shore*—specifically her unilateral reassumption of jurisdiction following a request for case management that was, in point of law, *void ab initio*—constitute a profound departure from established statutory protocols. Furthermore, the systematic manipulation of documentation by the *Ministry of the Solicitor General (SOLGEN)*, as evidenced in responses pursuant to the *Freedom of Information and Protection of Privacy Act*, reveals a pattern of evidentiary distortion commensurate with the alterations observed in the *Intake Court Endorsement*. Such *acta* suggest a coordinated assault upon the Applicant's legal interests, orchestrated by executive and judicial officers who appear to be unified by a commonality of theological convictions and ancestral derivations.

11. The *Solicitor General*, the *Honourable Michael Kerzner*, has publicly and without reservation articulated his personal history and profound ties to Orthodox Judaism and the Polish diaspora. In a confluence of circumstances that invites a rigorous inferential examination, the etymological provenance of the surname *Ibula*—identified within the "Family Name Search" as a Polish or Ukrainian derivative of *cybula*, signifying "onion"—establishes a genealogical nexus to the same geographic and cultural region. This correlation is further compounded by the involvement of *Detective Constable Kolankowski* of the *14th Division* of the *Toronto Police Service (TPS)*, an officer of Polish descent who stands accused, in parlance, of fabricating a prior warning to the Applicant regarding prohibited communication. With the benefit of *post facto* discoveries emerging in the summer of 2025, a bifurcated relationship is hypothesized, wherein the *SOLGEN* exercised a degree of administrative suasion over the *TPS*—a dynamic reinforced by the *SOLGEN's* ubiquitous presence at municipal policing functions.

12. While the Applicant maintains a steadfast reverence for the protections afforded by the *Canadian Charter of Rights and Freedoms* concerning the manifestation of religious belief, it is contended that no member of the *Superior Court of Justice of Ontario*, nor any Minister of the Crown in the history of this province, has so overtly conflated

private theological tenets with the execution of public mandates. The elevation of religious identity to a position of functional prominence within the judiciary and the executive cabinet constitutes an unprecedented paradigm. It remains indeterminate how the *SOLGEN's* prioritisation of specific communal tribulations aligns with the broader objective of ensuring safety for marginalized segments of the Canadian populace, as the focus appears to be disproportionately concentrated upon a singular demographic interest. The usage of *Ms. Ibula* as a conduit for communication indicates a pervasive reluctance among ancillary court personnel—most notably within the Office of the Registrar—to facilitate the transmission of electronic correspondence on behalf of *Madam Justice Shore*. This reticence appears predicated upon a burgeoning awareness of her undisclosed prior judicial involvement. Consequently, a compelling inference arises regarding the improper exertion of influence by a high-ranking executive official. It is posited that *Solicitor General Kerzner* directed a public official to communicate with *Detective Constable Kolankowski*, and presumably extended similar suasion toward *Justice of the Peace Jiri*. Such efforts were ostensibly designed to provide assurances that his name would be utilized as the presiding motions judge, notwithstanding the absence of his digital signature—a circumstance particularly egregious within the *Ontario Court of Justice* in the *Central West Region (Brampton)*. The representation that a digital signature had been duly affixed, when in fact it remained absent, constitutes a jurisdictional impropriety that is both nonsensical and legally untenable. The nexus involving *Justice of the Peace George Jiri* necessitated exhaustive investigation; however, the affiliation became self-evident upon review of the *SOLGEN's* select public communications, which referenced a "Jewish-Azerbaijan fusion" assembly. *His Worship, Mr. Jiri*, has overtly espoused his affiliation with the *Assyrian Church of the East* and his proficiency in the Assyrian tongue—a linguistic capability essential for the exegesis of specific biblical texts. This convergence of linguistic and religious competencies, alongside the aforementioned Polish-Jewish connections, suggests a socio-theological infrastructure that may have influenced the *status quo ante* of the proceedings to the detriment of the Applicant. The cumulative weight of these extrapolations suggests that the independence of the judiciary and the neutrality of the executive branch have been compromised by an *ultra vires* alignment of personal identity and public duty. The resulting procedural deviations are, therefore, submitted for rigorous scrutiny *in limine*. These proceedings were initiated via the service and filing of an Application for Judicial Review pursuant to the *Judicial Review Procedure Act* ("JRPA") on November 15, 2024. In consequence of the temporal proximity of the submission to the cessation of business hours, the temporal

imprimatur of November 18, 2024, was affixed by the *Divisional Court*. Subsequent to fastidious adherence to intake protocols, the ***JRPA Application*** was formally issued on November 21, 2024.During the intake process, the exigency of the matter was underscored, predicated upon the discovery—unrebutted in the *LAT Appeal*—that TDHA constituted the "First Insurer" within the meaning of *Ontario Regulation 283/95*. Notwithstanding the decisions of VCM dated September 13, 2024, which summarily dismissed the motion to join TDHA as a Respondent for substantive relief, finality was sought through the *Divisional Court*.

13. Following the dismissal of the reconsideration request by Vice Chair Lake ("VCL") on October 16, 2024, it is posited that the exhaustion of all available and adequate alternative remedies before the *Licence Appeal Tribunal* ("LAT") was achieved. It remains a foundational axiom of administrative law that the total exhaustion of such secondary administrative avenues constitutes an absolute *sine qua non* for the valid invocation of the court's jurisdiction regarding judicial review. Subsequent to the initiation and prior to the perfection of the application pursuant to the Judicial Review Procedure Act, a series of deleterious and ostensibly coordinated events transpired. These occurrences, characterized by allegations of fraudulent misrepresentation and extortionate conduct, appear to have been strategically calibrated to divest the aggrieved party of the essential implements requisite for the exercise of their vocation. It is posited that these maneuvers, transpiring in conspicuous proximity to the Centre for Addiction and Mental Health (CAMH), were executed with the express intent of impeding the pursuit of judicial oversight and subverting the status quo ante. The evidentiary record, as substantiated by documentation registered with the Land Title Office and the Registrar thereof, reveals a complex web of financial irregularities. This scheme involves TD Bank—to the exclusion of the Respondent Insurance Companies—and Mr. David Karat. The prima facie evidence of this arrangement is manifest in the acquisition of a high-value residential property by Mr. Karat prior to the divestment of his existing real estate holdings, an act which defies conventional fiscal prudence and suggests the existence of external indemnification or illicit facilitation. The veracity of the aforementioned scheme is further buttressed by the involvement of Mrs. Dorothy During-Gibbs, a social worker affiliated with CAMH. Her status as a ninety-nine percent joint tenant in the property situated at 625 Grandview Avenue, Oshawa, is notably incongruous given the sixty-five-kilometre geographic disparity between said residence and her primary place of employment.

14. Furthermore, the acquisition of the subject property for a sum approximately $120,000 in excess of the listed valuation constitutes an extraordinary departure from market norms. This transaction involved Mr. Michael Gibbs and Mr. Peter Gibbs, the latter being a career insurance broker operating from the TD Bank towers. The registration of Mr. Peter Gibbs as a "tenant in common" possessing a nominal one percent interest—purportedly in a self-referential capacity—serves as an indicium of a transaction that is ultra vires the standards of transparent real estate conveyance. The temporal alignment of professional transitions further illuminates the pre-meditated nature of these actions. Mr. Papadimitropoulos (referred to herein as the "Epstein Cole LLP Client") terminated his tenure with the TDI Group to accept a position within the internal legal department of TD Bank. This transition occurred in limine, precisely facilitating his oversight of the myriad land title and mortgage instruments pertaining to both 625 Grandview Avenue and 591 Fleet Avenue. The acquisition of the million-dollar property by Mr. David Karat and Ms. Julia Karat was further obscured by the utilization of a pseudonymous and fraudulent identity by Ms. Karat. Ipso facto, the fraudulent nature of this representation is confirmed by her subsequent utilization of her lawful nomenclature during the February 2025 disposition of the 625 Grandview Avenue property. These maneuvers were meticulously constructed around seminal dates within the proceedings governed by the Rules of Civil Procedure, suggesting a sophisticated effort to insulate the participants from the scrutiny of the Court. *Prima facie*, the *LAT* failed in its statutory obligation to transmit the Record of Proceeding to the *Divisional Court instanter* upon service of the ***JRPA Application***. While a legal clerk of *Tribunals Ontario* purported to serve a Notice of Appearance ("NOA") on November 27, 2024, and counsel for the **Respondent Insurance Companies** followed suit on December 3, 2024, subsequent investigation of the *Ontario Courts Public Portal* ("**OCPP**") Case View in December 2025 revealed that none of the Respondents had formally *filed* their respective NOAs.

15. Consequently, the request for case management assignment was *ultra vires* and lacked the requisite authority under *Rule 77.05* of the *Rules of Civil Procedure*. Any subsequent directions, including the purported compulsory case conference requirement relayed by Evelyne Ibula on behalf of Madam Justice Shore, are *null and void ab initio*. Pursuant to *Rule 77.03*, a proceeding may only be assigned for case management upon or after the filing of a "First Defence." The invocation of inherent jurisdiction cannot supersede clear legislative intent or the mandatory framework of the *Rules of Civil Procedure* (*Baxter Student Housing Ltd. v. College Housing Co-operative Ltd.*, [1976] 2 SCR 475). The transition to the ***OCPP*** under *Rule 4.05.2.1* has effectively abolished the "acceptance of

filing" requirement formerly found in the *JSO Portal*. The Registrar's role is now limited to the ministerial act of "confirmation." Given the urgency of the underlying relief and the potential for irreparable harm, it is imperative that the President of the *Divisional Court* exercise her supervisory authority to ensure the integrity of the judicial process. *In limine*, it is submitted that the proposed Draft Order is necessary to rectify the procedural paralysis occasioned by registrariat inaction. Time is of the essence, and the interest of justice demands an immediate resolution to prevent further prejudice to substantive rights.

PART III: STATEMENT OF ISSUES

16. The issues are as follows:

a. **I. THE OBLIGATIONS INCUMBENT UPON THE REGISTRAR AND THE ADVERSARIAL RESPONSIBILITIES OF THE RESPONDENTS**

i. **A. Whether the Registrar has Failed to Comply with Statutory, Fiduciary, and Public Law Duties**

1. Whether the multifaceted nature of the duties—statutory, legal, and fiduciary—vested in the Registrar of the Divisional Court has been abridged. Whether the Registrar has committed a dereliction of these public legal duties by failing to facilitate the administrative progression of the proceeding commenced under the *Judicial Review Procedure Act*, R.S.O. 1990, c. J.1 (*JRPA*). *Prima facie*, the Registrar is bound by an exacting standard of administrative fidelity; whether any unauthorized cessation of ministerial functions constitutes an *ultra vires* exercise of discretion, thereby frustrating the *status quo ante* of the judicial process.

2. **B. Whether the Respondents have Adhered to Mandatory Procedural Requirements**

a. Whether the requisite obligations of the Respondents have been met should they intend to manifest opposition to the ***JRPA Application***. Pursuant to the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194 (*Rules*), whether specific procedural steps are mandatory for any party seeking to attain standing or receive service of documentation. Whether a failure to adhere to these prescriptive norms necessitates a judicial determination regarding the Respondents' continued participation in the litigation *in limine*.

ii. **II. THE STATUTORY INTERSECTION GOVERNING THE REGISTRAR AND THE PRESIDENT OF THE DIVISIONAL COURT**

1. **A. Whether the Legislative Framework Establishes Hierarchical Judicial Authority over the Registrar**

a. Whether the synergistic application of the *Courts of Justice Act*, R.S.O. 1990, c. C.43 (*CJA*), the *JRPA*, and the *Public Service of Ontario Act, 2006*, S.O. 2006, c. 35, Sched. A (*PSOA 2006*) defines the duties of the office. Whether the President of the Divisional Court possesses the authority to issue directives to the Registrar. Whether the Registrar's ministerial functions are subordinate to the overarching administrative supervision of the judiciary.

2. **B. Whether the Failures of the Registrar Constitute Matters Assigned to the Judiciary**

a. Whether the alleged failures of both the incumbent and the predecessor Registrars to execute their public duties represent matters inextricably assigned by law to the judiciary. Whether these administrative acts—or omissions—impinge upon the core functions of the Court, thereby falling within the exclusive purview of judicial oversight rather than executive discretion.

3. **III. EXECUTIVE INTERFERENCE AND THE PRESERVATION OF THE SEPARATION OF POWERS**
4. **A. Whether Executive Conduct Implicates Constitutional Principles of Judicial Independence**
    a. Whether the conduct of the Registrars, as employees of the Executive Branch of the provincial government, constitutes an impingement upon judicial independence under the *Judicature* sections of the *Constitution Act, 1867*. Whether any executive-led obstruction of court administration constitutes an impermissible intrusion into the independence of the judiciary. Whether such interference offends the doctrine of the separation of powers and threatens the institutional integrity of the President's Court.
5. **B. Whether Mandamus or Judicial Direction Provides the Requisite Remedy**
    a. Whether the efficacy of a direction from the President of the Divisional Court to the Registrar or, alternatively, an order of *mandamus* serves to remedy the aforementioned breaches. Whether such a prerogative writ is essential to compel the performance of a neglected public duty, thereby rectifying executive overreach and reinforcing the constitutional boundaries between the branches of government.
6. **IV. THE NEXUS OF INHERENT JURISDICTION, SECTION 146 OF THE CJA, AND THE *RULES OF CIVIL PROCEDURE***
    a. **A. Whether Inherent Jurisdiction Governs the Current Proceedings**
        i. Whether the inherent jurisdiction of the Divisional Court, or the specific authority of the President thereof, factors into the adjudication of *Motion #4*. Whether inherent jurisdiction remains a vital residual power to prevent an abuse of process and to ensure the administration of justice is not brought into disrepute.
    b. **B. Whether Section 146 and Rule 37.01 Dictate the Procedural Standpoint**
        i. Whether the procedural exigencies of *section 146* of the *CJA* and various provisions of the *Rules of Civil Procedure*, including *Rule 37.01*, are applicable herein. Whether the request for relief must be made through specific modalities and directed to a particular judicial officer to ensure strict compliance with the *Rules*.
    c. **V. THE CONVERSION OF PERMISSIVE POWERS INTO MANDATORY OBLIGATIONS**
7. **A. Whether the Principle in Julius v. Oxford (Bishop of) Governs Statutory Discretion**
    a. Whether the venerable principle articulated in *Julius v. Oxford (Bishop of)* (1880), 5 App. Cas. 214 (H.L.), as adopted by the Supreme Court of Canada in, *inter alia*, *Information Commissioner (Canada) v. Canada (Minister of Employment and Immigration)*, 1986 CanLII 6836 (FC), [1986] 3 FC 63, applies to the present circumstances.
8. **B. Whether Permissive Statutory Language Must be Interpreted as Mandatory**
    a. Whether, *ipso facto*, a statute conferring a power ("may") upon a public officer becomes an obligatory mandate when the exercise of that power is coupled with a public duty or a third party's right. Whether the Registrar's discretion is subsumed by the legal necessity of the office, rendering the performance of the duty a non-discretionary imperative.

PART IV: ARGUMENT

ISSUE #1: DUTIES OF REGISTRARS AND DUTIES OF RESPONDENTS

PART IV(I)(A): TEMPORAL DELINEATION OF ADMINISTRATIVE SUCCESSION

17. The administrative stewardship of the Divisional Court Registrar has undergone a transition during the pendency of the application pursuant to the *Judicial Review Procedure Act* (*JRPA*), the inception of which occurred on

November 15, 2024. Throughout the period spanning from the commencement of these proceedings until the third day of December, 2025, the office was occupied by Ms. Tashekah Gentles (hereinafter the "**Predecessor Registrar**"). Subsequent to the aforementioned date, the incumbency has been maintained by Ms. Roxanne Parris (hereinafter the "**Successor Registrar**").

PART IV(I)(B): THE DOCTRINE OF UBERRIMAE FIDEI AND CONSTITUTIONAL IMPERATIVES

18. The Crown, in its multifarious capacities, remains inextricably bound by the *Human Rights Code* and is subject to the constitutional constraints articulated in section 32 of the *Canadian Charter of Rights and Freedoms*. The overarching imperative for governmental instrumentalities to conduct their affairs *bona fides* necessitates an uncompromising dedication to veracity, unimpeachable equity, and a rigorous adherence to the most elevated ethical paradigms. The following tenets constitute the *sine qua non* of governmental conduct within a constitutional democracy: (a) **Veneration of the Rule of Law:** Governmental entities are mandated to operate strictly within the ambit of their statutory authority, ensuring that all administrative actions are congruent with established legal frameworks and authoritative directives; (b) **Impartiality and Objectivity:** Decisions must be demonstrably devoid of prejudice, eschewing any *prima facie* appearance of favouritism to preserve the integrity of equitable treatment. (c) **Transparency and Accountability:** A fundamental responsibility exists to maintain an open posture, providing the populace with access to the rationale underlying administrative determinations.(d) **Veracity and Integrity:** All communications must be characterized by absolute honesty; any dissemination of misinformation is deemed *contra legem*; (e) **Procedural Fairness:** The principles of fundamental justice dictate that individuals must be afforded an adequate opportunity to be heard and to contest decisions that infringe upon their interests; (f) **Prudent Stewardship:** Public resources and authority must be exercised with scrupulous care, prioritizing the collective welfare over parochial interests; (g) **Ethical Rectitude:** Public officials must avoid conflicts of interest, ensuring that personal considerations do not subvert the objective exercise of power; (h) **Respect for Inherent Dignity:** The Crown must acknowledge the intrinsic worth of every citizen, ensuring that governmental interactions are marked by civility and professional decorum; (i) **Responsiveness to Public Inquiry:** Inquiries from the citizenry must be met with diligence and timeliness, reflecting the service-oriented nature of the state; and (j) **Consistency and Predictability:** Legal and policy applications must be uniform to prevent the emergence of arbitrary or capricious administrative regimes.

PART IV(I)C)(I): STATUTORY OBLIGATIONS OF THE LICENSE APPEAL TRIBUNAL (LAT)

19. A critical distinction arises under *Rule 68.05(1)* of the *Rules of Civil Procedure* regarding the dichotomy of evidentiary filings. The materials exigently required from the Applicant are conceptually distinct from the record which the License Appeal Tribunal ("LAT") was statutorily mandated to transmit *instanter* pursuant to section 10 of the *Judicial Review Procedure Act*.

PART IV(I)C)(II): THE RIGHT TO AUDIENCE VS. PARTY STATUS

20. Pursuant to *subrule (1)(b)*, the *jus representationis* afforded to a Respondent is qualitatively different from the status of a party *per se*. This nuance is elucidated by a comparative analysis of section 9(2) and section 9(4) of the *JRPA*, as well as the prescribed nomenclature within *Form 68A*. The scope of participation is further delineated by the jurisprudential principles in *Ontario Energy Board*, *Tranquilli*, *Drewlo v. MPAC*, and *Hutchison v. Aviva*.

PART IV(I)C)(III): ABSENCE OF LAWYER OF RECORD AND CORPORATE REPRESENTATION

21. In accordance with the *Solicitors Act*, a body corporate—which constitutes a person pursuant to section 89 of the *Legislation Act*—must be represented by a lawyer in the Divisional Court. This requirement is reinforced by *Rule 15.01(2)* of the *Rules of Civil Procedure*, which stipulates that a party to a proceeding that is a corporation shall be represented by a lawyer, except with leave of the court. Consequently, while the *Access to Justice Act, 2006* expanded the rights of paralegals under the *Law Society Act*, such rights do not extend to the representation of persons within the Superior Court of Justice or the Divisional Court.

22. It is further observed that while legal counsel may serve a *Notice of Appearance*, there exists a concomitant obligation to file said document, accompanied by proof of service, in instances where the Applicant is self-represented at first instance (see: Form 68(A)). This procedural requirement ensures that the practitioner formally attains the status of "lawyer of record." Within the meaning of *Rule 1.03*, a "lawyer" is defined as a person authorized under the *Law Society Act* to practise law in Ontario, and a "lawyer's office" signifies the office of the lawyer of record as designated in the most recent document filed by said individual.

PART IV(I)(D):NOTICES OF APPEARANCE: APPLICABILITY TO FORM 68A AND REQUIREMENTS THEREUNDER

22. Under the *Rules of Civil Procedure*, the "Notice of Appearance" is a term of art appearing sixteen times, most pivotally within *Rule 38.07*. *Subrule 38.07(1)* mandates that a respondent served with a notice of application shall forthwith deliver a *Notice of Appearance* (*Form 38A*). However, the temporal requirement of "forthwith delivery" does not *ipso facto* clarify the obligation to file said notice with the court to secure party status. The initial appearance of the term in *Rule 16.01(2)* establishes that a party delivering a *Notice of Appearance* is deemed served with the originating process as of the date of delivery. While subsequent references in the Rules relate to service outside Ontario (*Rule 17*), *Rule 38.09*, and motions for security for costs (*Rule 56.03*), these are largely irrelevant to the present *JRPA* proceeding. Similarly, references within the contexts of appeals (*Rule 61.04*) and contentious estate matters (*Rule 75* and *Rule 75.1.05(1)*) are inapplicable. Of notable significance is the interaction between the *Notice of Appearance* and Case Management under *Rule 77*. Within the definitions of *Rule 77.03*, "defence" is broadly interpreted to include a *Notice of Appearance*. Pursuant to *Rule 77.05(2)*, the court's authority to assign a proceeding for case management without consent is triggered only "on or after the filing of the first defence." In the instant matter, the absence of any filing of a "First Defence" (i.e., a *Notice of Appearance*) by the Respondents rendered the imposition of case management procedurally irregular. The Applicant remained unaware of the Respondents' failure to file their respective notices until December 1, 2025. This procedural vacuum necessitated the bringing of a *Notice of Motion* (NOM #3) pursuant to *Rule 37.12(4)*, a rule which is not excluded from Divisional Court applications. Furthermore, *Form 75.4*—pertaining to estate matters in the Superior Court of Justice—is distinct from the *Form 38A* required herein. In the context of the JSO Portal, the inability to verify the filing status of the LAT's or the **Respondent Insurance Companies**' notices highlights a significant administrative discontinuity, particularly when such notices, once eventually surfaced, exhibited superfluous and suspiciously mirrored language. The linguistic structure of *Form 68A*, specifically paragraph 4, demonstrates near-consistency with *Rule 38.07(2)*. The categorical inapplicability of *Rule 38.07* to Divisional Court applications suggests that the court lacks the jurisdiction to order otherwise regarding a duly filed ***JRPA Application***. Paragraph 5 of *Form 68A* stipulates that any party intending to present affidavit evidence or examine witnesses must, in addition to serving a *Notice of Appearance*, file such evidence with proof of service within thirty days of the Applicant's Application Record service. In the present instance, the Application Record was served on December 10, 2024, establishing a deadline of January 8, 2025. A profound procedural irregularity arises from the imposition of a compulsory case

conference by Shore J. on January 7, 2025, an act deemed *void ab initio*. Subsequent discoveries from May to December 2025 necessitate the unwinding of these steps. Furthermore, the judicial reference to an "exchange of materials" is fundamentally distinct from the formal "filing" required under the *Rules of Civil Procedure*. The filing and subsequent approval of the *Certificate of Perfection* on December 16, 2024, should have precipitated the issuance of *Form 68B*. Pursuant to *Rule 68.03*, the hearing date is to be fixed by the Registrar at the place of hearing. The assertion by Madam Clerk Clegg that the Divisional Court had ceased issuing *Form 68B* constitutes a significant procedural breach; the Registrar possesses no statutory authority to override the *Rules of Civil Procedure*. Such an omission represents either an unauthorized policy shift or further fraud upon the court by an employee of the Ministry of the Attorney General. While the Applicant's *Form 68A* complied with all requirements, the Respondents utilized the "TDI Karat Theft" to evade their duty to file the ROP during the relevant temporal period. Notably, the Respondents were required under *Rule 68.04(4)* to deliver an application record and a factum within thirty days of the Applicant's service. The deadlines in *Rule 68.04(4)* and *Form 68A* are distinct: the former mandates the delivery of a record and factum, while the latter pertains to the *Notice of Appearance*. *Rule 68.05* confirms that the "material" required from the Applicant to perfect the application is distinct from the LAT's statutory obligation under section 10 of the *JRPA*. Regardless of judicial directives concerning "exchanges," the Respondents remained under a strict obligation to file their *Notices of Appearance* with proof of service to properly "present to the court" via the JSO Portal. The prejudice to a self-represented Applicant is manifest where Respondents fail to formally "oppose" through the filing of *Notices of Appearance*; any subsequent filings by Respondents in the absence of such notices must be struck from the record.

PART IV(I)(F): RECONCILING STATUTORY CONFLICTS WITHIN THE *RULES OF CIVIL PROCEDURE*

24. Complexities arise in the reconciliation of *Rule 38* of the *Rules of Civil Procedure*, which governs "Applications – Jurisdiction and Procedure," with the specific mandates of judicial review. While *Rule 38.01(1)* generally applies to proceedings commenced by a *Notice of Application* under *Rule 14.05*, *subrule 38.01(2)* explicitly excludes *Rules 38.02* and *38.09* from applications to the Divisional Court. The ***JRPA Application*** initiated by the Applicant constitutes a "Notice of Application" pursuant to *Form 68A*, which aligns with *Rule 68*. Under *Rule 68.01*, an application to the Divisional Court for judicial review must be commenced by *Notice of Application* in *Form 68A*.

Furthermore, *Rule 68.02(1)* establishes that *Rule 38* (subject to the exclusions in *subrule 38.01(2)*) and *Rules 68.03* to *68.07* govern these proceedings. Given that a ***JRPA Application*** is an application under a statute, it falls within the ambit of *Rule 14.05*.Pursuant to section 6(1) of the *JRPA*, such applications are traditionally made to the Divisional Court, comprising a panel of three judges. Consequently, *Rule 38.02* (regarding the person to whom an application is made) and *Rule 38.03* (regarding the setting of hearing dates) are rendered inapplicable to *Form 68A*. In judicial review proceedings, the Registrar is mandated to set the approximate hearing date via *Form 68B* upon the Applicant's perfection of the application through the filing of a *Certificate of Perfection*. Furthermore, section 10 of the *JRPA* imposes a mandatory duty upon the person who exercised the statutory power of decision. Upon being served with a *Notice of Application for Judicial Review*, such person—which includes a corporation or an adjudicative tribunal such as the LAT—shall forthwith file the record of proceedings in the court. This statutory obligation is distinct from the evidentiary requirements imposed upon the Applicant. Pursuant to section 9(2) of the *JRPA*, the person authorized to exercise the statutory power may be a party to the application, acknowledging the distinct legal personalities of entities such as VCM, VCL, and the LAT. Upon the formal filing and subsequent a of the *Certificate of Perfection* within the records of this Honourable Court, the Registrar is encompassed by a non-discretionary, circumscribed obligation to facilitate the expeditious placement of the application upon the requisite hearing list; concomitantly, the Registrar is mandated to disseminate the *Notice of Listing for Hearing* to all pertinent litigants. This notification functions as the indispensable procedural catalyst for the temporal determination of an adjudicative commencement, strictly adhering to the protocols articulated in *2021 CanLII DOCS 1057*, such that any substantive deviation from these legislatively prescribed demarcations would, *ipso facto*, constitute an *ultra vires* omission of the Registrar's administrative mandate and thereby undermine the integrity of the judicial process. The aforementioned dereliction represents but a singular instance within a broader constellation of jurisdictional transgressions perpetrated by the Former Registrar, who, as a creature of statute, is bereft of inherent jurisdiction; consequently, no purported exercise of administrative discretion may supersede the manifested intent of the Legislative Assembly. Furthermore, while the Former Registrar may have been susceptible to the extraneous influence of members of the judiciary—specifically *Madam Justice Shore*—it remains a fundamental tenet of our constitutional architecture that administrative duties must be discharged in accordance with the law, shielded from judicial interference in executive functions. The Registrar's primary allegiance remains

tethered to the will of the Legislature and the *Lieutenant Governor in Council*, ensuring that the administration of the *Divisional Court* remains unsullied by improper external suasion.

ISSUE #2: THE CJA WITH ACCESS TO JUSTICE BY THE AJA 2006; JUDICIAL INDEPENDENCE; JUDICIAL IMPARTIALITY AND THE CONSTITUTION ACT 1867 JUDICATURE SECTIONS

PART IV(II): THE CJA, SECTION 71

25. Pursuant to the *Courts of Justice Act, R.S.O. 1990, c. C.43* (*CJA*), specifically at *section 71* thereof, there are delineated the foundational desiderata governing the administration of the Ontario judiciary. This was a fundamental change in the statute in 2006. It is legislatively mandated that the administrative conduct of the courts be executed in a manner conducive to the preservation of judicial independence—conceived as a discrete and autonomous branch of governance—whilst simultaneously acknowledging the disparate spheres of responsibility apportioned to the Attorney General and the judiciary respectively. The provision of *section 71(a)* serves as a statutory bulwark, ensuring that the independence of the judiciary is not merely an abstract principle but a sustained operational reality, insulated from executive overreach. This independence is not a perk of office but a constitutional necessity, ensuring that the adjudicative process remains untainted by political or bureaucratic interference. Within this statutory framework, the term "maintain" is understood as synonymous with "uphold" or "sustain," necessitating a proactive preservation of the judicial sphere against both overt and subtle encroachments. Furthermore, the term "respective" denotes that which is "particular" or "separate." Ergo, the Ministry of the Attorney General and the *Superior Court of Justice* judiciary possess distinct and separate roles in the administration of justice. The Legislature, in employing such precise nomenclature, evinced a clear legislative will to ensure the separation of these roles—a position consistent with binding jurisprudence regarding the constitutional separation of powers. Consequently, the bifurcation of administrative and adjudicative functions implies that while the Ministry provides the infrastructure and personnel, the Court (President of the Divisional Court) remains the ultimate arbiter of the procedures that govern the intake, processing, and scheduling of legal proceedings. To permit the administrative branch to dictate the terms of judicial access is to invert the constitutional hierarchy.

PART IV(II)(A): EXECUTIVE LIMITATIONS: UNILATERAL DETERMINATIONS OF COURT AVAILABILITY AND FILING CONFIRMATIONS

26. It is a settled constitutional principle that the Executive branch is precluded from determining unilaterally when the courts are "open for business." As established in the *Reference re Remuneration of Judges of the Provincial Court*

of Prince Edward Island, [1997] 3 S.C.R. 3 (*Provincial Judge Reference*), while the government may designate the initial place of residence for a provincial judge, it cannot change such a designation without the judge's consent (*Id.*, at paras. 254-255 and 266). More critically, the Executive **cannot unilaterally determine** the days or hours during which the courts remain open for the transaction of business, as such an act constitutes an impermissible interference with judicial control over the sittings of the court—an essential component of administrative independence previously affirmed in *Valente v. The Queen*, *[1985] 2 S.C.R. 673* (*Id.*, at paras. 267-276). By extension, the Executive, acting through the Registry and its digital portals, cannot unilaterally determine when it confirm filings or stand idle indefinitely absent explanation, particularly when such determinations are predicated upon arbitrary technological constraints that run counter to the court's own procedural requirements and written representations. Silence is not only not an option but tantamount to obstruction of justice. Remaining silent in the face of written representations by the Registrar and other persons in a "received filing" by status that is required to be processed make the third party non-representor equally liable in "tort of deceit" or "fraudulent misrepresentation (see: Factum for NOM #3 at paragraph 15 citing *Halton v. Rezaizadeh*, 2004 CanLII 6236 (ON SC)).

27. To allow the Executive Branch to dictate the timing and validity of processing for time-sensitive submissions—especially in the face of written representations regarding processing schedules—amounts to an **interference** with the judiciary's administration of its own court, specifically the *Divisional Court*. When the **OCPP** fails to process submitted filings, it is effectively declaring, without authority or discretion, the court "closed" to specific litigants who have paid for (where applicable) and submitted documents for filings when meeting the standard in the *Rules of Civil Procedure* of "permitted use". This constitutes a *de facto* closure of the court's doors, usurping a power that resides solely within the judicial domain and violating the principle that the Registry is a servant of the Court, not its master. In the modern technologically age, it is tantamount to a litigant appearing in person to file a document and the Registrar closing the door for one person over another. The maintenance of public confidence in the administration of justice—an objective of paramount importance under *section 71(c)* of the *CJA*—is contingent upon the objective reality of an impartial, legally unimpeachable, and expeditious forum for the resolution of divergent claims. For these purposes, "**justice**" is defined as the maintenance or administration of what is just (specifically, that which is legally correct or lawful), particularly through the impartial adjustment of conflicting claims or the assignment of merited rewards or punishments. Consequently, the promotion of high-quality services

to the public, as articulated in *section 71(d)*, must be viewed not as a mere aspirational guideline, but as a mandatory standard of administrative conduct. Public confidence is fragile; it is eroded when the machinery of justice appears dysfunctional, inaccessible, or beholden to bureaucratic whim. In this context, "i**nterference**" is defined as the act of encroaching upon or obstructing a sphere of authority without lawful entitlement; it is the interposition of an extraneous force that prevents a primary actor from fulfilling its mandated functions. "**Public confidence**" mandates that the citizenry, as a collective whole, maintains faith in the methodology by which justice is dispensed. This faith is predicated on the belief that the courts are reachable and that procedural rules are applied fairly and predictably. It is the inescapable conclusion of this memorandum that the Executive has, through the systemic failures of the Registry and the ***OCPP*** portal, interfered with the independence of the judiciary. By imposing arbitrary (i.e. upon whim and personal fancy without reason) technical barriers that preclude the perfection of the record, the Executive has interposed itself between the Court and the litigant as a technological but tangible barrier, effectively determining which matters may proceed to a hearing based on digital convenience rather than legal merit. While the motive is obvious, motive or displeasure that a litigant was able to preserve and discover facts and fraud arising, whether the Former Registrar was implicated or not, is not a legal justification to turn a mandatory duty into an unfettered and unlawful discretion. This administrative obstruction prevents the judiciary from exercising its "tools necessary" to manage judicial resources, thereby constituting a direct interference with the adjudicative function because without the administration of the courts, there can be no adjudication. Any protracted administrative delay in the disposition of motions characterized as procedurally elementary or unopposed is deemed to subvert the essential objectives of the *Rules of Civil Procedure, R.R.O. 1990, Reg. 194*. Such temporal lapses constitute an *infra dignitatem* state of affairs, deleterious to the public's reliance upon judicial efficacy and the state's obligation to provide a functional legal system. The *CJA*, at *section 76(1)*, provides a comprehensive legislative instrument, statutory in nature for the rectification of administrative omissions. However, without knowledge of the President of the Divisional Court of what needs to be directed, he cannot reasonably be presumed to know what needs to be directed. Hence, the required directness by the Applicant to the attention of the President of the Divisional Court which is and was regrettable but most necessary. This provision empowers the President of the Divisional Court to issue directions to the Registrar and court staff in matters assigned by law to the judiciary. When viewed through the prism of the separation of powers and the principles articulated in the *Provincial Judge*

Reference, this authority must encompass the power to compel the administrative secretariat to discharge its ministerial obligations. The "assignment of judicial duties" is rendered illusory if the administrative prerequisites for the performance of those duties are obstructed by the Registry's internal constraints or technological failures. Judicial duties cannot be "assigned" if the record upon which those duties must be performed is held in administrative limbo. The extant impasse, precipitated by the file-size constraints inherent to the ***OCPP*** system, constitutes an *ultra vires* obstruction of the applicant's right to be heard. The Registry's refusal to accept a record that exceeds an arbitrary digital limit, while simultaneously declining to accept a physical substitute, creates a procedural vacuum. This exigency warrants a formal administrative and legal mandate from the President of the Divisional Court to the Registrar, requiring the official recognition and processing of a physically tendered, comprehensive Compendium as the record of the court, *nunc pro tunc*. This corrective measure is not merely a request for cooperation but an exercise of the Court's statutory power to ensure its business is conducted without unconstitutional impediment.

PART IV(II)(C)(I): THE HONOURABLE CHIEF JUSTICE OF QUEBEC DESCHÊNES AND THE TRIPARTITE REQUIREMENTS FOR JUDICIAL INDEPENDENCE

28. The administration of the courts by the judiciary is essential to judicial independence. As articulated in the seminal report by Justice Jules Deschênes, three distinct levels of independence are requisite for the functional integrity of the judicial branch: (A) Freedom from excessive interference with the judiciary's security of tenure, **case flow management**, and access to support services; (B) Judicial control over the rule-making power of the courts; and (C) **Complete independence** from **interference** with the administration of the courts.

29. As the judiciary is well-represented in the form of *de facto* and *de jure* control in the rule making power of the courts in the context of the *Rules of Civil Procedure*, it is only part (a) and (c) that are at issue.

30. Part (a) entitles the judiciary freedom from excessive interference in relation to case flow management. The Applicant avers that there has been excessive interference with case flow management herein but that is not the pressing and urgent issue in this Motion #4.

31. In relation to subpart (c), in this context, the adjective "**complete**" is defined as possessing all necessary or appropriate parts; entire, total, and undivided. It denotes a state of being consummate and unqualified.

Consequently, "**complete independence**" from administrative interference mandates that the judiciary must exercise total and undivided authority over the mechanisms that facilitate the administrative processes.

32. Like conflicts of interest, any interference by legislative or executive or agents of them is unacceptable and leads to a lack of judicial independence of the SCJ including the Divisional Court when it is constitutionally required. Without administration, there is no adjudication. The Divisional Court could be open for business every day with judges awaiting but if an imposed, subject to mail filing and dropping off of documents for filing, **OCPP** for Toronto Region is in place, and the Divisional Court Registrar and her employees and court staff unilaterally determine which documents it feels should be subject to confirmation of filings and which ones should not, then the rule of law is breached for some. Courts are not factotums (a general servant although the appearance of such is on display in this JRPA Proceeding) of the state but this JRPA Proceeding, hopefully idiosyncratic on the erosion of public confidence, has demonstrated that herein. Hence, the urgency of this Motion #4 and requirement that the law is respected and Rule of Law is respected. Any executive encroachment upon the administration of the court—particularly those that obstruct the flow of cases or the management of the record—violates this standard of consummate independence. It is a settled constitutional principle that the Executive branch is precluded from determining unilaterally when the courts are "open for business." As established in the *Reference re Remuneration of Judges of the Provincial Court of Prince Edward Island, [1997] 3 S.C.R. 3* (*Provincial Judge Reference*), the Executive cannot unilaterally determine the days or hours during which the courts remain open for the transaction of business, as such an act constitutes an **impermissible interference** with judicial control over the sittings of the court—an essential component of administrative independence previously affirmed in *Valente v. The Queen, [1985] 2 S.C.R. 673* (*Id.*, at paras. 267-276). By extension, the Executive, acting through the Registry and its digital portals, cannot unilaterally determine the criteria for the confirmation of filings, particularly when such determinations are predicated upon arbitrary technological constraints. To allow the administrative branch to dictate the timing and validity of processing for time-sensitive submissions amounts to an unlawful interference with the judiciary's administration of its own court, specifically the *Divisional Court*. Ergo, the issues herein in relation to the orders sought are those assigned by law to the judiciary. As such, section 76 of the CJA applies and does not necessarily require an order of mandamus.

PART IV(II)(D): CONCLUDING EXTRAPOLATIONS ON THE SUPERVISORY IMPERATIVE

33. The judicial branch is possessed of both inherent and statutory authority to ensure that the administrative function remains ancillary and subservient to the requirements of justice. The refusal of the Registry to confirm a submitted filing represents a failure to act in accordance with the implied direction of the Court, thereby justifying the invocation of the supervisory powers enshrined in the *CJA*. The Divisional Court also has supervisory direction along with control and custody of its records and must apply to those received and not processed in represented timelines or reasonable timelines and to ensure that such records are not removed by "actual interference" and "direct obstruction of justice". To permit the persistence of the *status quo ante* would be to allow a procedural defect—born of technological insufficiency—to effectively abrogate a substantive constitutional entitlement. The Registry must not be allowed to act as an unmonitored gatekeeper whose technical glitches serve as a bar to the courtroom. The resulting prejudice to the applicant is an existential threat to the integrity of the judicial process. Consequently, the application of *section 76(1)* is requisite to bridge the hiatus between administrative insufficiency and judicial necessity, thereby ensuring the operational continuity of the legal system. This directive serves to reiterate the essential separation of powers; when the administrative mechanism falters in its service to the adjudicative mandate, the superior judicial authority must intervene to safeguard the system's institutional integrity and ensure that the promise of the *CJA* is fulfilled in both letter and spirit. Justice delayed by digital inadequacy is justice denied, and it is the solemn duty of the Court to provide the necessary bridge across such administrative failures to preserve the rule of law.

ISSUE #3: WHAT IS INTERFERENCE BY EXECUTIVE BRANCH WITH THE JUDICIARY

PART IV(III): OVERVIEW OF MANDAMUS IN THE CONTEXT OF THE CJA, PSOA, AND JRPA

A. The Jurisdictional Basis for Extraordinary Relief

34. In the event that the Registrars, administrative personnel, and ancillary functionaries of the Court—most specifically the Registrar—demonstrate a failure to adhere to the directives promulgated by the Chief Justice of the *Superior Court of Justice* and the President of the *Divisional Court*, the Applicant craves an additional order in the nature of *mandamus*. However, as per the Draft Order email delivered and sent via fax to the attention of the

President of the Divisional Court, it remains a conditional one. This prerogative writ constitutes an equitable instrument of the judiciary, the fundamental essence of which is to provide a comprehensive remedy where a substantive legal right exists and has suffered impairment, yet for which no alternative adequate legal recourse is available. *Mandamus* remains a discretionary remedy, primarily invoked when a repository of public power is formally requested to exercise a mandatory authority but perversely declines to do so (*Mundulai v. Law Society of Ontario*, 2018 ONSC 6965 (CanLII), at para. 24). It serves as a judicial mechanism to compel an individual, in the public duty sense, to discharge a statutory duty explicitly imposed upon them. The writ is appropriately deployed *ipso facto* when a statutory delegate refuses the exercise of a power which they are legally compelled to manifest (David Phillip Jones & Anne S. de Villars, *Principles of Administrative Law*, 6th ed. (Toronto: Carswell, 2014) at p. 673; see also: *Zaki v. Director*, 2017 ONSC 1324 at para. 45).Furthermore, jurisdiction is found to grant *mandamus* in those exceptional circumstances where the remittal of a matter to an administrative adjudicator for reconsideration threatens to bring the administration of justice into disrepute (*D'Errico v. Canada (Attorney General)*, 2014 FCA 95 at para. 16). In the case at bar, there exists no subsequent administrative decision-maker to whom the matter might be submitted, as the duties in question reside exclusively with the Registrar. A writ of *mandamus* is, by definition, a command issued by the *Superior Court* directing the consummation of a statutory or public obligation to which the Applicant possesses a strict legal right (*Apotex Inc. v. Canada (Attorney General)*, [1994] 1 F.C. 742 (F.C.A.); *Bidal v. Ontario (Natural Resources)*, 2015 ONSC 506 (CanLII), at para. 11).

II. PROHIBITION AND MANDAMUS: RESTRAINING EXCESS OF JURISDICTION

A. Preservation of the Judicial Hierarchy

35. The writ of prohibition and the order of *mandamus* represent prerogative remedies situated firmly within the inherent jurisdiction of the *Superior Court*. The Applicant seeks these remedies to compel the *Ontario Court of Justice* to desist from any attempted exercise of jurisdiction that is *ultra vires*. The function of the writ of prohibition is to ensure that courts entrusted with judicial responsibilities remain strictly within the delineated parameters of their jurisdiction (see: *Clifford and O'Sullivan*, [1921] 2 A.C. 570 (U.K. H.O.L.); *McDonald (Re)* (1957), 11 D.L.R. (2d) 655 (Ont. S.C.)). Notwithstanding its availability, it is acknowledged that a writ of prohibition remains a remedial measure of considerable extremity, to be applied with the utmost circumspection and only in the most compelling of circumstances (*R. v. Hamlink (Re)* (1912), 26 O.L.R. 381 (Ont. S.C.); *Canada Metal Co. Ltd. v. The*

Queen (1975), 8 O.R. (2d) 773 (Ont. C.A.)). But a writ of mandamus is distinct in the legal sense. No such writ of prohibition, which is more extreme than a writ of mandamus, is currently sought.

III. THE DOCTRINE OF MATURITY AND THE CLEAR LEGAL RIGHT

A. Pre-emptive Remediation

36. Relief in the nature of *mandamus* is inherently pre-emptive; however, it is not to be characterized as premature as pre-emptivness or correction of misconduct in the face of non-discretionary clear public legal duties to act cannot be considered premature when there has been unreasonable delay (i.e. demands, requests and requisitions have been made but without implied refusal). The temporal threshold regarding the availability of this remedy was scrutinized in *Apotex Inc. v. Canada (Attorney General)*, 1993 CanLII 3004 (F.C.A.), where the Court articulated that an application for *mandamus* should only be dismissed on the grounds of prematurity where a compelling justification exists. As the only conceived prematurity that could exist would be the failure of the Registrar to comply in the face of further demands and in the face of a direction of the President of the Divisional Court absent an order or in the face of an order. The position of the Sheriff in Sunrise North Senior Living Ltd, (2020 ONSC 469) that the applicant therein (Sunrise) must fist seek a contempt order against Mr. Salmon, the tenant living in the senior assisted living home, was rejected by the erudite panel of M.G.J. Quigley, Conway and Favreau JJ. of this very Divisional Court on grounds of, inter alia, lack of practical purpose, lack of voluntary action by Mr. Salmon despite consent to do what he said he would do, and the delays in implementing the underlying order. Like the case of *Sunrise North Senior Living*, the legislative scheme takes paramountcy and under this legislative scheme, the Registrar has a duty to act but if she does not in the face of complying with the law and a court order, a conditional mandamus route is the preferrable route based on a "wait and see" approach.

B. The Requisite Conditions for Coercion and the Law of Admissions

37. Adopting the jurisprudential guidance from *Karavos v. Toronto (City)*, [1948] 3 D.L.R. 294 (Ont. C.A.), the party seeking such relief must demonstrate a "clear legal right to have the thing sought by it done in the manner and by the person sought to be coerced." *Prima facie*, an order of *mandamus* shall not lie to compel a public officer to act in a specific manner if the obligation to act has not matured as of the date of the hearing (*1772853 Ontario v. The Corporation of the Town of East Gwillimbury*, 2018 ONSC 4094 (CanLII), at para. 32). The obligation to act in

relation to the November 26, 2025, submitted filing, matured by admission of the Registrar or written representation. Simply put, it is no longer a justiciable issue. Consequently, the restoration of the *status quo ante* or the fulfillment of the statutory duty is necessitated to prevent a vacuum of legal accountability.

LEGAL TEST FOR MANDAMUS

38. The eight-step test to determine whether an award of mandamus can be made was set out by the Federal Court of Appeal, affirmed by the Supreme Court of Canada, 1994 CanLII 47 (SCC), [1994] 3 S.C.R. 1100 in *Apotex Inc. v. Canada (Attorney General)(1993)*, 1993 CanLII 3004 (FCA), [1994] 1 F.C. 742 (C.A.) at para. 45

a. There must be a public legal duty to act:
b. The duty must be owed to the applicant:
c. There is a clear right to performance of that duty, in particular
    i. the applicant has satisfied all conditions precedent giving rise to the duty;
    ii. there was (i) a prior demand for performance of the duty; (ii) a reasonable time to comply with the demand unless refused outright; and (iii) a subsequent refusal which can be either expressed or implied, e.g. unreasonable delay;
d. Where the duty sought to be enforced is discretionary, the following rules apply:
    i. in exercising a discretion, the decision-maker must not act in a manner which can be characterized as "unfair", "oppressive" or demonstrate "flagrant impropriety" or "bad faith";
    ii. mandamus is unavailable if the decision-maker's discretion is characterized as being "unqualified", "absolute", "permissive" or "unfettered";
    iii. in the exercise of a "fettered" discretion, the decision-maker must act upon "relevant", as opposed to "irrelevant", considerations;
    iv. mandamus is unavailable to compel the exercise of a "fettered discretion" in a particular way; and
    v. mandamus is only available when the decision-maker's discretion is "spent"; i.e., the applicant has a vested right to the performance of the duty.
e. No other adequate remedy is available to the applicant.
f. The order sought will be of some practical value or effect.
g. The Court in the exercise of its discretion finds no equitable bar to the relief sought.
h. On a "balance of convenience" an order in the nature of mandamus should (or should not) issue.

INTERPLAY BETWEEN MANDAMUS, SEPARATION OF POWERS AND BALANCE OF POWERS

I. DOCTRINE OF MANDAMUS AND ADMINISTRATIVE COMPULSION

39. The writ of mandamus constitutes an extraordinary judicial intervention requiring a public official to fulfill a specific affirmative obligation. As articulated in *Apotex Inc. v. Canada (Attorney General)*, [1994] 1 F.C. 742 (Fed. C.A.), the judiciary exercises this power of compulsion only where a clear ministerial duty exists. In the present instance, the Registrar possesses no discretionary latitude to decline the processing of filings once an Applicant has remitted payment via the **OCPP**. Consequently, administrative disruptions or personnel changes cannot constitute a statutory justification for the non-performance of mandatory ministerial obligations. As such, the Former

Registrar and Current Registrar's duties are executive: requiring the carrying out of a law, instruction, etc. The Canadian constitutional framework precludes the *Ministry of the Attorney General of Ontario* ("MAG") from exercising superintendence over adjudicative matters sequestered within the exclusive province of the *Divisional Court*. This separation ensures that while the executive implements law, the judiciary remains the sole interpreter of statutes within a specific factual matrix. Under the doctrine of *stare decisis*, consistency is maintained through adherence to the binding precedents of the *Court of Appeal for Ontario* ("ONCA") and the *Supreme Court of Canada* ("SCC").

III. JUDICIAL INDEPENDENCE AND PROCEDURAL REDRESS

A. Jurisdictional Distinctness

40. One must distinguish the constitutional entrenchment of superior court independence from the status of the *Ontario Court of Justice* ("OCJ"). Furthermore, the prerogative jurisdiction to quash statutory decisions resides with the *Superior Court of Justice* ("SCJ") under the *Judicial Review Procedure Act* ("JRPA") or its inherent equitable authority. Under the model of "Responsible Government," the Attorney General serves a dual role as a legislator and the Chief Law Officer of the Crown. This role is strictly administrative regarding court records; pursuant to the *Courts of Justice Act*, the Deputy Attorney General may only direct the destruction of redundant materials with the express approval of the respective Chief Justices.

IV. JUDICIAL CONDUCT AND REMEDIAL MOTIONS

A. Statutory Removal Criteria

41. Pursuant to section 80 of the *Judges Act*, the removal of a federally appointed judge is justified only if their conduct profoundly undermines public confidence in the "Three I's": **Impartiality, Integrity, and Independence**.

B. Rectification of Irregularities

42. While the *Canadian Judicial Council* ("CJC") oversees conduct, it cannot vacate judicial orders. Litigants alleging material irregularities or "fraud on the court" must move *intra* the proceeding to set aside the impugned order under *Rule 59.06(2)(a)* or *Rule 2.02* of the *Rules of Civil Procedure*. In Ontario, such grievances are resolved through diligent motion within the existing litigation framework rather than through the initiation of independent actions.

43. Pursuant to the *Rules of Civil Procedure*, the "registrar" denotes the administrative authority of the Divisional Court or Superior Court of Justice, domiciled at Osgoode Hall. Under *section 73* of the *Courts of Justice Act* (*CJA*), court administration remains an executive function overseen by the Deputy Attorney General, who may delegatively assign powers to registrars and administrative staff regardless of their appointment status under the *Public Service of Ontario Act, 2006* (*PSOA*).Registrars, as officers of the court, are bound by solemn oaths of office and allegiance under the *PSOA* and *O. Reg. 373/07*. Recent leadership transitions—specifically the succession of the "Current Registrar" following the departure of the former incumbent on December 3, 2025—highlight the "managerial" nature of the role. Administrative failures, such as saturated communication channels during critical filing periods, suggest a breach of the proficiency required of these managerial public servants.

44. While judges enjoy absolute immunity under *section 82* of the *CJA*, registrars possess only qualified immunity pursuant to *section 142*. This protection is strictly contingent upon "good faith" conduct. As established in *Bhasin v. Hrynew* and *C.M. Callow Inc. v. Zollinger*, good faith precludes half-truths or strategic silence. Furthermore, *Grosvenor v. East Luther Grand Valley* defines "bad faith" as unreasonable or arbitrary conduct lacking the transparency required of government officials.

ANALYTICAL PRECISION IN RELATION TO THE APOTEX TEST: TREATMENT IN ONTARIO

45. In the pivotal adjudication of *Sunrise North Senior Living Ltd. v. Sheriff (Regional Municipality of York)*, 2020 ONSC 469 ("*Sunrise*"), the Divisional Court engaged in a fastidious application of the *Apotex* criteria to determine the eligibility of the Sheriff's statutory obligations. The following analysis elaborates upon the judicial reasoning, exploring the intricate legal principles that underpinned the granting of this extraordinary remedy:

a. **Part 1: Public Legal Duty to Act** It was determined that the Sheriff was encumbered by a categorical public legal duty to act. The judicial analysis delved into the comprehensive statutory regime governing evictions, specifically noting that the *Residential Tenancies Act* and the *Courts of Justice Act* do not merely suggest assistance but mandate the enforcement of orders issued by the Landlord and Tenant Board. This duty is not owed to the public at large in an abstract sense, but rather constitutes a specific administrative obligation triggered by the filing of a valid writ. It was observed that the Sheriff serves as the executive arm of the judiciary; consequently, a failure to act represents a rupture in the chain of legal enforcement, rendering the duty mandatory rather than permissive. To permit the executive branch to unilaterally suspend the enforcement of valid orders would effectively grant administrative officials a pocket veto over judicial determinations, a result that is fundamentally incompatible with the rule of law.

b. **Part 2: Duty Owed to the Applicant** The obligation was found to be specifically incumbent upon the respondent in relation to the applicant. Insofar as the eviction order was issued in favour of *Sunrise* and subsequently filed with the Sheriff's office, the primary objective of enforcement—namely, the provision of vacant possession—constituted a duty directly owed to the party seeking relief. It was emphasized that when a private party obtains a judicial or quasi-judicial order, the state's enforcement mechanisms are invoked for that party's benefit. To deny this specificity would be to render the enforcement process an exercise in futility, as the applicant possesses a unique legal interest in the subject unit that is not shared by the general public. This nexus between the statutory duty and the applicant's proprietary interest is the quintessential hallmark of a *mandamus* application.

c. **Part 3: Clear Right to Performance** A crystallized right to the performance of the duty was established through a rigorous adherence to procedural prerequisites. Pursuant to the requirements of *Apotex*, it was demonstrated by the applicant that all conditions precedent giving rise to the duty were met. This was substantiated by a three-fold evidentiary showing: (i) a prior formal demand for performance, (ii) the passage of a reasonable temporal interval for compliance, and (iii) a subsequent refusal that was, at minimum, implied by the Sheriff's sustained inaction and explicit statements of reluctance. It was noted that a "clear right" does not necessitate the absence of a dispute, but rather the fulfillment of all legal triggers that leave the official with no remaining lawful excuse for non-performance. In this instance, the applicant had exhausted every administrative prerequisite, leaving the Sheriff with a singular, non-negotiable path: execution.

d. **Part 4: Non-Discretionary Nature of the Duty** The duty was characterized as purely ministerial rather than discretionary. The judicial exegesis clarified that while the Sheriff may possess discretion regarding *how* an eviction is executed—specifically concerning the selection of logistics, the number of personnel deployed, and the precise timing of the operation—no discretion exists regarding *whether* the order should be enforced. Once the statutory conditions are satisfied, the Sheriff's role is executive. To permit the Sheriff to evaluate the underlying merits of an eviction order, or to decline enforcement based on subjective assessments of health and safety, would be to grant the executive a veto over judicial determinations. This would be *ultra vires* the Sheriff's jurisdiction and contrary to the constitutional separation of powers, as it would effectively allow a subordinate official to sit in appeal of a tribunal's final order.

e. **Part 5: Absence of Adequate Alternative Remedies** The Court rejected the respondent's contention that the applicant was required to exhaust secondary remedies, such as contempt proceedings, prior to seeking *mandamus*. It was reasoned that the legislature intended the Sheriff to serve as the primary and most efficient enforcement mechanism for property rights. Requiring a landlord to initiate separate, potentially protracted contempt litigation against a tenant would not only subvert the legislative scheme but would also impose an unreasonable procedural burden on the applicant. An "adequate" alternative must be one that is equally convenient, beneficial, and effective; it was found that contempt proceedings failed this threshold as they did not directly achieve the primary goal of vacant possession. Furthermore, forcing a litigant into a separate cycle of litigation to enforce an already final order constitutes a denial of justice and an inefficiency that the *Judicial Review Procedure Act* seeks to remedy

f. **Part 6: Practical Utility and the Doctrine of Futility** The respondent's assertion that the order would be *nugatory* or redundant was dismissed through a meticulous examination of the doctrine of futility. First, although *subsection 141(1)* of the *Courts of Justice Act* already mandates enforcement, the continued failure of the Enforcement Officers to discharge this duty rendered *mandamus* necessary to compel compliance. The writ serves to activate the existing statutory mandate that has fallen into a state of dormancy. Second, the claim that the police would refuse assistance was addressed. It was noted that an assumption of police recalcitrance in the face of a direct judicial order would be premature and speculative (at paras. 148-150). Pursuant to *Friends of the Oldman River Society v. Canada (Minister of Transport)*, [1992] 1 S.C.R. 3, prerogative relief is only withheld in those rare instances where implementation is an absolute impossibility; in this case, the potential for multi-agency cooperation remained a viable path toward enforcement that the judiciary was unwilling to foreclose.

g. **Part 7: The Absence of Equitable Bars and the "Clean Hands" Doctrine** In accordance with the doctrine of "clean hands" (*Zaki v. Canada (Citizenship and Immigration)*, 2013 FC 272; *Khalil v. Canada (Secretary of State)*, [1999] 4 F.C. 661), a fastidious review of the applicant's conduct was conducted. The record established that *Sunrise* acted with exemplary fairness and transparency. The applicant had previously

consented to an order that afforded the resident a generous temporal window—exceeding twenty-four months—to secure alternative accommodations, while simultaneously forgoing significant rent arrears in an effort to facilitate a peaceful transition. It was observed that the applicant's pursuit of enforcement was a last resort following the exhaustion of all conciliatory avenues. Consequently, the applicant demonstrated a degree of *bona fides* that surpassed the requisite threshold, ensuring that no equitable impediment, such as laches or bad faith, could be invoked to frustrate the issuance of the writ.

h. **Part 8: Balance of Convenience and the Public Interest** The final criterion required a balancing of competing interests, wherein it was recognized that while health and safety risks may occasionally militate against *mandamus*, such discretion must only be exercised in the "clearest of circumstances" (*Apotex*, at paras. 124-125). In *Sunrise*, the resident's personal hardships, while significant and warranting compassion, did not outweigh the broader public interest in upholding the rule of law. It was emphasized that allowing an official to refuse the enforcement of a valid order creates a dangerous precedent of selective law enforcement, where the execution of rights becomes contingent upon the subjective comfort of the enforcer. Therefore, the balance of convenience favoured the applicant, as the integrity of the judicial system depends upon the predictable and certain execution of its mandates (at paras. 155-156).

ISSUE #4: INHERENT JURISDICTION, SECTION 146 OF THE CJA AND PROCEDURE

PART IV(IV)(A): THE STATUTORY PROVISION

46. Pursuant to *Section 146* of the *Courts of Justice Act, R.S.O. 1990, c. C.43* (the "*CJA*"), the legislature has enacted a residual procedural safety valve intended to facilitate the exercise of judicial authority where the existing regulatory framework is silent or deficient. The provision mandates that: "Jurisdiction conferred on a court, a judge or a justice of the peace shall, in the absence of express provision for procedures for its exercise in any Act, regulation or rule, be exercised in any manner consistent with the due administration of justice." The concept of the "due administration of justice" is not merely an aspirational sentiment but a robust constitutional and procedural imperative. It encompasses the equitable, efficient, and proper functioning of the adjudicative apparatus, ensuring that the rule of law is upheld through the impartial application of procedural fairness. It necessitates that litigants receive *prima facie* equal treatment, that disputes are adjudicated with appropriate celerity to avoid undue prejudice, and that the judiciary remains a bastion of independence, insulated from external administrative or systemic failures. The Divisional Court, as a constituent branch of the Superior Court of Justice, remains endowed with a venerable and comprehensive inherent jurisdiction. This authority is an *a fortiori* power that transcends specific statutory enumerations, subsisting in the common law to ensure the efficacious administration of justice and the control of the Court's own processes. This jurisdiction operates coextensively with the *Rules of Civil Procedure*, particularly in instances where an administrative *lacuna* threatens to frustrate the fundamental objectives of the *Judicial Review Procedure Act* (*JRPA*). The constitutional bedrock of this pervasive authority is rooted in the judicature provisions of the *Constitution Act, 1867*. It functions as a necessary judicial corrective against

mechanical formalism, permitting the Court to remedy failures in its administrative machinery that would otherwise result in an *infra dignitatem* frustration of a litigant's rights. The jurisprudence established by the appellate courts of Ontario maintains a rigorous distinction between the *modus operandi*—the procedural method—and the substantive source of power. *Section 146* of the *CJA* is a procedural curative measure; it is not a font of substantive jurisdiction *ex nihilo*. The invocation of *Section 146* requires an initial determination of whether the Court possesses the underlying substantive power. The Court must ascertain whether the authority sought is conferred by the *CJA*, the *Rules of Civil Procedure*, a specialized statute, or the Court's inherent jurisdiction. Should the power be absent, *Section 146* cannot be utilized to bootstrap jurisdiction or to act *ultra vires* by bypassing explicit statutory prohibitions. Once substantive authority is established, *Section 146* becomes operative in three specific circumstances: **Silence (Lacunae):** Where the rules entirely omit the mechanism for exercising an existing power; **Inconsistency or Ambiguity:** Where contradictory rules or vague language render the implementation of a power impractical; and **Logistical Impasse:** Where the prescribed procedure is rendered impossible by unique exigencies, such as the systemic failure of electronic filing infrastructure. In such instances, the Court is empowered to devise a fair and necessary procedure, often by adapting analogous principles to fill the immediate gap, provided such measures are consistent with the "due administration of justice."

PART IV(IV)(D): JURISPRUDENTIAL CONSTRAINTS: SUBSTANCE VS. PROCEDURE

47. The following table delineates the "bright line" distinction between permissible procedural gap-filling and impermissible substantive expansion:

Authority	Core Jurisprudential Principle	Judicial Rationale & Extrapolation
TD Insurance v. Sivakumar	*Prohibition on Pre-Action Discovery*	*Section 146* cannot be invoked to create a new, intrusive power not contemplated by *Rule 36.01*. A deliberate legislative omission constitutes a substantive boundary.
Cheong v. Ontario	*Inviolability of Limitation Periods*	Statutory limitation periods define the substantive jurisdiction of the Court. *Section 146* cannot be used to extend a deadline that terminates a cause of action, as this would usurp the legislative function.
Li v. Li	*Constraints on Subordinate Officers*	Master (now Associate Judges) cannot use *Section 146* to exercise powers beyond their limited statutory mandate. The provision does not bestow inherent jurisdiction upon statutory officers.
Children's Aid Society v. R. N.	*Remediation of Procedural Silence*	Where the *Family Law Rules* were silent on transcript production, *Section 146* was properly utilized to operationalize the Court's inherent power to control its records.

In the absence of specific protocols for drug testing under *Section 105* of the *CJA*, *Section 146* permitted the importation of analogous fair procedures to protect non-parties.

PART IV(IV)(E): APPLICATION TO THE CURRENT EXIGENCY

48. *Rule 1.04(2)* of the *Rules of Civil Procedure* provides that where matters are not provided for in the *Rules*, the Court may make an order that is proportionate and just. This is a codification of the common law principle that procedural technicalities must not be permitted to trump substantive justice. As affirmed in *Marchand v. Public General Hospital Society*, the Court's inherent jurisdiction is available to prevent an abuse of process arising from the application of its own rules or, *a fortiori*, its administrative failures. The current impasse, necessitated not by a dereliction of duty by the Applicant but by the operational inefficacy of the electronic infrastructure, mandates the invocation of the Court's residual power. The failure of the electronic filing system, which is intended to facilitate justice, must not be allowed to frustrate it. The Applicant seeks a remedy *nunc pro tunc*—ratifying the alternative, legally compliant tender of the physical record. The failure of the Registrar to act constitutes an egregious breach of the obligation to provide services that ensure judicial independence. A judiciary can only function effectively when its administrative branch does not exert an indirect veto over a litigant's right to be heard through technological obsolescence. Any insistence that the Applicant initiate a separate proceeding to address these administrative defects would constitute a further abuse of process. As noted in *9383859 Canada Ltd. v. The Court of Appeal for Ontario*, the Court must distinguish between a failure to comply with an order and a failure caused by systemic administrative malfunctions. Here, the *JRPA* proceeding is active, and there is no order in default; the defect is purely a manifestation of the "Digital Wall" caused by file size limitations. The doctrine is clear: **Jurisdiction first, procedure second, legislative intent foremost.** The Court is beseeched to employ its inherent power to deem the procedural steps completed and the application perfected. This intervention is preservative, aimed at safeguarding the Applicant's ability to proceed *ex debito justitiae* despite systemic administrative failures. The integrity of the judicial system depends upon the Superior Court's willingness to serve as the ultimate corrective for procedural and administrative malfunctions. The Court has the authority to issue such an Order under Rule 59.06 and Rule 54.05 of the Rules. Additionally, if the Court is willing to waive the need for the moving party to prepare and file motion materials, pursuant to Rule 37.01 and 2.03 of the Rules, the moving party may

simply file a draft Order for the Court's consideration. It is also advisable to have the Accountant approve the draft Order amending the Judgment before proceeding with these steps.

ISSUE #5: STATUTORY INTERPRETATION: WHEN DOES MAY BECOME A MUST: NECESSARY EXECUTION OF EXECUTORY DUTIES AND REQUIREMENT OF THE PRESIDENT OF THE DIVISIONAL COURT TO DECIDE THIS MOTION

49. This issue deals with the following: Principles of necessary execution; and The principles from Julius v. Oxford (Bishop Of), 1888. This proactive and resource-intensive submission of the complete Compendium is predicated on a fundamental syllogism derived from established public law principles that govern the exercise of discretion by public officials and judicial bodies. This doctrine, which determines when a statutory power is an obligation, was authoritatively articulated in the seminal House of Lords decision, ***Julius v. Lord Bishop of Oxford*** ((1880) 5 A.C. 214 at 243). It establishes that where a statutory or procedural "may" is coupled with a legal right or interest of the subject, the permissive language transforms into an obligatory "must." This is the doctrine of "**power coupled with a duty**." The essence of the *Julius* rule is found in the dual analysis, and its application here is absolute: (a)Is the power conferred upon a public functionary or a body for the public good? (Yes: The maintenance of the Court record, which ensures transparency and the integrity of the judicial process. This is consistent with the Charter specifically section 2(b); and (b) Is the object of the power to effectuate a legal right possessed by an individual or a defined class? (Yes: The litigant's right to file, processing within spirit and substance of compliance with written representations and be heard on the entirety of the evidence presented, ensuring procedural fairness.)

50. Lord Cairns, in his judgment, articulated this necessity with precision: "Where a power is deposited with a public officer for the purpose of being used for the benefit of persons... with regard to whom a definition is supplied by the legislature... the power ought to be exercised." The policy rationale underpinning this transformation is the prevention of public officials arbitrarily withholding benefits or rights intended for the subject. The discretion afforded is therefore merely as to the timing and manner of execution, not as to the performance itself. The Registrar's inherent power to "file" a document is clearly deposited with a public officer and for the benefit of litigants who have a legal right to bring a claim, thereby triggering this doctrine. The refusal or systemic failure to execute this power is not the legitimate exercise of discretion, but the wrongful abdication of a ministerial duty. The inability of the **OCPP** to handle large files cannot be construed as a legitimate basis for the Registrar to refuse

the ministerial act of filing; rather, it creates a positive obligation to accept alternative, legally compliant forms of tender, such as the physical delivery completed by the Applicant. This obligation is rooted in the concept of **public trust**, whereby public functionaries are deemed trustees of their statutory powers, holding them in favour of the beneficiaries (the litigants). Furthermore, this principle intersects fundamentally with the distinction between mandatory and directory provisions. The determination is often guided by the principle of **consequence**: if the failure to strictly comply with a rule defeats the object of the enactment or prejudice a substantive right, the provision is deemed mandatory. Conversely, if non-compliance does not affect the substance of the act, it is merely directory. In this context, the requirement for a filing to be received, accepted, and stamped is mandatory because it affects a substantive right (the date of filing and the right to have a complete record considered). The failure to execute this mandate is a fundamental error, justifying judicial intervention (e.g., *mandamus*). Conversely, aesthetic or secondary requirements (like specific binding colours or font sizes, as argued in Section III) are merely directory, and their failure to be met should not nullify the filing. The processing of the complete record, therefore, is a mandatory obligation imposed on the Registrar's Office, the non-compliance with which directly frustrates the Applicant's right to judicial review. The very act of filing of the NOM #3, when payment has been made, whereas the *means* of filing (digital vs. physical) is directory; since the Applicant achieved the mandatory end (full tender), the Registrar's duty to affirm it must be mandatory. The Registrar's duties were **executory** in requiring to carry out the law. The days of the Registrar having the power and duty of "acceptance" and then "confirmation" in a two stage test have been abolished for Toronto Region Divisional Court matters. The LGIC intent was to remove the two step process to more of a "confirmation" of the filing as opposed to the languishing and delayed process of "Acceptance being Required" and then a "confirmation". This distinction is paramount: the Court must find that the failure of the Registry pertains to the directory aspect (the mode of processing the filing) and not the mandatory aspect (the requirement to confirm the *content* of submitted filed documents). This analysis is further buttressed by the **Public Interest Test** in statutory interpretation, which dictates that where the procedural steps relate to the public interest in efficient and fair justice (as perfection does), the steps are construed as mandatory. The public interest is not served by allowing a technical digital failure to obstruct the judicial review of an administrative tribunal's decision.

51. It is a fundamental tenet of the common law that while members of the judiciary enjoy absolute immunity in the *bona fide* discharge of their adjudicative functions, such protection is not an impenetrable shield for *acta* that fall outside the scope of the judicial mandate. Where a jurist maintains a calculated silence in the presence of flagrant misrepresentations—or actively commissions such falsehoods—there exists a robust theoretical basis for a finding of the tort of deceit. Although judicial immunity is ostensibly absolute, it is limited to the *bona fide* exercise of the judicial office; it is argued that the deliberate suppression of truth or the failure to act when a motion is properly seized of the court constitutes a non-exercise of function. Furthermore, where a statutory or procedural "may" is conjoined with a pervasive legal duty, the permissive language is transformed into a mandatory obligation—*imperativus pro permissivo*—thereby rendering inaction a breach of the judicial oath. The Applicant does not erroneously posit that the Associate Chief Justice (acting as President of the Divisional Court) would incur personal liability in damages for a failure to adjudicate *Motion #4*, particularly in light of the *Telezone* line of authority which distinguishes the jurisdiction of judicial review from that of private law claims for damages. Notwithstanding this distinction, the Superior Courts possess the inherent jurisdiction to award *Charter* damages in highly idiosyncratic circumstances where a breach of the *Canadian Charter of Rights and Freedoms* is manifest and substantial. While the *ratio decidendi* in *RWDSU v. Dolphin* ***Delivery*** *Ltd., [1986] 2 S.C.R. 573* affirms that the judiciary is not "government" within the strict ambit of *section 32(1)*, and that the mere existence of a judicial order does not *ipso facto* trigger *Charter* application, a profound constitutional question arises: does the *non-exercise* of a judicial function constitute an omission that invites *Charter* scrutiny? The late Professor Emeritus Peter Hogg articulated that the *Charter* shall apply to court orders in three distinct circumstances: (i) where an order is issued *sua sponte* for a public purpose; (ii) in proceedings where the government is a party; and (iii) in private proceedings governed by statutory law. In the present instance, the latter two categories are applicable. The Attorney General of Ontario and the License Appeal Tribunal (the "Tribunal") are Respondents in this proceeding, the latter being an adjudicative tribunal that has demonstrably failed to comply with its obligation to file a *Notice of Appearance* with proof of service. Given that this proceeding is brought under the *Judicial Review Procedure Act, R.S.O. 1990, c. J.1*, it is unequivocally governed by statute. While the common law authorizes private action not prohibited by positive law, it only offends the *Charter* when it crystallizes into an enforceable rule. Thus, where a statutory

authority is exercised—or ignored—in a manner that infringes a *Charter* right, the court is duty-bound to modify the common law rule to ensure constitutional compliance. The question of whether the *Charter* applies to court orders predicated upon statutory authority remains a complex and nuanced issue in Canadian jurisprudence. In *Young v. Young, [1993] 4 S.C.R. 3,* the Supreme Court of Canada left this question largely unresolved. However, even in the absence of a direct application of the *Charter*, the decision in *Temoin v. Martin, 2012 BCCA 250* establishes as a *prima facie* principle that "*Charter* values" must invariably inform the court's discretion. *Charter* values are not merely aspirational; they are interpretive imperatives. As underscored in *Slaight Communications Inc. v. Davidson, [1989] 1 S.C.R. 1038*, legislation must be construed in a manner that favours the advancement of these values. In the case at bar, the "open court principle" enshrined in *section 2(b)* of the *Charter* has been systematically undermined. The persistent breaches of the *Rules of Civil Procedure, R.R.O. 1990, Reg. 194* constitute a deleterious erosion of the *status quo ante*, necessitating immediate judicial rectification. A prolonged and unjustified silence on the part of the President of the Divisional Court would represent not only a dereliction of duty but a conduct-based erosion of public confidence. Such inaction may properly be the subject of a complaint to the *Canadian Judicial Council* on the grounds of misconduct or a failure in the due execution of office. It is submitted that where a judge occupies a position that a reasonable, fair-minded, and informed observer would deem incompatible with the judicial office, the integrity of the entire court is compromised. Access to justice is not merely a procedural convenience but a fundamental human necessity and a cornerstone of the Rule of Law. As Chief Justice Wagner has observed, the preservation of judicial independence is a constitutional imperative. This independence rests upon the "Judicature Sections" (*sections 96 to 101*) of the *Constitution Act, 1867*. The doctrine of separation of powers dictates that the Executive branch and its administrative agents are strictly prohibited from interfering with the internal administration of the judiciary. Any such encroachment is *ultra vires*. As articulated in *MacKeigan v. Hickman, [1989] 2 S.C.R. 796*, the judiciary must maintain exclusive dominion over its own processes. Interference by legislative or executive organs—including administrative scheduling that impacts the substantive rights of litigants—is a violation of judicial independence. In *Beauregard v. Canada, [1986] 2 S.C.R. 56*, the Supreme Court identified the three pillars of judicial independence: the impartial umpire, the court as the defender of the Constitution, and the statutory protections of the *Constitution Act, 1867*. The Applicant contends that the current administrative impasse constitutes an impermissible interference with these pillars, demanding the

intervention of this Honourable Court to restore the appearance of impartiality and the reality of justice. Without the Registrar of the Divisional Court discharging her duties to ensure that submitted filings in the **OCPP** are processed within represented timelines, it acts as a de facto or analogous closing of the courts for a particular proceeding or multiple proceedings. That is without question interference with judicial administration and represents a breach of the constitutionally required judicial independence of the Divisional Court. There is no defence to non-compliance with the law and non-compliance with written representations. This is more forcefully buttressed when the Registrar is a creature of statute and its duties are merely executory. The Applicant respectfully requests that the President of the Divisional Court grant the orders in the Draft Order that has been emailed to the Divisional Court, Former Registrar and Current Registrar and faxed to the President of the Divisional Court.

ALL OF WHICH IS RESPECTFULLY SUBMITTED ON THIS 23st day of December 2025



Kevin Alexander McLean
Applicant in Propria Persona
Moving Party – pro se

INDEX OF AUTHORITIES

I. CASE LAW

1. **4577285 Ontario v. The Corporation of the Town of East Gwillimbury**, 2018 ONSC 4094
2. **Apotex Inc. v. Canada (Attorney General)**, [1994] 1 F.C. 742 (F.C.A.)
3. **ATCO Gas & Pipelines Ltd. v. Alberta (Energy & Utilities Board)**, 2006 SCC 4
4. **Beauregard v. Canada**, [1986] 2 S.C.R. 56
5. **Bhasin v. Hrynew**, 2014 SCC 71
6. **Bidal v. Ontario (Natural Resources)**, 2015 ONSC 506
7. **C.M. Callow Inc. v. Zollinger**, 2020 SCC 32
8. **Canada Metal Co. Ltd. v. The Queen** (1975), 8 O.R. (2d) 773 (Ont. C.A.)
9. **Cheong v. Ontario**, 2024 ONCA 163
10. **Children's Aid Society v. R. N.**, 2017 ONSC 3906
11. **Clifford and O'Sullivan**, [1921] 2 A.C. 570 (U.K. H.O.L.)
12. **D'Errico v. Canada (Attorney General)**, 2014 FCA 95
13. **Dikranian v. Québec (Attorney General)**, 2005 SCC 73
14. **Friends of the Oldman River Society v. Canada (Minister of Transport)**, [1992] 1 S.C.R. 3
15. **Green v. Law Society of Manitoba**, 2017 SCC 20
16. **Gundulai v. Law Society of Ontario**, 2018 ONSC 6965
17. **Gustavson Drilling (1964) Ltd. v. Canada (Minister of National Revenue)**, [1975] 2 S.C.R. 58
18. **Karavos v. Toronto (City)**, [1948] 3 D.L.R. 294 (Ont. C.A.)
19. **Khalil v. Canada (Secretary of State)**, [1999] 4 F.C. 661
20. **Lepp v. Toronto Star Newspapers Limited**, 2022 CanLII 39874 (ON SCSM)
21. **Li v. Li**, 2024 ONCA 264
22. **MacKeigan v. Hickman**, [1989] 2 S.C.R. 796
23. **McDonald (Re)** (1957), 11 D.L.R. (2d) 655 (Ont. S.C.)

24. **R. v. Beaudry**, 2007 SCC 5
25. **R. v. Hamlink (Re)** (1912), 26 O.L.R. 381 (Ont. S.C.)
26. **R. v. Hearn**, 1989 CanLII 3938 (NL CA)
27. **R. v. Watson**, 2010 ONSC 6765
28. **Reference re Remuneration of Judges of the Provincial Court of Prince Edward Island**, [1997] 3 S.C.R. 3
29. **RWDSU v. Dolphin Delivery Ltd.**, [1986] 2 S.C.R. 573
30. **Shuttleworth v. Ontario (Safety, Licensing Appeals and Standards Tribunals)**, 2019 ONCA 460
31. **Slaight Communications Inc. v. Davidson**, [1989] 1 S.C.R. 1038
32. **Sunrise North Senior Living Ltd. v. Sheriff (Regional Municipality of York)**, 2020 ONSC 469
33. **TD Insurance v. Sivakumar**, 2023 ONSC 5258
34. **Temoin v. Martin**, 2012 BCCA 250
35. **Tobin v. Collings**, 2018 ONSC 6418
36. **Valente v. The Queen**, [1985] 2 S.C.R. 673
37. **Young v. Young**, [1993] 4 S.C.R. 3
38. **Zaki v. Canada (Citizenship and Immigration)**, 2013 FC 272

II. LEGISLATION AND REGULATIONS

1. **Courts of Justice Act**, R.S.O. 1990, c. C.43
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2. **Criminal Code**, R.S.C., 1985, c. C-46
    - Section 126 (Disobeying a statute)
    - Section 139 (Obstructing justice)
    - Section 512.1 (Warrant for arrest - failure to appear for Identification of Criminals Act)
    - Section 597 (Warrant for arrest on indictment)
3. **Identification of Criminals Act**, R.S.C., 1985, c. I-1
4. **Insurance Act**, R.S.O. 1990, c. I.8
    - Section 129 (Relief from forfeiture)

- **Rules of Civil Procedure**, R.R.O. 1990, Reg. 194
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  - Rule 37 (Motions - Jurisdiction and Procedure)
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Tab 2

FORM 59A[47]

Courts of Justice Act

ORDER

Court file no. DC-24-00000718-00JR

ONTARIO SUPERIOR COURT OF JUSTICE

(**DIVISIONAL COURT**)

_____ _____ _____

The Honourable Mr. Justice Morawetz Date:

[SEAL]

BETWEEN:

KEVIN ALEXANDER MCLEAN

APPLICANT

- AND -

TD HOME AND AUTO INSURANCE COMPANY, SECURITY NATIONAL INSURANCE COMPANY, TD GENERAL INSURANCE COMPANY, EXECUTIVE DIRECTOR, LICENCE

APPEAL TRIBUNAL, HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, REPRESENTED BY EXECUTIVE CHAIR OF TRIBUNALS ONTARIO IN MR. SEAN WEIR, THE ATTORNEY GENERAL OF ONTARIO

RESPONDENTS

ORDER

THIS MOTION, initiated by the Applicant, Mr. Kevin A. McLean (BA, JD, CIM) (the "Moving Party") seeking comprehensive and multifaceted interlocutory relief—encompassing the abridgment of temporal requirements, the judicial dispensation of various procedural formalities prescribed under the *Rules of Civil Procedure*, and mandatory directions by the President of the Divisional Court to the Registrar, court staff et al, directed specifically at the administrative conduct of the Registrar of the Divisional Court—was adjudicated this day via written format, without oral argument and in the absence of the public at the Divisional Court, Osgoode Hall, 130 Queen Street West, Toronto, Ontario (the "Divisional Court");

ON READING the *Notice of Motion #3* and the *Compendia* associated therewith of which the most recent iteration was deposited via postal mail filing ("Mail Filing") on December 11, 2025; the *Motion Record for Motion #4*; the exhaustive electronic filings submitted via the Ontario Courts Plus Portal (OCPP) during the period spanning November 2025 to December 15, 2025; and the supporting documentation comprising a voluminous record of electronic communications, evidentiary attachments, and facsimiles transmitted to the President of the Divisional Court and the respective Registrars from November 17, 2025, to the present date (collectively, the "**Supporting Documentation**"); and further noting that this motion was adjudicated in the absence of the public and without the necessity of oral advocacy or the physical attendance of the parties, the Court being satisfied that the written record is sufficient for the determination of the issues herein:

I. DISPENSATION OF PROCEDURAL FORMALITIES AND FILING REQUIREMENTS

1. **THIS COURT DECLARES** that the requirement for the filing of a *Form 37A* is hereby dispensed with *nunc pro tunc*. This Court DECLARES that it is satisfied that such compliance was rendered structurally impracticable by the exigent circumstances of this proceeding and unnecessary on account of the Registrar's

failure to discharge her corollary legal duties would have rendered any subsequent attempt at compliance *ultra vires* any effective or timely remedy, thereby necessitating judicial intervention to preserve the integrity of the process;

2. **THIS COURT ORDERS** that strict adherence to the substantive content requirements of *Rule 37.06* regarding the *Form 37A* is waived in and dispensed with in their entirety, as the Court finds that the information provided within the **Supporting Documentation** adequately apprises the judiciary of the relief sought and the grounds therefor;
3. **THIS COURT ORDERS** that the service requirements pursuant to *Rule 37.07* are formally dispensed with, and the electronic transmission of *Form 59A* along with all **Supporting Documentation** via email shall be deemed sufficient and effective service for the purposes of the *Rules of Civil Procedure,* notwithstanding any technical non-compliance with standard service protocols;
4. **THIS COURT ORDERS** that the filing obligations under *Rule 37.08* and the requirement to provide a *"Confirmation of Motion"* under *Rule 37.10.1* are dispensed with; notwithstanding this judicial dispensation, any "Confirmation of Motion" subsequently provided by the Moving Party for the record shall be deemed effective and received as of December 23, 2025, for all procedural intents and purposes.

II. ABRIDGMENT OF TIME AND THE DETERMINATION OF URGENCY

5. **THIS COURT ORDERS** that the time for service and filing of the *Motion* by provision of a Draft Order and Supporting Documentation is a sufficient substitute for a "Notice of Motion" and all ancillary or supporting materials be and is hereby abridged to the time of actual service. THIS COURT FURTHER DECLARES AND ORDERS that this motion is declared to be properly returnable this day, and all further temporal requirements or waiting periods prescribed under the *Rules of Civil Procedure* are hereby waived to prevent the irreparable prejudice that would result from further administrative delay.
6. **THIS COURT DECLARES** that the matters raised herein constitute an urgent motion for judicial intervention, as the administrative functioning of the Court's registry is central to the Moving Party's right to

a fair and timely adjudication of his substantive NOM #3 and subsequent steps in the JRPA Proceeding and the constitutionally required judicial independence of this Divisional Court;

III. MANDATORY INJUNCTIVE RELIEF AND THE DISCHARGE OF REGISTRARIAL DUTIES

7. **THIS COURT ORDERS**, pursuant to the inherent jurisdiction of this Court and the specific mandates of *Section 76* of the *Courts of Justice Act*, wherein Registrars and court staff are subject to the direction of the judiciary in matters assigned by law to the judiciary of which the issues herein constitute matters assigned by law to the judiciary, that the Current Registrar shall forthwith discharge all extant and successor obligations previously attributable to the Former Registrar. This Court clarifies that administrative obligations are not personal to the incumbent but attach to the office; *ipso facto*, the Current Registrar is bound to rectify any prior omissions and execute her duties *instanter* in accordance with the relevant statutes, regulations, and common law principles of procedural fairness;
8. **THIS COURT ORDERS** the Registrar to immediately facilitate the upload of all documents deposited by electronic filing by the Moving Party to the Case Center platform. **THIS COURT DECLARES** that this measure is imperative to ensure the maintenance of a complete, accurate, and transparent digital record and to ensure that the *Notice of Motion #3* and all supporting compendia are brought to the immediate attention of the presiding motions judge and any future panels (if applicable) assigned to this *Judicial Review Procedure Act* proceeding.
9. **THIS COURT ORDERS** the Registrar to transmit an electronic invitation for the relevant Case Center bundle to the Moving Party immediately and/or upon the issuance of this Order. Subsequently, the Moving Party shall upload the *Compendium for Notice of Motion #3* within twenty-four (24) hours of receipt of said invitation, as contemplated by the digital filing protocols under *Rule 4.05.3*.

IV. DECLARATIONS CONCERNING RESPONDENTS' PROCEDURAL DEFAULT

10. **THIS COURT DECLARES**, following a comprehensive and meticulous review of the OCPP Case View and the Moving Party's formal Requisitions and Requests in December 2025 of which have been received by

the Divisional Court via email and in "received status" in the OCPP without due processing, that the Respondents who purported to serve or served their NOA's on the Applicant, have failed, neglected, or otherwise omitted to file, with proof of service, those *Notices of Appearance* as mandated by *Form 68A* for proceedings involving a self-represented litigant; namely the Applicant herein. Consequently, the Respondents are in a state of procedural default regarding the required filing and provision of proof of service as per the Rules of Civil Procedure of which require compliance by Respondents with the forms under the Rules of Civil Procedure, and the Court shall proceed on the bases of the Respondents previous and ongoing defaults until or if rectified;

11. **THIS COURT DECLARES** that the Moving Party achieved lawful and effective filing by mail, pursuant to the permissions granted under *Rule 4.05(4)*, for the following instruments: a) The *Draft Order* dated December 4, 2025 (deemed filed December 8, 2025); and b) The *Compendium for Notice of Motion #3* dated December 7, 2025 (deemed filed December 11, 2025).

V. JUDICIAL ASSIGNMENT AND THE ADJUDICATION OF SUBSTANTIVE RELIEF

12. **THIS COURT ORDERS** the immediate assignment of an independent motions judge to determine the merits of the Moving Party's *Notice of Motion #3*. To ensure the highest standards of judicial impartiality and to avoid any perception of bias, said member of the judiciary shall have had no prior conflicting involvement with the parties, the administrative staff involved, or the underlying subject matter of this litigation.
13. **THIS COURT ORDERS** that the assigned judge shall adjudicate the relief sought in *Notice of Motion #3* on both an interim and permanent basis. The Court recognizes the necessity for prompt resolution and directs that an Order be issued with formal reasons for the decision to be provided *post hoc* at the Court's earliest convenience.

VI. CONDITIONAL WRIT OF MANDAMUS AND ADMINISTRATIVE ACCOUNTABILITY

14. **THIS COURT ORDERS** that in the event of continued non-compliance by the Registrar with the aforementioned public legal duties within twenty-four (24) hours of the receipt of this Order, the Moving

Party is at liberty to seek a *Writ of Mandamus* to compel the performance of these ministerial acts. Such application may be made via written submissions or a *Factum*, however so styled, with the effective date of filing being the date of electronic transmission to the Court;

15. **THIS COURT DECLARES** that the determination of issues involving the potential issuance of a *Writ of Mandamus* remains independent of the orders granted herein; the Registrar's obligation to comply with the directives of this Court remains absolute and is not stayed by any pending or future submissions. The Responding Registrar Parties shall be required to submit responsive arguments regarding any alleged non-compliance within three (3) business days of the Moving Party's notification to the Court;

VII. EFFECTIVE DATE, SETTLEMENT, REPRESENTATION, AND COSTS

16. **THIS COURT ORDERS** that this Order shall be effective immediately upon its pronouncement and the provision of an email confirmation to the Moving Party. Pursuant to the provisions of *Rule 59.04*, this Order shall be settled and signed by the President of the Divisional Court without the requirement for approval as to form or content by any other party or person affected by these proceedings.
17. **THIS COURT DECLARES** that the Former Registrar or Current Registrar are entitled to be represented by a duly qualified and practising lawyer licensee of the LSO in relation to the above and to the extent that they wish to be represented by said individual, said individual must notify the Divisional Court and the Applicant of their representation and scope therein; and
18. **THIS COURT ORDERS** that should the Responding Parties fail to comply with these directives within the stipulated timeframes or otherwise oppose the relief granted herein through further administrative obstruction, the Moving Party shall be entitled to seek costs. Such costs shall be determined following the submission of a five-page written costs memorandum delivered electronically to this Court, via email, detailing the additional burden placed upon the Moving Party by the Respondents' continued default with their public legal duties to act, owed to the Applicant, and without remedying the same in the face of a multitude of written demands.

_____

*(Signature of judge, officer or **Registrar**)*

RCP-E 59A (November 1, 2005)

Tab 3

Court File No. DC-24-00000718-00JR

Courts of Justice Act

ONTARIO SUPERIOR COURT OF JUSTICE (DIVISIONAL COURT)

BETWEEN:

KEVIN ALEXANDER MCLEAN

APPLICANT

- AND -

TD HOME AND AUTO INSURANCE COMPANY, SECURITY NATIONAL INSURANCE COMPANY, TD GENERAL INSURANCE COMPANY, EXECUTIVE DIRECTOR, LICENCE APPEAL TRIBUNAL, HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, REPRESENTED BY EXECUTIVE CHAIR OF TRIBUNALS ONTARIO IN MR. SEAN WEIR, THE ATTORNEY GENERAL OF ONTARIO

RESPONDENTS

APPLICANT'S COMPENDIUM FOR APPLICANT'S NOM #3
(As of December 7, 2025, 1st Updated Compendium
Includes Tabs 67 to 71
Requisitions #11, #12 and #13 (Dec 2, 2025 (x2) and December 3, 2025)
****FILED VIA MAIL OR DROP OFF PURSUANT TO RULES OF CIVIL PROCEDURE - HARD COPY ONLY****

Date of Hearing: Wednesday, December 3, 2025 (via "written hearing")

#	Document	Exhibit	Date of Document	Pages
1.	Factum of the Applicant for NOM #3		Nov 18, 2025	1 to 46
2.	NOM #3 of the Applicant		Nov. 17, 2025	47 to 135
3.	Statutory Declaration of the Applicant (since that time expressly adopted by affidavit in Tab #22)		October 13, 2025	136 to 1433
	Body of Stat Dec.			137 to 198
	Compilation of electronic mail correspondence exchanged between Applicant with the Superior Court of Justice Recording Management Office	"A"		199 to 248

	(“**SCJ RMO**”) from August to September 2025			
	Electronic mail chain between Applicant and SCJ Criminal Intake Office (Room 241) and the Divisional Court	“B”		249 to 261
	It contains an electronic mail communication dated August 31, 2025, dispatched to the Toronto Police Service (“**TPS**”) and its Chief Legal Officer	“C”		262 to 265
	Exhibit is an electronic mail thread from July to August 2025, concerning a request for records under the Freedom of Information and Protection of Privacy Act (*FIPPA*). It was directed to Ms. Havovi Viccajee of the Ministry of the Attorney General (MAG) and the *FIPPA* division	“D”		266 to 277
	Exhibit comprises an electronic mail thread from August 2025, meticulously addressed to the SCJ RMO.	“E”		278 to 293
	Exhibit contains an email from CSMD Diversion (MAG) dated August 26, 2025, and my ensuing formal and detailed response. The CSMD email, alarmingly, alleges that I have engaged in inappropriate communications with the Chief Justice, which were then forwarded to the Justice Sector Security Office (“JSSO”).	“F”		294 to 328
	Exhibit contains, *inter alia*, is a **Transcript Order Form** of an Ontario Court Proceeding, dated March 20, 2025, that I completed to request a transcript of a pre-enquête hearing. The form contains an extensive and intricate narrative in the “Additional Details” section. This narrative meticulously outlines my deductions and legal reasoning for believing that the hearing was presided over by Madam Justice	“G”		329 to 334

	Store and that a "**False Information Package**" was used by the Toronto Police Service (TPS). The form also details numerous and manifest deficiencies in the allegedly false document, including the absence of a proper judicial signature, manipulated fonts, and an erroneous page numbering scheme, all of which lend support to the contention that the document is spurious			
	This **Exhibit** contains, *inter alia*, a formal letter, sent via facsimile and mail to the Honourable Chief Justice of the Superior Court of Justice, Mr. Geoffrey B. Morawetz, and the Regional Senior Justice, Mr. Stephen E. Firestone. The letter, dated August 23, 2025, respectfully requests judicial intervention to resolve two persistent procedural impasses with the SCJ RMO. It re-states the issues of the SCJ RMO's refusal to provide audio recordings and its failure to provide a definitive timeline for pickup. The letter cites the *Courts of Justice Act*, particularly section 76(1), and the MAG CSD Court Information Access Guide to establish the judiciary's supervisory authority over court staff and records, arguing that administrative inaction is not merely an inconvenience but a material impediment to my lawful access to justice	"H"		335 to 356
	This Exhibit "I" contains, *inter alia*, the following documents. This is a **Transcript Order Form** with extensive and detailed content, including a Schedule "A" which presents a granular, 41-point analysis of the purported "False Information Package."	"I"		357 to 391
	This Exhibit is an electronic mail thread from August 2025, addressed to Zoom's Privacy Team, concerning a formal access request under the *Personal Information Protection and Electronic Documents Act (PIPEDA).*	"J"		392 to 402

	This **Exhibit** contains an electronic mail thread from July 2025 to Versaterm (**eJust Systems, Inc.**), a third-party technology provider that holds a contract with the Ontario government for the **Criminal E-Intake Platform**. I repeat and rely upon my previous evidence as per the distinctions between the OCJ (ICON System with Criminal E-Intake Platform) and the SCJ (FRANK System with a paper and electronic hybrid system).	"K"		403 to 410
	This **Exhibit** contains an electronic mail thread from July 2025, addressed to the Ontario Court of Justice (OCJ) at the 10 Armoury Street courthouse and other parties, including the South Toronto Crown. The emails serve as a formal notification and confirmation of a stay of proceedings, asserting that service of my Notice of Application on July 11, 2025, effected a stay ipso facto pursuant to *Criminal Proceedings Rules*, Rule 43.03(5).	"L"		411 to 417
	This **Exhibit** contains an electronic mail thread from August 2025, addressed to the Divisional Court, in which I formally requested the production of files and documents under the MAG CSD Court Information Access Guide . I argued with detailed legal reasoning, in my view, that a Superior Court Justice or "Judge" (see: Criminal Proceeding Rules, Rule 1.03 for definition), even when designated to a Divisional Court rotation, retains jurisdiction over criminal matters. also note that an SCJ Judge who receives a sworn or declared affidavit along with an application for a "general warrant" and/or a sworn Form 1 in support of certain type(s) of warrants under section 487.1, whether in person or by telecommunication, is required to hear and consider the same but not necessarily grant the same. The correspondence cites a detailed analysis	"M"		418 to 429

	of the *Criminal Code*, particularly section 487.1, and its implications for telecommunication-based warrants. I also seek to definitively confirm the jurisdictional locus of control over records, particularly in the absence of a designated physical courtroom, thereby highlighting the ambiguity that has pervaded the entire proceeding			
	This **Exhibit** is an extensive electronic mail thread from June and July 2025, directed to the Office of the Chief Justice of the Ontario Court of Justice ("OCJ"), the Regional Senior Justices, and other representatives. The emails detail my urgent requests for court records, including a "Form 2 Information" and a post-docket list from September 23, 2024	"N"		430 to 556
	This **Exhibit** contains an email thread from July 2025, addressed to the OCJ Toronto Armoury Courthouse and others. The correspondence provides a high-level forensic and metadata analysis of the "False Document Package," concluding that it was likely fabricated or maliciously manipulated using	"O"		557 to 591
	This **Exhibit** contains reference to a copy of the Ministry of the Attorney General's Court Services Division Policies and Procedures on Public Access to Court Files, Documents and Exhibits, Revised April 2019 (the "MAG CSD Court Information Access Guide" or "MAG CSD Guide").	"P"		592 to 598
	This **Exhibit** contains, *inter alia*, an electronic mail thread from June and July 2025, addressed to various TPS Divisions within the Toronto Region	"Q"		599 to 632
	This **Exhibit** is an electronic mail thread from June 2025, addressed to the Ministry of the Attorney	"R"		633 to 642

	General, CSD Records Division, and key contacts, including Ms. Katie Wood, the Assistant Deputy Attorney General			
	This **Exhibit** contains an electronic mail thread from June 2025, directed to Superintendents of the TPS 14th and 52nd Divisions and various police officers. The emails constitute a formal written demand for a copy of the arrest warrant, as required by the *Criminal Code*, section 29	"S"		643 to 655
	This **Exhibit** contains an email thread from May and June 2025, addressed to the SCJ CSD Records division. The correspondence reiterates my request for administrative records related to a criminal proceeding, including the identity of the justice who issued a warrant on or around September 23, 2024. The emails challenge the administrative structure and record-keeping protocols of the Ministry, referencing a prior email from "**SCJ Correspondence (JUD)**" and arguing that the Ministry is responsible for maintaining a record of judicial activities. I submit that this communication demonstrates the jurisdictional and administrative confusion surrounding the entire matter, and that a clear judicial directive is required to resolve this systemic issue.	"T"		656 to 751
	Emails from the Crown (OCJ 10 Armoury Street Courthouse) to stop emailing Mr. Rudra although he was the Assigned Crown	"U"		752 to 754
	This **Exhibit** contains, *inter alia*, an extensive electronic mail thread from October 2024 to May 2025, addressed to the Centre for Addiction and Mental Health ("CAMH") Privacy Division along with documents related to the "ruse" and "trickery" in my view that were performed, de facto, by the TPL, CAMH and the thieves of my property (Mr. David Karat) and subsequent impersonators of myself.	"V"		755 to 775

	25. The emails document a formal request under *FIPPA* for video footage of my backpack being stolen from the CAMH premises on October 25, 2024.			
	The Bribery (Secret Commission): consecutively numbered pages, are copies of documents from OnLand, dated various dates including today, involving the title search, inclusive of deleted and active instruments, of the Fleetwood Drive Home.	"W"		776 to 807
	a. copy of emails involving myself the Divisional Court; b. Copies of emails involving myself and the Respondents; c. Copies of emails involving myself and Thomson Reuters (Case Center access and set up) and Ms. Lawrence, a court staff individual of the Divisional Court; and d. Other copies of various emails referenced above and in my Notice of Motion	X		808 to 1211
	Copies of various documents further evidencing the fraud committed upon me and as I verily believe the fraud committed on the court or the tainting of the legal process and proceeding herein. I continue to demand the return of my property and to the extent that it is not returned to me within 24 hours, I will provide further evidence to assist this Honourable Court regarding the return of the same	"Y"		1213 to 1430
	Request Form Undertaking, without digital signature, for digital recordings involving the two case conferences	"Z"		1431 to 1432
4.	**Statutory Declaration of the Applicant** (since that time, the facts and beliefs therein, expressly adopted by Affidavit		November 14, 2025	1433 to 2132
	Body of the Stat. Dec.			1433 to 1544
	Exhibit "A" : No "First Defence" filed: JRPA Application undefended	"A"		1545 to 1554

	The LAT and Respondent Insurance Companies failed to "file" their Notices Of Appearances after purported service and actual service of the same:			
	Now produced and marked as Exhibit "B" are copies of my Affidavit #37 (LAT Appeal) and attendant correspondence dated September 19, 2024, followed by the notification of potential judicial review on September 28, 2024.	"B"		1555 to 1608
	FILED AND SERVED HRTO APPLICATION AND NOCQ IN HRTO PROCEEDING: OCTOBER 15, 2024; AND NOVEMBER 7, 2024; AND NOW CONTEXTUAL FACTS INVOLVING THE SAME	"C"		1609 to 1674
	SERVICE OF MY JRPA APPLICATION ON NOVEMBER 15, 2024	"D"		1675 to 1688
	REQUEST OF THE DEPUTY ATTORNEY GENERAL OF ONTARIO Date: November 2025	"E"		1689 to 1700
	PIPEDA REQUEST OF ZOOM IN RELATION TO OBTAINING MY PERSONAL INFORMATION – CASE CONFERENCES IN DIVISIONAL COURT BEFORE MADAM JUSTICE SHORE	"F"		1701 to 1730
	COMMUNICATIONS WITH THE ARCHIVES OF ONTARIO ("AOO")	"G"		1731 to1804
	EXHIBIT "H": SOLGEN ACCESS REQUEST: FRAUDULENT MANIPULATION OF ONTARIO GOVERNMENT LOGO	"H"		1805 to 1849

	EXHIBIT "I": MCLEAN V LAT AT THE OIPC: APPEAL UNDER *FIPPA*: PA25-00294	"I"		1850 to 1973
	EXHIBIT "J": MINISTRY OF SOLEN AND THE HONOURABLE MR. SOLGEN KERZNER	"J"		1974 to 2068
	EXHIBIT "K: TRIBUNALS ONTARIO: ADDRESS AT 19TH FLOOR, 25 GROSVENOR STREET, TORONTO, ONTARIO AND THE DISTINCTION BETWEEN "NON-NATURAL PERSON	"K"		2069 to 2105
	EXHIBIT "L": REQUEST FOR PRIMA FACIE ADJUDICATIVE RECORDS UNDER *TARA*	"L"		2106 to 2121
	EXHIBIT "M": MRI RESULTS of the Applicant in Summer of 2025 (demonstrating severe and serious degeneration and worsening of impairments since the Accident Date)	"M"		2122 to 2123
	EXHIBIT "N": DOCUMENTS (EMAILS) REGARDING MR. SINNADURAI AS COUNSEL TO MADAM JUSTICE SHORE	"N"		2124 to 2130
5.	JRPA Application of the Applicant		November 15, 2024	2133 to 2160
6.	Applicant's Factum (nota bene: Applicant's Application Record (December 10, 2024) was filed and served, with proof of delivery (December16, 2024)		December 12, 2024	2161 to 2227
7.	Applicant's Certificate of Perfection		December 13, 2024	2228 to 2233
8.	Requisition #1 of Applicant (request for a "listing hearing" pursuant to Rule 68.05 of the Rules of Civil Procedure and Rule 4.08)		Filed: December 24, 2024 Stamped: January 28, 2025	2234 to 2238
9.	Requisition #2 (request for an urgent hearing pursuant to section 6(2) of the JRPA)		Filed: December 24, 2024	2239 to 2246

10.	NOM #1: Issued Copy and Misc. Document and NOM #1 Motion Record		January 23, 2025	2247 to 2441
11.	NOM #1: Draft Order		January 29, 2025	2442 to 2248
12.	NOM #1: Written Submissions		January 30, 2025	2449 to 2463
13.	NOM #2 Motion Record (to be heard on February 14, 2025)		January 31, 2025 to Feb 1, 2025	2464 to 2887
14.	NOM #2: Factum For Motion In Writing		February 1, 2025	2888 to 2928
15.	NOM #2: Confirmation of Motion with "filing proof" and "filing summaries" from the JSO Portal		February 2, 2025	2929 to 2937
16.	Requisition #3, #4, #6: Rule 37.10 – Applicant – McLean (with filing proof and summaries from JSO Portal)		January 11, 2025 January 20, 2025 February 5, 2025	2938 to 2951
17.	Requisition #7: Invitation Case Center – JRPA Guide		February 5, 2025	2952 to 2958
18.	Draft Order NOM #2		February 14, 2025 (stamped on February 14, 2025)	2959 to 2970
19.	Applicant's NOCQ		March 4, 2025	2971 to 3002
20.	Amended JRPA Application		March 5, 2025	3003 to 3085
21.	Draft Order for NOM #3		November 18, 2025	3086 to 3098

24	Affidavit of Service of the Applicant of November 21, 2025		November 21, 2025	3099 to 3150
		Ex A Tabs		
	Service of NOM #3 and Applicant's Statutory Declaration (Evidence Act) on the Respondents (November 17, 2025) on the Respondents including the AGC Service of the NOM #3 Motion Record on the aforementioned	#1		
	Service of the NOM #3 Motion Record on November 20, 2025, on Ms. Dunk (the spouse of Mr. Karat, a paralegal at Himelfarb Prozanski), Mr. Karat (an employee or contractor to four insurance companies in the TDIA Group in TDHA, SNIC, and TDGIC) and the Epstein Cole LLP Client	#2		
	Service of the NOM #3 Motion Record on Thursday, November 20, 2025, on the Toronto Police Services Board ("TPS") attention: chief legal officer in Ms. Falguni Debnath and legal services department	#3		
	Service of the NOM #3 Motion Record on Thursday, November 20, 2025, on the Ministry of Solicitor General ("MSG"), the Honourable Solicitor General, Mr. Michael Kerzner (the "SOLGEN") and other individuals associated, with the MSG	#4		
	Service of the NOM #3 Motion Record on Thursday, November 20, 2025, on Mr. Sinnadurai, counsel to Madam Justice Shore	#5		

COMPONENT OF COMPENDIUM FOR NOM #3: NOT INCLUDED IN THE NOM #3 MOTION RECORD OF NOVEMBER 19, 2025 AND 1ST UPDATED MOTION RECORD OF NOVEMBER 21, 2025 (INCLUDED THE PROOF OF SERVICE)

23.	Divisional Court JRPA Guide (as of 2024 and January 2025 to June 30, 2025)		2022 to June 30, 2025	3151 to 3160
24.	Current Divisional Court JRPA Guide as of July 1, 2025 (by metadata): ▪ unclear when it was issued by the Divisional Court ▪ **1.07** (1) In this rule, o "practice direction" means a direction, notice, guide or similar publication for the purpose of governing, subject to these rules, the practice for proceedings. O. Reg. 132/04, s. 1.		July 1, 2025	3161 to 3171
25.	Confirmation of Motion (Form 37(B)), served and filed by Applicant on **November 24, 2025** ▪ Compliance with Rule 37.10.1 of the Rules of Civil Procedure (must be provided via email to the Registrar via court (Divisional Court) email before		**November 24, 2025**	3172 to 3247
26.	Applicant's Requisition: ▪ documents (if any) filed by Respondents (excluding AGO who formally confirmed that it would not be participating or need to be heard in the hearing of the JRPA Application) in 2025 (with affidavit #23 from April 2025)		November 26, 2025	3248 to 3388
27.	Applicant's Requisition:		November 26, 2025	3389 to 3475

	▪ invitation of access to Case Center for purposes of uploading this Compendium at 2 p.m. three days before December 3, 2025 hearing date			
28.	Applicant's Costs Submissions of November 26, 2025: ▪ Time period: November 15, 2024 to December 3, 2025		November 26, 2025	3476 to 3515
29.	Applicant's Draft Bill of Costs of November 27, 2025: ▪ from November 15, 2024 to December 3, 2025 (Form 57(B))		**November 27, 2025**	3516 to 3544
	From the February 11, 2024, served and filed Compendium for the NOM #2 Motion			
30.	**APPLICANT**'S OUTLINE TO February 2025 (served and filed) **COMPENDIUM**		February 14, 2025	3545 to 3695
31.	**Index to Compendium (1st Amended)**			3696 to 3710
32.	Tab #2 in served and filed February 2025 Compendium ▪ VCM Decisions involving NOM #13 to #15 of the Applicant o (Nota bene: only NOM #14 and #15 under judicial review and select orders further denoted in NOM #2 by reference to those final decisions, determination or exercises of statutory powers of decisions or purported exercises of statutory powers of decisions or refusal to exercise a statutory power of decision (i.e. dismissal		September 13, 2025	3711 to 3723

	of the relief sought involving amending pleadings; dismissal of relief to add a party *et al*);			
33.	Tab #3 in served and filed February 2025 Compendium: ▪ VCL Decision of October 15, 2024, but received on October 16, 2024		October 16, 2024 (received)	3724 to 3729
34.	Tab #4 in served and filed February 2025 Compendium: ▪ Vice Chair Lake ("VCL") Decision of January 16, 2024;		January 16, 2024	3730 to 3735
35.	Tab #5 in served and filed February 2025 Compendium: ▪ LAT Order of February 13, 2024;		February 13, 2024	3736 to 3739
36.	Tab #6 in served and filed February 2025 Compendium : ▪ Applicant's LAT Appeal pursuant to section 280(2) of the *Insurance Act*		December 24, 2023	3740 to 3751
37.	Tab #7 in served and filed February 2025 Compendium : ▪ Response to LAT Appeal o by SNIC and not TDGIC prima facie signed by Mr. David Karat, a non-licensee and unauthorized to have completed and signed the same on account of the Law Society Act and the LSO By-Laws;		January 24, 2024	3752 to 3757

38.	Tab #8 in served and filed February 2025 Compendium: ▪ Affidavit #3 of the Applicant in the LAT of October 31, 2023		October 31, 2023	3758 to 3789
39.	Tab #9 in served and filed February 2025 Compendium: ▪ Select Evidence from NOM #3: Appendices: October 2023: e-claims workflow; February 2024: Mr. Nieuwland's fraudulent misrepresentation that Mr. Papadimitropoulos ("Epstein Cole LLP Client") had not been involved in any way with Applicant's claim or access request but based on a fictitious claim number with a "04"Affidavit #30 in the LAT Proceeding of the Applicant on July 31, 2024;		October 2023 and February 2024 (seminal dates)	3790 to 3900
40.	Tab #11 in served and filed February 2025 Compendium: ▪ Affidavit #38 in the LAT Proceeding of the Applicant of September 28, 2024		September 28, 2024	3901 to 3922
41.	Tab #12 in served and filed February 2025 Compendium: ▪ Affidavit #17 in the LAT Proceeding of the Applicant on April 14, 2024		April 14, 2024;	3923 to 3983
42.	Tab #13 in served and filed February 2025 Compendium: ▪ Affidavit #18 in the LAT Proceeding of the Applicant made on April 15, 2024		April 15, 2024	3984 to 3991

43.	Tab #14 in served and filed February 2025 Compendium: ▪ Affidavit #21 in the LAT Proceeding of the Applicant made on May 3, 2024		May 3, 2024	3992 to 4004
44.	Tab #15 in served and filed February 2025 Compendium: ▪ Affidavit #22 in the LAT Proceeding of the Applicant made on May 10, 2024		May 10, 2024	4005 to 4016
45.	Tab #16 in served and filed February 2025 Compendium: ▪ Affidavit #23 in the LAT Proceeding of the Applicant made on May 11, 2024		May 11, 2024	4017 to 4021
46.	Tab #17 in served and filed February 2025 Compendium: ▪ Affidavit #24 in the LAT Proceeding of the Applicant, made on May 15, 2024		May 15, 2024	4022 to 4041
47.	Tab #18 in served and filed February 2025 Compendium: ▪ Affidavit #27 in the LAT Proceeding of the Applicant, made on June 10, 2024		June 10, 2024	4042 to 4051
48.	Tab #19 in served and filed February 2025 Compendium: ▪ Affidavit #28 in the LAT Proceeding of the Applicant, made on **July 5, 2024**		**July 5, 2024**	4052 to 4063
49.	Tab #20 in served and filed February 2025 Compendium:		April 24, 2024	4064 to 4088

	▪ Affidavit #19 in the LAT Proceeding of the Applicant, made on April 24, 2024;			
50.	Tab #21 in served and filed February 2025 Compendium: ▪ **Affidavit #31** in the LAT Proceeding of the Applicant, made on **August 16, 2024**		**August 16, 2024**	4089 to 4135
51.	Tab #22 in served and filed February 2025 Compendium: ▪ **NOM #14 Motion Submission** of the Applicant before the LAT in the LAT Proceeding filed and served on August 3, 2024 (*Nota bene*: motion was unopposed by the Respondent Insurance Companies);		August 3, 2024	4136 to 4147
52.	Tab #23 in served and filed February 2025 Compendium: ▪ Tab #22 in NOM #13: images of the East Mall Address from August 4, 2024 demonstrating that the location of the Applicant's apparent HCAI situated insurer, which being TDHA but through concealment, was a construction site or "hole in the ground";		August 4, 2024	4148 to 4153
53.	Tab #24 in served and filed February 2025 Compendium: ▪ **NOM #18 Motion Submissions** of the Applicant, dated September 29, 2024 (the "**Ss. 21.1 of the SPPA Motion**")		September 29, 2024	4154 to 4162
54.	Tab #25 in served and filed February 2025 Compendium:		September 29, 2024	4163 to 4187

	▪ Reconsideration Motion of the Applicant to the LAT in the LAT Proceeding on September 29, 2024 (*nota bene*: 15 days after the VCM Decision was issued to the Applicant and SNIC, the only "party" per se as it filed a Response under the LAT Rules (AABS), and the fictitious respondent in TDGIC and the sought to be added, although unopposed, in the First Insurer (TDHA) (*nota bene* #2: this was 16 days after the LAT issued a Notice of Hearing for the Applicant's NOM #16 which provided the actual fax for SNIC by the LAT Registrar (September 12, 2024) which was 905-315-1074);			
55.	Tab #26 in served and filed February 2025 Compendium: ▪ *Reg 283;*		1995 et seq	4188 to 4196

56.	Tab #27 in served and filed February 2025 Compendium: ▪ *Reg 664, section 9.1 and 10*		1990 et seq	4197 to 4200
57.	Tab #28 in served and filed February 2025 Compendium: ▪ *UDAP Rule*		2024	4201 to 4213
58.	Tab #29 in served and filed February 2025 Compendium: ▪ *SABS* or the Schedule;		2010 et seq	4214 to 4276
59.	Tab #30 in served and filed February 2025 Compendium: ▪ *Zurich 2024* as per The Honourable Mr. Justice Akazaki of the SCJ (Toronto Region) (see: 2024 ONSC 2929)		2024 (May)	4277 to 4296
60.	Tab #31 in served and filed February 2025 Compendium: Bateman (see: 2014 ONFSCDRS 14) ▪ Trickery of the past with Intact rearing its head with SNIC, TDGIC and TDHA (two file numbers (in fact they had more than two for self-evident reasons)		2014 (predecessor to the LAT in the ONFSCDRS)	4297 to 4301
61.	Tab #32 in served and filed February 2025 Compendium: ▪ *Beasley et al v. Barrand* (2010) (see: 2010 ONSC 2095 as per The Honourable Justice Moore (April 9, 2010)		2010	4302 to 4305
62.	Tab #33 in served and filed February 2025 Compendium: ▪ FSRA Issued Documents including but not limited to:			4306 to 4317

	▪ FSRA Guidance Framework; ▪ FSRA document titled, "Affiliated insurer carrying on business as a common undertaking pursuant to s. 392.2(8) of the *Insurance Act"*			
63.	Tab #34 in served and filed February 2025 Compendium: ▪ *SPPA et seq* ["*SPPA*"]		1990 et seq (substantial changes in 2006 as per the Omnibus Bill titled, "Access To Justice Act, 2006"	4318 to 4341
64.	Tab #35 in served and filed February 2025 Compendium: Applicant's Submissions for NOM #15; (nota bene: undisclosed final motion order of August 16, 2025, has not been produced by the LAT despite requirement under section 10 of the JRPA and TARA, by request)		August 17, 2025	4342 to 4350
65.	Tab #36 in served and filed February 2025 Compendium: Affidavit #2 in the JRPA Proceeding ["**Urgent Hearing Single Justice Affidavi**t"] (nota bene: Requisition #1 (Form 68(B) requirement was filed on December 24, 2024) and Requisition #2 (ss. 6(2) of the JRPA was filed in the portal on December 24, 2024)		December 30, 2024	4351 to 4383
66.	Tabs #37 to #43 in the February 2025 Compendium are as follows: a. Tab #37 in the February 2025 Compendium: JRPA Application (November 15 2024) (see: supra) b. Tab #37 in the February 2025 Compendium: Applicant's Factum (December 12, 2024 (see: supra) c. Tab #37 in the February 2025 Compendium: "Certificate Of Perfection" (December 13, 2024)		Various	4383 to 4732

	d. Tab #37 in the February 2025 Compendium: Affidavit of Service for "Certificate Of Perfection" (December 16, 2024);; e. Tab #37 in the February 2025 Compendium: Requisition #1: Form 68(B) (see: supra) f. Tab #37 in the February 2025 Compendium: Requisition #2: section 6(2) of the JRPA (see: supra) g. Tab #37 in the February 2025 Compendium: Affidavit #3 of the Applicant in the JRPA Proceeding (January 8, 2025) (prompt objection to Madam Justice Shore)			
	Additional Tabs (if necessary to include before December 3, 2024)			
67.	Requisition #11 of Applicant: Re: Proof Respondents - JRPA ROP - did not "file" or "deliver" NOA's		Dec 2, 2025	4733 to 4752
68.	Requisition #12 of Applicant: Registrar comply with duties		Dec 2, 2025	4753 to 4759
69.	Requisition #13 of Applicant Registrar Comply with duties		Dec 3, 2025	4760 to 4772

#	Document	Exhibit	Date of Document	Pages
70.	Draft Order of December 4, 2025		December 4, 2025	4773 to 4790
71.	Requisition #14 Re: access to various documents pursuant to section 137 of the CJA et al		December 5, 2025	4791 to 4794

Tab 4

Via Registered and Tracked Courier

Date: December 7, 2025

Divisional Court File Designation	**24/718/00JR**
Short Style of Cause	*McLean v. TDHA et al.*
Document Type	Formal letter enclosing for mail filing the Compendium for NOM #3 as of December 7, 2025 (the “Mail Filed Compendium NOM #3” or “December 7 Compendium”)
Sender's Status	The Applicant and Moving Party in Notice of Motion No. 3 (*NOM #3*)
Sender's Name	Mr. Kevin A. McLean, B.A., J.D., C.I.M.

To:

The Divisional Court of Ontario (Toronto Region)

Osgoode Hall, 130 Queen Street West

Toronto, Ontario M5H 2N5

Attention: The New Registrar, Ms. Roxanne Parris, in Her Official Capacity and with All Attendant Ministerial Authorities and Statutory Responsibilities under the *Courts of Justice Act* (R.S.O. 1990, c. C.43, s. 98).

To be brought to the attention of the Presiding Motions Judge

I. Exordium: Designation and Procedural Imperative and Constitutional Integrity

This protracted epistolary communication is rendered absolutely necessitated by an overarching **procedural exigency**, specifically the persistent administrative **lacunae** and attendant complications experienced with the electronic filing modality. The recurrent technical failures of the Ontario Courts Public Portal (OCPP) have resulted in a demonstrable and sustained impairment of the Applicant's ability to seamlessly transmit the complete evidentiary record. These systemic failures include, but are not limited to, arbitrary upload size restrictions that violate the principles of **proportionality**, frequent system outages during critical filing windows, and the failure to provide the mandatory confirmation of accepted filing, which together have created an unacceptable state of **legal uncertainty** regarding the Court’s true possession of the record. This document serves to formally confirm the submission of the Applicant's definitive and complete Compendium for the Notice of Motion Number Three ("NOM #3") via physical, registered courier—a mode selected not out of preference, but out of absolute necessity, and is a function of the **residual right of access** when primary digital channels are demonstrably defective.

this undertaking represents an exhaustive and necessary, **prophylactic measure**—a protective action—taken to assiduously safeguard the fundamental integrity of the **adjudicative process** and to honour the substantive representations, both oral and written, previously tendered to the Divisional Court, specifically to the Registrarial Office, including the former Registrar, Ms. Gentles, and the current incumbent, Ms. Parris. The filing of this physical compendium is, therefore, a deliberate step to preemptively eliminate any potential ambiguity regarding the evidentiary record upon which the Court shall be asked to deliberate, thereby averting a potential **jurisdictional crisis** stemming from a deficient file. The principle of **procedural *vires*** dictates that a court must act within its bounds, and relying on an incomplete record due to administrative failure is a clear transgression of this boundary. It is *ipso facto* confirmed, without the slightest degree of equivocation, that this transmittal, designated as a critical component of the **Acta** of this particular judicial matter, must be supplied to the Presiding Motions Judge in Writing for their comprehensive, holistic, and unconstrained consideration of the entirety of the evidence prior to rendering a disposition. The failure to secure the complete and timely reception of this material prejudices the Applicant's fundamental constitutional rights, including the **right to be heard** on the merits of the evidence adduced, a principle inextricably linked to **natural justice** and the foundational common law requirement for **due process**.

II. Confirmation of Physical Filing and Determination of the *Prima Facie* Date

A. Mode, Date of Submission, and Compliance with *Rule 4.05(4)*

The Applicant hereby tenders irrefutable confirmation that the definitive and complete Compendium for NOM #3, a volumetrically substantial document inclusive of Tabs 1 through 71, was successfully and physically filed with the Divisional Court Office on the seventh day of December, 2025. This submission, conducted through the prescribed statutory method of mail or authorized courier, strictly adheres to the provisions and permissive language enumerated in *Rule 4.05(4)* of the *Rules of Civil Procedure*, which explicitly provides an alternative, reliable method for filing:

(4) Any document, other than one that is to be issued, may be filed by leaving it in the proper court office or mailing it to the proper court office, accompanied by the prescribed fee. R.R.O. 1990, Reg. 194, r. 4.05 (4).

This methodology was intentionally employed as a reliable alternative subsequent to the recognized, recurring functional deficiencies associated with the electronic portal, which have demonstrably resulted in detrimental delays and compromised the effective and timely presentation of the Applicant's case. The physical filing is thus the only legally certain method remaining to ensure that the document is received and its filing date secured, circumventing the electronic system's lack of **procedural certainty**.

B. Legal Extrapolation and Judicial Determination of the Filing Date: The *Nunc Pro Tunc* Effect

The juridical principle governing the precise moment of filing for documents submitted via this alternative, non-electronic modality is definitively articulated in the imperative language of *Rule 4.05(5)*, which mandates a specific statutory presumption of *prima facie* validity:

(5) Where a document is filed by mail, the date of the filing stamp of the court office on the document shall be deemed to be the date of its filing, unless the court orders otherwise.

It is therefore submitted, in accordance with the established rules of legal construction and the principle of presumed regularity, that the date corresponding to the Court Office's physical stamping upon this Compendium shall be **irrefutably deemed** the date of its filing. This provision legally sanctions the filing as timely, and any subsequent administrative delay in data entry cannot detract from the legal effect of this physical deposit. This mandatory presumption gives the filing a **nunc pro tunc** effect—meaning "now for then"—treating the filing as legally effective from the moment the Court Office physically stamped it, regardless of when it is digitally processed. This legal presumption remains fully efficacious and operative, subject solely to a specific, reasoned judicial directive to the contrary, which would necessarily be accompanied by a detailed explanation for such an extraordinary derogation from the established procedural framework. The significance of this physical filing date cannot be overstated, as it conclusively terminates any debate regarding the timeliness and the proper constitution of the documentary record for the written motion, particularly in light of the hearing having been previously set for December 3, 2025.

C. Comprehensive Enumeration and Certification of the Compendium's Content: Volumetric Integrity

confirmation is herein tendered that this physical Compendium for NOM #3 is comprehensively assembled and rigorously organized, encompassing a monumental total of **Tabs 1 through 71**. The sheer volume of this record, now correctly constituted, underscores the necessity of the Applicant's substantive submissions. Furthermore, it is formally certified that the entirety of the documentation contained within the Compendium has been meticulously and **consecutively enumerated** from the first page of Tab 1 to the final page of Tab 71. This systematic pagination ensures an unparalleled level of transparency, enabling seamless navigation, cross-reference, and precise judicial scrutiny of the voluminous evidentiary and legal material. For illustrative and organizational clarity, the Applicant's Factum is cited from **(Compendium, Tab 1, pp. 1-46)**, and this unbroken sequential numbering persists until the final page of Tab 71, guaranteeing that the Presiding Motion Judge can instantly locate any referenced authority or exhibit. The rigour of this detailed organizational structure, involving a painstaking certification process, should render the conclusions articulated in the Applicant's Factum self-evident upon review, eliminating any administrative excuse for its non-processing. The integrity of the **Acta** must be viewed as whole and final upon this physical submission.

III. Distinctions *In Limine* Pertaining to Formal Requirements

A. The Absence of a Binding Mandate: A Disambiguation of Record Types and the Directory Nature of Presentation Rules

It must be explicitly noted, *in limine*, that this particular document—a supplementary Compendium submitted solely via mail—is functionally and physically distinct from the formal "Records for motions" and "Appeal Book and Compendium" delineated in *Rule 4.07*. Consequently, it is not subject to the mandatory binding and cover-colour requirements stipulated for those specific court records. The Applicant asserts, on the basis of a literal construction of the *Rules*, that no formal binding was or is required, as this filing constitutes a permissible "filed via mail" document under *Rule 4.05(4)*. The provisions of *Rule 4.07(1)*, which prescribe backsheet colours, are inapplicable, as they are specifically directed at the preparation of a formal *Record*, a submission that this current document, by definition and design, is not intended to emulate or replace. In law, procedural requirements are often classified as either **mandatory** (non-compliance nullifies the act) or **directory** (non-compliance is an irregularity that the court may overlook). Requirements related to cover colour or binding are overwhelmingly considered **directory** and cannot be used to defeat the substantive right to file evidence. The avoidance of binding, therefore, is not an act of procedural omission, but a scrupulous adherence to the minimalist requirements for supplementary submissions by mail, prioritizing content over non-mandatory formal ornamentation, consistent with the spirit of liberal construction required by *Rule 1.04*.

B. Differentiation from Appeal Book and Electronic Filings: Resolving Potential Inconsistency and Confirming Paper Supremacy

The formal requirements detailed in *Rule 4.07* pertaining to the physical presentation of court documents clearly delineate a distinction between the present Compendium for a Motion and the formal *Appeal Book and Compendium*. This separation is not a mere technicality but reflects the distinct procedural stages of litigation.

1. **Motion Record Versus Appeal Book:** While *Rule 4.07(1)* and *Rule 4.07(1.1)* prescribe specific backsheet and front cover colours for Records for Motions (green, orange, or white, as applicable), these provisions do not **ipso facto** extend to documents filed solely by mail as a distinct, supplementary Compendium. These rules are specific to the creation of the formal, pre-hearing record. Conversely, the strict mandate for buff covers is reserved exclusively for the *Appeal Book and Compendium*, as unequivocally specified in *Rule 4.07(3)*, demonstrating the clear intent to restrict that colour mandate to the appellate context. The current submission, dealing with a motion within the Divisional Court's original jurisdiction, falls outside the purview of the appellate requirements.
2. **Disambiguation from the Electronic Version and Governing Authority:** It is a matter of absolute certainty that this physical Compendium is categorically and substantially distinct from the antecedent version previously filed electronically with the Ontario Courts Public Portal ("OCPP") on November 28, 2025. Given the potential for conflict or inconsistency between the two forms of submission—the incomplete

electronic file versus the complete paper file—the *Rules* provide precise guidance under *Rule 4.05(7)*, which establishes the governing authority of the paper version, a principle of **paper supremacy**:

(7) This rule does not apply to a document that is filed electronically in accordance with these rules... however, if the same document is filed or provided to the court in paper format, this rule applies to the paper version of the document.

Consequently, the present, authenticated physical version, which includes the additional Tabs 67 to 71 and comprises the complete Acta, is governed by the stringent protocols for paper documents, thereby rendering the content of the prior electronic submission subsidiary and superseded. The physical document, verified for completeness and accuracy, is the primary evidence upon which the Presiding Judge must rely, and its integrity must be preserved above the limitations and documented deficiencies of the electronic system.

IV. Adherence to Compendium Requisites and Critique of *Ultra Vires* Electronic Limitations

A. Compliance with Content Stipulations and Critique of *Ultra Vires* Application: The Limits of Delegated Authority

The Compendium has been compiled in rigorous and uncompromising adherence to the substantive content requirements outlined in the *Rules*, which mandate the inclusion of all necessary material for adjudication:

1. *The compendium must include a table of contents listing only those authorities, transcripts, previous orders and other documents on which the party intends to rely during the hearing or conference, as applicable, hyperlinked in accordance with paragraph 3.*
2. *The compendium must include the relevant excerpts of every document listed in the table of contents, with a separate section for each document.*

The Applicant confirms that this physical Compendium, inclusive of the newly added Tabs 67 to 71, comprehensively satisfies these two aforementioned requirements, providing the Court with an accurate and complete repository of all necessary legal and factual premises. Furthermore, it is to be emphatically underscored that the limitation concerning the size of a document, particularly the arbitrary **500-page threshold** imposed upon electronic submissions, is exclusively applicable to submissions made via the OCPP. This limit is an administrative policy, not a statutory rule. The imposition of this administrative constraint upon a full, physically filed compendium intended for unfettered judicial scrutiny is demonstrably **ultra vires** the authority conferred by the *Rules* and the *Courts of Justice Act*. Administrative bodies operating under **delegated authority** cannot create rules that contradict or undermine the primary legislation or the established *Rules of Civil Procedure*. To enforce a page limit in the face of a complete physical submission would constitute an unwarranted and illegal truncation of the record before the Presiding Motions Judge, effectively placing an administrative barrier above the fundamental right to adduce evidence.

B. The Principle of Judicial Sovereignty Over the Record: Administrative Fiat Versus Substantive Justice

The administrative limits of the electronic portal cannot, as a matter of law, supersede the Court's inherent and statutory power to receive all necessary evidence required for a just determination. A threshold of 500 pages, while convenient for server capacity, represents an **administrative fiat**—a rule made by bureaucratic decree—that cannot legally operate to exclude or diminish the substantive content of the Applicant's case. The **ultra vires** argument here is not merely procedural but strikes at the heart of substantive justice: the administrative body (the Registrarial Office, acting as a functional agent of the Court) cannot create a technical rule that frustrates the **substantive objective** of the *Rules of Civil Procedure*, which is to facilitate the fair hearing of a cause on its complete merits. The acceptance of the physical Compendium nullifies any force the electronic size limit might possess, making the Registrar's sole remaining duty one of physical, administrative processing. The judiciary maintains **exclusive sovereignty** over the contents of the file that forms the basis of its decision-making, and that sovereignty must be exercised over the complete, non-deficient physical record provided.

V. When May Becomes a Must; and Section 59.06(2)(a) Requires the Motion to Set Aside be Brought Within the Proceeding

A. Procedural Rationale: Averting a Motion to Compel and Protecting the Record

The physical filing of the Compendium is a direct consequence of the administrative breakdown that occurred despite the Applicant's procedural diligence. **As the Divisional Court has failed to honour its representations** regarding the reliable processing of the electronic record, and **as opposed to bring a motion to compel** (a costly, time-consuming, and resource-draining remedy), the physical filing of the Compendium For NOM #3 (December 7, 2025) ensures that all of the relevant documents submitted for filing and paid for where applicable are before the Presiding Motions Judge prior to the issuance of any decision involving this motion in writing. This deliberate action transforms the administrative uncertainty into a legally certain fact of record, preempting the substantial time, cost, and further administrative delay inherent in bringing a formal motion to compel the Registrar to fulfill a fundamental ministerial duty that should have been executed without prompting. The Applicant's chosen course of action is thus the most efficient path to securing the integrity of the judicial process, consistent with the proportionality principle of the Rules.

B. The Principle of Necessary Execution: *Quando Maius Fit Necessitas* and the Mandatory/Directory Distinction

This proactive and resource-intensive submission of the complete Compendium is predicated on a fundamental **syllogism** derived from established public law principles that govern the exercise of discretion by public officials and judicial bodies. This doctrine, which determines when a statutory power is an obligation, was authoritatively articulated in the seminal House of Lords decision, *Julius v. Lord Bishop of Oxford* ((1880) 5 A.C. 214 at 243). It establishes that where a statutory or procedural *may* is coupled with a legal right or interest of the subject, the permissive language transforms into an obligatory *must*. This is the doctrine of **"power coupled with a duty."** The essence of the *Julius* rule, often termed a power coupled with a duty, is found in the dual analysis:

1. **Is the power conferred upon a public functionary or a body for the public good?** (Yes: The maintenance of the Court record.)
2. **Is the object of the power to effectuate a legal right possessed by an individual or a defined class?** (Yes: The litigant's right to file and be heard on the evidence.)

Lord Cairns, in his judgment, articulated this necessity with precision: **"Where a power is deposited with a public officer for the purpose of being used for the benefit of persons... with regard to whom a definition is supplied by the legislature... the power ought to be exercised."** The discretion is merely as to the timing and manner of execution, *not* as to the performance itself. The Registrar's power to "file" a document is clearly *deposited with a public officer* and *for the benefit of litigants* who have a legal right to bring a claim, thereby triggering this doctrine. The refusal or failure to execute this power is not the exercise of discretion, but the **abdication of a ministerial duty**. Furthermore, this principle intersects with the distinction between **mandatory and directory** provisions. The requirement for a filing to be received and stamped is **mandatory** because it affects a substantive right (the date of filing). The failure to execute this mandate is a fundamental error, justifying judicial intervention (e.g., *mandamus*). Conversely, aesthetic or secondary requirements (like binding colour, as argued in Section III) are merely **directory**, and their failure to be met should not nullify the filing. The processing of the complete record is, therefore, a **mandatory obligation** imposed on the Registrar's Office.

C. The Ministerial Nature of the Registrar's Duty and the Constitutional Imperative: The Remedy of *Mandamus*

The duty of the Registrar's Office to process a filed Compendium is categorically a **ministerial act**, distinct from a **judicial act**. A judicial act involves the exercise of judgment, interpretation of law, and balancing of competing rights, which allows for genuine discretion. A ministerial act, conversely, is the performance of a duty in which the officer is left with no choice as to its exercise, such as filing or stamping a document once statutory prerequisites are

The Registrar, acting under the *Courts of Justice Act* (s. 98) and the *Rules*, performs an essential function that is fundamentally administrative and mechanical. The act of receiving, documenting, and conveying a physically filed Compendium to the Presiding Motions Judge is a textbook ministerial duty. Its non-performance, therefore, constitutes a dereliction of this duty. Such a dereliction gives rise to the public law remedy of **Mandamus**—a judicial order compelling a public body to perform a non-discretionary statutory duty. The threat of having to seek this extraordinary remedy underscores the administrative gravity of the current failure.

This failure directly impedes a right of constitutional significance: the Applicant's right to a fair hearing guaranteed by **Section 7 of the *Canadian Charter of Rights and Freedoms***. The right to a fair hearing necessarily implies the right to have the adjudicator consider the **entire evidentiary basis** of one's claim. By truncating the record, the administrative failure renders the subsequent judicial deliberation unreliable and procedurally unfair. The Registrarial Office's technical incapacity or administrative backlog cannot legally supersede a Charter-protected right. The *Julius* rule, in this modern application, compels the public official to perform the ministerial function precisely because the constitutional right to be heard is predicated upon it.

D. Canadian Jurisprudence: The Universality of the Mandatory Principle

The Supreme Court of Canada and provincial superior courts have solidified the *Julius* rule as a cornerstone of Canadian public law, ensuring that statutory powers are wielded to protect legal rights:

1. **Supreme Court of Canada:** The Honourable Locke J., in *Labour Relations Board v. The Queen ex rel. F.W. Woolworth Company Limited* (1956 S.C.R. 82 at 86), confirmed: "Enabling words are always compulsory where they are words to effectuate a legal right (*Julius v. Lord Bishop of Oxford*...: Lord Blackburn)." This establishes the mandatory nature of administrative processes when they impact fundamental labour or, by extension, procedural rights.
2. **Access to Information and Public Rights:** In *Information Commissioner v. Minister of Employment and Immigration (Respondent)*, **1986 CanLII 6836 (FC)**, the Federal Court held that the enabling words for granting access to information became compulsory when the statutory conditions were met, emphasizing that the purpose of the legislation was to codify the public's right of access. The Court found the permissive language was **"tantamount to an obligation,"** as refusing disclosure would frustrate the statutory right. This is directly analogous to the Applicant's right to have their complete record processed to ensure access to judicial review.
3. **Jurisdictional Error and *Mandamus***: The Saskatchewan Court of Appeal's ruling in *R. v. Saskatchewan (Labour Relations Board)*, **1969 CanLII 634 (SK CA)**, which mandated the Board to determine a valid application, underscored that a failure to exercise a power coupled with a duty is a **jurisdictional error**. If the Registrar continues to refuse to process the Compendium, this administrative failure would pave the way for a remedy of *mandamus*, compelling the administrative arm of the Court to execute its non-discretionary duty. This further confirms that the Applicant's current request is legally imperative, not merely a polite suggestion.
4. **Enabling Legal Rights Across Jurisdictions:** The rule's application in various provincial courts, from the New Brunswick Court of Appeal (*Ex parte McSweeney*, **1935 CanLII 483 (NB CA)**, regarding mandatory tax assessments) to the Manitoba Court of King's Bench (*International Union of Operating Engineers, Local Union No. 827*, **1952 CanLII 408 (MB KB)**, regarding trade union applications), demonstrates the fundamental and universal nature of the doctrine: **where the power is the conduit for a right, its exercise is mandatory.**

E. Procedural Integrity and the Mandate of *Section 59.06(2)(a)*

The processing of the Compendium must be executed immediately to prevent a greater procedural chaos. Should the Presiding Motions Judge rule on the basis of an incomplete record—a potential consequence of the administrative failure—the Applicant would be compelled to bring a subsequent, time-consuming, and costly motion to set aside that order. The *Rules of Civil Procedure* are unambiguous regarding the appropriate procedural vehicle for this remedy, as stipulated in *Rule 59.06(2)(a)*:

(2) A party who seeks to, (a) set aside or vary a judgment or order on the ground of fraud or of facts arising or discovered after it was made, shall make a motion for the purpose in the proceeding to which the judgment or order relates;

this rule mandates that the subsequent motion to set aside or vary the premature order **must be brought within the current proceeding**. The administrative failure to process the Compendium would therefore necessitate the Applicant to initiate a full-blown new motion simply to correct a procedural injustice that was entirely preventable, thereby creating a **multiplicity of proceedings** and severely impacting **judicial economy**. The immediate processing of the document is the necessary and least disruptive path to maintaining the **status quo ante** of the litigation process, ensuring that the judicial phase is not unnecessarily burdened by a subsequent motion designed solely to rectify the administrative deficiencies of the Registrarial Office.

VI. Justice Delayed is Justice Denied; and the Requirement for Timely Adjudication on its Merits (Expeditious, Just and Cost-Effective)

A. The Overriding Purpose: Rule 1.04 and Expedient Resolution via Proportionality

The **overriding purpose** of the *Rules of Civil Procedure* in Ontario is not merely to provide a framework for litigation, but to actively facilitate the timely and efficient resolution of disputes. This fundamental mandate is explicitly enshrined in *Rule 1.04(1)*:

(1) These rules shall be liberally construed to secure the just, most expeditious and least expensive determination of every civil proceeding on its merits.

This overriding purpose imposes a clear and non-derogable obligation on all participants in the justice system—including the court's administrative arm, the Registrarial Office—to conduct themselves in a manner that achieves justice that is simultaneously **expeditious, just, and cost-effective**. Furthermore, the principle of **proportionality** requires that the cost and complexity of the court process must be appropriate to the nature of the litigation. An administrative default by the Registrar, such as the failure to process a time-sensitive document, directly contravenes this central purpose by injecting undue delay, increasing cost (requiring remedial filings), and undermining the just determination of the proceeding on its merits due to a potentially incomplete record. The integrity of the judicial function is directly dependent upon the administrative fidelity to this rule.

B. Administrative Dilatoriness as a Breach of Procedural Fairness and the Charter Link

The common law maxim **"Justice Delayed is Justice Denied"** is not simply rhetoric; it is a profound articulation of the right to timely judicial access. The administrative failure to process the complete Compendium, coupled with the systemic technical failures of the electronic portal, amounts to **administrative dilatoriness** that results in the unacceptable protraction of the judicial review process. Every day that the Compendium remains unprocessed represents a delay in the ultimate disposition of NOM #3. Given that the hearing date was previously set for December 3, 2025 (as a written hearing), the delay caused by the Registrar's administrative failure is particularly egregious, as it actively holds up the Presiding Motions Judge from rendering a decision that the Applicant is legally entitled to receive in a timely fashion. The failure to meet this standard of expedition constitutes a palpable breach of the Court's obligation under *Rule 1.04(1)* and arguably engages the fundamental constitutional right to security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice, as articulated in **Section 7 of the *Charter***, where delay or procedural unfairness undermines the integrity of the process affecting one’s rights. The Registrar’s duty to act immediately is thus essential to restore the matter to the track of procedural efficiency and constitutional compliance.

VII. Conclusion and Mandate to Avert a Failure of Justice

Given the foregoing comprehensive confirmations of procedural compliance, the meticulous and verified assembly of the Compendium (Tabs 1 to 71), and the incontrovertible application of governing **substantive jurisprudence** (the *Julius* rule), it is incumbent upon the Registrarial Office to ensure the immediate, unencumbered, and decisive upload and processing of this physical document into the official Court file. Failure to process this material promptly

inaccurately would not only constitute a demonstrable impediment to the Applicant's fundamental right to be heard but would also actively jeopardize the **status quo ante** of the scheduled written hearing by presenting an incomplete or deficient record to the Presiding Motions Judge. This administrative omission would create a de facto **failure of justice**, violating the principles of procedural *vires* and the **mandate of expedition**.

The expeditious integration of this complete Compendium into the Court's official file is a **non-discretionary ministerial act** necessitated by the persistent **procedural lacunae** associated with the electronic portal. This action is vital for the Presiding Motions Judge to be afforded the opportunity to fully and justly consider the entire scope of the Applicant's evidence, thereby ensuring that judicial discretion is exercised upon the basis of a perfectly constituted record. The administrative integrity of the Court rests upon the prompt and mandatory execution of this imperative.

As this NOM #3 was and is set for being heard in writing and without attendance of the Applicant (sole party) and the Responding Parties (Respondents and Non-Respondents) but not parties per se, I note by analogy as to what would constitute the record of proceeding for any potential but unlikely appeal post the hearing, without attendance, of this NOM #3 and that would include all filed documents prior to the issuance of any order and prior to the entry of the same, thereby defining the **Acta** for all future judicial review.

I also note that anti-justiciability doctrines by analogy in that I have to exhaust all potential adequate and available and alternative remedies which I am doing and required to do pursuant to the various Rules of Civil Procedure in setting aside steps, documents and/or orders. Specifically, this proactive physical filing is itself an act of exhausting an alternative remedy, avoiding the need for a Motion to Compel, and ensuring compliance with the procedural expectations of the Court that a litigant seek relief within the existing structure.

In light of the lack of opposition to the NOM #3 by any of the Responding Parties, I have, with respect, unequivocally satisfied the burden of proof for the relief sought. In effect, the relief must be granted by default on the balance of probabilities standard.

Respectfully Submitted and mal filed,

Mr. Kevin A. McLean (BA, JD, CIM)



Applicant and Moving Party
Self-Represented

Court File No. DC-24-00000718-00JR

Tab 5

Re: AT's Notice of Appearance : McLean v. TD Home and Auto Insurance et al. : 718/24

Mr. Kevin McLean <mcleansettlement@gmail.com> Tue, Dec 16, 2025 at 5:16 PM
To: "SCJ-CSJ Div Court Mail (JUD)" <scj-csj.divcourtmail@ontario.ca>, roxanne.parris@ontario.ca

Date: December 16, 2025
Via at first instance: Electronic Mail Transmission (may follow via mail, drop off and fax)
Classification: Private and Confidential
Purpose: drawing submitted filing documents in the Ontario Courts Public Portal ("OCPP")[i] to the attention of the Divisional Court Registrar in Ms. Parris, LSO licensed paralegal, and the President of the Divisional Court
Time sensitivity: Urgent

Divisional Court File Designation	**24/718/00JR**
Short Style of Cause	*McLean v. TDHA et al.*
Document Type	Email with copy of submitted filing of Request/Requisition for: (i) access to uncertified copy of Document #48 in the Ontario Courts Public Portal ("OCPP) under "Other Submissions" submitted by five different persons [sic]; (ii) compliance with predecessor obligations; (iii) compliance with prior requisitions; and (iv) other residual obligations
Sender's Status	The Applicant and Moving Party in Notice of Motion No. 3 (*NOM #3*)
Sender's Name	Mr. Kevin A. McLean, B.A., J.D., C.I.M.
Particulars involving NOM #3	▪ **NOM #3 made date:** November 17, 2025 ▪ **NOM #3 served on Responding Parties date:** November 17, 2025 ▪ **NOM #3 Motion Record, Factum and Draft Order service date:** November 19, 2025 ▪ **Affidavit of Service date:** Friday, November 19, 2025 ▪ **Confirmation of Motion given to Registrar:** Monday, November 24, 2025 ▪ **Submitted Filing of NOM #3, Motion Record, Factum, Draft Order, Affidavit of Service, Confirmation of Motion, 1st Updated Motion Record (included distinctions between previous Divisional Court JRPA Guide and amended Divisional Court JRPA Guide (June 30, 2025 as per metadata):** November 26, 2025 ▪ **Representation by Divisional Court through OCPP as to processing time:** with three business days o Requirement under Rules of Civil Procedure for newly passed provision relating to OCPP in Toronto Region: merely "Subject to Confirmation" (as opposed to "Registrar Acceptance Required" and "confirmation" (two stage process) under the JSO Portal (which remains for 'non' Toronto Region matters

- Current status of said submitted filing through OCPP: merely "received" but payment has been authorized and denoted via credit card

- **Deadline for Responding Parties (includes Respondents, none of which filed a "First Defence" to the JRPA Application) to have "delivered" a response in accordance with Rule 37.12(5) of Rules of Civil Procedure:** November 28, 2025 or December 1, 2025 (depending on interpretation of "within")
- **Date of Moving Party's Compendium for NOM #3 submitted filing:** November 28, 2025
- Date of Mail filed documents:
  - Draft Order for the Independent Presiding Motions Judge consideration: Monday, December 8, 2025
  - Compendium For NOM #3 (December 7, 2025 completed, then printed, tabbed, hole punched and placed into ten binders): Thursday, December 11, 2025

To:

The Divisional Court of Ontario
Osgoode Hall,
130 Queen Street West
City of Toronto[ii]
Province of Ontario
M5H 2N5

Attention: The new Registrar of the Divisional Court (as of December 3, 2025) in Ms. Roxanne Parris ("**Divisional Court Registrar**", "**Registrar**" or "**Current Registrar**")

AND TO:

The President of the Divisional Court, The Honourable Chief Justice Morawetz
130 Queen Street West
Toronto, Ontario
M5H 2N5

Subject: Urgent compliance with outstanding obligations of the registrar's office of the Divisional Court by way of notice and provision of the submitted filing of the request/requisition of December 15, 2025

Dear Divisional Court and Registrar of the Divisional Court:

1. This communication is tendered *in re* the aforementioned matter. Confirmation is hereby provided that the attached Requisition was submitted for filing on December 15, 2025. Appended hereto is the confirmed receipt issued by the Divisional Court, documenting the said submitted filing. It is attested that the OCPP authorizes the electronic submission of requisite documentation, including the payment for notice of motion number three ("NOM #3"), which was duly *effectuated* on the aforementioned date, utilizing the Ministry of the Attorney General ("MAG") authorized software. Further, it is confirmed

that, **effective October 3, 2025**, the JSO Portal ceased to be the applicable electronic conduit for filings within the City of Toronto or the "Toronto Region."

2. In consideration of the protracted administrative delays; the *demission* of the Registrar (which was brought to the attention of the undersigned on December 3, 2025, the scheduled date for the written hearing, which seems rather non-coincidental, notwithstanding the non-opposition of any named Respondents in the style of cause or Responding Parties which were non-named Respondents (see: Affidavit of Service of the Applicant (Moving Party) (see: supra)); the Divisional Court's evident *non-compliance* with the *Judicial Review Procedure Act* (*JRPA*), the *Courts of Justice Act* (*CJA*), and the *Rules of Civil Procedure*; and the resultant *dereliction* in honouring prior written representations to the undersigned, the following mail-filing actions were subsequently *effectuated*: the draft order (*Form 59(A)*) dated December 4, 2025, was filed on Monday, December 8, 2025, and the Compendium for NOM #3 (dated December 7, 2025), comprising ten binders (Volumes 1 through 10), was filed under separate cover on Thursday, December 11, 2025.

3. Should the requisite confirmation of all outstanding submitted filings, consistent with the temporal mandates stipulated by the OCPP and written representations by the Registrar in the OCPP, not be provided, relief may be pursued via a draft order submitted to the President of the Divisional Court, who serves concurrently as the Chief Justice of the Superior Court of Justice (SCJ). Said draft order will, *inter alia*, move the Court, but only the President of the Divisional Court as per the CJA et al, to mandate the Registrar of the Divisional Court to *remediate* all deficient submitted filings via the OCPP and ensure compliance across manifold administrative facets.

4. Given the demonstrated pattern of administrative delays and the recurrent failure to honour prior assurances, the submission of a conventional *Notice of Motion* and the attendant expense is deemed unnecessary and impracticable. Consequently, reliance shall be placed upon *Rule 37.01* of the *Rules of Civil Procedure*, which permits the making of a motion without a formal *Notice of Motion* where circumstances do not so require or where it is unnecessary. In such an event, the Registrar of the Divisional Court shall constitute the sole Responding Party, being the functionary against whom the motion is made (it is emphasized that "made" is distinct from "service," "filing," and "delivery"). Should the Registrar's continued *recalcitrance* necessitate this expenditure, an order for costs shall be sought against that functionary. While it is appreciated that a portion of administrative culpability rests with the Former Registrar—whose record evinced a history of *non-compliance* even under the JSO Portal—the extant duties of the Current Registrar are immutable, and the office is necessarily tasked with addressing the transgressions of the *status quo ante*.

5. The jurisdictional basis compelling the President of the Divisional Court to adjudicate this potential motion—which would be supported by submissions and evidence, notwithstanding its deviation from *Form 37(A)*—is articulated in *section 76 of the Courts of Justice Act* (*CJA*), which vests the President of the Divisional Court and only the President of the Divisional Court with the authority to direct court staff and the Registrar concerning the fulfillment of their duties. Given the statutory obligation to assign judicial duties to certain judges, the President possesses the discretion to assign an independent judge (an "Independent Presiding Motions Judge") to consider the mail-filed documents contained within the Compendium for NOM #3 and the Draft Order of December 4, 2025 (*vide: supra*).

6. It is the fervent hope of the undersigned that such a motion will prove *superfluous*, contingent upon the expeditious fulfillment of the Current Registrar's outstanding obligations.

7. Nevertheless, should compliance not be *effectuated* with the utmost expediency, specifically by no later than 12:00 P.M. on the succeeding day (**December 17, 2025**), the aforementioned motion to the President of the Divisional Court shall be commenced without further *admonition*. While recognizing the

administrative friction attendant to the technological transition involving the OCPP (October 14, 2025) and the change in Registrar (December 3, 2025), it is *verily* believed that ample time has been accorded to the Current Registrar to *remediate* the prior *transgressions* of the Former Registrar and to honour written assurances pertaining to the confirmation timelines for submitted filings. Furthermore, given that NOM #3 is uncontested and the *JRPA* Application proceeded *undefended*, without the submission of a **First Defence** by any Respondent, there remains a substantial quantum of administrative irregularity requiring *remediation* and *unwinding* of which I was required to bring my motion intra this JRPA Proceeding.

8. Provided that the Registrar *remedies* the outstanding deficiencies—by confirming all submitted filings by 12:00 P.M. on December 17, 2025, extending an immediate invitation to the Case Center to the undersigned, and uploading all filed documents in the *JRPA* Proceeding to the Case Center by close of business on Thursday, December 18, 2025—the necessity of bringing the intended motion, pursuing costs, and amending the bill of costs previously filed (via mail in the Compendium for NOM #3) shall be obviated.

9. This communication is submitted for the Divisional Court's urgent consideration and necessary administrative action.

10. Ergo, I must rely on the poignant adage, “There is never a wrong time to do the right thing”. Thank you.

Best regards,

/s/Mr. Kevin A. McLean (BA, JD, CIM)

Mr. Kevin A. McLean (BA, JD, CIM)

Enclosures:

1. Request/Request submitted for filing on Monday, December 15, 2025
2. Receipt of said submitted filing

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[i] https://canlii.ca/t/t8m#sec4.05.2.1

[ii] ***Application, City of Toronto***

(2) This rule applies with respect to,

(a) the filing and issuance of documents in proceedings commenced or continued in the City of Toronto

Yours faithfully,

/KAM

Sender's name: Mr. Kevin Alexander McLean (BA, JD, CIM)

Sender's address: 410-775 King Street West, Toronto, Ontario, M5V 2K3

Sender's Telephone Number: (647) 370-9354

Sender's email address: mcleansettlement@gmail.com

On Fri, Dec 12, 2025 at 10:51 AM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:
Date: December 12, 2025
Via: Email
Classification: Private and Confidential
Purpose: provision of a Word Copy of the Factum for NOM #3 for the Registrar for her uploading of the same into Case Center

Divisional Court File Designation	**24/718/00JR**
Short Style of Cause	*McLean v. TDHA et al.*
Document Type	Email with attachment of Word copy of Factum for NOM #3
Sender's Status	The Applicant and Moving Party in Notice of Motion No. 3 (*NOM #3*)
Sender's Name	Mr. Kevin A. McLean, B.A., J.D., C.I.M.

TO:

The Divisional Court of Ontario (Toronto Region)
Osgoode Hall, 130 Queen Street West
Toronto, Ontario M5H 2N5
Attention: The New Registrar, Ms. Roxanne Parris (the "Registrar")
SUBJECT I: PROVISION OF MICROSOFT WORD COPY OF FACTUM FOR NOTICE OF MOTION NUMBER THREE (THE "FACTUM")
SUBJECT II: FACILITATION OF FACTUM UPLOADING TO CASE CENTER (THE "CASE CENTER") IN ACCORDANCE WITH THE *RULES OF CIVIL PROCEDURE* (THE "RULES")

Introduction and Contextual Preamble

I cordially write regarding the above-enumerated subjects, the central purpose of which is the provision of an electronic, editable iteration of the Factum (the "**Word Factum**") to facilitate the administration of justice.

I adopt all definitions from previously, indirectly or directly, cited correspondence, motions, and materials herein, and hereby introduce the following definitions for precision:

- The Divisional Court of Ontario (Toronto Region) (the "**Court**")
- The **Factum** (the Factum for Notice of Motion No. 3 (the "**NOM #3**"), which was formally served and filed on November 18, 2025)
- The "**Registrar"** (Ms. Roxanne Parris, in Her Official Capacity)
- The *Rules of Civil Procedure*, R.R.O. 1990, Regulation 194 (the "**Rules**")
- The *Courts of Justice Act*, R.S.O. 1990, c. C.43, s. 98 (the "**Act**")
- The Ontario Courts Public Portal (the "**OCCP**").

Provision of Factum and Rationale

The genesis of this present correspondence is the recent and salutary amendments to the *Rules* and the concomitant issuance of the Divisional Court Practice Direction (the "**Practice Direction**"), a copy of which is appended hereto. While the Practice Direction is, *per se*, an administrative directive and remains subordinate to the mandatory provisions of the *Rules*, it nonetheless stipulates, as a procedural requirement, that **Factums must also be uploaded in Word format** to the Case Center for the Court's administrative benefit.

Therefore, attached *hic et nunc* (the "**Attached Document**") is the Word Factum for NOM #3, which corresponds precisely in substance and content to the executed Portable Document Format (PDF) version previously served and filed on the eighteenth day of November, 2025. Although the Word Factum is not adorned with the digital signature of the Applicant, the integrity of the record is preserved, as the **OCCP** maintains the filed, signed PDF iteration. This provision is tendered as a professional and collegial courtesy (*pro bono*) to the Court, ensuring strict adherence to the **Practice Direction** insofar as it stipulates:

> *"All documents must be uploaded in PDF format. The indexes to all Records should include hyperlinked bookmarks.* ***Factums must also be uploaded in Word format."***

This submission, being in conformity with the recent regulatory shift, is a proactive measure to sustain the streamlined and efficient administration of the Court's processes, thereby maintaining the established **status quo ante** of judicial efficacy.

Offer of Further Assistance

It is cognizable that the Court may also require the Word Factums corresponding to earlier filed documents, specifically the Factum filed on December 12, 2025, and the Factum related to Notice of Motion Number Two (the "**NOM #2**") of February 1, 2025. I note that these antecedent documents

were submitted exclusively in PDF format, in accordance with the then-prevailing *lex fori* as accepted and confirmed by the previous Registrar.

The Applicant maintains a continuing posture of helpfulness and gracious cooperation with the Court. Should the Registrar encounter any exigencies or require the electronic, editable copies of the aforementioned previous Factums in order to effectuate their uploading to the Case Center, I remain unequivocally at the Court's service. *Ubi jus, ibi remedium*.

This comprehensive cooperation, while not strictly required *ab initio* for documents filed prior to the Practice Direction's amendment regarding Word format, is demonstrative of the Applicant's unwavering commitment to the resolution-oriented, functional operation of the Court's electronic repository. This is an action taken ***in limine*** to prevent any future administrative impediment.

Conclusion

In conclusion, the Word Factum is herewith transmitted. The Applicant trusts that this submission is received as a welcome contribution to the Court's administrative necessities and efficiency on all fronts.

Yours most appreciatively and gratefully,

/s/Mr. Kevin A. McLean (BA, JD, CIM)

Mr. Kevin A. McLean (BA, JD, CIM) (he/him)

The Applicant and Moving Party in NOM #3

Enclosure:

1. The Word Factum for NOM #3 (the Factum for Notice of Motion No. 3)

On Thu, Dec 11, 2025 at 8:39 PM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:
PRIVATE AND CONFIDENTIAL
Via Electronic Transmission
December 11, 2025

Divisional Court File Designation	DC-24-00000718-00JR
Short Style of Cause	*McLean v. TDHA et al.*
Short Style of File Number	

	24/718/00JR
Document Type	Email with attachments
Sender's Status in JRPA Application	The Applicant
Sender's Status on Motion (NOM #3")	The Moving Party
Sender's Name	Mr. Kevin A. McLean, B.A., J.D., C.I.M.

The Divisional Court of Ontario
Osgoode Hall,
130 Queen Street West
Toronto, Ontario
M5H 2N5
Attention: The Registrar of the Divisional Court as of Wednesday, December 3, 2025, in Ms. Roxanne Parris as LSO licensed paralegal (the "**Current Registrar**")

SUBJECT I: CONFIRMATION OF THE DELIVERY AND FILING STATUS OF TWO DISTINCT DOCUMENTS SUBMITTED VIA MAIL TO THE DIVISIONAL COURT ON DECEMBER 9 AND DECEMBER 11, 2025, COMPRISING THE UPDATED DRAFT ORDER AND THE COMPENDIUM FOR NOTICE OF MOTION NO. 3.
SUBJECT II: ENCLOSURE OF THE COVER LETTER AND EVIDENTIARY IMAGES OF THE MAIL FILED COMPENDIUM FOR NOTICE OF MOTION NO. 3.
SUBJECT III: RESIDUAL MATTERS PERTAINING TO ADMINISTRATIVE IRREGULARITIES AND THE PRINCIPLE OF MINISTERIAL DUTY.

Dear Sirs/Mesdames:

I. Introduction and Governing Definitions
I cordially write regarding the above-referenced matters. It is sincerely hoped that all judicial and administrative personnel, inclusive of the **Current Registrar**, are maintaining optimal health and wellness. Judicial efficiency and the preservation of the rule of law depend fundamentally upon the timely and scrupulous execution of administrative duties, a principle which forms the core of this correspondence. The Court's administrative function must be seen not merely as a matter of internal organization, but as a critical component of judicial legitimacy, ensuring that procedural justice is not eroded by bureaucratic inertia. The Applicant seeks not special treatment, but the timely, mandated performance of a public duty.
I adopt all definitions from previously, indirectly or directly, cited correspondence. For the purposes of this present communication, the following appellations and definitions shall be utilized, ensuring consistency in terminology throughout this document:

1. *The Rules of Civil Procedure*, R.R.O. 1990, Regulation 194 (the "**Rules**")
2. The Updated Draft Order (Form 59(A) under the **Rules**) (the "**Draft Order**")
3. The Compendium for Notice of Motion No. 3 as of December 7, 2025 (the "**Compendium**")
4. The Notice of Motion No. 3 (the "**NOM #3**")
5. The Ontario Courts Public Portal (the "**OCPP**")
6. The Honourable Judge Morawetz, in his capacity as the Chief Justice of the Superior Court of Justice and *ipso facto* the President of the Divisional Court (the "**President of the Divisional Court**")
7. The Responding Parties (the "**Opposite Litigants**")
8. *Roncarelli v. Duplessis*, 1959 CanLII 50 (SCC),
   $$1959$$

SCR 121 (the "**Roncarelli Decision**")

II. Procedural Impediments and Substantive Compliance

Confirmation is herewith proffered regarding the precise chronology and procedural context of the **NOM #3**. The requisite fee for the **NOM #3** was paid on November 26, 2025, subsequent to the service upon the **Opposite Litigants** on November 17, 2025. Following payment, the Factum, Motion Record, initial **Draft Order** (dated November 19, 2025), and Affidavit of Service (dated November 21, 2025) were all submitted for filing. This was done notwithstanding the four business days' advance notice provided to the Divisional Court via electronic mail on November 24, 2025, concerning the proposed written hearing returnable on December 3, 2025, as prescribed by the **Rules**.

The uninterrupted and inexplicable failure to process the requisite documentation and officially "confirm" the filing status subsequent to the prescribed service and submission periods constitutes, *prima facie*, an administrative **dereliction** that directly impedes the Applicant's fundamental right to prompt and effective adjudication. This administrative lapse has resulted in a state of **"constructive non-filing,"** where the Court is in physical possession of all necessary documents and fees, yet administratively refuses to afford them legal status. This delay is not merely an inconvenience; it constitutes an obstruction to justice by rendering the Applicant's case effectively inert, potentially prejudicing the Applicant's position by extending the *lis pendens* without legal justification. Furthermore, the ambiguity created by the lack of confirmation introduces unnecessary uncertainty for the **Opposite Litigants** regarding the formal status of the motion, although their failure to oppose remains a separate issue. The prevailing circumstance suggests, with considerable persuasive force, that the **OCPP** is either technically defective or not being staffed to operate at its represented and mandatory capacity. Critically, the explicit representations issued by the Court concerning the expected three-business-day processing timeframe are not being scrupulously honoured. This failure has been consistently observed *ad seriatum* regarding filings subsequent to the initial submission of the **NOM #3** material on November 28, 2025.

This technical malaise is further compounded by the sudden and unheralded departure of the Former Registrar (Ms. Gentles). This administrative vacuum, which suggests a severe lack of adequate succession planning, is a clear instance of institutional negligence and has a direct causal link to the current chaos. This chaos is magnified by a demonstrable, ongoing failure to responsibly monitor the storage capacity of the Divisional Court's electronic mail system—a fundamental component for the mandatory transmission of documents such as the Confirmation of Motion (Form 37(B)). The Applicant's compliance with the mandates of *Rule 37.10.1(1)(a)(i)* of the **Rules**, which requires this document to be given (not filed *per se*) via electronic mail, cannot be frustrated by the Court's internal and remediable failure to manage its digital infrastructure. Such institutional failures do not merely result in delay; they impose an unjust and undue financial and temporal burden upon self-represented litigants seeking to diligently prosecute their cause, thereby creating a substantial and unconstitutional barrier to the effective access to justice, contrary to Section 7 of the *Canadian Charter of Rights and Freedoms*. The Applicant is placed in an untenable position, having fulfilled all *party* obligations, only to be stalled by *institutional* non-performance.

III. Non-Opposition and Procedural Expediency

It is noteworthy that the **Opposite Litigants** were afforded ample and prescribed opportunity to offer opposition to the **NOM #3** through various modalities: non-opposition, consent, written opposition, or the presentation of oral argument. As not a solitary **Opposite Litigant** exercised any of these options within the specified timelines, the **NOM #3** remains **unopposed**. *Ipso facto*, there existed, and continues to subsist, no extant scheduling exigency necessitated by opposition, thereby removing any legitimate basis for the administrative delay. Proof of service was duly tendered to the Divisional Court via electronic mail and was simultaneously submitted for filing through the **OCPP**.

The absence of opposition is not merely a procedural convenience; it is a critical factor that elevates the administrative delay from a necessary scheduling challenge to a purely bureaucratic breakdown. When a motion is unopposed, the core adjudicative function of the Court—resolving conflict—is minimized. The administrative priority ought to be the swift processing of uncontested matters to conserve judicial resources for contested proceedings, thereby honouring the overriding purpose of the **Rules** as articulated in *Rule 1.04(1)*: "to secure the just, most expeditious and least expensive determination of every civil proceeding on its merits." By delaying the

confirmation of an *unopposed* motion, the administrative body demonstrates a profound misallocation of public resources and a fundamental disregard for the principle of procedural expediency which underpins the **Rules**. The delay is, therefore, purely one of internal clerical processing, disassociated entirely from any complexities arising from the adversarial nature of the proceeding, and is, in principle, indefensible.

IV. Legislative Will: The Dichotomy of Acceptance versus Confirmation

The statutory distinction between the superseded JSO Portal regime and the current **OCPP** scheme is monumental, representing a fundamental philosophical shift in the procedural governance of court filings. The JSO Portal paradigm necessitated a two-tiered approach: Registrar's "Acceptance" (Rule 4.05.2(3)), followed by the Registrar's "Confirmation" (Rule 4.05.2(4)). This prior requirement of "Acceptance" inherently conferred upon the Registrar a **quasi-discretionary** veto power over the initiation of the record, potentially blurring the line between a purely administrative **clerical** function and a substantive, judicially reviewable **adjudicative** act. The former requirement of acceptance was predicated on the notion of an administrative offer of filing creating a binding *quasi-contract* subject to the Registrar's proactive approval.

Conversely, the current **OCPP** scheme (Rule 4.05.2.1), effectuated through *O. Reg. 226/25, s. 4*, is predicated solely upon the concept of a filing being "Subject to Confirmation," where the document is deemed filed or issued exclusively upon the electronic transmission of confirmation by the registrar or sheriff (Rule 4.05.2.1(4)). The legal distinction between a condition of 'acceptance' (a discretionary act) and a condition 'subject to confirmation' (a mandatory, ministerial act) is analogous to the distinction between a condition precedent where a contract is already in force but subject to a condition to be met, which the Registrar is so required, and the offer of something to another for their acceptance. In the latter, when there is no acceptance, there is no binding contract between those persons which is of course subject to return consideration. Under administrative law principles, the former ("acceptance") requires the Registrar to make a decision based on subjective criteria (*vires* testing), while the latter ("confirmation") requires the Registrar only to verify objective facts (e.g., file integrity, prescribed fee payment).

The term "confirmation" implies a process more **perfunctory**, **technical**, and **ministerial** in nature, merely attesting to the reception and entry of the submission into the court's electronic record. The ministerial duty of the Registrar, in this context, is simply to acknowledge the successful electronic submission and verify basic, easily ascertainable technical standards, such as file format and size limits. This deliberate legislative shift effectively eliminates the Registrar's capacity to unilaterally reject a document on grounds of substantive non-compliance, thereby precluding the application of principles such as *delegatus non potest delegare* to a purely clerical function. The power to assess the sufficiency or formal compliance of the document is now correctly and exclusively vested in the Presiding Motions Judge, who is the proper authority to exercise judicial discretion and control over the proceedings.

It is thus **self-evident** that the legislative intent underlying the **OCPP** amendments was to streamline the filing process by removing the prerequisite of discretionary "acceptance," recognizing that unnecessary layers of administrative review only introduce delay. This necessary administrative evolution reflects a considered policy decision to reduce the burden on the public purse and expedite the processing of documents. The judicial scrutiny regarding the formal compliance of documents, which was formerly exercised prematurely by the Registrar, has been thereby relocated to the Presiding Motions Judge or Panel, to be adjudicated, *inter alia*, by way of objection advanced by the opposing litigant. This extrapolation of legal principle dictates that the administrative focus should be the **expeditious**, **cost-effective**, and **just determination of matters upon their merits**, rather than an *in limine* administrative acceptance requirement that unnecessarily burdens court resources and delays the progression of proceedings. The Registrar's duty is, therefore, one of **mandatory execution**, not **discretionary oversight**, and the current non-performance is a violation of this mandate.

V. Conversion of Paper Documents and Mitigation of Delay

The aforementioned procedural complexities, including the delays attributed to the malfunctioning of the **OCPP** and the administrative transition from the Former Registrar to the **Current Registrar**, cannot be imputed as a fault to the Applicant. The Applicant's imperative, grounded in the overarching principle of mitigating any potential loss or injury and ensuring the integrity and completeness of the judicial process, was to secure the substantive presence of the critical documents before the Divisional Court.

As such, the two critical documents—the **Draft Order** (mailed on December 8, 2025) and the **Compendium** (delivered on December 11, 2025)—were submitted via mail filing pursuant to *Rule 4.05* of the **Rules**:

Rule 4.05(4): Filing by Leaving in Court Office or by Mail

Any document, other than one that is to be issued, may be filed by leaving it in the proper court office or mailing it to the proper court office, accompanied by the prescribed fee. R.R.O. 1990, Reg. 194, r. 4.05 (4).

The delivery of these hard copy documents is evidenced by tracking numbers from the postal carrier, thereby obviating any potential allegation of non-receipt under *Rule 4.05(6)*. The presence of these tracking numbers effectively removes the operation of the rule that deems non-received documents as non-filed, providing conclusive **acta** of delivery to the proper court office. This mail filing, therefore, cured the administrative defect caused by the electronic delay and perfected the filing status under the alternative paper regime, ensuring that a properly filed record is now indisputably before the Court.

Furthermore, pursuant to *O. Reg. 226/25, s. 1*, the Registrar possesses the statutory power of conversion:

Conversion from Paper Format

(11) In the case of a proceeding that is commenced or continued in the City of Toronto, the registrar may prepare an electronic copy of any document that was filed or issued in the proceeding in paper format and include it in the court file.

It is explicitly confirmed that the Applicant does not require the restitution of the documents following their electronic conversion. These documents must remain with the Divisional Court to constitute the complete and comprehensive record of the proceeding. This is the **Current Registrar's** second, non-delegable ministerial duty: to convert and incorporate the paper-filed documents into the electronic Case Center record for the review of the Presiding Motions Judge. The word *may* in *Rule 4.05(11)* must be interpreted as *shall* in this context, given the overwhelming policy interest in maintaining a unified, accessible electronic court file as the default under the new **OCPP** regime.

V-A. Judicial Discretion and Rule 37.01 Compliance

As noted in the quoted language, “

MOTIONS AND APPLICATIONS RULE 37 MOTIONS — JURISDICTION AND PROCEDURE Notice of Motion 37.01 A motion shall be made by a notice of motion (Form 37A) unless the nature of the motion or the circumstances make a notice of motion unnecessary or these rules provide otherwise. R.R.O. 1990, Reg. 194, r. 37.01; O. Reg. 322/24, s. 4.”, the Presiding Motions Judge can rely upon the motion so filed, but delayed without lawful reason for confirmation only, or decide the relief sought in the draft order by reference to confirming that such notice of motion was unnecessary based on the circumstances.

This rule confers a significant inherent power upon the Presiding Motions Judge to control the court’s process and dispense with unnecessary technical formalities. Given that the delay in confirming the electronic filing is purely an **administrative failure**—a clerical omission rather than a substantive party error—the judicial officer has the discretion to deem the notice of motion—having been properly served, fully documented, and paid for—as having been advanced in circumstances that make the technical confirmation requirement "unnecessary." This judicial power extends to issuing an order *nunc pro tunc* (now for then), which effectively backdates the legal effect of the filing to the date of original submission, thereby curing the administrative lag. The use of a *nunc pro tunc* order is appropriate only to correct a clerical or administrative error, not to remedy a party’s mistake, making it the perfect judicial tool to counteract the Registrar’s delay. This judicial act would effectively ratify the filing *nunc pro tunc* and allow the relief sought in the **Draft Order** (which is now properly mail-filed and dated December 4, 2025) to be considered on its merits, without further administrative impediment. In this regard, the Presiding Motions Judge can rely on the mail filed documents to approve the draft order contained therein at the most recent tab therein (December 4, 2025). This is the only recourse available to counteract the administrative paralysis that currently threatens to subvert the Applicant's timely right to justice.

VI. Compendium Status and Registrar's Exclusive Upload Duty (Rule 4.05.3)

I confirm that I am the only party per se. I reproduce the following, which governs the use and population of Case Center:

“Requirement to Use Case Center

(3) Every party participating in the hearing or conference shall provide the following documents to the court by uploading them to Case Center in accordance with this rule:

1. A copy of every document filed with the court by the party in respect of the hearing or conference.
2. Subject to subrule (5), a copy of any other document in the court file on which the party intends to rely at the hearing or conference that has not already been uploaded to Case Center by another party.
3. Unless the court directs otherwise and subject to subrule (3.1), a compendium that meets the requirements of subrule (7). O. Reg. 300/24, s. 2 (1).

Modification, City of Toronto

(3.0.1) In the case of a proceeding that is commenced or continued in the City of Toronto, the documents referred to in paragraphs 1 and 2 of subrule (3) in respect of each party shall be uploaded to Case Center by the registrar and not by the party. O. Reg. 226/25, s. 5 (1).

Compendium

(3.1) A compendium is not required to be provided with respect to a conference or the hearing of an unopposed motion or motion on consent, unless the court directs otherwise. O. Reg. 300/24, s. 2 (1).

Deadline

(4) Subject to subrules (4.1) and (5), the documents listed in subrule (3) must be uploaded to Case Center by the following deadline:

4. In the case of the hearing of a motion or application where the party is required to give the registrar a confirmation of motion (Form 37B) or confirmation of application (Form 38B), the deadline is 2 p.m. three days before the hearing date, unless the court orders otherwise.
5. In any other case, the deadline is five days before the date of the hearing or conference, unless the court orders otherwise. O. Reg. 689/20, s. 7; O. Reg. 224/22, s. 1; O. Reg. 300/24, s. 2 (6); O. Reg. 301/24, s. 1; O. Reg. 226/25, s. 5 (2).

(4.1) Subrule (4) does not apply to the registrar. O. Reg. 226/25, s. 5 (3).”

The preceding provisions establish a critical, *sui generis* procedural framework for Toronto proceedings. The "Modification, City of Toronto" (Rule 4.05.3(3.0.1)) is a clear policy directive recognizing the unique volume and complexity of filings in the Toronto region, thus centralizing the document upload function with the court administration. Specifically, *Rule 4.05.3(3.0.1)* unequivocally delegates the primary responsibility for uploading all filed documents (paragraphs 1 and 2 of subrule (3)) to Case Center **exclusively to the Registrar**, thereby absolving the Applicant of this burden. Furthermore, *Rule 4.05.3(4.1)* explicitly provides that the stringent deadlines of subrule (4) **do not apply to the Registrar**. The legislative intent here is to remove the pressure of time constraints on the administrative process for uploads, allowing the Registrar to perform this function methodically, but this immunity from deadlines must not be misinterpreted as a license for indefinite delay. In this regard, I note that subrule 4.05.3(3)(2.) requires only a party to be able to invoke that right to have any other document in the “court file” to be relied upon. Since the Applicant is the only party per se, this right is exercised and requires the Registrar to upload any relied-upon documents from the "court file." Ergo, only the Registrar can upload filed documents but not subject to any deadline. The conclusion is therefore inescapable: the Registrar has an absolute, non-discretionary, and non-time-constrained ministerial duty to complete the court record by uploading all filed documents, whether submitted electronically or, as here, via the mail-filing exception. This duty is the single remaining procedural hurdle.

Confirmation is provided that neither the **Draft Order** of December 4, 2025, nor the **Compendium** required physical binding. Pursuant to *Rule 4.05.3(3.1)*, the Compendium was not required due to the *unopposed* status of the **NOM #3**. The Compendium was filed nonetheless as a matter of good practice and procedural completeness. Furthermore, the requirement for buff covers applies exclusively to an "appeal book and compendium" under *Rule 4.07(3)*, which mandates:

Appeal Book and Compendium

(3) An appeal book and compendium shall be bound front and back in buff covers. O. Reg. 19/03, s. 1 (1).

It is **trite law** that a compendium prepared for a motion is patently distinct from that mandated for an appeal, rendering the binding requirement **inapplicable**. The deliberate decision not to bind the motion **Compendium** was therefore not a procedural irregularity but an act of strict compliance with the **Rules**.

Pursuant to *Rule 4.07(7)*, which governs electronic documents:
Electronic Documents
(7) This rule does not apply to a document that is filed electronically in accordance with these rules or uploaded to Case Center under rule 4.05.3; however, if the same document is filed or provided to the court in paper format, this rule applies to the paper version of the document. O. Reg. 689/20, s. 9; O. Reg. 300/24, s. 4 (2); O. Reg. 301/24, s. 1.
The Applicant confirms that the mail-filed **Draft Order** and **Compendium** will not be subsequently filed electronically. In that regard, the "same document" will not be dually filed in both paper and electronic format by the Applicant, thus consciously avoiding the application of the latter clause of the rule to prevent any procedural complication and maintaining a singular, definitive version of the record.

VII. Conclusion and Request for Remedial Action

Given the demonstrable delays within the **OCPP** system, the egregious breach of administrative representations concerning confirmation timelines, and the fundamental principle that court staff are compelled to act at the direction of the **President of the Divisional Court**, a copy of this correspondence shall be provided to the **President of the Divisional Court** to ensure the **Current Registrar** executes the duties required by law with appropriate diligence and dispatch.
It is a cardinal principle, reaffirmed by the **Roncarelli Decision** (see: *supra*), that statutory or regulatory discretion is not an absolute prerogative. It must be exercised judiciously and according to the rules of reason and justice, not according to *private opinion*, administrative humour, or bureaucratic convenience. Lord Halsbury's guidance in *Sharp v. Wakefield* remains a potent syllogism: discretion must be "legal and regular," and not "arbitrary, vague, and fanciful." The continued failure to execute the non-discretionary duty of confirmation and document conversion constitutes an administrative action that falls outside the boundaries of good faith and legal regularity, equating to an abuse of public power. The **honest approach**, appreciating the sensitive administrative transition, dictates that the **Current Registrar** must promptly process all outstanding submissions and furnish confirmations, as the statutory mandate is one of ministerial confirmation, not of discretionary acceptance.
While careful consideration was given to the filing of a Motion to Compel the **Current Registrar** and to seek the appropriate order for costs against the Ministry of the Attorney General (the "**MAG**"), such a procedural initiative was ultimately deemed unnecessary and an instance of **overkill**, particularly in light of section 76 of the *Courts of Justice Act* (*CJA*). Section 76 empowers the Chief Justice to issue directions necessary to enforce the integrity and efficiency of the court process. The **President of the Divisional Court** is constrained to act when the statutory language dictates "shall," and his inherent authority to issue directions is activated upon receipt of clear, undisputed evidence of a systemic administrative failure. The provision of this current electronic correspondence to the **President of the Divisional Court** furnishes the requisite knowledge, thereby establishing the necessary obligation upon him to issue the directive. Failure by the **President of the Divisional Court** to act upon this clear evidence of administrative disarray would constitute an unfortunate acquiescence to the systemic failure. In this manner, the necessity of an additional motion is obviated, ensuring that the merits of the Judicial Review Application (**JRPA**) Proceeding can be decided in an **expeditious**, **cost-effective**, and **just** manner. The cost of a procedural motion to compel the Registrar, including the associated preparation time and judicial resources, would be an additional, unwarranted burden on the Applicant, caused entirely by the administrative arm of the Court.
As this was another some thousands of dollars in disbursements with the printing of pages, purchase of binders, tabs, paper, and mail filing, which was excessive but not my fault, I reserve the right to provide an amended Bill of Costs and current **Draft Order**. These costs, being directly attributable to the Applicant's necessary mitigation efforts against the Court's administrative failure (i.e., duplicating the filing in paper format), are reasonable and recoverable as special damages arising from institutional negligence.
I reserve to rely on this email document for any lawful purposes including seeking additional costs along with asserting my legal rights in a professional and lawful manner.

I further reserve the right to give, send, file (mail or electronic) any further documents to ensure that this JRPA Proceeding with particular reference to **NOM #3** is decided in a manner consistent with the law along with reference to the binding principles in the *Zurich v. Chubb* cases including the dissenting opinion of Juriansz J.A.

that was adopted verbatim by the Supreme Court of Canada in 2015 and the binding decision of The Honourable Justice Akazaki in May 2024. I reserve the right to formalize and expand upon these principles in a formal request or requisition of the Divisional Court where applicable.

The administrative delays currently being experienced do not constitute a mere inconvenience; they represent a material obstruction to the Applicant's entitlement to the **expeditious and just** resolution of the extant application for judicial review, directly impacting the right of access to justice. Such institutional failings, if allowed to persist without immediate **rectification**, inevitably erode public confidence in the judicial process and contravene the overarching policy objectives enshrined in the **Rules**.

The **President of the Divisional Court**, by virtue of his statutory nomenclature and judicial eminence, bears the ultimate responsibility for conducting the court's administrative functions in a manner entirely consistent with the **Rules** and established judicial principles. It is therefore respectfully requested that the administrative confirmation of all outstanding filed documents be effected without further delay, thereby preserving the *status quo ante* of the timely filing and ensuring that the matter can proceed to an unbiased determination on its merits.

To the extent that the representations are not honoured, I have nonetheless mitigated the same to assist the Presiding Motions Judge to approve the draft order, sign the same and have the Registrar file and enter the same with a copy to me.

Warm regards,

/s/Mr. Kevin A. McLean (BA, JD, CIM)

Mr. Kevin A. McLean (BA, JD, CIM)
Applicant and Moving Party
DC-24-00000718-00JR
24/718/00JR
December 11, 2025

On Wed, Dec 3, 2025 at 4:50 PM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

Dear Divisional Court and Esteemed Registrar of the Divisional Court in Ms. Parris:

I write regarding the above.

I confirm that the above was delivered, without Ms. Gentles copied, and without incident. I look forward to having the validation stamps of my paid for (where applicable) and filed documents on the date they were submitted, subject to any "holiday" filings which would carry over to the next day. Thank you for your immediate attention to the above and in advance for your anticipated compliance with the same.

I repeat and rely upon the above sent to you.

Thank you for your attention to the same to ensure that the record of proceeding is accurately reflected with respect to filed documents.

Yours faithfully,

/KAM

Mr. Kevin A. McLean (BA, JD, CIM)

Sender's name: Mr. Kevin Alexander McLean (BA, JD, CIM)

Sender's address: 410-775 King Street West, Toronto, Ontario, M5V 2K3

Sender's Telephone Number: (647) 370-9354

Sender's email address: mcleansettlement@gmail.com

On Wed, Dec 3, 2025 at 3:36 PM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

URGENT COMMUNICATION
Classification: Private and Confidential
Date of Transmittal: December 3, 2025
Temporal Designation: 3:30 p.m. ante meridiem
Mode of Transmission: Electronic Mail (Primary) and Facsimile (Concurrent Confirmation)

Divisional Court File Designation	**24/718/00JR**
Short Style of Cause	*McLean v. TDHA et al.*
Document Type	Formal Correspondence (Email)
Sender's Status	The Applicant and Moving Party in Nomination of Motion No. 3 (*NOM #3*)
Sender's Name	Mr. Kevin A. McLean, B.A., J.D., C.I.M.

TO:

THE DIVISIONAL COURT
130 Queen Street West
Room 174
Toronto, Ontario
M5H 2N5
(Kind Attention: The New Registrar of the Divisional Court in Ms. Parris , Law Society NumberP06565

Facsimile: 416-327-5549
Electronic Mail: scj-csj.divcourtmail@ontario.ca; roxanne.parris@ontario.ca)
Subject: Acknowledgement of Administrative Succession and Requisition (Requirements) for Expedited Processing and Formal Validation (that which has been delayed beyond processing) of Filed Documents Pertaining to the Written Hearing of *Notice of Motion* Number Three (NOM #3), Scheduled for December 3, 2025

I. Acknowledgement of Administrative Succession and Transference of Duties

The **Applicant (Moving Party)** duly acknowledges the official advisement concerning the cessation of the role and responsibilities of the former Registrar/Manager of the Divisional Court (hereinafter the "Former Registrar"), Ms. Gentles. Consequently, the transference of her subsisting administrative and procedural duties is hereby directed to the immediate and meticulous attention of the present administrative apparatus, specifically including the newly designated Registrar/Manager (hereinafter the "New Registrar"). This direction is effected by way of explicit reference to the comprehensive documentation appended hereto, which delineates the precise administrative obligations currently outstanding. This administrative continuity, essential for the efficacious function of the Divisional Court's mandate under the *Courts of Justice Act*, must remain unimpaired; the New Registrar is respectfully requested to be fully seized of all outstanding obligations *in media res* to prevent any procedural lacuna in the execution of justice and to safeguard the **Applicant (Moving Party)'s** substantive rights scheduled for adjudication.

II. Mandate for Immediate Processing and Preservation of *Status Quo Ante*

Given the present chronological demarcation, being approximately 15:00 hours, and the consequential administrative mandate to effectuate the expeditious processing of the outstanding filings, many of which were submitted on an exigent and demonstrably time-sensitive basis, it is imperative that the represented service standard of acceptance within three (3) business days be honoured without further delay. Specifically, it is stipulated that all outstanding submissions be formally received and logged within the Online Civil Claims Portal (OCCP) as of their respective original dates of submission (*acta non verba*), thereby meticulously preserving the procedural *status quo ante* and ensuring the unimpeachable integrity of the judicial record in advance of the December 3, 2025, return date for the written hearing (without the necessity of physical attendance) of the **Applicant (Moving Party)'s** *Notice of Motion* Number Three (NOM #3).

The exigency of the situation is further underscored by the potential for procedural prejudice arising from the retrospective application of filing dates; should the official filing dates fail to correspond precisely with the dates of submission, the mandatory calculation of various procedural timelines under the *Rules of Civil Procedure*, including those relating to the perfection of the motion record, could be detrimentally compromised. Such an administrative delay, though understood in the context of succession, risks rendering the **Applicant (Moving Party)'s** submissions technically deficient *ab initio*, an outcome which would be demonstrably inequitable and contrary to the paramount principle of procedural fairness. The **Applicant (Moving Party)** reiterates and relies upon the comprehensive materials previously submitted, including the requisitions and confirmations of filing, a meticulous duplication of which is appended herein for the recipients' ease of reference. **I have also included the index for the *Compendium For NOM #3* that I am required to upload.** Cross-referencing is specifically directed to those documentation, including those remunerated where applicable, which were submitted as much as one week prior to the issuance of this correspondence. The submissions must be officially stamped *nunc pro tunc*.

III. Procedural Status of NOM #3 and Extrapolation of Legal Principles

A. The Unopposed Nature of the Relief Sought

It is formally confirmed, as has been previously established through comprehensive documentary evidence, that a *Confirmation of Motion* was successfully transmitted to the court office via electronic mail on Monday, November 24, 2025. Perusal of the correspondence annexed hereto unequivocally substantiates the **Applicant (Moving Party)'s** knowledge that the *Notice of Motion* Number Three (NOM #3) remains fundamentally and procedurally unopposed by any potential *Responding Parties* (a designation encompassing both nominal Respondents and Non-Respondents). Specifically, Requisition/Request #11 (submitted and filed on December 2, 2025, at 03:05 hours) constitutes a compelling *prima facie* demonstration that the nominal Respondents neither

delivered their mandatory *Notices of Appearance* nor filed a "First Defence," thereby failing to attain the requisite jurisdictional status of a party to the substantive proceeding. This failure operates as a decisive waiver of their entitlement to participate in the adjudication of NOM #3.

B. Application of the *Rules of Civil Procedure* and Remedial Authority

The failure of the nominal Respondents to comply with the threshold procedural prerequisites under the *Rules of Civil Procedure* renders them *ipso facto* non-parties. This procedural defect, which is not attributable to any action or inaction on the part of the **Applicant (Moving Party)**, concurrently and consequentially nullifies any standing they might otherwise possess to oppose the relief sought against them, as evidenced by the corresponding lack of opposition from the Non-Respondents who were duly served (vide: Tab #22 of the *Motion Record* and the *Compendium For NOM #3*).

It is a sophisticated extrapolation of legal principle that the judicial branch possesses the inherent and statutory authority to prevent administrative or technological failures from undermining the pursuit of justice. The adherence to the spirit and substance of the *Rules of Civil Procedure* necessitates the dispensing with technical compliance where the technological impediments or the former non-compliance of the Former Registrar's duties have occasioned delays. To penalize the moving party for administrative delay would be tantamount to an act of procedural *ultra vires* against the foundational tenets of natural justice. The New Registrar is therefore requested to ensure that the requisite remedial measures are instantiated forthwith, recognizing the Court's equitable power to correct such administrative errors.

IV. Provision of the Primary Draft Order for Judicial Assistance

In furtherance of the objective of utilizing public resources with maximal efficiency, and drawing a potent analogy to the successful, uncontested implementation of the **Applicant (Moving Party)'s** *Notice of Motion* Number Two (NOM #2)—which proceeded summarily in writing without objection from the nominal Respondents—the **Applicant (Moving Party)** has appended a meticulously prepared copy of the "Primary Draft Order" (vide: *Requisitions by Appendices* for cross-referencing).

The aforementioned document, which was previously transmitted via electronic mail, is current as of November 30, 2025, and is deemed filed on December 1, 2025. This critical date is chronologically situated more than ten (10) days subsequent to the complete service of the NOM #3 *Motion Record* upon the nominal adversaries. The provision of this Primary Draft Order serves a dual purpose: it constitutes timely notice to the Presiding Motions Judge, and, more importantly, functions as a judicial roadmap, meticulously detailing the materials to be reviewed, the specific legal authorities relied upon, and the necessary operative paragraphs of the final disposition. This proactive measure significantly contributes to the optimal utilization of finite judicial resources, mitigating the administrative burden associated with navigating complex motion records. The **Applicant (Moving Party)'s** conclusions regarding the procedural entitlement to the sought relief are thereby rendered structurally and legally self-evident by the unopposed record and the sufficiency of the notice provided.

The **Applicant (Moving Party)** reaffirms its unwavering deference to the inherent jurisdiction of the Court to command the integrity of its own processes and remains readily available should any subsequent refinements to the Primary Draft Order be deemed requisite. Electronic communication via this thread is acceptable for purposes of further clarification.

The **Applicant (Moving Party)** extends its sincere appreciation for the scrupulous attention and compliance with the stipulations contained herein, and for ensuring that the principles of procedural fairness and the efficient administration of justice are meticulously upheld in this complex matter.

Warmest regards and congratulations to Ms. Parris, licensed paralegal, on her promotion:

/s/Mr. Kevin A. McLean (BA, JD, CIM)

Mr. Kevin A. McLean (BA, JD, CIM)

Yours faithfully,

/KAM

Mr. Kevin A. McLean (BA, JD, CIM)

Sender's name: Mr. Kevin Alexander McLean (BA, JD, CIM)

Sender's address: 410-775 King Street West, Toronto, Ontario, M5V 2K3

Sender's Telephone Number: (647) 370-9354

Sender's email address: mcleansettlement@gmail.com

On Wed, Dec 3, 2025 at 10:43 AM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:
URGENT COMMUNICATION
Classification: Private and Confidential
Date of Transmittal: December 3, 2025
Temporal Designation: 10:30 ante meridiem
Mode of Transmission: Electronic Mail (Primary) and Facsimile (Concurrent Confirmation)

Divisional Court File Designation	**24/718/00JR**
Short Style of Cause	*McLean v. TDHA et al.*
Document Type	Formal Correspondence (Email)
Sender's Status	The Applicant and Moving Party in Nomination of Motion No. 3 (*NOM #3*)
Sender's Name	Mr. Kevin A. McLean, B.A., J.D., C.I.M.

TO:

THE DIVISIONAL COURT
130 Queen Street West
Room 174
Toronto, Ontario
M5H 2N5
(Kind Attention: The Esteemed Registrar, Ms. T. Gentles)

Facsimile: 416-327-5549
Electronic Mail: scj-csj.divcourtmail@ontario.ca; Tashekah.Gentles@ontario.ca

Subject: Exigent Requirement for the Registrar’s Execution of Duties Pursuant to Honoured Procedural Representations Regarding the Temporal Scope of Filed Documents in the OCPP

I. INTRODUCTION AND CONTEXT

This urgent communication is submitted with utmost deference and respect to the Honourable Justices of the Divisional Court, and is directed specifically to the Office of the Registrar. The present temporal designation, 9:45 *ante meridiem* on December 3, 2025, represents a critical juncture in the procedural chronology of this application.

Subsequent to the submission of the requisite formal requisitions, an appended document is provided herewith. This enclosure constitutes a graphic excerpt from the 'My Filings' module of the Ontario Courts Public Portal ('OCPP'), which definitively demonstrates a substantive failure to adhere to the established judicial administration's represented timeline for processing and validating submissions. Specifically, the antecedent assurances provided to **me** regarding the notification of acceptance within a period of three business days have not been fulfilled, which constitutes, *prima facie*, a material misrepresentation of the established procedural protocol.

II. NON-COMPLIANCE WITH PROCEDURAL REPRESENTATION

In the enduring spirit of collegiality, and reserving all extant factual and legal prerogatives, **I** respectfully and urgently request that the relevant filings, particularly those associated with Reference Number '4B3F-88B8-7280-8DEB', be forthwith accorded the validation stamp bearing the date of November 26, 2025. Immediate confirmation of safe and accurate receipt of the aforementioned documentation will subsequently be provided by **me**.

This procedural rectification is indispensable to ensure the unimpeded progression of *NOM #3*, which is designated to proceed this day “in writing” and without the necessity of **my** personal attendance. It is acknowledged that a period of time will necessarily be required for the Presiding Superior Court of Justice Motions Judge (hereinafter, the “Presiding SCJ Motions Judge”) to meticulously peruse the documentation contained within the *NOM #3* Motion Record, in conjunction with the most recently promulgated draft order (dated November 30, 2025), herein designated as the “Primary Draft Order.”

The efficacy of this judicial review is entirely contingent upon the successful and timely uploading of the filed documents to the Presiding SCJ Motions Judge, with the singular exception of the Compendium For *NOM #3*, the preparation and transmission of which remains **my** sole and punctilious responsibility. Although the submission of the *Compendium For NOM #3* was not strictly mandated, its filing and service upon all relevant entities were definitively effectuated on November 28, 2025, which comfortably preceded the returnable date designated for the hearing of *NOM #3* by a margin of three clear days.

III. JURISDICTIONAL MANDATE AND *ACTA*

Should the immediate rectification of these critical procedural matters not be effectuated, **I** shall be compelled to escalate this exigency to the appropriate supervisory authority. Such action would be undertaken to ensure strict adherence to the *pith and substance* of the *Courts of Justice Act*, the *Legislation Act*, the *Judicial Review Procedure Act*, and all relevant attendant regulatory instruments.

It is affirmed that the requisitions appended hereto necessitate the Registrar's execution of a statutory duty pursuant to the *Rules of Civil Procedure*. Concomitantly, the imposition of a supplementary prescribed fee is deemed unwarranted, predicated upon the antecedent disbursement of all various prescribed fees established under the pertinent regulation issued pursuant to the *Administration of Justice Act*, specifically titled the *Superior Court of Justice and Court of Appeal - Fees*.

Analysis of Regulatory Fees

It is observed that the regulatory provision, Superior Court of Justice and Court of Appeal - Fees, O Reg 293/92, specifically subsection 1(1)3(iv), stipulates:

> "iv. A notice of motion served on another party, a notice of motion without notice, a notice of motion for a consent order or a notice of motion for leave to appeal, other than a notice of motion in a family law appeal, $339."

To the extent that since the Respondents failed to "deliver" their respective Notices of Appearance previously and prior to the filing of the Notice of Motion Number Three, and thus are not formally designated as "parties" to this motion, and given that the instant Notice of Motion was initiated with notice, does not seek a "consent order," is not a "motion for leave to appeal," and is not a "notice of motion in a family law appeal," the logical inference, *ipso facto*, is that no further charge for "filing" can be levied pursuant to the strict construction of the regulatory language.

IV. ACCESS TO JUSTICE AND PROCEDURAL INTEGRITY

Notwithstanding the aforementioned rigorous statutory construction, and in deference to the judicious management of the Divisional Court's limited temporal and fiscal resources, **I** confirm that the imposition of the aforementioned fee may proceed *in any event* for administrative convenience. This acquiescence is grounded in the axiomatic principle that **I am** procedurally constrained to advance a motion within this proceeding pursuant to *Rule 59.06(2)(a)*, notwithstanding the absence of formally designated "Responding Parties." It is a self-evident legal conclusion that a "Responding Party" is jurisprudentially distinct from a "party."

It is further acknowledged that the guarantee of access to public courts for the adjudication of civil disputes constitutes a foundational tenet of the Canadian constitutional architecture (see: *Trial Lawyers Association of British Columbia v. British Columbia (Attorney General)*, 2014 SCC 59, at paragraphs 32 and 41; referencing *Ontario (Attorney General) v. $25,610 in Canadian Currency*, 2017 ONCA 251, at paragraph 1). The Registrar is therefore mandated to comply with the represented timelines to ensure that this fundamental constitutional right is not *ultra vires* prejudiced.

The aforementioned electronic correspondence was concurrently transmitted via facsimile to preclude any possible misapprehension or conceptual ambiguity regarding the exigent nature of this matter. It has now been five business days since the effectual filing of the *NOM #3*, Factum, Motion Record, Primary Draft Order, and Affidavit of Service; a duration that significantly exceeds the represented three-business-day processing interval. **I** punctiliously fulfilled the obligation to deliver a Confirmation of Motion to the Registrar at least five days prior to the hearing date, specifically on November 24, 2025, thereby satisfying the prescription of *Rule 37.10.1(1)(a)(i)*.

As *NOM #3* constitutes a motion without oral argument, its adjudication proceeds appropriately in the absence of the public pursuant to *Rule 37.11(1)(a)*, which states:

"(a) the motion is to be heard and determined without oral argument;"

V. CONCLUSION AND RESERVATION OF RIGHTS

In consideration of the demonstrable lack of opposition to *NOM #3* and the exigent circumstances underlying the substantive relief sought therein, a revised draft order shall be expeditiously transmitted for the attention of the Presiding SCJ Motions Judge. While the administrative temporal delays are unquestionably of considerable concern, it is anticipated that this approach will facilitate the determination of the *merits* in an expeditious, fiscally judicious, and fundamentally just manner.

I formally reserve the prerogative to bring this entire *acta* to the attention of those possessing the requisite supervisory authority, should the stated representations and corresponding procedural obligations remain unfulfilled. While resorting to such supervisory intervention would be undertaken with demonstrable reluctance, it may become an unavoidable necessity to preserve the *status quo ante* and uphold the integrity of the judicial process.

The previously provided Primary Draft Order is appended hereto for the Presiding SCJ Motions Judge's ease of reference, should the immediate endorsement of that instrument be contemplated.

I thank the Court for its prompt and judicious attention to this exigency.

Respectfully Submitted,

/s/Mr. Kevin A. McLean, B.A., J.D., C.I.M.

Mr. Kevin A. McLean, B.A., J.D., C.I.M.

Enclosures:

1. Requisition No. 11 of the Applicant (December 1, 2025)
2. Requisition No. 12 of the Applicant (December 2, 2025)
3. Excerpt from 'My Filings' (OCPP)
4. Primary Draft Order (November 30, 2025)

Yours faithfully,

/KAM

Mr. Kevin A. McLean (BA, JD, CIM)

Sender's name: Mr. Kevin Alexander McLean (BA, JD, CIM)

Sender's address: 410-775 King Street West, Toronto, Ontario, M5V 2K3

Sender's Telephone Number: (647) 370-9354

Sender's email address: mcleansettlement@gmail.com

On Tue, Dec 2, 2025 at 4:00 PM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

Dear Divisional Court and Ms. Gentles: a copy of this requisition was filed in the OCPP. I provide a copy herein for your ease of reference. Kindly comply with the requirements and duties. I will presume unless I hear otherwise that my NOM #3 will be heard tomorrow in writing at some point during the day, even notionally by reference to time. Thank you kindly.

Yours faithfully,

Mr. Kevin A. McLean (BA, JD, CIM)

Sender's name: Mr. Kevin Alexander McLean (BA, JD, CIM)

Sender's address: 410-775 King Street West, Toronto, Ontario, M5V 2K3

Sender's Telephone Number: (647) 370-9354

Sender's email address: mcleansettlement@gmail.com

On Tue, Dec 2, 2025 at 2:52 PM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:
Gmail - Superior Court of Justice - Toronto - Divisional Court DC-24-00000718-00JR Filing Submission Conf...
Date: December 2, 2025 at 2:45 p.m.
Classification: private and confidential
Mode of transmission: electronic (email at first instance)

URGENT

Judicial File Designation	**24/718/00JR**
Short Style of Cause	*McLean v. TDHA et al.*
Document Type	Email
Originating Entity	The Applicant and Moving Party in NOM #3
Submitted By	Mr. Kevin A. McLean, B.A., J.D., C.I.M.

TO:

THE DIVISIONAL COURT
130 Queen Street West
Room 174
Toronto, Ontario
(Kind Attention: Registrar Ms. Gentles)

Fax: 416-327-5549

Email: scj-csj.divcourtmail@ontario.ca; and Tashekah.Gentles@ontario.ca

SUBJECT: IMMEDIATE REQUIREMENT OF STAMPING THE OUTSTANDING SUBMITTED FILINGS TO THE DIVISIONAL COURT WITH PARTICULAR REFERENCE TO THE FILED

MOTION RECORD (INCLUDING THE NOM #3, FACTUM, MOTION RECORD, DRAFT ORDER, AFFIDAVIT OF SERVICE ET AL) (SEE: 4B3F-88B8-7280-8DEB)

Dear Divisional Court, Ms. Gentles et al:

I write regarding the above on an urgent basis. As you know from the email of last night, it is unequivocal that none of the Respondents "filed" a "First Defence" and "delivered" their Notices of Appearances. Pursuant to Rule 38.07(2)(a) to (c), which is reproduced:

"(2) A respondent who has not delivered a notice of appearance is not entitled to,
(a) receive notice of any step in the application;
(b) receive any further document in the application, unless,
    (i) the court orders otherwise, or
    (ii) the document is an amended notice of application that changes the relief sought;
(c) file material, examine a witness or cross-examine on an affidavit on the application…"

Were entitled to receive notice of "any step" in the JRPA Application (document #1 in the record of proceeding of the JRPA Proceeding); receive any further "document" in the JRPA Application; or file material on the JRPA Application.

"Document" includes data and information in electronic form (see: Rule 1.03 of the Rules of Civil Procedure).

As such, with this unequivocal proof, this request is squarely and exclusively provided to the Divisional Court and will be so on a go-forward basis.

I refer to the language in the Wednesday, November 26, 2025, email which states:

> "Your documents will be reviewed by court staff and you will be notified **within three business days…."**

Based on not counting the first day which was Wednesday, November 26, 2025, within three business days was yesterday, Monday, December 1, 2025.

Since the filings unequivocally comply with the requirements for filing, I am entitled by law to stamped copies of those documents to be dated on **November 26, 2025** of which there was included receipt involving the same (see: Requisition of last night which was served, out of an abundance of caution, and filed). As per the motion relief therein, which also seeks abridgement of time and orders granted on a nunc pro tunc basis, which is to be decided by the presiding motion judge in writing, kindly provide me with the stamped copies of the documents contained in the below numbered package of documents forthwith. As you also know from last night's letter and filed Requisition,

The language is unequivocal in the email therein, which is attached, and it requires a duty of good faith which is imposed upon the Divisional Court by its employees, albeit employed by the MAG, that I will (not "may") notified within three business days.

As you know, I am required to bring this motion in the Divisional Court under the JRPA Proceeding pursuant to the requirements under the Rules of Civil Procedure which state:

"Amending, Setting Aside or Varying Order

Amending

59.06 (1) An order that contains an error arising from an accidental slip or omission or requires amendment in any particular on which the court did not adjudicate may be amended on a motion in the proceeding. R.R.O. 1990, Reg. 194, r. 59.06 (1).

Setting Aside or Varying

(2) A party who seeks to,

(a) have an order set aside or varied on the ground of fraud or of facts arising or discovered after it was made;

(b) suspend the operation of an order;

(c) carry an order into operation; or

(d) obtain other relief than that originally awarded,

may make a motion in the proceeding for the relief claimed. R.R.O. 1990, Reg. 194, r. 59.06 (2)."

As such, I was and am required to have made the motion in the proceeding for which the relief was claimed.

As you know, the "Responding Parties" were all provided notice and served with the Notice of Motion on November 17, 2025 (Monday) which was 16 days in advance of tomorrow's date. The NOM #3 will proceed by "written hearing" as per the Rules of Civil Procedure (see: Rule 37.12(4) and (5)) on December 3, 2025.

In consequence, the Court is formally and respectfully implored to furnish, with the utmost promptness and without further administrative circumlocution or delay, the officially stamped exemplars of the documents contained within the aforementioned package of documentary submitted filed documents with authorized payment. Please do so by 3:30 p.m. so that compliance is effected in accordance with the representations made to me in writing by the email attached.
When I receive the stamped copy of the aforementioned and cross-referenced documents, I will confirm the same by email to confirm the closure of this issue requiring immediate attention by the Divisional Court.

Thank you kindly.

Respectfully Submitted,

/s/Mr. Kevin A. McLean (BA, JD, CIM)

Mr. Kevin A. McLean, B.A., J.D., C.I.M.
Applicant and Moving Party
NOM #3
APPENDIX

4B3F-88B8-7280-8DEB
Divisional Court - Motion Record
Divisional Court
DC-24-00000718-00JR
MCLEAN v. TD HOME AND AUTO INSURANCE COMPANY et al
Divisional - Application - Judicial Review Motion Document - Motion Record Received
26/11/2025
12:50

Yours faithfully,

/KAM

Mr. Kevin A. McLean (BA, JD, CIM)

Sender's name: Mr. Kevin Alexander McLean (BA, JD, CIM)

Sender's address: 410-775 King Street West, Toronto, Ontario, M5V 2K3

Sender's Telephone Number: (647) 370-9354

Sender's email address: mcleansettlement@gmail.com

On Tue, Dec 2, 2025 at 3:09 AM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

CLASSIFICATION: PRIVATE AND CONFIDENTIAL TRANSMISSION METHOD: VIA ELECTRONIC TRANSMISSION

DATE: December 2, 2025

CREATION METHOD: Judicial Instrument Transcription (The explicit reservation of corrective rights concerning all grammatical, syntactical, substantive, or rhetorical deficiencies is maintained by the Applicant.)

TO: THE DIVISIONAL COURT (Attention: The Registrar, Ms. Gentles)

COPIES TO: All Named Respondents Herein

DIVISIONAL COURT – REQUIRED PARTICULARS

Judicial File Designation	**DC-24-00000718-00JR**
Short Style of Cause	**McLean v. TDHA *et al.***
Document Type	**Provision of the Requisition, Requisition or Request or JRPA Application Hearing Request (3 forms: one document)**
Originating Entity	**The Applicant and Moving Party in NOM #3**
Submitted By	**Mr. Kevin A. McLean, B.A., J.D., C.I.M.**

SUBJECT I: JUDICIAL REVIEW APPLICATION NO. DC-24-00000718-00JR; McLean v. TDHA *et al.*

SUBJECT II: URGENT CONFIRMATION OF FILING: MULTI-PURPOSED REQUISITION FORM (FORM 4(E), DIVISIONAL COURT FORM 1, AND APPLICATION HEARING REQUEST) AND COMPLIANCE WITH AN IMMEDIATE ALERT TO THE DIVISIIONAL COURT OFFICE IN TORONTO REGION PURSUANT TO THE ABOVE AND IN ACCORDANCE WITH THE DIVISIONAL COURT PRACTICE DIRECTION IN THIS REGARD

I. INTRODUCTION AND ADOPTION OF LEGAL DICTION

Formal communication is herein extended concerning the above-noted proceeding, the principal subject of which pertains to the time-sensitive submission of dispositive documentation tendered in anticipation of the scheduled return date for *Notice of Motion Number Three* (hereinafter, the "*NOM #3*"), presently docketed for judicial consideration on Wednesday, December 3, 2025. This exigent transmission constitutes the requisite notification to the Trial Coordination Office staff concerning the time-critical nature of the contemporaneously filed instruments, which form an integral component of the comprehensive legal argument and evidentiary submissions that comprise the *acta* of the Application for Judicial Review. The gravity of the *NOM #3* is predicated upon substantive legal challenges to the foundation of the proceeding itself, thus demanding rigorous attention *in limine*.

For the purpose of maintaining conceptual precision and jurisprudential consistency throughout this documentation, all definitions, stipulations, and qualifications articulated in previously, indirectly or directly, cited correspondence, records, and judicial materials comprising the comprehensive *acta* of this matter are meticulously adopted, thereby obviating the necessity for their repetitive restatement. Furthermore, the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, which govern the procedural *modus operandi* of this Court, shall be hereinafter formally designated as the "*Rules*."

II. PROCEDURAL PRECEDENT AND THE MANDATE FOR URGENT SUBMISSION

The present official correspondence is necessitated by a strict, non-derogable adherence to the *Divisional Court Practice Direction, Part A.2: Filing Online Filing for Toronto Divisional Court Matters* (hereinafter, the "*Practice Direction*"), which unequivocally mandates that, in circumstances where an urgent hearing request is prosecuted, a corresponding electronic mail transmission must be forwarded to the appropriate administrative office. This is required, *inter alia*, to furnish notification to the pertinent staff of the submission's critical nature subsequent to its electronic lodgement via the *Online Court Case Portal* (hereinafter, the "*OCCP*"). The efficient and salutary operation of this dual-alert mechanism is calculated to ensure that time-critical filings are not permitted to languish within the generalized queue of submissions, but rather ascend immediately to the requisite level of judicial and administrative prioritization, a measure essential for the prevention of procedural *laches*.

The essential *prima facie* basis for establishing the requisite temporal urgency of this alert is unequivocally demonstrated by the compelling convergence of two pivotal factors: **(a)** the recent discovery of crucial, compelling evidence and foundational facts, which attained definitive confirmation as of December 1, 2025, and which provide the direct *causa causans* for the *NOM #3* filed on November 17, 2025. This newly discovered evidence precipitates an argument that prior issues may be rendered non-justiciable, thereby altering the essential *locus standi* of certain claims and necessitating the immediate intervention of the Court. **(b)** The imminent spatial proximity of the underlying hearing date is irrefutable; the return date for the *NOM #3* is demonstrably fewer than three business days distant from the date of the

submission, which *ipso facto* characterizes the documents as time-sensitive pursuant to the governing *Practice Direction*. This comprehensive procedural diligence constitutes not merely an exercise in formality but a foundational, prophylactic safeguard, the objective of which is to ensure that submissions of potentially dispositive magnitude are identified and prioritized by the Court staff, thereby protecting the proper administration of justice from unnecessary logistical delay or potential *ultra vires* continuation of non-justiciable controversies, thus upholding the public interest in judicial economy.

III. CONFIRMATION OF INSTITUTIONAL FILING MULTIPLICITY

The primary and solemn purpose of this communication resides in the authoritative confirmation of the methodical and deliberate filing strategy executed within the *OCCP*, the intent of which is to ensure absolute and prophylactic compliance with all pertinent, potentially overlapping procedural requirements imposed by the Divisional Court, thereby foreclosing any *obiter dictum* concerning procedural error.

Due to the inherent composite nature of the submission—which formally encompasses the need for a statutory *Requisition* (mandating action by the Registrar, per Form 4(E)), a *Written Request* (seeking specific administrative direction, per Form 1), and an *Application Hearing Request* (necessary for the calendaring of the urgent motion)—and in order to rigorously mitigate any latent or perceived risk of procedural misclassification that might otherwise consequentially impede the necessary and expedient processing of the urgent request, the Applicant elected to upload the singular, identical substantive document under three separate and distinct procedural headings within the *OCCP*. This triplicate process was judiciously undertaken to preclude any ambiguity in the Court's electronic filing system regarding the document's manifold function, which is simultaneously an *Application Hearing Request* (requesting the date), a *Requisition* (demanding the mandatory action by the Registrar), and a *Written Request* (confirming the urgency pursuant to the *Practice Direction*).

The document, which is formally titled **"Requisition - DC Request - Hearing Request - URGENT - Newly Discovered Evidence - OCCP - Issues No Longer Justiciable - APPLICANT - Mr McLean - 1-Dec-2025"** (hereinafter, the "*Urgent Requisition Document*"), was filed concurrently and precisely under the following three official classifications:

1. *Divisional Court Form 4(E): Requisition*
2. *Divisional Court Form 1: Requisition or Written Request*
3. *Divisional Court Form (unnumbered): Application Hearing Request*

This calculated redundancy was implemented as an exercise in procedural prudence and abundant caution, intended solely to expedite the Court's ministerial processing of this urgent filing and thereby avert any potential prejudice, irreparable or otherwise, that might ensue from the current *status quo ante* of the judicial file, securing the constitutional right to a timely hearing.

A. Evidentiary Confirmation of Procedural Compliance

The Applicant's adherence to the *Practice Direction* and established best practices for the lodging of complex, urgent materials is demonstrably complete. The appended **Appendix #1**, which provides a transactional summary of the filing information, functions as conclusive evidentiary confirmation of the

successful electronic transmission of the *Urgent Requisition Document* under the three aforementioned procedural classifications, which must be accepted as the definitive record of lodgement.

IV. THE IRREMEDIABLE EFFECT OF RESPONDENTS' PROCEDURAL DEFAULT (*NULLA DIES SINE LINEA*)

It is confirmed unequivocally, by reference to the public record accessible through the *Online Court Case Portal* (the "*OCCP*"), which is deemed the final administrative arbiter of documents filed, that the Respondents have entirely neglected to file their requisite *Notices of Appearance* (hereinafter, the "*Notice of Appearance*") or effectuate the delivery thereof to the Applicant, a necessary *sine qua non* for participation. This systemic and irremediable *lacuna* in the fundamental procedural requirements constitutes a matter of demonstrable, objective certainty that cannot be rebutted by collateral assertion or procedural challenge.

Pursuant to the mandatory provisions articulated within the *Rules*, specifically those governing the requirement for filing an initial defending document, this substantive default *ipso facto* operates to render the defaulting parties entirely divested of their **locus standi** and consequently **prohibited** from the receipt of any subsequent steps, documents, or filings in this proceeding. This prohibition is absolute and encompasses any communication or document, inclusive of the document designated as **Document #48**, should that document be determined to be one that required service upon a party enjoying procedural standing. The failure to file the *Notice of Appearance* thus strips the Respondents of their *de jure* right to be served, converting their status to that of non-participants in the ongoing litigation process.

Assurance is further provided that any belated filing of the *Notice of Appearance* shall be preemptively opposed by the Applicant. Notwithstanding this position, the **infallible conclusion** must be drawn that should any such *Notice of Appearance* be filed tomorrow, such lodgement would, in any event, post-date the Applicant's time-sensitive submission of the *Urgent Requisition Document*. This temporal sequence dictates that the Respondent Insurance Companies, the *LAT et al.*, and the Non-Respondents (who are acting as Responding Parties) have not, as of the time of the Applicant's definitive filings, formally opposed or challenged any relief being sought against them (where applicable) in the *NOM #3* or any other timely submission.

Consequently, the Divisional Court is not merely absolved of the obligation to furnish further notice to these procedurally delinquent parties; it is, in point of fact, **prohibited** from serving any subsequent notice of steps or documents herein, given the Respondents' failure to file a first defence or deliver their *Notice of Appearance*. This strict adherence to procedural mandates is essential for maintaining the integrity of the process and ensuring the Court is not placed in the position of providing preferential treatment to defaulting parties. This assertion constitutes **definitive confirmation** that the inclusion of the Respondents in the electronic transmission of this singular correspondence shall denote the definitive and **final instance** of such communication relative to this proceeding (the *ultima ratio* of service). Furthermore, assurance is provided that monitoring of the *OCCP* will continue, thereby allowing for the immediate and decisive procedural action necessary should any delinquent filing of the *Notice of Appearance* by any Respondent belatedly transpire, which would, in and of itself, require subsequent judicial consideration.

V. CONCLUSION AND REQUEST FOR EXPEDITIOUS PROCESSING

Given the comprehensive nature of the *Urgent Requisition Document*, which articulates concerns regarding issues that are arguably no longer justiciable and introduces newly discovered evidence of compelling probative value pertinent to the *NOM #3*, it is respectfully submitted that the attendant circumstances *a fortiori* mandate the immediate attention and high-priority processing of these documents, thereby mitigating the risk of judicial resources being expended on an application that may have been fundamentally altered by the new evidence.

A. Processing Timeline and Integrity of Filings

Note is hereby taken that all filings requiring administrative processing have been particularized to ensure their proper uploading and availability on or before the return date of December 3, 2025, at the hour of 9:30 a.m. While it is acknowledged that the Registrar is not subject to a specific administrative deadline for general filings, a critical temporal constraint is imposed upon the Applicant with respect to the uploading of the *Compendium for NOM #3*. This must be effectuated promptly to forestall the potential for any further unauthorized intrusion or fraud pertaining to personal information, personal health information, and confidential or privileged material, an egregious possibility that regrettably materialized on the day immediately subsequent to the service of the *NOM #3* upon the Respondent Insurance Companies and the Licence Appeal Tribunal (*LAT et al.*). Whether this confluence of events represents merely a coincidence is a query that inherently furnishes its own conclusion. The gravity of these circumstances dictates, at the minimum, the necessity of a definitive judicial decision to ensure that these allegedly malicious and fraudulent actors are placed unequivocally under the *imperium* of contempt, should they intentionally disregard or disobey orders subsequently issued by this Honourable Divisional Court or by the presiding motions judge on Wednesday, December 3, 2025. The prompt execution of this ministerial duty is imperative to ensuring that the Court may discharge its supervisory function over the inferior tribunals and matters properly before it.

It is formally requested that the esteemed Registrar, Ms. Gentles, issue instructions to the requisite Court personnel for the immediate and expeditious processing of the *Urgent Requisition Document* as an urgent filing, thereby enabling the *acta* for the *NOM #3* to be completed without further administrative protraction, which is critical for safeguarding the integrity of the imminent hearing.

The Court's indispensable function and the meticulous efforts required of the Registrar and staff in the administration of this judicial review application are acknowledged with profound appreciation and deference.

A confirmation is provided that the Applicant is grateful for the anticipation of compliance, the expected cooperation, and the prioritization of these time-sensitive requisitions and requests, which is essential to the due administration of justice.

I confirm that I have moved as expeditiously as I could involving this evidence as it only came to my attention on December 1, 2025, when perusing the features of the OCPP. Even the OCPP tech professionals can fact check the same.

Respectfully Submitted,

/s/Mr. Kevin A. McLean (B.A., J.D., C.I.M.)

MR. KEVIN A. MCLEAN (B.A., J.D., C.I.M.) Applicant and Moving Party, Self-Represented Court File No. DC-24-00000718-00JR

APPENDIX #1: FILING INFORMATION SUMMARY

The Official Confirmation of Filing, Pertaining to the Motion Materials, which confirms the time-sensitive submission and the classification of the filings under the three designated categories, is appended hereto.

Appendix #1 herein

Summary

Filing Information

Court
Divisional Court

Case Number
DC-24-00000718-00JR

Case Title
MCLEAN v. TD HOME AND AUTO INSURANCE COMPANY et al

Case Classification
Divisional - Application - Judicial Review

Filed on Behalf of
KEVIN MCLEAN

Time Sensitive/Urgent Submissions
Yes

Comments
Dear Divisional Court, This correspondence serves as an urgent requisition and request, to be submitted under three separate forms as may be most appropriate, in connection with my NOM #3 returnable on Wednesday, December 3, 2025. I will adhere to the Divisional Court Practice Direction by prompt...

Reference Number
BE14-92E0-3838-FCD3

File Entries

Lead	Type	Documents
	Requisition - Form 1: Requisition or Written Request	Requisition - Form 1: Requisition or Written Request

Requisition - Form 4E: Requisition	Requisiton - DC Request - Hearing Request - URGENT - Discovered Evidence - OCCP - Issues No Longer Justic APPLICANT - Mr McLean - 1-Dec-2025
Event Scheduling - Application/Appeal Hearing Request	Requisiton - DC Request - Hearing Request - URGENT - Discovered Evidence - OCCP - Issues No Longer Justic APPLICANT - Mr McLean - 1-Dec-2025

Yours faithfully,

/KAM

Mr. Kevin A. McLean (BA, JD, CIM)

Sender's name: Mr. Kevin Alexander McLean (BA, JD, CIM)

Sender's address: 410-775 King Street West, Toronto, Ontario, M5V 2K3

Sender's Telephone Number: (647) 370-9354

Sender's email address: mcleansettlement@gmail.com

On Mon, Dec 1, 2025 at 5:30 PM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

December 1, 2025

Judicial File Designation	**24/718/00JR**
Short Style of Cause	*McLean v. TDHA et al.*
Document Type	Official Confirmation of Service (Electronic), Pertaining to Motion Materials
Originating Entity	The Applicant and Moving Party in NOM #3
Submitted By	Mr. Kevin A. McLean, B.A., J.D., C.I.M.

TO:
THE DIVISIONAL COURT (Kind Attention: Registrar Ms. Gentles)
COPIES TO: Respondents herein
Subject: confirmation that none of the “Responding Parties” have opposed my NOM #3 (November 17, 2025) to be heard in writing
Subject II: confirmation that none of the “Responding Parties” have objected to NOM #3 being heard in writing – thereby obviating the necessity for any Zoom coordinates or in person appearances

I. CONFIRMATION OF PRIOR ELECTRONIC TRANSMITTAL

The Honourable Court is respectfully apprised that the antecedent electronic transmittal, directed toward the Divisional Court's designated electronic repository, was successfully effected without incident, procedural impediment, or the generation of any automated non-delivery reportage. It appears that the issue with the full mailbox of the Divisional Court’s general email for correspondence has been cleared out. The efficacy of the communication mechanism is therefore conclusively affirmed.

II. AFFIRMATION OF NON-RECEIPT OF RESPONDING MATERIALS AND *IPSO FACTO* CONSEQUENCE

Out of an abundance of cautious and meticulous precaution, and consistent with the imperative codified in the *Rules of Civil Procedure* concerning the notification of the "Registrar" (as defined in *Rule 1.03* of the *Rules of Civil Procedure*—where "registrar means the Registrar of the Divisional Court or Court of Appeal, or a local registrar of the Superior Court of Justice, as the circumstances require"), it is herewith formally confirmed. As of the terminus of the prescribed business day, no documentation responsive to Notice of Motion (NOM #3), accompanied by the prerequisite evidence of service, has been tendered or received from any of the designated Respondent or Non-Respondent entities.
This demonstrable dereliction, *ipso facto*, dictates that the aforementioned NOM #3 shall proceed on Wednesday, December 3, 2025, as an *unopposed* application for the entirety of the substantive and ancillary relief sought within its compass.

III. EXTRAPOLATION OF LEGAL PRINCIPLES AND PROCEDURAL DETERMINATION

The substantive relief sought by the Applicant is comprehensive, encompassing, *inter alia*, the imperative and required, by, inter alia, Rule 59.06(2)(a) (see: requirements denoted in the BCCA’s comparativie provincial jurisdictional analysis (i.e. Ontario rules of civil procedure require such a motion to have been served and filed in the proceeding where the facts arising or discovered and/or any alleged fraud, arising or discovered has so occurred (nota bene: in effect, there is but one route herein in Ontario when such occurrences have happened and that is the filing of a motion in the instant JRPA Proceeding) setting aside of specific juridical steps, filed documents, and/or antecedent judicial orders predicated upon a comprehensive and multifaceted matrix of available legal grounds. These grounds include, but are not strictly limited to, those rooted in the principles of equity, the inherent jurisdiction of this superior court, the common law, and various appurtenant statutory and prescribed provisions, particularly where an action is determined to have been *ultra vires*.
Furthermore, given the conspicuous and uncontroverted absence of any formal, written objection from the Responding Parties (encompassing more than merely Respondents) concerning the proposed modality of disposition, the adjudicative process for NOM #3 shall, in accordance with standard practice, proceed by way of a *written hearing*, thereby rendering the physical attendance of the Applicant and Moving Party a superfluous requirement.

IV. CONCLUSION AND TENDER OF JUDICIAL ASSISTANCE

In the pervasive spirit of professional comity and facilitation of the judicial function, the Applicant remains readily available should the Honourable presiding motions Judge (the “Presiding Motions Judge”) deem it necessary to pose any queries pertaining to the filed motion documents, either

contemporaneously with or subsequent to the determination. This availability extends to the potential exigency of drafting a formal order (to the extent that the most recent formal draft order requires refinement) for the judicial consideration, requisite review, signature, and subsequent entry by the Divisional Court presiding motions Justice.

It is respectfully noted, however, that given the complete service and filing of the *Notice of Application* (the *JRPA Application* (November 15, 2024)), *Notice of Motion* (November 17, 2025), and *Compendium for NOM #3* (November 28, 2025), the requisite endorsement of **an order**, pursuant to *Rule 59* of the *Rules of Civil Procedure*, may be efficaciously executed upon one of the afore-listed primary originating documents, thereby potentially obviating the requirement for a separate, subsequent instrument.

As this NOM #3 is unopposed by all Responding Parties, I will respect their rights of non-opposition, although consent would have been preferable and respectful of Divisional Court's resources, I may confine my future communications exclusively to the Divisional Court. Nonetheless, should any copies of such documents be requested by Responding Parties, I shall provide them without delay (i.e. forthwith).

I shall notify the other Responding Parties of the same.

Thank you kindly.

Respectfully Submitted,

/s/Mr. Kevin A. McLean (BA, JD, CIM)

Mr. Kevin A. McLean, B.A., J.D., C.I.M.
Applicant and Moving Party
NOM #3

Yours faithfully,

/KAM

Mr. Kevin A. McLean (BA, JD, CIM)

Sender's name: Mr. Kevin Alexander McLean (BA, JD, CIM)

Sender's address: 410-775 King Street West, Toronto, Ontario, M5V 2K3

Sender's Telephone Number: (647) 370-9354

Sender's email address: mcleansettlement@gmail.com

On Mon, Dec 1, 2025 at 2:34 PM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

Classification	**Private and Confidential**
Medium of Conveyance	Electronic Means (Initiating Correspondence for the Court Record)
Date of Submission	December 1, 2025

JUDICIAL FILE PARTICULARS

Judicial File Designation	**24/718/00JR**
Short Style of Cause	*McLean v. TDHA et al.*
Document Type	confirmation of Service upon the Non-Respondents along with reference to tech issue for DC email (kind notice)
Originating Entity	The Applicant and Moving Party in *NOM #3*
Submitted By	Mr. Kevin A. McLean, B.A., J.D., C.I.M.

ADDRESSEES

TO:

THE DIVISIONAL COURT
Osgoode Hall, Rm 174, 130 Queen St W, Toronto, Ontario M5H 2N5
Attention: Registrar of the Divisional Court, Ms. Takesha Gentles
(Email: Tashekah.Gentles@ontario.ca; Phone: 416-327-5036; Fax: 416-327-5549)

AND TO: THE RESPONDENTS

Via Electronic Notification to Declared Counsel (despite absence of serving and/or filing, with proof of service, their Notices of Appearances as it relates to the LAT and Respondent Insurance Companies)
Attention: Mr. Boyce (Licence Appeal Tribunal - LAT)
Attention: Mr. Nieuwland (Respondent Insurance Companies)
Attention: Ms. Im (Attorney General of Ontario - AGO)

SUBJECT: OFFICIAL CONFIRMATION OF SERVICE UPON NON-RESPONDENTS OF THE APPLICANT'S DRAFT ORDER AND COMPENDIUM FOR NOM #3; DISCOURSE ON TEMPORAL JURISPRUDENCE

May it please the Court, Esteemed Counsel, and the Distinguished Registrar: The present communication is tendered as a matter of exigency and procedural necessity, serving to formally document the recent procedural *acta* of the Applicant.

I. Confirmation of Procedural Compliance and Technological Impediment

This correspondence is formally submitted to the Divisional Court and all interested parties pertaining to the aforementioned judicial review proceeding. The imperative requiring the explicit inclusion of the esteemed Registrar of the Divisional Court, Ms. Gentles, in this electronic transmission is directly borne of the **technological impediment** encountered *post meridiem* yesterday, *to wit*, the explicit notification received that the Court's primary electronic receptacle of judicial communications was rendered inaccessible, having achieved its maximum storage capacity.

An equitable **indulgence** is respectfully sought from the Registrar subsequent to this unforeseen *actus* involving the judicial infrastructure. This procedural documentation confirms unequivocally that this exceptional circumstance arose **subsequent** to the mandatory submission of the Confirmation of Motion, as is statutorily mandated by the strictures of *Rule 37.10.1* of the *Rules of Civil Procedure*—a critical prerequisite to the proper scheduling and hearing of motions. The Confirmation of Motion, dated November 24, 2025 (Enclosure 1), was duly filed prior to the technological issue. This act, confirming the motion for the return date of December 3, 2025, *ad majorem cautelam*, serves to dispel any potential ambiguity concerning the Applicant's diligent compliance with the *Rules* preceding the Court's electronic failure. The maintenance of the *status quo ante* regarding the procedural timetable is thus demonstrably supported by the Applicant's antecedent adherence to the *Rules*.

II. Effectuation of Service Upon Non-Respondents: Supererogatory Prudence

It is herewith further confirmed that, as an exercise of **supererogatory prudence** and to ensure absolute procedural rectitude across the spectrum of all potentially affected parties, formal service has been effectuated upon the **Non-Respondents**. These entities are precisely those parties designated in the affidavit of service formally sworn on November 21, 2025. This requisite service, rigorously completed on this date, encompassed the specific judicial documentation enumerated hereunder:

1. The Draft Order for *NOM #3*, dated November 30, 2025 (Enclosure 3). This instrument represents the Applicant's proposed outcome, detailing the precise and comprehensive relief sought from the Court, and is necessary to fully apprise all parties of the intended final disposition.
2. The Compendium for *NOM #3*, which was previously served and officially filed on November 28, 2025. The Compendium, serving as the compilation of essential documentary evidence and authorities, is fundamental to the Court's assessment of the merits of *NOM #3*.

The rationale underlying the service upon Non-Respondents is anchored in the principle of fundamental fairness and the avoidance of any claim of procedural **ultra vires** pertaining to the relief sought, even if such parties have not formally delivered a Notice of Appearance. The overarching goal is the complete transparency of all *acta* relevant to this proceeding.

III. Reaffirmation of Motion Particulars and Rigorous Temporal Stipulations

The **integrity** of the previous procedural submissions is strictly maintained. This includes the origination of the Applicant's Notice of Motion Number Three (*NOM #3*) on November 17, 2025. Its scheduled return date of **December 3, 2025**, was established via the aforementioned Confirmation of Motion (Enclosure 1), and was predicated upon the subsequent rendering of service upon the Responding Parties with a minimum of fourteen (14) days' notification. The **underlying procedural premise** remains the inherent and non-negotiable necessity to commence such an ancillary motion *intra* the established Divisional Court proceedings, herein denoted formally as the *Judicial Review Procedure Act* (*JRPA*) Proceeding. The gravity of this *NOM #3* is underscored by the substantive relief sought, including, *inter alia*, a Costs Award claimed on a full-indemnity basis in the substantial, as meticulously articulated in the Draft Order (Enclosure 3).

Said origination and service were comprehensively accompanied by the requisite filing and remittance of the fee for the *NOM #3*, the concurrent service of the Factum for Motion In Writing, the Motion Record, the prior Draft Order (November 19, 2025), and corroborative proof of service rendered upon **both** the Respondents and the Non-Respondents (cf. Tab #22 of the Motion Record for *NOM #3* and the corresponding Compendium). The

Applicant's timely fulfillment of these prerequisites establishes a *prima facie* case for the motion's readiness for determination.

The rationale compelling the service and submission of a Compendium for *NOM #3* is, *ipso facto*, **axiomatic** within this electronic record's history, facilitating the expeditious and comprehensive review of the relevant materials by the adjudicative body. Moreover, subsequent to a rigorous **extrapolation and computation** of the temporal parameters stipulated within the *Rules of Civil Procedure* ('Computation of Time'), the Responding Parties are theoretically afforded the potential to effectuate the filing and service of responsive documentation until the conclusion of the prevailing business day. There subsists a demonstrable ambiguity regarding the precise commencement of the period designated as **'within 10 days'** after the complete service of the Moving Party's material (November 19, 2025), necessitating definitive clarification on whether this initial date is permissibly included for the purposes of temporal calculation pursuant to the *Rules*.

The precise nature of the Responding Parties' obligation to respond is further **contingent upon** their prior 'Delivery' of Notices of Appearance with requisite proof of service—a foundational jurisdictional fact which remains, in the context of certain parties, unsubstantiated at this juncture. This lack of formal appearance by certain Respondents impedes the procedural clarity and necessitates the Applicant's conservative adherence to maximum notice periods.

IV. Permissible Responses and Administrative Obligation

Consequently, should any or all Responding Parties elect to furnish responsive material to the Court office, via the Online Case and Court Process Portal (OCPP), they are constrained by the following delineated options, pursuant to *O. Reg. 465/93, s. 4 (2)*:

(a) A formal consent to the motion, which definitively curtails any requirement for further judicial deliberation on the contested matters;

(b) A definitive notice that the responding party shall not oppose the motion, a position that, while not consenting, removes adversarial contestation;

(c) A motion record, a notice signifying acceptance of a written hearing and determination under this Rule, and a factum entitled 'Factum for a Motion in Writing', meticulously delineating their comprehensive legal argument; or

(d) A notice signifying their in limine intention to present oral argument, accompanied by any material intended to be relied upon by the party, requiring the Court to allocate formal hearing time.

It is further recognized that the procedural amendments implemented within the Toronto Region, which govern the administration of these proceedings, necessitate the eventual uploading of the Compendium for *NOM #3* into the digital repository known as Case Centre, an administrative requirement now incumbent upon the esteemed Registrar's office to ensure the electronic accessibility of the complete file.

The Registrar, Ms. Gentles, is once again extended profound appreciation for the aforementioned **indulgence** regarding the unanticipated technological deficiency. It is fervently hoped that the Divisional Court's staff shall execute the necessary technical *restitutio in integrum* and expeditiously resolve the current technological issue afflicting the Court's electronic messaging capability, thereby restoring the proper channel for judicial communication.

Respectfully Submitted and Executed,

/s/Mr. Kevin A. McLean (BA, JD, CIM)

Mr. Kevin A. McLean, B.A., J.D., C.I.M.
Applicant and Moving Party

Enclosures:

1. Previously served and filed Confirmation of Motion, pursuant to the *Rules of Civil Procedure*, dated November 24, 2025.

2. Official Transmittal of the Primary Draft Order for *NOM #3*, via Electronic Means, dated November 30, 2025.
3. Primary Draft Order of the Applicant for *NOM #3*, dated November 30, 2025 (served and filed on said date)

Yours faithfully,

/KAM

Mr. Kevin A. McLean (BA, JD, CIM)

Sender's name: Mr. Kevin Alexander McLean (BA, JD, CIM)

Sender's address: 410-775 King Street West, Toronto, Ontario, M5V 2K3

Sender's Telephone Number: (647) 370-9354

Sender's email address: mcleansettlement@gmail.com

Tab 6

Court File No. DC-24-00000718-00JR

Form 4E

Courts of Justice Act

REQUISITION

Divisional Court Form 1: Requisition or Written Request

Divisional Court Form: Application Hearing Request

ONTARIO SUPERIOR COURT OF JUSTICE

(DIVISIONAL COURT)

BETWEEN:

KEVIN ALEXANDER MCLEAN

APPLICANT

- and -

TD HOME AND AUTO INSURANCE COMPANY, SECURITY NATIONAL INSURANCE COMPANY, TD GENERAL INSURANCE COMPANY, EXECUTIVE DIRECTOR, LICENCE APPEAL TRIBUNAL, HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, REPRESENTED BY EXECUTIVE CHAIR OF TRIBUNALS ONTARIO IN MR. SEAN WEIR, THE ATTORNEY GENERAL OF ONTARIO

RESPONDENTS

REQUISITION

DIVISIONAL COURT FORM 1: REQUISITION OR WRITTEN REQUEST

DIVISIONAL COURT FORM: APPLICATION HEARING REQUEST

Urgent filing via the OCPP, with a copy via email and fax along with notice to the esteemed registrar of the Divisional Court

The Applicant REQUIRES pursuant to the Requisition elements of this joint or multi-purposed form, avoidance of multiplicity of forms, the following:

1. **Registrar:** Comply with mandatory duties and immediately process all urgent filings by the Applicant, including, but not limited to, *Notice of Motion* Number Three, which are delineated for clarity at Appendix B. The urgency of these filings is amplified by the facts presented in Appendix A and the substantive evidence of irreparable harm in **Compendium Tab #3** and the ongoing security issues noted in the **Affidavit of Service (November 21, 2025)**.
2. **Registrar:** Upload all filed documents in this JRPA Application as required by the *Rules of Civil Procedure* and provide the necessary invitation access to the Applicant for his own uploading (where applicable) and for review of the complete electronic record; and
3. **Honourable Divisional Court/Registrar (where applicable):** Grant such further and ancillary relief as may be deemed just and expedient in the circumstances by way of hearing request, written request, or requisition to ensure that the NOM #3 and its relief, including that in the JRPA Application are heard in an expeditious, timely and cost-effective manner while the Moving Party has again complied with all serving, filing and proof of service along with payment requirements.

SUMMARY OF REQUISITION AND REQUEST OF THE DIVISIONAL COURT

This document is a formal requisition filed by Kevin Alexander McLean in the Ontario Superior Court of Justice (Divisional Court), seeking urgent processing of his Notice of Motion Number Three (NOM #3) due to procedural defaults by the respondents in a Judicial Review Application (JRPA). It details the absence of Notices of Appearance filed by the respondents, which has rendered the application undefended and necessitates immediate judicial action to prevent further harm to the applicant.

- **Failure to file a "First Defence" by any Respondents and failure to "Deliver" Notices of Appearances by the Respondents admitted, infallibly proven by the record of proceedings in the JRPA Proceeding and no long justiciable:** The respondents failed to file or deliver mandatory Notices of Appearance, as confirmed by the Ontario Courts Public Portal, resulting in their procedural default and undefended status in the JRPA.
- **Invalid case management request:** The Licence Appeal Tribunal's request to assign the case for management was null and void due to the respondents' failure to file a first defence, making subsequent procedural steps invalid and void ab initio;
- **Void compulsory case conference:** The required appearance before Madam Justice Shore on January 7, 2025, is void ab initio due to the procedural defects and lack of respondent participation but for the unknown and undisclosed to the Applicant Document #48 (see: Appendix "A");
- **Respondents failed to meet filing deadlines:** Despite being served with the applicant's documents, respondents did not deliver their application records or factums by the deadline, reinforcing their procedural default as unequivocally now proven by fortuitousness by the change from the JSO Portal to the OCPP Portal;

- **Impugned decisions must be set aside:** The absence of any defence means the applicant's submissions stand uncontested, entitling the court to set aside the impugned decisions on the standard of correctness;
- **Void benefits and orders for respondents:** Any steps or benefits obtained by respondents without proper filing are void and must be set aside to restore procedural integrity.
- **JRPA and NOM #3 are undefended:** The respondents' failure to file appearances constitutes a procedural election not to contest, leading to an uncontested disposition of the application and motion;
- **Non-justiciable procedural facts:** The absence of filed Notices of Appearance is incontrovertible and not subject to dispute, mandating immediate relief based on the uncontested record.
- **Urgency due to irreparable harm:** The applicant suffers ongoing, irreparable financial harm from the underlying theft and administrative failures, necessitating an expedited hearing on December 3, 2025, to prevent further prejudice (see: Affidavit of Applicant at Tab 22 of NOM #3 Motion Record and Compendium For NOM #3, wherein the day after serving his NOM #3, unauthorized fraudulent conduct occurred with one of his owned emailed accounts).

MATERIALS RELIED UPON

The Applicant relies upon the following materials in support of this urgent Requisition and the immediate disposition of *Notice of Motion* Number Three (NOM #3):

1. **Applicant's Notice of Motion Number Three (NOM #3):** November 17, 2025
2. **Applicant's Factum for NOM #3:** November 18, 2025.
3. **Applicant's Motion Record for NOM #3:** November 19, 2025;
4. **Applicant's Compendium for NOM #3:** Filed November 28, 2025 (specifically Tab #3, Statutory Declaration of the Applicant, establishing irreparable financial harm).
5. **Official Record of Proceedings (OCPP):** The electronic case history for Court File No. DC-24-00000718-00JR, which unequivocally confirms the absence of filed *Notices of Appearance* by the Respondents.
6. **Appendix A (Attached):** Uncontroverted evidence demonstrating the absence of filed *Notices of Appearance* by the Respondents in the OCPP.
7. **Appendix B (Attached):** Listing of urgent filings submitted by the Applicant.

COMPENDIUM INDEX (TABS 1 TO 66)

The following index constitutes the Applicant's Compendium for NOM #3, filed November 28, 2025, relied upon in its entirety:

#	Document	Exhibit	Date of Document	Pages
1.	Factum of the Applicant for NOM #3		Nov 18, 2025	1 to 46

2.	NOM #3 of the Applicant		Nov. 17, 2025	47 to 135
3.	Statutory Declaration of the Applicant (since that time expressly adopted by affidavit in Tab #22)		October 13, 2025	136 to 1433
	— *Body of Stat Dec.*			137 to 198
	— *Compilation of electronic mail correspondence exchanged between Applicant and Respondents (Part of Tab 3)*	"A"	Various	199 to 1433
4. - 63.	**VARIOUS FILINGS AND EVIDENCE** *[The Compendium includes an extensive collection of Affidavits, Notices of Motion, Court Orders, LAT decisions, and correspondence relevant to the Judicial Review Application proceedings over this 2900-page span.]*			1434 to 4341
64.	Tab #35 in served and filed February 2025 Compendium: Requisition for an Urgent Hearing (under section 10 of the JRPA and TARA, by request)		August 17, 2025	4342 to 4350
65.	Tab #36 in served and filed February 2025 Compendium: Affidavit #2 in the JRPA Proceeding ["Urgent Hearing Single Justice Affidavit"]		December 30, 2024	4351 to 4383
66.	**Tabs #37 to #43 in the February 2025 Compendium (Various Documents):** a. Tab #37: JRPA Application (November 15, 2024) b. Tab #37: Applicant's Factum (December 12, 2024) c. Tab #37: "Certificate Of Perfection" (December 13, 2024) *[Includes other sub-tabs up to Tab #43 from the original February 2025 filing.]*		Various	4383 to 4732

SUBJECT I: The Unequivocal Discovery of Procedural Default and Undefended Status

The immediate processing of the Applicant's filed *Notice of Motion* Number Three (hereinafter, "NOM #3") is hereby urgently necessitated and respectfully requested. This urgency is founded solely upon the **recent, unequivocal discovery, now incontrovertibly proven** via the official record of the Ontario Courts Public Portal (hereinafter, the "OCPP"), that the Respondents have committed a fundamental procedural default by failing to file a *Notice of Appearance*. This **newly adduced evidence** is the singular impetus for this urgent Requisition, which seeks to ensure the integrity of the JRPA file and compel immediate compliance with the *Rules of Civil Procedure*. This discovery confirms the demonstrable and fundamental failure of the named Respondents to satisfy their preliminary and immutable procedural obligations, which has, *de facto*, created an absence of opposition, thereby vitiating the need for any protracted, contested litigation on the merits. This ongoing substantive harm (the unrectified theft and erosion of material well-being) renders any administrative delay highly prejudicial, constituting an irreparable impediment to the Applicant's economic and personal security. Furthermore, the Applicant has scrupulously observed all requisite temporal parameters regarding the instant motion, in stark contrast to the material failure of the Respondents to comply with the elemental requirement of filing a *Notice of Appearance*.

Subject I(A): Unequivocal proof that the Respondent Insurance Companies and the LAT neither "filed" nor "delivered" (see: Rule 1.03 of the Rules of Civil Procedure) ("Delivered") their Notices of Appearances which the LAT never compliantly served on November 27, 2024 and the Respondent Insurance Companies served on December 3, 2024

The publicly verifiable electronic record, as meticulously maintained and contemporaneously updated by the OCPP, serves as the singular and unimpeachable repository of all consequential *acta* relevant to the Court's jurisdiction and the litigation's progression. This official record yields unequivocal proof **demonstrating** that the Respondent Insurers (TD HOME AND AUTO INSURANCE COMPANY, SECURITY NATIONAL INSURANCE COMPANY, and TD GENERAL INSURANCE COMPANY) and the Licence Appeal Tribunal (the "LAT") have, without legitimate explanation or justification, **neither formally filed nor duly delivered** the mandatory *Notices of Appearance* requisite under the *Rules of Civil Procedure* (the "Rules"). This finding is derived from the absence of any corresponding entry in the Court's electronic docket—an absence which, in the context of mandatory e-filing protocols, carries the probative weight of positive negation. The computerized file index, functioning as the authoritative log of all perfected filings, does not register any such document from the aforementioned parties. This systematic deficiency confirms the Respondents' failure to take the requisite first step toward defending the application, thereby vitiating their standing as participants and effectively conceding the procedural arena. This manifest failure constitutes a clear and egregious contravention of the applicable procedural dictates, specifically the overarching obligation delineated in *Rule 1.03* concerning the precise distinction between "filing" with the court (the act of depositing a document into the court registry system) and subsequent "delivery" to the opposing party. The statutory requirement for the filing of an appearance is not merely an advisory measure; it constitutes an indispensable prerequisite. The purported service by the LAT of its *Notice of Appearance* on November 27, 2024, is consequently defective and devoid of legal effect, as *delivery* without concurrent or preceding *filing* is demonstrably ineffectual under the *Rules*, rendering the purported service a nullity *ab initio* and therefore utterly incapable of conferring defensive standing.

Subject I(B): Unequivocal and proven consequential proof that the LAT's request on December 3, 2024 at approximately 3:30 p.m. for the JRPA Proceeding to be "Assigned For Case Management" was null and void, void ab initio and of no force and effect pursuant to, *inter alia*, the failure of any of the Respondents to file a first "Defence" (see: Rule 77.04 of the Rules of Civil Procedure) (a "First Defence") as the LAT could not request the same as it was prohibited from receiving any documents or steps in the JRPA Application until it "delivered" a Notice of Appearance

The conclusive finding in Subject I(A) regarding the lack of a perfected *Notice of Appearance* operates as an *ipso facto* bar to the Respondents' ability to initiate any further procedural steps, including engagement in case management. It is submitted that the Respondents' collective failure constitutes an irrefutable procedural default, effectively rendering their position *in limine* untenable and precluding any future adversarial engagement without leave. The unilateral request by the LAT on December 3, 2024, to have the JRPA Proceeding "Assigned For Case Management" must be construed as a legally null act, *void ab initio*, because the LAT had not established its own right to participate in the proceedings. The procedural landscape dictates that a party without a filed *Notice of Appearance* possesses no standing to request judicial intervention or administrative scheduling, as they are deemed to be outside the adversarial process. Such requests, being predicated on an unperfected procedural foundation, lack any binding force or effect under the *Rules*.

Subject I(C): The Madam Justice Shore compulsory case conference appearance requirement of January 7, 2025, was void, void ab initio and of no force and effect for the aforementioned reasons

herein and in the NOM #3, Factum for NOM #3, Motion Record for NOM #3, Draft Order for NOM #3, Affidavit of Service (and affidavit) for NOM #3, Compendium for NOM #3 and primary Draft Order For NOM #3

Following the legally null request for Case Management detailed in Subject I(B), any subsequent administrative or judicial steps flowing from that defective foundation, including the compulsory case conference requirement scheduled by Madam Justice Shore for January 7, 2025, are likewise rendered void, *void ab initio*, and of no force and effect. The judicial or administrative requirement for the Applicant to appear at a case conference predicated upon a proceeding that is, by definition, undefended and fundamentally procedurally defective constitutes a palpable threat to the Applicant's constitutionally protected access to justice and wastes judicial time. Since the Respondents had not complied with the primary procedural mandate to file their appearances, they could not validly be a party to, or beneficiaries of, any subsequent scheduling order or case management step. The original jurisdictional failure vitiates all subsequent actions taken under the guise of an adversarial process that, in fact, does not procedurally exist.

Subject 1(D): The Respondents were served with the Applicant's Application Record and Factum by December 12, 2024, and pursuant to Rule 68.04(4) of the Rules of Civil Procedure, "(4) The respondent shall deliver an application record and a factum within thirty days after service of the applicant's application record and factum. R.R.O. 1990, Reg. 194, r. 68.04 (4)", the Respondents were required to deliver their application records and factums by January 13, 2025 but failed to do so. The Respondents were precluded from filing any material on the JRPA Application, which was subsumed under "Deliver" under Rule 68.04(4), until they filed their Notices of Appearances. As per the record of proceeding in the OCPP, the Respondents neither "filed" nor "delivered" their Notices of Appearances at all or by January 13, 2025

The procedural preclusion established in Subject I(A) and I(B) carried forward to the Respondents' obligations under *Rule 68.04(4)*. Although the Applicant dutifully served the Application Record and Factum by December 12, 2024, triggering the thirty-day response deadline (January 13, 2025), the Respondents were procedurally barred from availing themselves of this rule's mechanism. The failure to file a *Notice of Appearance* means the Respondents forfeited the opportunity to adduce any evidence or advance any substantive submissions, including the delivery of their own Application Record and Factum. This obligation, subsumed under the broader requirement for participation, could not be activated without the foundational step of filing the appearance. The conclusive absence of any Respondent filings in the OCPP by January 13, 2025, or indeed at all, compounds the initial procedural default and provides clear, undeniable evidence that the JRPA has acquired the legally privileged status of an undefended application. This forfeiture serves as an irrevocable waiver of their adversarial rights, analogous to a default judgment.

Subject 1(E): As a consequence of the above and infra, the JRPA Application was not contested by a singular "Defence" or "First Defence" and as such, the Impugned Decisions must be set aside on the standard of correctness with reference to the Applicant's Compendia served and filed on February 11, 2025, and February 18, 2025

The failure of the Respondents to introduce any "Defence" or "First Defence" (the Notice of Appearance being the prerequisite thereto) means that the Applicant's submissions and the relief sought stand entirely uncontested on the record. Through the strict and uncompromising application of the *Rules of Civil Procedure*, the Applicant is presumptively and legitimately entitled to the totality of the relief articulated within the *Notice of Application for Judicial Review*. Given the procedural default, the Court is relieved of the necessity of engaging in the complex, deferential scrutiny typically applied in judicial review.

Instead, the legal analysis defaults to the most stringent standard—the standard of correctness—for determining the lawfulness of the Impugned Decisions, relying exclusively on the merits as set forth in the Applicant's Compendia. The procedural non-engagement of the Respondents permits the Court to exercise its supervisory jurisdiction to set aside the Impugned Decisions without the impediment of countervailing arguments or evidence.

Subject 1(F): As a consequence of the Respondents having been proven by the record of proceeding of filed documents in this JRPA Proceeding to have not filed any documents, inclusive of Notices of Appearances, all steps, documents and order (of which there are none in the record of proceeding along with the JRPA Proceeding remaining "active") to the Respondents unlawfully derived benefits must be set aside as void, void ab initio and/or of no force and effect

A crucial, far-reaching consequence of the Respondents' procedural default is the principle of preclusion and the nullity of any perceived benefit they may have derived from the administrative process. Since the Respondents are barred *in toto* from asserting any substantive defence or requesting any affirmative relief, all subsequent administrative acts or orders that purported to recognize their status or benefit their position are likewise legally deficient. The finding that the Respondents never established standing means they could not participate in any subsequent "active" status of the proceeding. Therefore, any implied orders or administrative steps that were taken on the mistaken assumption of an adversarial contest must be set aside as *void ab initio*. This serves to fully restore the procedural integrity of the JRPA file to its proper, undefended state.

Subject 1(G): As a consequence of the Respondents not defending the JRPA Application, the JRPA Application is undefended and the NOM #3 is undefended

The legal syllogism governing this matter is manifestly clear: the failure to file the mandatory *Notice of Appearance* constitutes an irrevocable procedural default. Therefore, the Respondents possess no legitimate standing before the Court to contest the JRPA, and the application, along with the instant *Notice of Motion* Number Three (NOM #3), must proceed toward an uncontested disposition. The jurisprudential principle embodied in the legal maxim *qui tacet consentire videtur*—he who is silent is held to consent—is not only germane to the instant situation but operates as a conclusive determinant of the application's trajectory toward an uncontested resolution. The Court's jurisdiction must be exercised in favour of the Applicant on the basis of the procedural default, thereby confirming that both the JRPA and NOM #3 are, unequivocally, undefended.

Subject I(H): The Newly Proven Facts of Procedural Default are Incontrovertible, Infallible, and Non-Justiciable

The evidence of the Respondents' non-compliance, drawn directly from the official OCPP record of proceedings (Appendix A), moves the foundational facts of this motion beyond the realm of contestability. These facts—the absence of filed *Notices of Appearance*—are **incontrovertible, infallible, and thus non-justiciable**; they are not subject to evidentiary dispute or adversarial argument. This proven, absolute procedural failure strips the Respondents of any legal basis to oppose the current motion or the underlying Judicial Review Application. The Court, in its supervisory role, is therefore compelled to accept the procedural landscape as an established, settled matter of fact, requiring an immediate and efficient determination of the Applicant's entitlement to relief based solely on the uncontested record. Any administrative delay predicated on the assumption of a contested proceeding is rendered fundamentally inappropriate and prejudicial.

Subject I(I): Failure to File Appearance Constitutes a Procedural Election and *De Facto* Confession of Entitlement to Relief

The Respondents' conscious decision, or demonstrable failure, to perfect their defense by filing the mandatory *Notice of Appearance* constitutes a **procedural election** to abstain from the adversarial process. In the context of the *Rules of Civil Procedure*, this deliberate non-participation operates as a **waiver of the right to contest** the Applicant's claims and submissions, thereby tacitly confirming the Applicant's entitlement to the relief sought in the Judicial Review Application. This non-action is tantamount to a *de facto* **confession of the procedural and substantive merits** of the Applicant's case, particularly regarding the setting aside of the Impugned Decisions. The urgent processing of NOM #3 is required to formalize this procedural concession and grant the appropriate default relief.

Subject I(J): The Inevitability of Relief and the Punitive Cost of Delay

Irrespective of whether the Respondents purport or attempt to deliver their Notices of Appearances, it matters not because they are already in default of their obligations in relation to NOM #3 by not opposing the same or objecting to it being heard in writing. All of the previous steps in which they received notice, documents received and/or if document #48 is one that they (apparently jointly filed) (excluding the AGO), without proof of service therein albeit an apparent filing, the request made by the LAT is void ab initio, the Madam Justice Shore compulsory case conference requirement is void ab initio without a "First Defence" filed and all that spawned from the same. **As such, the sole remaining task to bring the substance (non-constitutional relief which is most important to be heard (justice delayed is justice denied) of the JRPA Application to be heard on its merits in an expeditious, cost-effective and just manner is the processing of filing and uploading of filed documents by the Registrar and the Applicant uploading the filed Compendium For NOM #3.**

As the issue of whether the Respondents filed a "First Defence" or "Delivered" their Notices of Appearances is no longer justiciable and is tantamount to an admission, there is no reason to delay the inevitable. Whether the motion is heard on Wednesday, December 3, 2025, or thereafter, the only difference is the accrual of **elevated costs** to the Applicant and the perpetuation of serious, ongoing substantive harm. The Applicant is entitled to the vital treatments and benefits which are already **3.5 years delayed** (see: *Zurich v. Chubb*, 2024 (May) as per the decision of The Honourable Mr. Justice Akazaki of the SCJ (Toronto Region)). The Court's adherence to the scheduled date of December 3, 2025, is imperative to prevent the further imposition of punitive harm resulting from the Respondents' own procedural failures.

SUBJECT II: The Substantive Urgency of Irreparable Financial Harm Vitiating Any Further Delay

The urgency for a disposition on the scheduled date of **December 3, 2025**, is not merely procedural but is dictated by the ongoing, irreparable substantive harm proved by the evidence contained within the Applicant's Compendium (Tab #3). The core of the Judicial Review Application stems from the **grievous deprivation of the Applicant's property** through an act of theft and the subsequent administrative failure to rectify this injury.

The full scope and severity of this harm is detailed in:

- **Compendium Tab #3:** The Applicant's Statutory Declaration (pages 136-1433) which provides uncontested, sworn evidence regarding the facts of the underlying theft, the value of the property taken, and the subsequent devastating financial consequences.

- **Affidavit of Service (Filed November 21, 2025, attached to the Motion Record):** This Affidavit references evidence of ongoing tampering with the Applicant's proprietary, confidential, and personal interests, specifically the fraudulent re-activation of email accounts related to the theft of his property. As such, on this ground alone, this NOM #3 cannot be delayed from hearing and deciding the same.

This compelling evidence of sustained and quantifiable material erosion places a high burden on the Court to utilize the undefended status of the JRPA to grant the relief sought without further delay. The principles of access to justice and the overriding objective of the *Rules*—to secure the just, most expeditious, and least expensive determination—demand that a procedurally defaulted application concerning such a profound and continuing injury be resolved forthwith on the scheduled motion date, **December 3, 2025**, to mitigate the Applicant's ongoing prejudice.

III. Conclusion and Requisite Compliance with Duties by the Registrar

Given the demonstrable and incontrovertible procedural default exhibited by the Respondents, as evidenced by the official *acta* of the OCPP (Appendix A), the conclusion that the within JRPA is undefended becomes self-evident and legally mandated. The **imminent date of the scheduled hearing (December 3, 2025)**, the now **non-justiciable nature of the Respondents' procedural failure**, and the unredressed, severe financial harm proven in **Compendium Tab #3** necessitates the immediate processing of the Applicant's urgent filings, particularly *NOM #3*, to prevent a palpable miscarriage of procedural justice and to restore the *status quo ante* of the application's proper trajectory toward an undefended disposition. The urgency is further amplified by the critical nature of the underlying issue, namely the unredressed theft and the consequential financial hardship endured by the Applicant, which necessitates the swiftest possible resolution through the uncontested granting of the relief sought in the JRPA.

It is therefore respectfully submitted that where applicable the Registrar must and the Honourable Divisional Court should or must:

1. **Registrar:** Comply with mandatory duties and immediately process all urgent filings by the Applicant, including, but not limited to, *Notice of Motion* Number Three, which are delineated for clarity at Appendix B. The urgency of these filings is amplified by the facts presented in Appendix A and the substantive evidence of irreparable harm in **Compendium Tab #3** and the ongoing security issues noted in the **Affidavit of Service (November 21, 2025)**.
2. **Registrar:** Upload all filed documents in this JRPA Application as required by the *Rules of Civil Procedure* and provide the necessary invitation access to the Applicant for his own uploading (where applicable) and for review of the complete electronic record.
3. **Honourable Divisional Court/Registrar (where applicable):** Grant such further and ancillary relief as may be deemed just and expedient in the circumstances by way of hearing request, written request, or requisition to ensure that the NOM #3 and its relief, including that in the JRPA Application are heard in an expeditious, timely and cost-effective manner while the Moving Party has again complied with all serving, filing and proof of service along with payment requirements.

To ensure that the Applicant has assisted the Registrar with the required immediate administrative processing of filed documents by the Applicant in the OCPP and in compliance with the Divisional Court Practice Direction, by way of subsequent email to the Registrar of the Divisional Court to ensure sufficient time to upload the filed documents into Case Center, the Applicant has provided Appendix A and B to ensure efficient use of public resources.

The processing of the Appendix B, with some of them already due, cannot take more than 30 minutes or so which will allow sufficient time, if conducted on an urgent basis in the morning of December 2, 2025, for uploading to Case Center by the Registrar but for the Compendium For NOM #3 which the Applicant is obligated to upload to Case Center.

The continued fraud upon the Applicant by consequence of the TDI Karat Theft at first instance renders this NOM #3 most urgent to ensure that these nefarious characters on behalf of prima facie the TDI Group (former or present) are immediately restrained from their continued criminality, fraud and extortion. Any such procedural delays would be tantamount to condonation of their conduct.

All of which is respectfully REQUIRED (in relation to the Requisition elements of this joint form) and REQUESTED (where applicable) on December 1, 2025

December 1, 2025



Mr. Kevin A. McLean (B.A. J.D., CIM)
Self-represented or appearing *Pro Se*, the Applicant herein
(e): mcleansettlement@gmail.com

Appendix A

Printable View

File Entries | Parties | Events

File Entries

Number	Filed Date	Type	Subtype	Submitted By	View
2	16/12/2024 0:00	Certificate	Certificate of Perfection	MCLEAN , KEVIN	
1	18/11/2024 0:00	Application Document	Form 68A: Notice of Application for Judicial Review	MCLEAN , KEVIN	

(Showing **51** to **52** of **52**)

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Items per page

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Printable View

File Entries | Parties | Events

File Entries

Number	Filed Date	Type	Subtype	Submitted By	View
52	27/03/2025 10:16	Notice	Notice of Return of Documents form		
51	21/03/2025 11:49	Notice	Notice of Return of Documents form		
50	21/03/2025 11:47	Notice	Notice of Return of Documents form		
49	05/03/2025 0:00	Notice	Form 4F: Notice of Constitutional Question	MCLEAN , KEVIN	
48	04/03/2025 0:00	Other	Submissions	LICENCE APPEAL TRIBUNAL SECURITY NATIONAL INSURANCE COMPANY TD GENERAL INSURANCE COMPANY TD HOME AND AUTO INSURANCE COMPANY	
47	03/03/2025 0:00	Affidavit	Affidavit (General)	MCLEAN , KEVIN	
46	26/02/2025 0:00	Affidavit	Affidavit (General)	MCLEAN , KEVIN	
41	18/02/2025 0:00	Affidavit	Affidavit (General)	MCLEAN , KEVIN	
44	18/02/2025 0:00	Other	Compendium	MCLEAN , KEVIN	
43	18/02/2025 0:00	Other	Compendium	MCLEAN , KEVIN	
45	18/02/2025 0:00	Other	Compendium	MCLEAN , KEVIN	
42	18/02/2025 0:00	Other	Submissions	MCLEAN , KEVIN	
40	14/02/2025 0:00	Order/Judgment	Order	MCLEAN , KEVIN	

				Submitted By	View
39	14/02/2025 0:00	Order/Judgment	Order	MCLEAN , KEVIN	
36	11/02/2025 0:00	Other	Compendium	MCLEAN , KEVIN	
35	11/02/2025 0:00	Other	Compendium	MCLEAN , KEVIN	
34	11/02/2025 0:00	Other	Submissions		
38	11/02/2025 0:00	Affidavit	Form 16B: Affidavit of Service	MCLEAN , KEVIN	
37	11/02/2025 0:00	Other	Compendium	MCLEAN , KEVIN	
33	07/02/2025 0:00	Order/Judgment	Order	MCLEAN , KEVIN	
32	05/02/2025 0:00	Requisition	Form 4E: Requisition	MCLEAN , KEVIN	
31	05/02/2025 0:00	Requisition	Form 4E: Requisition	MCLEAN , KEVIN	
29	03/02/2025 0:00	Motion Document	Form 37B: Confirmation of Motion	MCLEAN , KEVIN	
24	03/02/2025 0:00	Affidavit	Form 16B: Affidavit of Service	MCLEAN , KEVIN	
25	03/02/2025 0:00	Motion Document	Supplementary Motion Record	MCLEAN , KEVIN	
28	03/02/2025 0:00	Other	Factum	LICENCE APPEAL TRIBUNAL MCLEAN , KEVIN SECURITY NATIONAL INSURANCE COMPANY TD GENERAL INSURANCE COMPANY TD HOME AND AUTO INSURANCE COMPANY	
27	03/02/2025 0:00	Affidavit	Form 16B: Affidavit of Service	LICENCE APPEAL TRIBUNAL MCLEAN , KEVIN SECURITY NATIONAL INSURANCE COMPANY TD GENERAL INSURANCE COMPANY TD HOME AND AUTO INSURANCE COMPANY	
26	03/02/2025 0:00	Affidavit	Form 16B: Affidavit of Service	MCLEAN , KEVIN	

				Submitted By	View
30	03/02/2025 0:00	Affidavit	Form 16B: Affidavit of Service	MCLEAN , KEVIN	
22	31/01/2025 0:00	Notice	Form 37A: Notice of Motion	MCLEAN , KEVIN	
23	31/01/2025 0:00	Affidavit	Form 16B: Affidavit of Service	MCLEAN , KEVIN	
21	30/01/2025 0:00	Affidavit	Form 16B: Affidavit of Service	MCLEAN , KEVIN	
20	30/01/2025 0:00	Other	Submissions	MCLEAN , KEVIN	
19	29/01/2025 15:41	Notice	Notice of Return of Documents form		
18	29/01/2025 0:00	Affidavit	Affidavit (General)	MCLEAN , KEVIN	
17	28/01/2025 0:00	Requisition	Form 4E: Requisition	MCLEAN , KEVIN	
16	28/01/2025 0:00	Requisition	Form 4E: Requisition	MCLEAN , KEVIN	
15	27/01/2025 0:00	Affidavit	Affidavit (General)	MCLEAN , KEVIN	
14	23/01/2025 16:11	Notice	Notice of Return of Documents form		
13	23/01/2025 0:00	Affidavit	Form 16B: Affidavit of Service	MCLEAN , KEVIN	
12	23/01/2025 0:00	Notice	Form 37A: Notice of Motion	MCLEAN , KEVIN	
11	23/01/2025 0:00	Motion Document	Form 37B: Confirmation of Motion	MCLEAN , KEVIN	
9	22/01/2025 0:00	Affidavit	Affidavit (General)	MCLEAN , KEVIN	
10	22/01/2025 0:00	Affidavit	Affidavit (General)	MCLEAN , KEVIN	
8	22/01/2025 0:00	Affidavit	Form 16B: Affidavit of Service	MCLEAN , KEVIN	
7	21/01/2025 12:01	Notice	Notice of Return of Documents form		

4875 141

				Submitted By	View
6	31/12/2024 0:00	Affidavit	Affidavit (General)	MCLEAN , KEVIN	
5	24/12/2024 0:00	Requisition	Form 4E: Requisition	MCLEAN , KEVIN	
3	24/12/2024 0:00	Requisition	Form 4E: Requisition	MCLEAN , KEVIN	
4	24/12/2024 0:00	Requisition	Form 4E: Requisition	MCLEAN , KEVIN	

(Showing **1** to **50** of **52**)

Page **1** of **2**

Previous Next

Go to page Go

Items per page 50

Appendix B

APPENDIX B FILINGS TO BE IMMEDIATELY PROCESSED IN LIGHT OF THE NEWLY DISCOVERED UNEQUIVOCAL FACTS AND EVIDENCE AS OF DECEMBER 1 2025 BY REFERENCE TO THE OCPP

Reference Number	Court	Case	Case Classificatio
24E9-EFCD-561E-F8C1 Draft Order - NOM 3 - McLean v TDHA et al - Applicant - Moving Party - Mr McLean - 30-Nov-2025	Divisional Court	DC-24-00000718-00JR MCLEAN v. TD HOME AND AUTO INSURANCE COMPANY et al	Divisional - Appl - Judicial Review
8429-6841-0C18-2937 Intake Form - Responses of Applicant - Applicant - Mr McLean - 21-Nov-2024	Divisional Court	DC-24-00000718-00JR MCLEAN v. TD HOME AND AUTO INSURANCE COMPANY et al	Divisional - Appl - Judicial Review
4B3F-88B8-7280-8DEB Divisional Court - Motion Record	Divisional Court	DC-24-00000718-00JR MCLEAN v. TD HOME AND AUTO INSURANCE COMPANY et al	Divisional - Appl - Judicial Review

Reference Number	Court	Case	Case Classifi
59CD-19F9-0358-4A6D Divisional Court - Compendium - NOM #3	Divisional Court	DC-24-00000718-00JR MCLEAN v. TD HOME AND AUTO INSURANCE COMPANY et al	Divisional - Judicial R
12D2-EF10-D383-24D8 Bill of Costs - McLean v TDHA et al - Applicant - Mr McLean - 27-Nov-2025	Divisional Court	DC-24-00000718-00JR MCLEAN v. TD HOME AND AUTO INSURANCE COMPANY et al	Divisional - Judicial R
9F45-183D-2C7E-F81D Requisition Form 4 E - Invitation Case Center - McLean v TDHA et al - Applicant - Mr McLean -26-Nov-2025	Divisional Court	DC-24-00000718-00JR MCLEAN v. TD HOME AND AUTO INSURANCE COMPANY et al	Divisional - Judicial R
1C68-3616-5B6A-DB9E Divisional Court - Form 4E: Requisition	Divisional Court	DC-24-00000718-00JR MCLEAN v. TD HOME AND AUTO INSURANCE COMPANY et al	Divisional - Judicial R
6D41-2808-DF2A-2E97 Divisional Court - Submissions for Costs	Divisional Court	DC-24-00000718-00JR MCLEAN v. TD HOME AND AUTO INSURANCE COMPANY et al	Divisional - Judicial R

RECEIPT FOR NOM #3

Receipt 25D3-0F4F-4A06-8CF8

Details

The transaction details of this purchase order are displayed below. The Receipt Number and Payment Processor Number are unique identifiers for the transaction that should be provided to system administrators if any assistance is required.

Receipt Number

Filing Fees

Receipt Type

Transaction Date

Payment Processor Number
34836269

Purchased By

Kevin Alexander McLean

Status

Authorized

Amount

$339.00

Order Summary

The order summary of this transaction is as follows:

Motion Document - Motion Record - Filing Fees $339.00

Motion Record in Divisional Court - KEVIN MCLEAN $339.00

Grand Total **$339.00**

Line Items

Displays the filing(s) associated with this receipt.

Line Items

Court	Filing	Case
Divisional Court	4B3F-88B8-7280-8DEB Divisional Court - Motion Record	DC-24-00000718-00JR MCLEAN v. TD HOME AND AUTO INSURANCE COMPANY et al

TAB 7

Court File No. DC-24-00000718-00JR

Form 4E

Courts of Justice Act

REQUISITION

ONTARIO SUPERIOR COURT OF JUSTICE

(DIVISIONAL COURT)

BETWEEN:

KEVIN ALEXANDER MCLEAN

APPLICANT

- and -

TD HOME AND AUTO INSURANCE COMPANY, SECURITY NATIONAL INSURANCE COMPANY, TD GENERAL INSURANCE COMPANY, EXECUTIVE DIRECTOR, LICENCE APPEAL TRIBUNAL, HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, REPRESENTED BY EXECUTIVE CHAIR OF TRIBUNALS ONTARIO IN MR. SEAN WEIR, THE ATTORNEY GENERAL OF ONTARIO

RESPONDENTS

REQUISITION

TO THE REGISTRAR
Located at:
130 Queen Street West
Room 174
Toronto, Ontario

Pursuant to the Rules of Civil Procedure and the Consolidated Practice Direction for Divisional Court Proceedings, the Applicant, Kevin Alexander McLean, requests the following administrative action, and I REQUIRE the following:

a) Immediately issue and provide the Applicant with the properly stamped and recorded copies of the Notice of Motion and supporting documents, confirming their original filing date therein;
b) Ensure all filed documents are uploaded to Case Center as required by the Registrar under the Rules of Civil Procedure for Toronto Region;
c) Immediately provide the Applicant with an Invitation to Case Center so he can upload the Compendium For NOM #3; and
d) All other necessary actions in accordance with the law.

BACKGROUND AND GROUNDS FOR URGENCY

The Notice of Motion (NOM #3) and the Motion Record were served and filed on November 17, 2025, providing more than 14 days' notice pursuant to the Rules of Civil Procedure, and all required fees were paid. The matter is scheduled as a written, unopposed motion for hearing on December 3, 2025.The Applicant repeats and relies upon all documents submitted and the uncontroverted evidence and admissions, by the record of proceeding in the Judicial Review Procedure Act (JRPA) proceeding, that the JRPA Application was unopposed throughout. Pursuant to Rule 37.10.1 (Confirmation of Motion), the Applicant delivered the Confirmation of Motion (Form 37B) on November 24, 2025, confirming the motion was ready to proceed on December 3, 2025. A copy of the electronic transmittal/letter is attached (as it was in Appendix A). The Applicant relies on the representation that electronically filed documents would be rejected or noted for compliance within three business days. As the documents were not rejected, the presumption is that the motion is properly filed and proceeding accordingly on the docket for the written hearing. The failure to provide the Applicant with the stamped, issued copies for the record is strictly due to a clerical omission on the part of the Registry staff, not any non-compliance by the Applicant. Immediate administrative intervention is required to provide the record necessary to confirm the hearing is proceeding without delay. Furthermore, the underlying proceeding is a Judicial Review governed by the Judicial Review Procedure Act, RSO 1990, c J.1, which are, by their nature, summary proceedings. This procedural mandate requires the Registry to act with diligence and urgency to ensure the immediate rectification of clerical errors and prevent unwarranted delays.

MANDATORY ADMINISTRATIVE DUTY (RULES OF CIVIL PROCEDURE AND LEGISLATION)

The Registrar's duties extend beyond merely receiving documents to include the issuance (stamping and returning copies) of motion materials. The court's authority must be used to correct its own errors, particularly when supported by statutory principles:

a) General Principle (Rules of Civil Procedure, r. 1.04(1)): These rules shall be liberally construed to secure the just, most expeditious and least expensive determination of every civil proceeding on its merits. The Registrar's administrative action must be taken to ensure the just and most expeditious determination of this motion.

b) Matters Not Provided For (Rules of Civil Procedure, r. 1.04(2)): Where matters are not provided for in these rules, the practice shall be determined by analogy to them. Even if a specific rule for correcting this clerical oversight is missing, the Registrar must find the analogous power within the Rules to cure the omission and allow the motion to proceed.

c) Orders on Terms (Rules of Civil Procedure, r. 1.05): When making an order under these rules the court may impose such terms and give such directions as are just. This rule affirms the court's (and by extension, the Registrar's administrative duty to ensure compliance with the Rules) inherent discretion to give directions that are just—i.e., immediately issuing the stamped copies.

d) Use of Forms (Rules of Civil Procedure, r. 1.06(1)): The forms prescribed by these rules shall be used where applicable and with such variations as the circumstances require. This Requisition (Form 4E) is being used with necessary variations to compel the Registrar to cure a clerical omission, as the circumstances require.

e) Computation of Time (Rules of Civil Procedure, r. 3.01(1)): This rule governs how time is computed under the Rules, including the exclusion of holidays for periods of seven days or less, and deeming service after 4 p.m. or on a holiday to occur on the next day. This ensures the Applicant's timely filings are properly credited.

f) Extension or Abridgment (Rules of Civil Procedure, r. 3.02(1) & (2)): The court may by order extend or abridge any time prescribed by these rules or an order on such terms as are just, and a motion for extension may be made before or after the expiration of the time prescribed. This confirms the court’s broad discretion to validate the motion notwithstanding any technical time issues caused by administrative delay.

g) Notice to be Given in Writing or Electronically (Rules of Civil Procedure, r. 4.04(1)): A notice required to be given by these rules shall be given in writing or electronically. The Applicant's electronic submission of the Confirmation of Motion on November 24, 2025, constituted proper, timely notice as required by Rule 37.10.1.

h) Electronic Filing (Rules of Civil Procedure, r. 4.05(4.1) & 4.05.1(1.1)): The Applicant confirms that the document was filed electronically using the authorized method, noting that the Civil Claims Online Portal is specifically designated as not applicable to proceedings commenced or continued in the City of Toronto (r. 4.05.1(1.1)), thus confirming the correct electronic filing method for Divisional Court in Toronto was employed.

i) Confirmation of Filing (Rules of Civil Procedure, r. 4.05(4.2)): The electronic filing of a document in accordance with this rule shall be confirmed by way of a notice of accepted filing given through the authorized software. The absence of a rejection notice implies this confirmation was, in effect, provided and the documents were accepted for filing, placing the burden of the subsequent omission on the Registrar

j) Implied Duty of Issuance/Recording: The Registrar has an implied duty to record and issue filed materials so the docket is accurately prepared and the parties have the proper record.

k) Rule 2.01 (Effect of Non-Compliance): Non-compliance (in this case, the court's clerical omission) does not void the proceeding. This rule mandates that the motion be allowed to proceed as scheduled.

l) Rule 2.03 (Court May Dispense with Compliance): This rule grants the Court the power to dispense with strict compliance; the Registrar, acting administratively, should apply this principle to rectify their own omission where no party is prejudiced (as the motion is unopposed).

m) Irregularity vs. Nullity & Nunc Pro Tunc: The failure to stamp an otherwise validly delivered document is a mere irregularity, not a nullity, under the curative provisions of the Rules (r. 2.01). Furthermore, the court has the inherent jurisdiction to correct the record and grant all necessary orders nunc pro tunc (now for then), backdating the effect of the documents to the date of their timely submission (November 17, 2025, and November 24, 2025, respectively). This is necessary to prevent prejudice to the Applicant arising from a clerical error, ensuring the motion proceeds as scheduled on December 3, 2025, as implicitly confirmed by the absence of a rejection notice. The Applicant's Draft Order (Appendix C) can thus be properly issued with immediate effect.

n) Incidental Powers (Legislation Act, s. 78): If power to do or to enforce the doing of a thing is conferred on a person, all necessary incidental powers are included. The Registrar's power to process and set down motions includes the incidental power to correct administrative errors to ensure the process is followed.

o) Performance When Occasion Requires (Legislation Act, s. 79): Powers that are conferred on a person may be exercised, and duties that are imposed on a person shall be performed, whenever the occasion requires. The administrative duty to issue stamped copies and docket the matter must be performed immediately, as the occasion requires.

p) Powers and Duties Remain Despite Delegation (Legislation Act, s. 80): A person on whom an Act confers a power or imposes a duty may exercise it even if it has been delegated to another person. The ultimate responsibility and duty to the court to ensure the motion proceeds rests with the Registrar.

q) Law Always Speaking (Legislation Act, s. 63): The law is always speaking, and the present tense shall be applied to circumstances as they arise. The Registrar's duty to comply with the Rules is a continuous obligation, requiring action now to correct a past error.

r) Rule of Liberal Interpretation (Legislation Act, s. 64(1)): An Act shall be interpreted as being remedial and shall be given such fair, large and liberal interpretation as best ensures the attainment of its objects. This rule supports a broad interpretation of the Registrar's administrative duty to cure clerical omissions that obstruct the timely hearing of a written motion.

s) Definition of Holiday (Legislation Act, ss. 87-88): The definition of “holiday” means a holiday as described in section 88, which includes Sunday. The timeliness of the Applicant's filing must be strictly interpreted in the Applicant's favour to ensure the matter proceeds as scheduled.

I REQUIRE the Registrar to immediately (prior to 4:00 PM today, December 2, 2025):

a) Immediately issue and provide the Applicant with the properly stamped and recorded copies of the Notice of Motion and supporting documents, confirming their original filing date therein;

b) Ensure all filed documents are uploaded to Case Center as required by the Registrar under the Rules of Civil Procedure for Toronto Region;

c) Immediately provide the Applicant with an Invitation to Case Center so he can upload the Compendium For NOM #3; and

d) All other necessary actions in accordance with the law.

December 2, 2025



Mr. Kevin A. McLean (B.A. J.D., CIM)
Applicant
Moving Party
Self-represented or appearing *Pro Se*, the Applicant herein
(e): mcleansettlement@gmail.com

APPENDICES

TAB 8

The filing was successfully submitted.

Manage Filing Divisional Court - Form 1 - Request and Requisition - Applicant - Mr McLean - 3-Dec-2025

Existing Case Filing

Submitted 1 second ago

Court
Divisional Court

Case Number
DC-24-00000718-00JR

Case Title
MCLEAN v. TD HOME AND AUTO INSURANCE COMPANY et al

Case Classification
Divisional - Application - Judicial Review

Lead File Entry
Requisition - Form 1: Requisition or Written Request

Reference Name
Divisional Court - Form 1 - Request and Requisition - Applicant - Mr McLean - 3-Dec-2025

Reference Number
87C9-9EC4-D544-7154

Filing Submitted

Thank you for your online submission. Please note that your documents are not yet filed with the court. You can monitor its progress by returning to this filing and viewing the status history, which will update as it moves through the review process. If enabled, you will also receive notifications alerting you to any updates. Your documents will be reviewed by court staff. If the notification setting is enabled, you will be notified within three business days if your documents have been accepted or rejected for filing and/or issuance. If your documents are rejected for filing and/or issuance, the notification will also provide the reason(s) for the rejection. If your submission included a filing fee, your credit/debit card will only be charged if your documents are accepted for filing and/or issuance. Your credit/debit card will not be charged if your documents are rejected. If you have any questions about your case, please contact the court office where your documents were submitted.

Status History

The filing was successfully submitted.

Summary

Filing Information

Court	Divisional Court
Case Number	DC-24-00000718-00JR
Case Title	MCLEAN v. TD HOME AND AUTO INSURANCE COMPANY et al
Case Classification	Divisional - Application - Judicial Review
Filed on Behalf of	KEVIN MCLEAN
Time Sensitive/Urgent Submissions	Yes
Comments	Dear Divisional Court: this remains another urgent requisition and will be provided to the Divisional Court by email and Registrar (Ms. Gentles) along with fax to the President of the Divisional Court for his immediate attention. Thank you.
Reference Number	87C9-9EC4-D544-7154

New Parties

No new parties were introduced with this filing.

File Entries

Lead	Type	Documents	Filing Fees
✓	Requisition - Form 1: Requisition or Written Request	Form 1 - Requisition Request - URGENT - Applicant - Mr McLean - 3-Dec-2025	$0.00

Court File No. DC-24-00000718-00JR

FORM 1: DIVISIONAL COURT

REQUISITION OR WRITTEN REQUEST

ONTARIO SUPERIOR COURT OF JUSTICE

(DIVISIONAL COURT)

BETWEEN:

KEVIN ALEXANDER MCLEAN

APPLICANT

- and -

TD HOME AND AUTO INSURANCE COMPANY, SECURITY NATIONAL INSURANCE COMPANY, TD GENERAL INSURANCE COMPANY, EXECUTIVE DIRECTOR, LICENCE APPEAL TRIBUNAL, HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, REPRESENTED BY EXECUTIVE CHAIR OF TRIBUNALS ONTARIO IN MR. SEAN WEIR, THE ATTORNEY GENERAL OF ONTARIO

RESPONDENTS

DIVISIONAL COURT FORM 1: REQUISITION OR WRITTEN REQUEST

FORMAL REQUEST AND REQUISITION TO THE REGISTRAR AND THE JUDICIARY

COURT FILE NO.: DC-24-00000718-00JR

FORUM OF SUPERIOR JURISDICTION: Superior Court of Justice (Divisional Court)

SHORT STYLE OF CAUSE: McLean v. TDHA et al.

MOVING PARTY: Mr. Kevin A. McLean, B.A., J.D., C.I.M., the Applicant

DATE OF INSTRUMENT: The 3rd day of December, A.D. 2025

SUBJECT: EXIGENT MANDATE FOR IMMEDIATE PROCEDURAL RECTIFICATION AND RETROACTIVE VALIDATION (*NUNC PRO TUNC*) OF SUBMITTED MATERIALS APPURTENANT TO NOMINATION OF MOTION NO. 3 (NOM #3)

TO:

The Registrar of the Divisional Court

130 Queen Street West

Room 174

Toronto, Ontario

(Attention: Ms. T. Gentles)

TO THE SPECIFIC JUDGES OF THE DIVISIONAL COURT BY STATUTORY RIGHT AND DUTY, EX OFFICIO IN HIS (AT FIRST INSTANCE) ASSIGNMENT AND SUPERVISORY CAPACITY:

THE NAMED STATUTORY CONSISTING PERSONS OF THE DIVISIONAL COURT

THE HONOURABLE PRESIDENT OF THE DIVISIONAL COURT

The Honourable Mr. Justice Morawetz, President of the Divisional Court, Ex Officio

Osgoode Hall

Divisional Court

130 Queen Street West

Toronto, Ontario

AND TO:

THE HONOURABLE ASSOCIATE CHIEF JUSTICE OF THE SUPERIOR COURT OF JUSTICE IN HER STATUTORY CAPACITY PURSUANT TO SECTION 18(2) OF THE *CJA* AS A MEMBER OF THE DIVISIONAL COURT

The Honourable Madam Justice Faye E. McWatt, Associate Chief Justice of the Superior Court of Justice and Locum Tenens for the President of the Divisional Court (as may be applicable pursuant to statute)

Osgoode Hall

Divisional Court

130 Queen Street West

Toronto, Ontario

PURSUANT TO INTER ALIA:

The *Judicial Review Procedure Act; the Legislation Act; the Administration of Justice Act* and its attendant regulation (O. Reg. 293/92); the Courts of Justice Act (specifically Sections 75(1) and 76(1)); the Appellate Jurisdiction and the Equitable Jurisdiction of this Honourable Divisional Court; and the *Rules of Civil Procedure*.

OPERATIVE STATUTES CITED IN SUPPORT OF JUDICIAL SUPERVISION:

SECTION 76(1) OF THE COURTS OF JUSTICE ACT: Direction of court staff
76 (1) In matters that are assigned by law to the judiciary, registrars, court clerks, court reporters, interpreters and other court staff shall act at the direction of the chief justice of the court.
SECTION 75(1) OF THE COURTS OF JUSTICE ACT: Powers re sittings and assignment of judicial duties
75 (1) The powers and duties of a judge who has authority to direct and supervise the sittings and the assignment of the judicial duties of his or her court include the following:

1. Determining the sittings of the court.
2. Assigning judges to the sittings.
3. Assigning cases and other judicial duties to individual judges.
4. Determining the sitting schedules and places of sittings for individual judges.
5. Determining the total annual, monthly and weekly workload of individual judges.
6. Preparing trial lists and assigning courtrooms, to the extent necessary to control the determination of who is assigned to hear particular cases.

Pursuant to the representations made by the Divisional Court that the Applicant's filings would be processed within three (3) business days which is a necessity to ensure the uploading of filed documents to Case Center by the Registrar pursuant to the amendments in the Rules of Civil Procedure (October 2025) for Toronto Region and the requirement that the Applicant upload his Compendium For NOM #3 to Case Centre which requires an invitation to him.

The Applicant was entitled to an invitation to Case Centre when he brough the *JRPA* Application which was November 15 or at the latest November 18, 2025.

FURTHER BACKGROUND AND BASIS FOR EXIGENCY:

1. The initiation, making, and service of **Nomination of Motion No. 3 (NOM #3)** by the Applicant were duly effectuated on the 17th day of November, 2025, establishing a designated returnable date of **December 3, 2025** (the present date).
2. The totality of the requisite filings for NOM #3, encompassing the Notice of Motion, Factum, Motion Record, initial Draft Order, and Affidavit of Service, were subsequently submitted to the Court's administrative offices on or about the **26th day of November, 2025** with the required payment by credit card;
3. The Applicant has fully complied with the requirements in the Rules of Civil Procedure, Divisional Court Practice Direction et al including notifying the Registrar of the requirements for his NOM #3 on an urgent basis. For some reasons, non-responsiveness and honouring representations has not been complied wit.
4. The Compendium relative to NOM #3 was definitively filed, and its effectuation was achieved on the **28th day of November, 2025**, which temporal designation comfortably preceded the designated return date.
5. Subsequent to the conspicuous non-performance by the Respondents in the service of any responsive documentation appertaining to NOM #3 and its accompanying materials, the service and filing of the **Primary Draft Order** (dated November 30, 2025) was undertaken by the Applicant.
6. NOM #3 has been designated to proceed **"in writing,"** thereby precluding the requirement for either oral argument or physical attendance, pursuant to the provisions of Rule 37.11(1)(a) of the Rules of Civil Procedure.
7. The publicly promulgated procedural timeline disseminated by the Divisional Court posits a validation and processing period of three full business days for said filings that are on urgent basis particularly when there are facts arising or discovered along with “fraud” arising or discovered post any “orders” which at law must be set aside; this representation, forming the basis of legitimate expectation, was duly noted following the antecedent disbursement of the prescribed motion fee on November 26, 2025.
8. An academic **jurisdictional issue** persists regarding the exact applicability of the **$339.00 filing fee**, established under O. Reg. 293/92, subsection 1(1)3(iv), which matter is predicated upon the Respondents' failure to execute "delivery" of their respective Notices of Appearance; this circumstance jurisprudentially renders them non-parties for the purposes of subsequent service under Rule 38.07(2)(a-c) and compels a distinction between the legal classifications of "parties" and "Responding Parties." Notwithstanding the rigorous statutory construction, said payment was executed for administrative convenience; the present exigency, however, arises exclusively from the Registrar’s failure to effectuate established administrative duties, irrespective of the aforementioned disbursement. Nonetheless the Applicant is seeking the same as a disbursement to be indemnified and waives his right, formally, to receive the return of said payment from the Divisional Court.

9. As of the transmittal date and time of this Requisition, the documentation submitted on or about November 26, 2025, remains **devoid of the requisite validation stamp**, nor has said documentation been uploaded and transmitted to the Presiding Superior Court of Justice Motions Judge. It remains in "received" status. This administrative lacuna constitutes a **material failure** to adhere to the represented timeline and precipitates a severe prejudice to the timely and unimpeded adjudication of NOM #3 along with the sprit and substance of JRPA applications before the Divisional Court.
10. It is observed that inasmuch as NOM #3 is proceeding in writing and the Respondents have failed to invoke any participatory rights (it being noted that section 9(2) of the *JRPA* is permissive, not mandatory, for certain entities), the sole remaining requirement is the assignment of a Presiding Motions Judge to sit, read, and consider the Applicant's unopposed motion; concomitantly, owing to the absence of any **'First Defence'** filing pursuant to Rule 77 of the *Rules of Civil Procedure,* the Judicial Review Application is **deemed at law** undefended.
11. The Respondents, the LAT and Respondent Insurance Companies particularly, have been on notice since October 26, 2025, as to providing any evidence that they had "delivered", including only "filing" their NOA's and they did not respond. As such, the Applicant's knowledge of the same came to unequivocal admission, on the record, by the passage and implementation of the OCPP on December 1, 2025. The Applicant moved promptly with his Requisition #11 and filed the same on December 2, 2025 at three a.m. As such, the issues to be decided in this NOM #3 are rudimentary and without dispute with respect to the unwinding or setting aside of steps, documents and/or orders on a variety of legal grounds inclusive of the Rules of Civil Procedure. What is certain is that the Respondents never filed a "First Defence" and as such, any request for Assignment For Case Management was null and void, void and void ab initio along with all subsequent steps, documents and/or orders. Along with the same, the Respondents received notice of steps and documents when they were prohibited from receiving the same (see: Rules of Civil Procedure, Rule 38.07(2)(a and b).
12. The authority vested in the President of the Divisional Court to possess full control and direction over court staff, as stipulated by Section 76(1) of the *Courts of Justice Act*, is hereby invoked in the public interest and with respect to this specific administrative failure, which lamentably echoes historical delays encountered in the stamping and listing for hearing of prior filings by the Applicant (e.g., Requisition #1).

URGENTLY MANDATED:

The Applicant and Moving Party, Mr. Kevin A. McLean, respectfully and urgently **REQUIRES** that the Registrar's Office and the President of the **Divisional Court**, in the exercise of their respective authorities, execute the following duties **forthwith**:

1. **Retroactive Validation (*Nunc Pro Tunc*):** That the entirety of the relevant filings for NOM #3, specifically those submitted on or about November 26, 2025, be **forthwith accorded the validation stamp bearing the date of November 26, 2025**, which date constitutes the legal date of effectual filing.
2. **Processing of all outstanding filings in the OCPP by the Applicant**
3. **Transmission by uploading to the Judiciary and Presiding Motions Judge:** That the complete and validated Motion Record for NOM #3, in conjunction with the Primary Draft Order (November 30, 2025), be **immediately uploaded and transmitted to the Presiding Superior Court of Justice Motions Judge** to ensure the instantaneous

progression and adjudication of the motion as designated for this date, December 3, 2025.

4. **Access to Case Centre:** The immediate provision of an invitation to the Applicant for access to the Case Centre interface, which remains requisite for the Applicant to fulfill the obligation of uploading the Compendium.
5. **Confirmation and Remediation:** Immediate confirmation of the safe and accurate receipt of the aforementioned documentation and the granting of any other ancillary duties deemed necessary *nunc pro tunc* to rectify this demonstrable administrative lapse.

JURISPRUDENTIAL AND PROCEDURAL RATIONALE:

It is affirmed that the Applicant was legally compelled to bring NOM #3 within this proceeding pursuant to, *inter alia*, Rule 59.06(2)(a), given that the established common law dictates that a motion seeking to set aside steps, documents, or orders founded upon fraud, facts discovered *post orders*, non-receipt of notice, irregularity, or foundational nullity must be pursued within the *intra proceeding* framework of the current action.

Reliance is placed upon the documentation of **Requisitions #11 and #12**, tendered and filed in the OCPP on the 1st and 2nd days of December, 2025, respectively, which unequivocally established from the record that the Respondents failed to file, *vel non* "deliver," their Notices of Appearances. This non-compliance with Rule 38.07(2)(a-c) constitutes an absolute statutory prohibition against the Respondents from taking subsequent steps or filing any material whatsoever in the Judicial Review Application.

The procedural rectification herein constitutes an **indispensable prerequisite** to ensure that the Applicant's fundamental constitutional right of **access to justice** is not unduly prejudiced by administrative temporal delays, a principle consistently maintained in the jurisprudence, including *Trial Lawyers Association of British Columbia v. British Columbia (Attorney General)*, 2014 SCC 59, at paragraphs 32 and 41.

As such, it is respectfully requisitions (required) and requested that all supervisory and assignment steps along with due compliance with the Registrar's duties are granted nunc pro tunc to ensure that sitting, reading and considering of the Applicant's NOM #3 are dated for today's date of December 3, 2025.

Respectfully Submitted,

December 3, 2025



Mr. Kevin A. McLean (B.A. J.D., CIM)
Applicant
Moving Party
Self-represented or appearing *Pro Se*, the Applicant herein
(e): mcleansettlement@gmail.com

APPENDIX #1: (COPY OF RECENT EMAIL TO THE DIVISIONAL COURT AND MS. GENTLES)

Gmail

Mr. Kevin McLean <mcleansettlement@gmail.com>

Re: LAT's Notice of Appearance : McLean v. TD Home and Auto Insurance et al. : 718/24

Mr. Kevin McLean <mcleansettlement@gmail.com>
To: "SCJ-CSJ Div Court Mail (JUD)" <scj-csj.divcourtmail@ontario.ca>, "Gentles, Tashekah (JUD)" <Tashekah.Gentles@ontario.ca>

URGENT COMMUNICATION
Classification: Private and Confidential
Date of Transmittal: December 3, 2025
Temporal Designation: 10:30 ante meridiem
Mode of Transmission: Electronic Mail (Primary) and Facsimile (Concurrent Confirmation)

Divisional Court File Designation	**24/718/00JR**
Short Style of Cause	*McLean v. TDHA et al.*
Document Type	Formal Correspondence (Email)
Sender's Status	The Applicant and Moving Party in Nomination of Motion No. 3 (*NOM #3*)
Sender's Name	Mr. Kevin A. McLean, B.A., J.D., C.I.M.

TO:

THE DIVISIONAL COURT
130 Queen Street West
Room 174
Toronto, Ontario
M5H 2N5
(Kind Attention: The Esteemed Registrar, Ms. T. Gentles)

Facsimile: 416-327-5549
Electronic Mail: scj-csj.divcourtmail@ontario.ca; Tashekah.Gentles@ontario.ca

SUBJECT: EXIGENT REQUIREMENT FOR THE REGISTRAR'S EXECUTION OF DUTIES PURSUANT TO HONOURED PROCEDURAL REPRESENTATIONS REGARDING THE T

I. INTRODUCTION AND CONTEXT

This urgent communication is submitted with utmost deference and respect to the Honourable Justices of the Divisional Court, and is directed specifically to the Office of *meridiem* on December 3, 2025, represents a critical juncture in the procedural chronology of this application.
Subsequent to the submission of the requisite formal requisitions, an appended document is provided herewith. This enclosure constitutes a graphic excerpt from the 'My F which definitively demonstrates a substantive failure to adhere to the established judicial administration's represented timeline for processing and validating submissions. S regarding the notification of acceptance within a period of three business days have not been fulfilled, which constitutes, *prima facie*, a material misrepresentation of the e

II. NON-COMPLIANCE WITH PROCEDURAL REPRESENTATION

In the enduring spirit of collegiality, and reserving all extant factual and legal prerogatives, **I** respectfully and urgently request that the relevant filings, particularly those as forthwith accorded the validation stamp bearing the date of November 26, 2025. Immediate confirmation of safe and accurate receipt of the aforementioned documentatior

This procedural rectification is indispensable to ensure the unimpeded progression of *NOM #3*, which is designated to proceed this day "in writing" and without the necess period of time will necessarily be required for the Presiding Superior Court of Justice Motions Judge (hereinafter, the "Presiding SCJ Motions Judge") to meticulously per Record, in conjunction with the most recently promulgated draft order (dated November 30, 2025), herein designated as the "Primary Draft Order."
The efficacy of this judicial review is entirely contingent upon the successful and timely uploading of the filed documents to the Presiding SCJ Motions Judge, with the sir preparation and transmission of which remains **my** sole and punctilious responsibility. Although the submission of the *Compendium For NOM #3* was not strictly mandate definitively effectuated on November 28, 2025, which comfortably preceded the returnable date designated for the hearing of *NOM #3* by a margin of three clear days.

III. JURISDICTIONAL MANDATE AND *ACTA*

Should the immediate rectification of these critical procedural matters not be effectuated, **I** shall be compelled to escalate this exigency to the appropriate supervisory auth adherence to the *pith and substance* of the *Courts of Justice Act*, the *Legislation Act*, the *Judicial Review Procedure Act*, and all relevant attendant regulatory instruments.
It is affirmed that the requisitions appended hereto necessitate the Registrar's execution of a statutory duty pursuant to the *Rules of Civil Procedure*. Concomitantly, the imp unwarranted, predicated upon the antecedent disbursement of all various prescribed fees established under the pertinent regulation issued pursuant to the *Administration of and Court of Appeal - Fees*.

ANALYSIS OF REGULATORY FEES

It is observed that the regulatory provision, Superior Court of Justice and Court of Appeal - Fees, O Reg 293/92, specifically subsection 1(1)3(iv), stipulates:
"iv. A notice of motion served on another party, a notice of motion without notice, a notice of motion for a consent order or a notice of motion for leave to appeal, c
To the extent that since the Respondents failed to "deliver" their respective Notices of Appearance previously and prior to the filing of the Notice of Motion Number Three motion, and given that the instant Notice of Motion was initiated with notice, does not seek a "consent order," is not a "motion for leave to appeal," and is not a "notice of *facto*, is that no further charge for "filing" can be levied pursuant to the strict construction of the regulatory language.

IV. ACCESS TO JUSTICE AND PROCEDURAL INTEGRITY

Notwithstanding the aforementioned rigorous statutory construction, and in deference to the judicious management of the Divisional Court's limited temporal and fiscal re fee may proceed *in any event* for administrative convenience. This acquiescence is grounded in the axiomatic principle that **I am** procedurally constrained to advance a mc notwithstanding the absence of formally designated "Responding Parties." It is a self-evident legal conclusion that a "Responding Party" is jurisprudentially distinct from a

It is further acknowledged that the guarantee of access to public courts for the adjudication of civil disputes constitutes a foundational tenet of the Canadian constitutional *Columbia v. British Columbia (Attorney General)*, 2014 SCC 59, at paragraphs 32 and 41; referencing *Ontario (Attorney General) v. $25,610 in Canadian Currency*, 2017

required to comply with the represented timelines to ensure that this fundamental constitutional right is not *ultra vires* prejudiced.
The aforementioned electronic correspondence was concurrently transmitted via facsimile to preclude any possible misapprehension or conceptual ambiguity regarding the days since the effectual filing of the *NOM #3*, Factum, Motion Record, Primary Draft Order, and Affidavit of Service; a duration that significantly exceeds the represented fulfilled the obligation to deliver a Confirmation of Motion to the Registrar at least five days prior to the hearing date, specifically on November 24, 2025, thereby satisfyi
As *NOM #3* constitutes a motion without oral argument, its adjudication proceeds appropriately in the absence of the public pursuant to *Rule 37.11(1)(a)*, which states:
"(a) the motion is to be heard and determined without oral argument;"

V. CONCLUSION AND RESERVATION OF RIGHTS

In consideration of the demonstrable lack of opposition to *NOM #3* and the exigent circumstances underlying the substantive relief sought therein, a revised draft order sha Presiding SCJ Motions Judge. While the administrative temporal delays are unquestionably of considerable concern, it is anticipated that this approach will facilitate the d and fundamentally just manner.
I formally reserve the prerogative to bring this entire *acta* to the attention of those possessing the requisite supervisory authority, should the stated representations and corr resorting to such supervisory intervention would be undertaken with demonstrable reluctance, it may become an unavoidable necessity to preserve the *status quo ante* and The previously provided Primary Draft Order is appended hereto for the Presiding SCJ Motions Judge's ease of reference, should the immediate endorsement of that instru

I thank the Court for its prompt and judicious attention to this exigency.

Respectfully Submitted,

/s/Mr. Kevin A. McLean, B.A., J.D., C.I.M.

Mr. Kevin A. McLean, B.A., J.D., C.I.M.

Enclosures:

1. Requisition No. 11 of the Applicant (December 1, 2025)
2. Requisition No. 12 of the Applicant (December 2, 2025)
3. Excerpt from 'My Filings' (OCPP)
4. Primary Draft Order (November 30, 2025)

Yours faithfully,

/KAM

Mr. Kevin A. McLean (BA, JD, CIM)

Sender's name: Mr. Kevin Alexander McLean (BA, JD, CIM)

Sender's address: 410-775 King Street West, Toronto, Ontario, M5V 2K3

Sender's Telephone Number: (647) 370-9354

Sender's email address: mcleansettlement@gmail.com

On Tue, Dec 2, 2025 at 4:00 PM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

> Dear Divisional Court and Ms. Gentles: a copy of this requisition was filed in the OCPP. I provide a copy herein for your ease of reference. Kindly co unless I hear otherwise that my NOM #3 will be heard tomorrow in writing at some point during the day, even notionally by reference to time. Thank
>
> Yours faithfully,
>
> */KAM*
>
> Mr. Kevin A. McLean (BA, JD, CIM)
>
> Sender's name: Mr. Kevin Alexander McLean (BA, JD, CIM)
>
> Sender's address: 410-775 King Street West, Toronto, Ontario, M5V 2K3
>
> Sender's Telephone Number: (647) 370-9354
>
> Sender's email address: mcleansettlement@gmail.com
>
> On Tue, Dec 2, 2025 at 2:52 PM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:
>
> > Gmail - Superior Court of Justice - Toronto - Divisional Court DC-24-00000718-00JR Filing Submission Conf...
> > Date: December 2, 2025 at 2:45 p.m.
> > Classification: private and confidential
> > Mode of transmission: electronic (email at first instance)
> >
> > URGENT

TAB 9

FORM 4 E

Courts of Justice Act

REQUISITION

Court File No. DC-24-00000718-00JR

ONTARIO SUPERIOR COURT OF JUSTICE

(DIVISIONAL COURT)

BETWEEN:

KEVIN ALEXANDER MCLEAN

APPLICANT

- and -

TD HOME AND AUTO INSURANCE COMPANY, SECURITY NATIONAL INSURANCE COMPANY, TD GENERAL INSURANCE COMPANY, EXECUTIVE DIRECTOR, LICENCE APPEAL TRIBUNAL, HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, REPRESENTED BY EXECUTIVE CHAIR OF TRIBUNALS ONTARIO IN MR. SEAN WEIR, THE ATTORNEY GENERAL OF ONTARIO

RESPONDENTS

REQUISITION

TO THE REGISTRAR AT:

Divisional Court
Osgoode Hall
130 Queen Street West
Room 174
Toronto, Ontario
M5H 2N5

(Attention: Ms. Roxanne Parris, Law Society Number (P06565) the Registrar[i] of the Divisional Court as of Wednesday, December 3, 2025 (the "**Registrar**")

I REQUIRE the following in terms of what is sought and all of the particulars required for the Registrar to act.

SOUGHT

I REQUIRE the Registrar to provide me, the Applicant (Party) with uncertified copies of the following documents **filed** in the **JRPA Proceeding** denoted as the following in the Ontario Courts Public Portal (the "**OCPP**"):

1. **Document #3**:
    a. Filed date: December 24, 2024;
    b. Type of document: Requisition
    c. Subtype: Form 4E: Requisition
    d. Submitted by: McLean, Kevin

2. **Document #4:**
    a. Filed date: December 24, 2024;
    b. Type of document: Requisition
    c. Subtype: Form 4E: Requisition
    d. Submitted by: McLean, Kevin

3. **Document #5:**
    a. Filed date: December 24, 2024;
    b. Type of document: Requisition
    c. Subtype: Form 4E: Requisition
    d. Submitted by: McLean, Kevin

4. **Document #8**:
    a. Filed date: January 22, 2025;
    b. Type of document: Affidavit;
    c. Subtype: Form 16B: Affidavit of Service
    d. Submitted by: McLean, Kevin

5. **Document #27:**
    a. Filed date: February 2, 2025
    b. Type of document: Affidavit
    c. Subtype: Form 16B: Affidavit of Service
    d. Submitted by:
        i. Licence Appeal Tribunal
        ii. McLean, Kevin
        iii. Security National Insurance Company
        iv. TD General Insurance Company
        v. TD Home and Auto Insurance Company

6. **Document #28:**
    a. Filed date: January 22, 2025;
    b. Type of document: Affidavit;
    c. Subtype: Form 16B: Affidavit of Service
    d. Submitted by:
        i. Licence Appeal Tribunal
        ii. McLean, Kevin
        iii. Security National Insurance Company
        iv. TD General Insurance Company
        v. TD Home and Auto Insurance Company

7. **Document #34:**
    a. Filed date: January 22, 2025;
    b. Type of document: Other

c. Subtype: Submissions
d. Submitted by:
    i. [none]

PARTICULARS NECESSARY FOR THE REGISTRAR TO ACT

The particulars necessary for the Registrar to act are as follows:

1. *Courts of Justice Act*, section 137;
2. Rule 4.08 of the *Rules of Civil Procedure*; and
3. The *Constitution Act*, 1982, Schedule B to the *Canada Act 1982* (UK), 1982, c 11, the *Charter of Rights and Freedoms*, including but not limited to sections 2(b) (the "**Open Court Principle**"), section 7 and 11(d), which includes the right of a fair and public hearing;
4. The *Judicial Review Procedure Act* including but not limited to the following sections:
    a. Section 6(2) of the *Judicial Review Procedure Act*;
    b. Section 9(2) of the *Judicial Review Procedure Act*;
    c. Section 9(4) of the *Judicial Review Procedure Act*; and
    d. Section 10 of the *Judicial Review Procedure Act*.

December 5, 2025



Mr. Kevin A. McLean (B.A. J.D., CIM)
Applicant
Moving Party
(e): mcleansettlement@gmail.com

[i]"registrar" means the Registrar of the Divisional Court or Court of Appeal, or a local registrar of the Superior Court of Justice, as the circumstances require (see: Rule 1.03 of the Rules of Civil Procedure)

TAB 10

FORM 4 E

Courts of Justice Act

REQUISITION

Request of the Divisional Court pursuant to:
the numbered form (Form 1) in the OCPP

ONTARIO SUPERIOR COURT OF JUSTICE

DIVISIONAL COURT

Court File No.: DC-24-00000718-00JR

BETWEEN:

KEVIN ALEXANDER MCLEAN

Applicant

– and –

TD HOME AND AUTO INSURANCE COMPANY, SECURITY NATIONAL INSURANCE COMPANY, TD GENERAL INSURANCE COMPANY, EXECUTIVE DIRECTOR, LICENCE APPEAL TRIBUNAL, HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, REPRESENTED BY EXECUTIVE CHAIR OF TRIBUNALS ONTARIO IN MR. SEAN WEIR, THE ATTORNEY GENERAL OF ONTARIO

Respondents

REQUISITION FOR REMEDIAL DIRECTION AND PRODUCTION OF ACTA

REQUEST OF THE DIVISIONAL COURT PURSUANT TO FORM 1 THEREIN AND UNNUMBERED FORM THEREIN

TO THE REGISTRAR AT:

Divisional Court
Osgoode Hall
130 Queen Street West, Room 174
Toronto, Ontario
M5H 2N5
(Attention: Ms. Roxanne Parris, Law Society Number P06565, the Registrar of the Divisional Court (hereinafter, the "Registrar" or "**Current Registrar**")))

AND TO:

The President of the Divisional Court, The Honourable Chief Justice Morawetz
130 Queen Street West
Toronto, Ontario

CHAPTER #1: WHAT IS SOUGHT: SPECIFIC DEMANDS AND PARTICULARS FOR MINISTERIAL ACTION

1. The Applicant formally requires and demands the immediate execution of the following ministerial duties by the Registrar, ensuring complete and particularized compliance pursuant to the statutory and procedural obligations herein articulated.

I. Requisition for Specific Documentary Production (impossible filing by five different persons including the applicant and four respondents

2. The Registrar shall forthwith provide the Applicant (Party) with uncertified copies of the entirety of the documentation corresponding to the entry identified in the Ontario Courts Public Portal (the "OCPP") as Document #48 in the JRPA Proceeding, the meticulous particulars of which are hereby delineated:

    a. **Document Entry ID:** #48
    b. **Apparent Filed Date:** March 5, 2025
    c. **Document Classification:** "Other / Submissions"
    d. **Document Subtype:** *Form 16B: Affidavit of Service*
    e. **Submitted by (Recorded Parties):**

    - Licence Appeal Tribunal
    - McLean, Kevin
    - Security National Insurance Company
    - TD General Insurance Company
    - TD Home and Auto Insurance Company

II. Mandatory Compliance with Outstanding Duties of the Former Registrar and now transferred to the Current Registrar

3. **Compliance with Predecessor Obligations:**

    a. The Registrar shall immediately comply with all extant and outstanding statutory and procedural duties that were not executed by the Former Registrar (the "Outstanding Former Registrar Duties"), thereby fully curing all previous administrative *lacunae* and preventing the Applicant's rights from being prejudiced by ministerial transition.

4. **Compliance with Prior Requisitions:**

a. The Registrar shall further and unreservedly comply with all duties and specific actions particularized within the Applicant's previous requisitions submitted in December 2025 (as formally documented and contained within the Applicant's Compendium for *Notice of Motion* #3, mail filed on December 11, 2025).

CHAPTER #2: THE NECESSARY PARTICULARS REQUIRED FOR THE REGISTRAR TO ACT

I. DOCUMENTS RELIED UPON BY THE APPLICANT

5. The Applicant repeats and relies upon all documents filed by him in the JRPA record of proceeding and those submitted for filing through the OCPP, and those mail filed documents as of December 8, 2025 (updated draft order as of December 4, 2025) and Applicant's Compendium for *Notice of Motion* #3, mail filed on December 11, 2025).

II. LEGAL ANALYSIS: COURT ADMINISTRATION, REGISTRAR DUTIES, AND JUDICIAL INDEPENDENCE IN ONTARIO

6. This analysis synthesizes the provided statutory excerpts and legal arguments concerning the administration of the Ontario courts, particularly focusing on the division of responsibilities between the Executive (Attorney General) and the Judiciary, and the role of the Registrar.

I. STATUTORY FRAMEWORK

A. Courts of Justice Act (CJA)

7. The *CJA* governs the structure and administration of justice in Ontario:

   a. **Courts of Ontario (s. 10, 11):** The court structure includes the Ontario Court of Justice (OCJ) and the Superior Court of Justice (SCJ), which includes the Divisional Court. The Chief Justice of the SCJ (Morawetz) is also President of the Divisional Court.
   b. **Court Administration Goals (s. 71):** Administration of the courts must be carried out to
      i. Maintain the independence of the judiciary (s. 71(a)).
      ii. Recognize the respective roles of the Attorney General (AG) and the judiciary (s. 71(b)).
      iii. Encourage public access and public confidence (s. 71(c)).
      iv. Further high-quality services and efficient use of public resources (s. 71(d), (e)).
   c. **AG's Superintendence (s. 72):** The AG shall "superintend all matters connected with the administration of the courts," except for matters assigned by law to the judiciary (e.g., sittings, assignment of judicial duties), matters related to judicial conduct/discipline, or matters assigned by memorandum of understanding (MOU).

d. **Appointment of Staff (s. 73(1)):** Registrars, sheriffs, and other administrative officers are appointed under the *Public Service of Ontario Act, 2006* (PSOA).
e. **Assignment of Administrative Powers (s. 73(2)):** The Deputy Attorney General may assign powers/duties given to a Registrar or other officer to any person or class of persons.

B. Public Service of Ontario Act, 2006 (PSOA)

8. The PSOA defines the scope and conduct of public servants in Ontario:

a. **Purposes (s. 1):** The PSOA aims to ensure the public service is effective, non-partisan, professional, ethical, and competent, and to provide a framework for its management.
b. **Public Servant Status (s. 2(3)):** Judges, Justices of the Peace, and Associate Judges are explicitly excluded from the definition of "public servant." Therefore, the Registrar, appointed under PSOA Part III (*CJA* s. 73), is considered a public servant and is subject to the Act's requirements, including the Oath of Allegiance (s. 5) and Oath of Office (s. 6).
c. **Wrongdoing (s. 108(1)):** Wrongdoing includes contravention of an Act or regulation, gross mismanagement, or directing/counselling such acts.

II. ROLES OF THE JUDICIARY AND COURT STAFF

A. Powers and Direction of the Judiciary (CJA s. 75 & 76)

9. The *CJA* reserves core administrative powers to the Judiciary, necessary for its function:

a. **Judicial Powers (s. 75(1)):** A judge who has authority to direct and supervise sittings and judicial duties (like a Chief Justice or President of the Divisional Court) maintains authority over:
    i. Determining sittings, assigning judges and cases.
    ii. Determining workload and schedules.
    iii. Preparing trial lists/assigning courtrooms to control who hears particular cases.
b. **Direction of Court Staff (s. 76(1)):** In matters assigned by law to the judiciary (i.e., s. 75 matters, or others touching on adjudication), Registrars and other court staff shall act at the direction of the Chief Justice of the court.
c. **Presiding Judge's Direction (s. 76(2)):** When physically present in a courtroom, staff act at the direction of the presiding judge. (The argument is that when not in the courtroom, the default is s. 76(1) and s. 75).

B. THE REGISTRAR'S ACCOUNTABILITY

10. As a public servant, the Registrar is ultimately appointed under the Executive's authority (AG), but their actions in judicial matters are subject to direction from the Judiciary (s. 76):

a. **Key Finding in *9383859 Canada Ltd. v. The Court of Appeal for Ontario*:** Administrative staff may list and delist cases under the direction of the judiciary (s. 75 and 76). The remedy for a litigant taking issue with an administrator's action (like listing/delisting) is to seek direction from a judge of the court.
    i. **(nota bene:** in order to seek direction from a judge, this may be by request, notice of motion (Form 37(A)) or by motion without the prescribed from where unnecessary or circumstances. If the Registrar is not engaged in the timely processing of submitted filings for the inevitable step of confirmation, then the Applicant will proceed accordingly and as the circumstances requires.

b. **The *R. v. Li* Distinction:** Judicial acts (like note-taking at a pre-trial) are exempt from the AG's superintendence (s. 72 exemption) because they are matters assigned by law to the judiciary. The Applicant here is not seeking judicial notes but compliance by the Registrar with administrative duties.

CHAPTER #2(A): RULES OF CIVIL PROCEDURE

11. This subheading is divided as follows.

I. MANDATE OF PROCEDURAL INTERPRETATION: THE LIBERAL CONSTRUCTION OF THE *RULES OF CIVIL PROCEDURE*

A. SUBSTANTIVE ADJUDICATION OF THE *LIS*

12. The paramount directive articulated in *Rule 1.04(1)* mandates that these procedural provisions shall be interpreted with the utmost latitude to secure the just, the most prompt, and the least onerous determination of every civil proceeding upon its substantive merits. The attainment of this overarching objective presupposes that the foundational issues inherent to the *lis inter partes* must ultimately be adjudicated. As the substantive merits in the current matter remain definitively *sub judice* and have not, to date, been subjected to conclusive judicial determination, it follows, *a fortiori*, that any purported application or construction of the *Rules* which contravenes this foundational objective is *ultra vires* the enabling procedural regime.

B. PRACTICE IN THE ABSENCE OF EXPLICIT PROVISION: DETERMINATION BY ANALOGY

13. In circumstances where the express terms of these *Rules* fail to provide explicit provision for a specific procedural *acta* or course of conduct, the prevailing methodology for determining the proper practice shall be ascertained by judicious and disciplined recourse to analogous principles already encapsulated within these *Rules*, as meticulously prescribed by *Rule 1.04(2)*.

II. STRICTURE AGAINST *EX PARTE* COMMUNICATIONS (*RULE 1.09*)

A. DELINEATION OF IMPERMISSIBLE COMMUNICATION

14. During the *pendente lite* status of an action before the Court, it is strictly enjoined that no litigant shall engage in communication concerning the matter with a judge or an associate judge in an *ex parte* manner, whether

effected through a direct or indirect medium, save and except where two conditions precedent are fulfilled: *videlicet*, the unanimous assent of all parties, or the explicit direction of the Court. It is of critical legal import to recognize, as stipulated by the *Courts of Justice Act, RSO 1990, c C.43, s 1*, that the designation "associate judge" does not include a judge. The operative term "Court" signifies the specific judicial forum wherein the proceeding is currently pending, which necessarily encompasses an associate judge in the context of the Superior Court of Justice.

15. Consequently, the restrictive spatial and temporal demarcation inherent in the phrasing "out of court" necessarily implies that any impermissible communication must intrinsically pertain to a matter external to the specific judicial *locus* (e.g., the Ontario Court of Justice versus the Ontario Superior Court of Justice) wherein the primary proceeding remains *in statu nascendi*. There exists a palpable absence of documented jurisprudence concerning the precise application of *Rule 1.09*.

B. CHARACTERIZATION OF THE PRESENT REQUISITION AND REQUEST (EFFICIENCY OF RESOURCES AND FORMS)

16. It is therefore logically and procedurally self-evident that a formal Requisition, request, or demand submitted to a judicial officer, which includes the Chief Justice, and is concurrently served upon all other interested litigants, cannot be accurately or reasonably characterized as an 'out of court' communication subject to the prohibition of *Rule 1.09*. Furthermore, the demonstrable absence of any solicitor of record necessitates the determination that there are, correspondingly, no parties represented by legal counsel on the record. Given that the Applicant is meticulously effectuating the submission of the document for official filing via the Online Court Case Portal (OCPP) and simultaneously forwarding a physical copy to the Divisional Court via postal transmission, the communication is, *ipso facto*, an intra-procedural submission effected *in curia*, thereby satisfying the prerequisite of disclosure to all entities possessed of a legal interest, preserving the *status quo ante* of informed participation.

III. PROCEDURAL MECHANISM FOR COMPELLING ADMINISTRATIVE ACTION (*RULE 4.08*)

17. Pursuant to the provisions of *Rule 4.08*, should the Applicant possess the entitlement to compel the Registrar to execute a specific administrative obligation stipulated within these *Rules*, such compulsion may be formally effected by the lodgement of a Requisition and the contemporaneous remittance of the requisite prescribed fee, should such an *onus* of payment be applicable.

CHAPTER #2(C): ARGUMENT ON JUDICIAL INDEPENDENCE AND REGISTRAR NON-COMPLIANCE

18. The core argument and particulars posits that the Former Registrar's alleged failure to comply with administrative duties regarding filings (e.g., timing of processing, providing documents), constitutes an interference with the Judiciary's administrative independence and violates the goals of the *CJA*:

a. **Administrative Independence (*Valente*/*Beauregard*):** Judicial independence rests in part on "administrative matters bearing directly on the exercise of judicial function." The administration of the courts by the judiciary is essential to this independence.
    i. The administrative matters in Requisitions #11 to #15 along with NOM #3 and the documents included in the mail filed Compendium For NOM #13 bear **directly** on the exercise of a judicial function
b. **Case Flow Management and Access to Services:** The failure of Registrars to process filings in a timely manner, as represented (especially under the updated Online Court Portal - OCPP), is argued to constitute mismanagement of case flow, preventing cases from proceeding justly, expeditiously, and cost-effectively, thus denying justice. Failure to honour representations, in writing by an officer of the court or on its behalf, amount to fraudulent misrepresentation by omissions when there is no explanation for the failure to act in accordance with the same
c. **Conflict with *CJA* Goals (s. 71):**
    i. Non-compliance by the Registrar is antithetical to public access and confidence in the administration of justice (s. 71(c)).
    ii. The failure to process filings efficiently undermines the goal of promoting the efficient use of public resources and the expeditious determination of proceedings (s. 71(e) and *Rules of Civil Procedure* Rule 1.04).
d. **The Matter Assigned by Law to the Judiciary:** The issue turns on whether the processing of documents and maintaining the case record, to enable a case to proceed to an assigned judge (s. 75), is a matter assigned by law to the judiciary (s. 72 exception/s. 76). If so, the Registrar must act at the Chief Justice's direction. Administrative failures that frustrate the Judiciary's ability to assign and hear cases—the "adjudicative function"—are an interference.
e. **Relief Sought:** Since the matter (processing documents, case-flow management) impacts judicial function, and administrative staff must act at the Chief Justice's direction (s. 76), the President of the Divisional Court (CJ of the SCJ Morawetz) is required to formally and publicly direct the Registrar to remedy the non-compliance and adhere to procedural representations (e.g., OCPP timelines). The filing of an unopposed Notice of Motion (NOM #3) is suggested as the mechanism to compel this direction.

19. The legal framework establishes a balance of power where the Attorney General superintends general court administration, but the Judiciary retains control over matters directly related to the exercise of its judicial function (s. 75). Registrars, despite being public servants, must follow the Chief Justice's direction (s. 76) in these matters. The argument presented is that administrative non-compliance by the Registrar fundamentally impairs the Judiciary's ability to manage case flow and exercise its function, thereby undermining institutional judicial independence and public confidence, necessitating a direct order from the President of the Divisional Court pursuant to s. 76 of the *Courts of Justice Act*.

CHAPTER #2(D): MOU BETWEEN THE CJ OF THE SCJ (PRESIDENT OF DIVISIONAL COURT) AND ATTORNEY GENERAL OF ONTARIO AND STATEMENT OF PURPOSE

COMPREHENSIVE ANALYSIS AND EXEGESIS OF THE MEMORANDUM OF UNDERSTANDING PERTAINING TO THE GOVERNANCE AND ADMINISTRATION OF THE SUPERIOR COURT OF JUSTICE

I. PRELIMINARY RECITALS AND FOUNDATIONAL COMMITMENT

A. The Memorandum of Understanding Between the Chief Justice and the Ministry of the Attorney General

20. The foundational commitment formally articulated in the Preamble of the Memorandum of Understanding (MOU), executed between the Chief Justice of the Superior Court of Justice (inclusive of the Divisional Court) and the Ministry of the Attorney General (MAG), serves to **establish an indispensable and critical jurisdictional nexus** between the judicature and the executive branch of government. It is solemnly recognized throughout this instrument that both high offices possess **paramount and indispensable functions and obligations** with respect to the judicious stewardship, operational governance, and effective administration of the provincial judicial system. This mutual acknowledgment forms the *sine qua non* of the entire accord.

21. A binding and solemn commitment is consequently proffered by both the Honourable Attorney General and the Chief Justice to the **inviolability of the constitutional principle of judicial independence**, recognizing its administrative, financial, and decisional facets. Furthermore, this covenant underscores the consequential necessity of **upholding and fortifying the seminal functions inherently incumbent upon the judiciary**. These core, non-negotiable functions demonstrably encompass the process of **adjudication** in its broadest sense—which incorporates, *inter alia*, judicial dispute-resolution mechanisms designed to enhance access to justice—as well as the crucial internal processes of **judicial assignment and scheduling**. This mutual accord thus affirms the maintenance of the **institutional balance and the *status quo ante*** regarding the separation of powers, ensuring that the necessary administrative cooperation does not engender an improper coalescence of authority. The commitment to judicial independence is not merely aspirational but is understood as a fundamental, operative constraint upon all collaborative endeavours detailed within the MOU.

B. Structural Division of the Instrument

22. The operative provisions and attendant administrative protocols of this pivotal governance instrument are structurally delineated into a comprehensive framework comprising **seventeen distinct sections**, each addressing a specific facet of the shared administrative landscape between the judicial and executive branches. The methodical partitioning of the document facilitates precise reference and jurisdictional clarity concerning the respective responsibilities assigned.

II. ENUMERATED STATUTORY AUTHORITY AND ADMINISTRATIVE DIRECTIVES

A. LEGISLATIVE AUTHORITY (*MOU*, SECTION 1)

23. The MOU, in Section 1, firmly derives its foundational *acta* from the statutory provisions enumerated in sections 71, 72, 75, and 76 of the ***Courts of Justice Act*** (*CJA*). The citation of these specific provisions is a deliberate mechanism to demonstrate that the administrative functions outlined are tethered to and validated

by explicit legislative grant, thereby mitigating any suggestion that the agreement itself constitutes an exercise of authority *ultra vires* the established legal framework.

24. Crucially, in direct relation to the pivotal issue of judicial deployment and court management, the **plenary authority** for directing and supervising the sittings of the Court, as well as the assignment of judicial duties to members of the bench, is **statutorily and unequivocally vested** in the Chief Justice or the Regional Senior Judges, as the institutional exigencies may dictate. This vesting occurs pursuant to the mandatory prescriptions found within section 75 of the ***Courts of Justice Act***. The designation of this authority to the judicial branch is a cornerstone of administrative judicial independence, as it ensures that the power to deploy the adjudicative function remains solely within the purview of the judiciary itself. Conversely, any attempt by the executive branch to encroach upon this statutory prerogative—such as prescribing which judges hear specific matters or regulating the frequency of sittings without judicial consent—would, *ipso facto,* be considered an invalid exercise of authority and an unacceptable transgression of the separation of powers.

B. Collaborative Management and Efficacy (*MOU*, Section 3)

25. Pursuant to Section 3 of the MOU, the manifest intent is to confer upon the administrative personnel supporting the Office of the Chief Justice the **prerogative to participate proactively** on the Divisional Management Committee of the Ministry's Court Services Division. This engagement is not merely passive observation; rather, these judicial support staff are explicitly empowered to **proffer substantive input** and expert counsel into the Division's long-term strategic planning, most notably concerning its Five-Year Plan, on behalf of the entire adjudicative body. This ensures that the planning of court resources is informed by the unique, on-the-ground requirements of the judiciary.
26. Furthermore, this selfsame section imposes a mandatory directive concerning the management of the operations of the Office of the Chief Justice with **maximal efficacy and efficiency**. However, this pursuit of administrative optimization is always and absolutely subordinate to the overarching, pre-eminent principle of judicial independence. Thus, the MOU establishes a clear constitutional hierarchy wherein the impetus for administrative efficiency must yield immediately to any requirement necessary to safeguard constitutional

principles. The objective is to administer the matters pertaining to the Superior Court of Justice of Ontario that are germane to the Court's seminal functions without compromising the judiciary's institutional autonomy.

C. Judicial Consultation and Institutional Independence (MOU, Section 4)

27. The allocation of **primary responsibility** for the facilitation of judicial participation and consultation, as duly solicited by the Ministry of the Attorney General, shall remain the **exclusive purview** of the Office of the Chief Justice. This concentration of authority is not arbitrary; it is an administrative necessity to ensure that the voice of the judiciary is presented coherently and consistently to the executive. This responsibility becomes especially acute and critical in respect of those policy and resource matters possessing the potential to affect the **individual or institutional judicial independence** of the Superior Court of Justice. By mandating this channel, the MOU serves as a **vital institutional safeguard**, preventing the executive branch from formulating policies concerning the courts *in vacuo,* thereby ensuring that judicial interests are always represented at the nascent stages of legislative or administrative design.

D. Standards for Judicial Support (MOU, Section 5)

28. Under the specific heading of "Judicial Support," the Ministry of the Attorney General and the Chief Justice have entered into a binding accord to **cooperate collaboratively** regarding the precise requisites for judicial support designated for federally appointed judges. This cooperative framework is not abstract; it is strictly defined and governed by the explicit parameters of the extant Court Services Division Directive entitled "***Judicial Support Standards for Federally-Appointed Judges of the Superior Court of Justice***," bearing the decisive date of December 30, 2002. This standardization ensures uniformity and adequacy in the provision of resources, facilities, and staff necessary for the bench to perform its functions without impediment, which is a necessary corollary to the principle of financial independence.

E. Preservation of Confidentiality (MOU, Section 7)

29. Section 7, which addresses the crucial matter of "Access to and Confidentiality of Information and Documents," imposes a stringent and mandatory requirement. Subject to the relevant and prevailing statutory provisions—particularly those concerning freedom of information and privacy—information domiciled within the custody of the Attorney General or the Ministry and its officials, which appertains to the operation or personnel of the judiciary, **shall be maintained in strict confidence**. This obligation to protect sensitive data is demonstrably triggered where the potential dissemination of such intelligence possesses the capacity to **vitiate the integrity of judicial independence**. Such information could include, for instance, internal judicial deployment patterns or sensitive performance metrics, the release of which might be exploited to exert improper influence. The confidentiality clause thus serves as a *prima facie* protective measure against executive encroachment through informational transparency.

F. Executive Legal Officer Designation and Authority (*MOU*, Section 10)

30. Regarding the deployment of administrative and advisory staff, the personnel engaged by the Office of the Chief Justice are officially designated as public servants, appointed pursuant to the ***Public Service of Ontario Act, 2006***. Consequently, all established public service provisions—those pertaining to staffing policies, superannuation, attendant employee benefits, precise conditions of employment, and extant collective agreements—are rendered applicable *ipso facto*.

31. The specialized role of the Executive Legal Officer (hereinafter designated as the ‘ELO’) is explicitly confirmed to persist as an existing, integral position within the Ministry's established staff complement. The ELO is mandated to serve as the indispensable **conduit and liaison** between the judicial and executive branches of government, reporting hierarchically through the Assistant Deputy Attorney General—Court Services Division. Notwithstanding this executive reporting structure, the ELO's function is ultimately and absolutely subject to the **plenary, statutory authority** vested in the Chief Justice. This authority, derived from section 76 of the ***Courts of Justice Act***, grants the Chief Justice the power to issue directives to court staff. This critical legal mechanism ensures that the preservation of the Chief Justice's directive authority remains paramount, confirming that even a high-level official administratively located within the Ministry

must prioritize and execute the operational instructions emanating from the head of the judiciary, thereby ensuring that judicial independence remains uncompromised *in limine*.

CHAPTER #2(E): REQUISITION AND REQUEST OF PUBLIC INTEREST

32. This formal requisition constitutes an obligatory procedural step, necessitated by the antecedent administrative *lacunae* (a systemic gap or deficiency), and serves to articulate a requisite demand for two distinct, albeit interrelated, forms of profound and immediate relief. The initial, non-negotiable imperative involves the immediate furnishing of documentary *acta* (official records and deeds), a necessary prerequisite for the preparation of substantive judicial motions; the second pertains to the procedural mechanism for compelling the Registrar, under specific statutory direction, to rectify systemic non-compliance with established administrative representations and judicial protocols governing the timely advancement of litigation.

33. The administrative deficiency to which reference is made pertains to an unacceptable and protracted delay in the execution of the ministerial functions essential for the progression of this judicial review—a delay that extends over an unreasonably excessive temporal duration. This debilitating state of procedural paralysis constitutes an incontrovertible impediment to the fundamental, quasi-constitutional right of access to justice, as enunciated in leading Canadian jurisprudence, and thereby compels the Applicant to resort to this extraordinary remedial measure. This Requisition is not merely a formality, a cautionary note, or an administrative inconvenience; rather, it is a necessary and serious invocation of the Court's inherent and supervisory authority to govern and police its own process. This invocation is critical to ensure that the conduct of its officers aligns strictly with the statutory mandate established by the *Courts of Justice Act* and the foundational principles of procedural fairness and the rule of law enshrined in the common law, specifically the duty of administrative expediency. The integrity of the judicial process is demonstrably and severely imperilled when the administrative functions upon which the docket proceeds are neglected or executed with temporal negligence, leading to an unfair skewing of the litigation timeline against the moving

party. The doctrine of public office mandates a level of meticulous diligence, transparency, and timely execution of duties that has, in the present instance, been conspicuously and demonstrably absent. The resulting effect is a direct violation of the Court's tacit **representation** of an efficient judicial process.

CHAPTER #2(E)(I): FURTHER PARTICULARS NECESSARY FOR REGISTRAR TO ACT

34. The particulars contained in the record of proceeding as per the OCPP Case View and contained in the submitted filings of the Applicant in the OCPP and the mail filed documents of the Applicant on December 8, 2025, and December 11, 2025:

    a. "May" is permissive when it is utilized in a standalone context;

    b. "Shall" is obligatory and mandatory when it relates to a duty;

    c. But context and purpose govern and in some situations "may" can become "must". In an old case, Julius v. Oxford (Lord Bishop) (1880), 5 App. Cas. 214 at 222-23 (H.L.) ("Julius v. Oxford") as per Lord Cairns said:

> "But there may be something in the nature of the thing empowered to be done, something in the object for which it is to be done, something in the conditions under which it is to be done, something in the title of the person or persons for whose benefit the power is to be exercised, which may couple the power with a duty, and make it the duty of the person in whom the power is reposed, to exercise that power when called upon to do so." *Julius v. Oxford's* legal principles have been affirmed in number SCC Decisions;

    d. Ergo, pursuant to a combination of equitable principles, common law and *Rules of Civil Procedure* (see: Rule 2.02; 59.06(2)(a) *et al* (see: *Long v. Redbranch Investments Ltd*, 2018 BCCA decision, articulating the distinctions between BC, Alberta and Ontario courts when facts or fraud have arisen or been discovered post an order), the Divisional Court is required to decide the Applicant's NOM #3, made on November 17, 2025, returnable on December 3, 2025 (in writing, without attendance of the Applicant and Responding Parties, and without the public's viewing);

    e. The named Respondents in the style of cause did not file any Notices of Appearances and as such could not request the assignment of the JRPA Proceeding to case management (see: Rule 77.05 of the *Rules of Civil Procedure*; the filing of a "First Defence Requirement");

    f. "lawyer's office" means the office of the lawyer of record as set out in the last document filed by him or her; ("bureau de avocet");

    g. Therefore, service of a document, without any filings, by a lawyer of the LSO does not make that person's office the lawyer of record. Ergo, since the Respondents are not "individuals", they require lawyers, as these are Divisional Court matters where paralegals and law clerks are prohibited, to represent them in this Divisional Court JRPA Proceeding;

    h. Without a lawyer of record, there is no party of record;

    i. As such, this Requisition encompasses current and previous duties required of the Current Registrar relating to delinquency of the Former Registrar;

    j. Ensuring that litigants enjoy access to public courts to resolve their civil legal disputes is fundamental to our country's constitutional arrangements: Trial Lawyers Association of British Columbia v. British Columbia (Attorney General), 2014 SCC 59, [2014] 3 S.C.R. 31, at paras. 32 and 41. At the

same time, courts require money to operate. In Ontario, filing fees provide some of the court's operating revenue:

i. To date, the Applicant had paid and tendered payments in this Divisional Court JRPA Proceeding for the following:
    1. JRPA Application;
    2. "Certificate Of Perfection";
    3. NOM #1;
    4. NOM #2;
    5. NOM #3;

k. Consistent with the above and with his bill of costs, the Applicant has not only tendered funds directly to the Divisional Court itself but to:
    i. Authorized Transcriptions in Ontario for access to transcripts herein but Madam Justice Shore represented on October 10, 2025, that the Divisional Court (civil) does not provide access to litigants for the same and that "no audio/transcripts [sic] can be provided". Madam Justice Shore was wrong at the time
    ii. To the Divisional Court for access to a digital recording on CD pursuant to his signed Request Form Undertaking involving the same along with payment of prescribed fees to the Divisional Court;

l. The Applicant has not received access to the same since making payment in October 2025;

CHAPTER #2(F): REQUISITION FOR DOCUMENTARY PRODUCTION AND PROVISION OF PAYMENT LINK (IF REQUIRED)

35. It is incumbent upon the Registrar, as the designated statutory, by delegation, responsible individual for the Court's control and/or custody of the Court's records, those filed within the JRPA Proceeding and official *acta*, to forthwith furnish the Applicant with uncertified copies of the entirety of the documentary records and official actions (*acta*) filed within the confines of the within Judicial Review Proceeding (the "JRPA Proceeding").

36. The expeditious and unreserved production of said documents is absolutely required to facilitate the Applicant's diligent and unhindered prosecution of the matter and, crucially, to preserve the principles of equitable litigation and fundamental justice.

37. The continued, unilateral retention of the complete record by the Court, absent simultaneous and expedient distribution to the moving party upon filing with the represented timeline, erects an unwarranted, unnecessary, and substantively prejudicial barrier to the Applicant and the "open court principle" (see: section 137 of the *CJA*).

38. Justice delayed is justice denied so to is reportage delayed is reportage denied.

39. Without compliance with the Rules of Civil Procedure and it is newly passed provisions regarding mere confirmation of filings with the OCPP as opposed to the previous two step process of: (i) Registrar's Acceptance Required; and (ii) confirmation thereafter, was naturally meant to expedite submitted filings albeit tied to the day that the person who submitted the filing.

40. The denial of full, timely access to the *acta* directly contravenes the fundamental common law obligation of full disclosure in adversarial and review proceedings, consequently diminishing the Applicant's capacity to articulate a well-founded legal position in a timely fashion and meet critical procedural deadlines.

41. This systemic failure directly infringes upon the venerable principle of *audi alteram partem* (hear the other side), as a party cannot adequately respond, prepare, or proceed without full and immediate knowledge of the complete and processed filed record.

42. Accordingly, the immediate transmittal of these crucial documents is not to be interpreted as a discretionary administrative favour but as a mandatory, non-derogable corollary of the Registrar's fiduciary duty to all parties before the court and an essential requirement for the maintenance of procedural equality and the proper functioning of the adversarial system.

43. These are matters that bear directly on the adjudicative functions of the judiciary like the failure to provide the Applicant without an invitation to Case Center upon the brining of his JRPA Application along with not having access to Case Center prior to any motions or purported conferences (see: Rules of Civil Procedure regarding uploading five days prior to the hearing as it then was but nonetheless the Applicant and Moving Party is required to upload filed compendia in the Toronto Region.

CHAPTER #2(G): SUBSTANTIVE DEMAND FOR JUDICIAL DIRECTION AND REMEDIAL ACTION

44. The Applicant hereby submits formal notice of intention to file a necessary and comprehensive Motion for a judicial directive against the Office of the Registrar. This application is profoundly necessitated by prior administrative failures and a pronounced, sustained dereliction concerning the timely processing, formal acceptance, and accurate recording of submitted judicial filings. The persistent administrative default, characterized by prolonged and unacceptable delays in ministerial acceptance of filed material, necessitates

direct, immediate, and peremptory judicial intervention to re-establish the required and statutorily mandated tempo of this judicial review proceeding. Failure to intervene risks rendering the entire review process nugatory due to excessive delay.

A. The Registrar as a potential Responding Party per se on a motion, without a notice of motion, as that would be unnecessary or the circumstances would not require it

45. By virtue of the contemplated Motion intended to compel the execution of specific statutory and ministerial duties—specifically, the cure of the systemic processing failures that impede the JRPA Proceeding—the Registrar is *ipso facto* (by the fact itself) constituted as a "Responding Party," defined functionally as any person or entity against whom affirmative or coercive relief is sought through the Court's issuance of a mandatory order. This procedural designation, though perhaps a legal fiction in the conventional context of the overarching judicial review of the Tribunal's decision, arises directly from the compelling, procedural need to formally invoke judicial oversight regarding the execution of the Registrar's mandatory statutory duties. The procedural necessity of this temporary designation flows from the inviolable principle that any non-judicial actor whose conduct is subject to a mandatory judicial order must be brought formally within the jurisdiction of the Court for the express purposes of the application for remedy. The application of the Court's coercive powers, specifically derived from *section 76* of the *CJA*, is thus sought directly against the office of the Registrar to ensure the prompt performance of its duties, placing the office technically in the posture of an entity against whom a specific performance order is requested, thereby facilitating a clear, enforceable, and appealable record of the Court's command.

B. Invocation of Statutory Compulsion (*Courts of Justice Act*, s. 76)

46. The Applicant formally requires that the Honourable Court consider taking the requisite, public, and decisive step to direct the Registrar pursuant to *section 76* of the *Courts of Justice Act*, which stipulates, unequivocally and without qualification, that the Registrar's duty is to obey the directions of the Court. This invocation is predicated not only upon the Court's inherent power to control and rationalize its internal process but also upon the explicit statutory reinforcement provided by the paramount *CJA*. This directive is urgently requested

to compel the Current Registrar to effectuate two immediate, non-discretionary measures, thereby restoring administrative propriety:

a. **Rectification of Administrative Delict:** To wholly remedy and cure any previous non-compliance, including administrative derelictions, systemic omissions, or unacceptable and prejudicial delays, specifically those attributable to the Former Registrar and the institutional processes inherited. This essential corrective action must include, but is not limited to, the immediate and conclusive processing of all documents that have been deemed merely "received" but remain outside the official court record, a persistent condition which constitutes an *administrative delict*. The resulting remedial order must unequivocally ensure that these documents are officially deemed filed *nunc pro tunc* (now for then), retroactively validating the filing date, thereby preventing the Applicant's substantive and temporal rights from being fatally prejudiced by ministerial lapse or bureaucratic inertia. The Court is required to restore the Applicant to the position that would have obtained absent the administrative failure
b. **Adherence to Representational Undertakings:** To meticulously and demonstrably comply with all specific and verifiable representations communicated to the Applicant through the Ontario Courts Public Portal (OCPP) pertaining to the prescribed timelines and service standards for the processing and formal disposition of submitted judicial filings. These official and public **representations** generate a binding, legitimate expectation of timely performance which, when materially breached without adequate justification, necessitates direct judicial enforcement to restore the public trust in the efficient administration of justice and to prevent future recurrence of such procedural irregularities and misrepresentations.

C. PROCEDURAL POSTURE OF THE REMEDIAL MOTION

47. Given the uncontested and fully documented nature of the procedural non-compliance in writing, and the overarching necessity of preserving the integrity and chronological accuracy of the judicial record *in limine* (at the threshold of the proceeding) before substantive arguments commence, the relief sought, by way of this formal notice to the Registrar, would appropriately be in the nature of an order compelling the specified remedial actions. The recognized exigency of "the circumstances"—specifically, the demonstrable threat of temporal prejudice, the continuous denial of access to a timely hearing, and the undermining of the judicial timetable—necessitates this immediate requisition, thereby justifying the invocation of the explicit exception articulated in *Rule 37.01* of the *Rules of Civil Procedure*, which provides:

a. *Rule 37.01*: A motion shall be made by a notice of motion (*Form 37A*) unless the nature of the motion or the circumstances make a notice of motion unnecessary or these rules provide otherwise.
b. The circumstances here are jurisprudentially categorized as extraordinary and fundamentally prejudicial: the immediate Motion seeks merely to remedy a bureaucratic breakdown that fundamentally impedes the operational efficiency and integrity of the judicial review itself. To require the filing of a time-consuming and technically redundant *Form 37A* for a matter that is fundamentally administrative and remedial would constitute an unwarranted procedural imposition, leading to unacceptable further delay and potential injury to the Applicant's substantive legal position.

Consequently, the immediate requisition stands as the procedurally sound, most efficient, and most proportionate mechanism required to secure the *status quo ante* (the state of affairs before the current incident) of the Applicant's procedural rights, restoring the temporal and substantive position that existed prior to the Registrar's non-compliance.

CHAPTER #2(H): LEGAL AND DOCTRINAL EXTENSION

48. The determination of the propriety of the Motion and the subsequent judicial directive to the Registrar is inextricably linked to fundamental principles of statutory interpretation, the constitutional allocation of jurisdiction, and the enduring, prophylactic principles of judicial review of administrative action and ministerial compliance.

A. DOCTRINAL ASSESSMENT OF *VIRES*

49. The actions or, more pertinently, the sustained inactions of the Office of the Registrar must withstand rigorous and unimpeachable scrutiny under the constitutional and administrative law doctrine of *vires* (authority or power). Any administrative measure, or conversely, any persistent failure to execute a mandatory, non-discretionary duty that contravenes the express or implied terms of the establishing legislative authority is *prima facie ultra vires* (on the face of it, beyond power) and, consequently, devoid of legal efficacy and merit. This breach of authority not only injures the Applicant's specific rights but fundamentally erodes public confidence in the judicial support systems and the functional efficacy of the Court. Conversely, the requested judicial directive pursuant to *section 76* of the *Courts of Justice Act* serves as the essential remedial mechanism for ensuring the Registrar's *acta* (official records and deeds) remain perpetually *intra vires* (within power) by compelling correct, lawful action. The Court's inherent jurisdiction, reinforced by statute, must be diligently deployed to ensure that ministerial functionaries do not act arbitrarily, capriciously, or in a manner that frustrates the clear legislative intent of the *CJA* to provide an efficient and just forum for judicial redress. This is an exercise in upholding the jurisdictional boundaries of ministerial power.

B. PARAMOUNTCY AND PRIMACY OF JUDICIAL AUTHORITY

The legal principles governing the paramountcy or primacy of certain statutes, specifically the *Courts of Justice Act* as the foundational legislation establishing the Court's jurisdiction and powers, must invariably be construed as prevailing over the subsidiary procedural mechanisms established by the *Rules of Civil Procedure* when an irreconcilable conflict impacts substantive rights. The *Rules*, while essential for the orderly and systematic conduct of proceedings, are conceptually a mere creature of the *Act*, and their interpretation must consistently uphold the inherent and statutory authority of the Superior Court of Justice and its Divisional branch. Should the *Rules* (or, in this case, the administrative application thereof through the Registrar) result in a delay that amounts to a denial of justice or a procedural absurdity, the Court's inherent power, explicitly buttressed by *section 76*, allows it to dispense with the procedural fetter and exercise its prerogative to command the Registrar directly. The ultimate determination of procedural necessity and the overriding imperative of ensuring a timely hearing resides exclusively with the Court, and the Registrar's ministerial functions are invariably subordinate to this non-derogable judicial prerogative to control the judicial process and ensure its fairness.

C. JURISPRUDENCE AND *STARE DECISIS*

51. All determinations and directives emanating from this Honourable Court must be grounded upon a thorough consideration of the relevant "source laws" and the common law interpretations thereof, which are binding or highly persuasive pursuant to the doctrine of *stare decisis* (both vertical and horizontal application). The judicial exercise in directing the Registrar must, therefore, be predicated upon an advanced syllogism that extrapolates the legal principle of ensuring procedural fairness and unfettered access to justice. The major premise of this syllogism is the constitutional right to a timely and efficacious judicial hearing; the minor premise is the documented, demonstrable failure of the Registrar's office to process essential documents within a reasonable and publicly represented timeframe; and the self-evident conclusion—which commands judicial acceptance—is the necessity of a peremptory Order compelling immediate compliance and administrative remediation. The Court's directive must stand as a testament to the fact that administrative oversight cannot, under any circumstances, be permitted to undermine the established jurisprudence on the

procedural integrity of the Court and the fundamental rights of litigants. The judiciary's ultimate responsibility is to ensure that the administration of justice is not merely theoretically available, but practically and expediently delivered, thus reinforcing the foundational principles of the Canadian justice system.

CHAPTER #2(I): THE IMPORTANCE OF FAITHFULLY, IMPARTIALLY AND TO BEST OF MY SKILL AND KNOWLEDGE AND STEPS TO TAKE BY EXHAUSTION, AAAR DOCTRINE ET AL BY ANALOGY

52. The definitions and context are as follows:

    a. Faithfully: To act with loyalty, commitment, and diligence.
        i. In Context: This means the individual will perform their duties in good faith, adhering strictly to the requirements of their role or mandate. It implies honesty and a commitment to the spirit and letter of the law or duty, ensuring they do not betray the trust placed in them.
    b. Impartially: To act without prejudice, bias, or self-interest; treating all parties or matters equally and fairly.
        i. In Context: This is a cornerstone of judicial, governmental, and fiduciary duties. It requires the individual to set aside personal feelings, affiliations, or external pressures, ensuring that every decision, action, or assessment is based solely on objective facts, merit, and applicable rules or laws.
    c. To the Best of My Skill and Knowledge
        i. To employ the highest degree of competence, expertise, and understanding that one possesses.
        ii. In Context: This is a commitment to professional excellence. It means the individual will not only apply their current training and ability (skill) but also use sound judgment, accurate information, and factual understanding (knowledge) to execute their responsibilities. It is an assurance that the work performed will be done competently and not negligently.

53. The combined significance of the above are. When these three concepts are used together, they form a robust ethical mandate:

    a. Faithfully: defines the ethical intent (good faith and diligence).
    b. Impartially: defines the ethical method (fairness and objectivity).
    c. To the Best of My Skill and Knowledge: Defines the practical competence (ability and professionalism).

54. By analogy, the SCC in Zollinger, reaffirming and expanding the legal principles in Bhasin, t he SCC provided crucial statements of law regarding whether silence, inaction and half-truths constituted bad faith between parties to a contract. They can be applied to the conduct of the Former Registrar in relation to their failure to take action, failure to set right their mistakes, and failure to accommodate.

55. In the case of *Zollinger*, Callow argued that the condos' *silence* coupled with "active statements" breached (i) the duty of honest performance; and (ii) the duty not to abuse discretionary contractual rights. In the alternative, Callow asked the Court to recognize a new duty under the organizing principle that prohibits "active non-disclosure".
56. An individual swearing, affirming or declaring this standard is promising to be ethical, objective, and competent in the performance of their duties.
57. While Former Registrar Gentles has been relieved of her duties, she was replaced forthwith on December 3, 2025, but nonetheless the Current Registrar must rectify her deficiencies of yesteryear.
58. Where the Current Registrar is not willing to do so, the Divisional Court is the court of The Honourable Judge President of the Divisional Court in Mr. Justice Morawetz wherein the Registrar of the Divisional Court must (shall) act at the direction of the President of the Divisional Court.
59. The Applicant reserves his right to take the steps above if there are further delays and to bypass the Current Registrar with informality or formality, including the formalization of a draft order with potential contempt for failure to comply, to ensure that court staff are directed accordingly by the CJ of the SCJ (President of the Divisional Court) as per, inter alia, section 76 of the *CJA.*
60. Simply put, the President of the Divisional Court can only direct court staff and Registrars when he knows what they need to be directed on and in which relation to which court file, and with what level of prioritization.
61. All of which is respectfully and urgently submitted to the Divisional Court (Registrar (where applicable in relation to her duties on retrospective and current bases) and the President of the Divisional Court pursuant to, inter alia, section 75 and 76 of the *CJA* and relevant regulations relating to the due administration of justice of the Divisional Court.

DATED at Toronto, Ontario, this 15th day of December, 2025.



Mr. Kevin A. McLean (B.A. J.D., CIM)
Roles herein:

- Applicant
  - Moving Party as it relates to NOM #3 (made on November 17, 2025, returnable in writing on December 3, 2025, which was unopposed in form of hearing and substance by the Responding Parties)
- Court File No.: DC-24-00000718-00JR
- Short Style of Cause: McLean v. TDHA et al
- Unopposed and undefended relief in the Applicant's JRPA Application (brought and filed on November 15, 2024) by failure of Respondents to "file" Notices of Appearances; to "deliver" their factum and application records 30 days after being served with the Applicant's Application Record and Factum on December 12, 2024;
- Unopposed motions on dates:
  - NOM #1: unopposed by the Respondents by January 28, 2025;
  - NOM #2: unopposed by the Respondents by February 10, 2025;
  - NOM #3: unopposed by the Respondents by Friday, November 29, 2025, or December 1, 2025;

Email: mcleansettlement@gmail.com

---- Nothing Past this Line -------

Tab 68

FORM 59A

Courts of Justice Act

ORDER

Court file no. DC-24-00000718-00JR

ONTARIO SUPERIOR COURT OF JUSTICE

(**DIVISIONAL COURT**)

_____ _____ _____

The Honourable Mr. Justice Morawetz Date:

[SEAL]

BETWEEN:

KEVIN ALEXANDER MCLEAN

APPLICANT

- AND –
-

TD HOME AND AUTO INSURANCE COMPANY, SECURITY NATIONAL INSURANCE COMPANY, TD GENERAL INSURANCE COMPANY, EXECUTIVE DIRECTOR, LICENCE APPEAL TRIBUNAL, HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, REPRESENTED BY EXECUTIVE CHAIR OF TRIBUNALS ONTARIO IN MR. SEAN WEIR, THE ATTORNEY GENERAL OF ONTARIO

RESPONDENTS

THIS MOTION, initiated by the Applicant, Mr. Kevin A. McLean (the "Moving Party"), in consideration of the President of the Divisional Court's specialized capacity as the Master of the Roster and the pre-eminent guardian of the institutional integrity and functional efficacy of the Divisional Court, seeking mandatory orders for judicial self-assignment, technical rectification of the Ontario Courts Public Portal ("**OCPP**"), and the production of court records and recordings essential to the advancement of this judicial review, was adjudicated this day via written format;

ON READING the Factum in Support of Motion #5, the supporting evidence regarding the persistent "403 Forbidden Error Code," the prior Motion Records for Notice of Motion #3 and Motion #4, the Compendium For NOM #3, Request Form Undertakings for digital recordings; and noting with concern that the Respondents have failed to file and/or deliver Notices of Appearance, responding documents, or otherwise oppose the relief sought in the prior motions as required by the *Rules of Civil Procedure*, thereby necessitating extraordinary judicial intervention to ensure the orderly administration of justice;

I. DISPENSATION AND ABRIDGMENT OF TIME

1. **THIS COURT ORDERS** that the requirement for the filing of a formal Notice of Motion (Form 37A) for this Motion #5 is hereby dispensed with, such dispensation being necessitated by the insurmountable technical barriers presented by the "**403 Forbidden Error Code**"[i] that the Applicant is currently experiencing with the OCPP. This digital lockout has effectively severed the Applicant's primary means of service and filing involving the email for service herein, and given the history of previous controversies and procedural challenges in this proceeding, a formal dispensation is required to prevent further prejudice to the Moving Party.
2. **THIS COURT ORDERS** that the time for service and filing of this motion and all supporting documents be and is hereby abridged, and this motion is declared to be properly returnable this day, January 12, 2026, to address the urgent need for judicial oversight over the digital and administrative components of this litigation.
3. **THIS COURT ORDERS** that all orders involving timing, service, and the filing of documents relating to the hearing of this matter and the preceding motions are granted *nunc pro tunc*, ensuring that the record is perfected despite the administrative failures encountered by the Applicant.

II. JUDICIAL ASSIGNMENT AND INSTITUTIONAL OVERSIGHT

4. **THIS COURT ORDERS** that the President of the Divisional Court hereby self-assigns the present proceeding under the *Judicial Review Procedure Act* to his own jurisdiction, or in the alternative, shall adjudicate the relief sought in NOM #3 and by natural extension Motion #5 and #4. [ii]**THIS COURT FURTHER ORDERS AND DECLARES** that this JRPA Proceeding has faced extraordinary challenges and controversies that raise profound issues concerning the integrity of the Divisional Court as an institution, requiring the direct supervision and supervisory jurisdiction of the President of the Divisional Court as the primus inter pares to restore public and litigant confidence in the judicial process before it;
5. **THIS COURT ORDERS** that Madam Justice Shore is relieved from all duties involving the Applicant or any related proceedings involving the Applicant without any finding at this time as to whether or not she was in a conflict of interest and/or breached the Applicant's rights;[iii]

III. SECTION 76 OF THE *CJA* AND CONSTITUTIONAL ACCESS

6. **THIS COURT ORDERS** that court staff, IT administrators, and any officials responsible for the Ontario Courts Public Portal ("**OCPP**") immediately take all necessary technical and administrative steps to rectify the digital interface and extinguish the "403 Forbidden Error Code" precluding access to the OCPP as it relates to the Applicant's account and the email utilized herein. This rectification shall include, but is not limited to, the whitelisting of the Applicant's IP address and the restoration of full electronic filing and retrieval privileges;
7. **THIS COURT ORDERS** that the court staff must provide the Applicant with an individual email contact of the Divisional Court and OCPP (IT department) to troubleshoot the 403 Error Code issue as it relates to his email address herein in the event that the technological court staff cannot fix the same;
8. **THIS COURT ORDERS** that the OCCP manager of the IT department and the Registrar of the Divisional Court are to provide to the President of the Divisional Court, forthwith copies of all relevant logs of the Applicant's seeking to access the OCCP along with when the 403 Error Code commenced and why it has persisted and the reasons for the same;
9. **THIS COURT ORDERS** that until the court staff fix the 403 Error Code, the Applicant is entitled to file documents via email and they shall be deemed filed at the time that they are emailed to the Divisional Court

 correspondence email and Acting Registrar Ms. Roxanne Parris (LSO licensee as a paralegal licensee – currently non practising) and such order shall be granted *nunc pro tunc* in relation to all email submitted documents;

10. **THIS COURT DECLARES** that such digital disenfranchisement, denoted in the Factum for Motion #5 and supporting evidence therein, violates the procedural expectations of a self-represented litigant and constitutes a constructive denial of the right to be heard (*audi alteram partem*). **THIS COURT FURTHER DECLARES AND AFFIRMS** the rule of law principle that universal access to the courts is a constitutionalized and untouchable principle. Any technical or administrative interference with a litigant pursuing a legal remedy—whether intentional or through systemic neglect—is a violation of the rule of law and the *Constitution of Canada*. Access to justice, specifically in the form of access to the Superior Court of Justice and its digital records, is an untouchable constitutional imperative, and any sustained lockout constitutes a breach of the Core Jurisdiction of the SCJ as protected under Section 96 of the *Constitution Act, 1867*;

IV. ACCESS TO COURT RECORDINGS, DOCUMENTS, AND INFORMATION ASSETS

10. **THIS COURT ORDERS** that the SCJ Recording Management Office (attention: Ms. Hsieh, Ms. Amirthalingam, Ms. Azim et al) provide the Applicant with copies of the digital recordings for all case conferences held in this *JRPA* proceeding; [iv]
11. **THIS COURT ORDERS** that the SCJ Recording Management Office provide the Applicant's retained and authorized transcriptionist (Ontario) ("ATO") with the specific "tapes and materials required for transcription" required for the production of certified transcripts in relation to the case conferences herein;
12. **THIS COURT ORDERS** that Divisional Court staff and the Registrar provide the Applicant with immediate access to, and copies of, the requested documents in their custody or control in relation to the "Undisclosed Criminal Proceeding," to the extent that such documents are relevant to the grounds of the judicial review or the conduct of the administrative bodies below;
13. **THIS COURT ORDERS** that court staff at any courthouses within the purview of the Chief Justice of the Superior Court of Justice provide the Applicant with access to any requested documents, information, information assets, or judicial records in the custody or control of the SCJ in relation to his "Non-FIPPA"

requests. This order recognizes that the open court principle extends to the administrative records necessary to verify the regularity of court proceedings;

14. **THIS COURT ORDERS** that the court staff, court clerks, and Registrars of any relevant SCJ courthouses or the Divisional Court must respond to the Applicant within 48 hours of receipt of an email, fax, and/or letter directed to the Applicant's email denoted for return correspondence; [v]
15. **THIS COURT ORDERS** that to the extent that the Applicant is required to pay any fees for any access to copies of documents filed in this JRPA Proceeding, which are denoted in the requisitions or requests in Compendium For NOM #3 and Motion Record #4, the Registrar shall provide him with a detailed, itemized estimate of the cost of the same prior to the assessment of such fees. To the extent that the Registrar does not provide the Applicant with the same within 48 hours of this order, no fees will be due and owing for the same;

V. ADJUDICATION AND GENERAL PROVISIONS

16. **THIS COURT ORDERS** that the President of the Divisional Court pronounce determinations regarding NOM #5, #4, and #3 immediately or forthwith. To ensure the timely progression of this matter, the Court may announce the result of these motions via an "Immediate Announcement Order," with comprehensive, detailed reasons to be promulgated and delivered to the parties thereafter;
17. **THIS COURT ORDERS** that to the extent that any orders herein granted dispose of any other orders, the relief sought in other motions or requests are hereby rendered moot;
18. **THIS COURT ORDERS** that this Order shall be effective immediately and shall be settled and signed by the President of the Divisional Court without the requirement for approval as to form or content by any other party, given the Respondents' continued state of default without rectification;
19. **THIS COURT ORDERS** that only the President of the Divisional Court may sign this order, and any formal issuing and entering of this order must be completed by the Registrar's office forthwith and without delay;
20. **THIS COURT ORDERS** such directions may be issued to the court services division in accordance with the above, Motion #4 and NOM #3, with a copy to the Applicant, as may be required to mitigate procedural delays and protect the overarching interest of justice; and

4933 **THIS COURT ORDERS** that the Applicant is entitled to seek directions, is granted leave to submit any further submissions or evidence to assist this Divisional Court with status relating to the above orders sought (where applicable).

The Honourable Mr. Justice Morawetz President of the Divisional Court

RCP-E 59A (November 1, 2005)

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[i] A 403 Forbidden error means the web server understood your request but refuses to authorize access to the requested page or resource, indicating you lack the necessary permissions, like a locked door even with a key (see: https://www.plesk.com/blog/various/403-forbidden-error-what-is-it-how-to-fix-it/#elementor-toc__heading-anchor-0)

[ii] This assignment is vital to prevent a miscarriage of justice necessitated by the inextricable nexus between the matters at hand and the requirement for the highest level of judicial oversight.

[iii] This order is made purely to maintain the appearance of total judicial impartiality and to ensure that the adjudication of the merits of the JRPA proceeding is not obscured by collateral disputes regarding judicial conduct;

[iv] This order applies to all requests for which a Request Form Undertaking has been submitted and for which the Applicant has made the prescribed payment, ensuring that the Applicant has a complete and accurate record of all oral submissions and judicial directions;

[v] This timeline is mandated to compensate for the significant procedural delays already incurred and to ensure the Applicant is not further marginalized by administrative silence;

Tab 69

Court File No. DC-24-00000718-00JR

ONTARIO SUPERIOR COURT OF JUSTICE

(DIVISIONAL COURT)

BETWEEN:

KEVIN ALEXANDER MCLEAN

APPLICANT

- and -

TD HOME AND AUTO INSURANCE COMPANY, SECURITY NATIONAL INSURANCE COMPANY, TD GENERAL INSURANCE COMPANY, EXECUTIVE DIRECTOR, LICENCE APPEAL TRIBUNAL, HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, REPRESENTED BY EXECUTIVE CHAIR OF TRIBUNALS ONTARIO IN MR. SEAN WEIR, THE ATTORNEY GENERAL OF ONTARIO

RESPONDENTS

FACTUM IN SUPPORT OF MOTION #5

TO:

The Honourable Chief Justice of the SCJ and President of the Divisional Court in Mr. Justice Morawetz
130 QUEEN STREET WEST
TORONTO, ONTARIO
M5H 2N5

AND TO BY SERVICE:

TO THE REGISTRAR
Acting Registrar of the Divisional Court Ms. Roxanne Parris
Located at:
130 Queen Street West
Room 174
Toronto, Ontario
M5H 2N5

PART 1: OVERVIEW OF SUPREME LAW OF THE LAND AND FACTS

Part 1(A): The Seismic Change in what comprises the Core Jurisdiction of section 96 of the Constitution Act, 1867: ACCESS TO PUBLIC COURTS

1. Ensuring that litigants enjoy access to public courts to resolve their civil legal disputes is fundamental to our country's constitutional arrangements: *Trial Lawyers Association of British Columbia v. British Columbia (Attorney General)*, 2014 SCC 59, (the "*TLABC 2014*"), at paras. 32 and 41, cited by Brown J.A., of the ONCA in 2017 as per *Ontario (Attorney General) vs. Canadian Currency*).

2. Formal adoption is hereby effectuated regarding definitions within previous filings pertaining to the *Judicial Review Procedure Act* (the "***JRPA***") proceeding (the "***JRPA* Proceeding**"), including the "**Compendium for NOM #3**" and the Motion Record for NOM #4 (the "**Motion Record #4**").[1]As articulated in the authoritative reasons of the Supreme Court of Canada in ***TLABC 2014*** such access is a requirement for the maintenance of the **Rule Of Law** (the "**ROL**" or "**Rule Of Law**") and democratic governance.

3. The power to impose hearing fees is **circumscribed** by the requirement that such levies do not effectively preclude access to the SCJ courts ("SCJ Courts"), thereby infringing upon the core jurisdiction of SCJ Courts (the "**Core Jurisdiction**") under section 96 of the *Constitution Act, 1867* (see: "***TLABC 2014***")). Notwithstanding this *status quo ante*, the operation of the judicial apparatus necessitates the allocation of substantial pecuniary resources and the periodic imposition of fiscal exactions upon those seeking adjudication. The Applicant herein has paid each and every required fee, so prescribed under *Reg 293/92* under the A*dministration of Justice Act (Ontario)* (the "*AJA*"), whether it has been: (i) *JRPA* Application; (ii) "Certificate Of Perfection"; (iii) notices of motion; (iv) digital recording fees for CDs for each day of conference or hearing (including in the Undisclosed Criminal Proceeding (the "UCP")); and (v) others not captured by the above. Within the Province of Ontario, the imposition of filing fees serves as a critical mechanism for the generation of operating revenue, as was elucidated in the scholarly reasons of Brown J.A. in *Ontario (Attorney General) v. Canadian Currency Exchange Limited*, 2017 ONCA 195 (the "***Canadian Currency Case***").This authority posits that the administrative costs associated with the maintenance of the judiciary may be partially offset by modest levies imposed upon those who utilize the system, provided such exactions are not prohibitive.

4. This entitlement to access to the courts, which comes in various machinations and forms along with requiring adaptability to various situations, is not merely a procedural convenience or a matter of administrative grace; rather, it is a substantive prerequisite for the existence of a functioning democracy, ensuring that the state remains perpetually subject to the superintending authority of an independent judicature. The ontological necessity of access to SCJ Courts serves as the skeletal framework upon which the entire body of Canadian constitutionalism is draped; without it, the litigant citizen is left defenseless against the leviathan or Goliath, on its face, of state administration. The ability of an individual to summon the state or even a private opposing litigant before an impartial arbiter to justify the legality of its actions is the ultimate check upon the exercise of arbitrary (which is based on random choice or personal whim rather than any reason or system resulting in "reasonless") power, a principle that traces its lineage back to the *Magna Carta* and finds its contemporary solidification in the *Constitution Act, 1982* (also defined as the "*1867 Act*"), within the Westminster Style of government so inherited from the United Kingdom.
5. Section 96 of the *1867 Act* protects judicial review: *Crevier v. Attorney General of Quebec 1981 2 S.C.R. 220* (the "***Crevier 1981***"). The "**403 Forbidden Error Code**" (the "**Technical Barrier**" or "**Technological Barrier**") (see: Appendix #2) represents an unconstitutional attempt by the **Executive Branch** to deprive the Applicant of electronic filing entitlements: *Uhrik (infra)*. Digital infrastructure must serve the law, **not** obstruct it. When any technological barrier effectively bars a citizen from the publicly accessible and open courts, subject to the likes of restrictions in family law proceedings involving documents where the best interests of children (minors) are involved, it is as much a constitutional violation as a physical wall erected in front of the courthouse doors. In the 21st century, access to justice is synonymous with **digital access** to extinguish the Applicant's ability to file electronically is to constructively close the courthouse to him. In the modern iteration of the Rules of Civil Procedure relating to Toronto Region, along with uploading filed documents in Case Center, the modus operandi of the Executive Branch through the Former Registrar Gentles, who was self-evidently relieved of her duties when the Applicant through extreme due diligence and excessive investigations into the improper self-assignment by Madam Justice Shore to this **JRPA Proceeding** (on the heels of her "Ex Parte In Camera Hearing", "Ex Parte In Camera Unrecorded Hearings" (apparently based on the representations made by her legal counsel in Mr. Sinnadurai of the MAG that our courts do not keep copies of "signed arrest warrants") the denial of an invitation

to Case Center is a form of a denial of access to the courts. Delay in providing the invitation to Case Center is one thing but to not provide the same in the face of filed requisitions is quite another. The **Technical Barrier** is the modern equivalent of the "padlocked gate," a unilateral administrative act that renders the constitutional promise of access a 'dead letter'. Such barriers create a "digital underclass" of litigants who are denied the tools necessary for modern advocacy. While "mail filing" has been a way for this Applicant to mitigate the Executive Branch's failures along with suspiciously time dismissals of Former Registrar Gentles and a month long absence by Acting Registrar Parris who remains in "radio silence", such staged dismissal and absence of an "Acting Divisional Court Registrar", who is not "acting", with the object of the Rules of Civil Procedure. Moreover, removal of the Registrar of the Divisional Court, when there are no "local registrars" per se, is the equivalent of removing the head administrative individual of the Divisional Court. Removal of the head of the Divisional Court's administrative Executive Branch court staff lead is incompatible with section 96 of the Constitution Act, 1867 (see: 1997 Judicial Independence Reference; wherein the evidence of a judge presented at the trial hearing was that the court could not function without the requisite court staff). Access to justice, the parent of "access to courts", is an inherent and inextricable component of the **Rule Of Law** (the "**ROL**") and the *Constitution of Canada* (the "**Constitution**") which are the Acts and orders denoted in ss. 52(2) of the *Constitution Act, 1982*. As enunciated in *Trial Lawyers 2014*, this entitlement transcends mere administrative desiderata, possessing an **inviolable** constitutional status that is immune to legislative impairment or executive interference (see: Moton #4). Legislative interference is not at issue herein because the laws at issues, including those passed by the LGIC, have been complied with by the Applicant. The *ROL* mandates that laws be applied equally and that a forum exists where such application can be contested; without access, the *ROL* is rendered a **hollow representation**, replaced by an arbitrary exercise of power by those who control the gates (digital, physical or otherwise) of the Divisional Court of Ontario. In *British Columbia v. Imperial Tobacco Canada Ltd. 2005 SCC 49* (the "***Imperial Tobacco***"),the SCC affirmed that the *ROL* requires the law to be supreme over the acts of both government and private persons, a principle that is entirely frustrated if the forum for adjudication is rendered **inaccessible** through administrative inertia and/or technical obfuscation. Furthermore, the *ROL* demands a system of "positive laws" that ensures a stable social order and prevents a "legal vacuum" where no rules apply; a registrarial failure to process filings creates such a vacuum,

where rights are asserted in a void but never adjudicated[2].Any interference upon matters '**assigned by law to the judicial branch**' constitutes a manifest contravention of the principle of judicial independence governing the SCJ Courts. Obstruction of a litigant's access to an *SCJ* forum—whether by commission, omission, or institutional silence—represents a flagrant breach of the *ROL*, the *Constitution Act, 1867* (the "**1867 Act**"), the **Judicature Sections**, and the *Constitution Act, 1982*, Part I (the "***Charter* Rights**"). This interference represents a jurisdictional and judicial independence usurpation, wherein the **Executive Branch** effectively nullifies the judicial function by preventing its required invocation; particularly in a JRPA proceeding as per the JRPA itself and *Yatar*. This point is even more forceful when considering the judicial precedent of The Honourable Mr. Justice Akazaki in Zurich 2024, relying on the now defined herein as the great dissent of Jurianz JJA of the ONCA (as he then was) in Zurich 2014, as it was verbatim adopted by the SCC in Zurich 2015. The independence of the judiciary is not a privilege for the benefit of judges, but for the public and shield for the protection of the public; when court staff interfere with the filing of documents, failing to comply with Rule 68.05(2) on two fronts and in the face of filed requisitions et al, they are effectively exercising an ultra vires veto over the court's jurisdiction, an act that is *prima facie* unconstitutional and *ultra vires*. Judicial independence requires that the courts be free to make decisions based solely on the law and facts, a mandate that is circumvented if the administrative gatekeepers selectively prevent certain cases from ever reaching the bench for determination by whatever means including the court staff under Former Registrar Gentles misrepresenting the law including alleged non-public practices which were not embodied in and contrary to the Divisional Court Practice Direction signed by the President of the Divisional Court (which do not meet the requirements of "prescribed by law" under section 1 of the Charter) of the Divisional Court.

6. To "ensure" is to provide an absolute and unfettered guarantee. The *Constitution Act, 1982*, Part I, predicated upon the supremacy of God and the ***ROL***, guarantees the rights and freedoms set out therein, subject only to such reasonable limits "prescribed by law" as can be demonstrably justified in a free and democratic society. In Ontario, "legislation" encompasses both statutes and regulations, collectively identified as "Source Laws" (see: *Legislation Act, 2006, s. 1*, BOA, Tab 19*).* Any administrative policy or registrarial "standard operating procedure" that conflicts with these *Source Laws* or the constitutional mandates of access is, *ipso facto*, of no force or effect and *void ab initio* – not merely voidable. This hierarchy of laws ensures that the whims of the **Executive Branch** cannot

override the expressed will of the legislature, and the LGIC when operating intra vires the enabling statute, or the supreme mandates of the *Constitution Of Canada*. The '**ensure mandate**' imposes a positive and affirmative obligation upon the State to provide functional, accessible infrastructure—both physical and digital—to facilitate the exercise of these fundamental rights. Judges of the SCJ Courts possess inherent jurisdiction; however, such authority cannot be exercised in a manner that contradicts the express legislative will: *College Housing Co-operative Ltd. v. Baxter Student Housing Ltd.*, 1976 2 S.C.R. 475, BOA, Tab 78 ("*Baxter Housing*"). Inherent jurisdiction must not conflict with Source Laws and should be exercised *sparingly* and only in a *prima facie* clear case. This "special and extraordinary power" is the final safeguard to prevent a miscarriage of justice and not perpetrate the same, where the written rules are *silent* or have been manipulated to produce an unconscionable result. The application of inherent jurisdiction is the judicial response to the *lacunae* of the law by the Legislature or LGIC, ensuring that the spirit of justice prevails even when the letter of the law is incomplete or has been subverted by administrative bad faith. It is the "reserve fund of powers" that allows the court to maintain its dignity and effectiveness in the face of novel, obstructive, or contumacious conduct by litigants or administrative bodies. Inherent jurisdiction and equitable jurisdiction are not 'one and the same'.

7. In Ontario, the *Rules of Civil Procedure* (the "***Civil Rules***") are regulations under the *Courts of Justice Act* (the "**CJA**") and represent a definitive expression of legislative intent. Consequently, inherent jurisdiction cannot conflict with the unambiguous prescriptions of the *Civil Rules*. Furthermore, "practice directions" remain subordinate to the *Civil Rules* and do not constitute regulations *per se*. They are administrative guides that cannot be elevated to the status of law to deny a litigant their substantive or procedural entitlements. To permit even an internal, non-public, registrarial policy to override the *Civil Rules* would be to allow the 'administrative tail to wag the judicial dog' (i.e. reversing the natural order; or trivial arbitrary whims dictate the actions of the leader (herein, the primus inter pares of the SCJ (Ontario) and Divisional Court (Ontario), a result that is fundamentally inconsistent with the principle of legality. Even worse for the Registrar's Office of the Divisional Court, such non-public internal practices, so alleged, by it, would not mee the prescribed by law requirement under section 1 of the Charter. This is of great consequence for Constitution Of Canada infringing conduct because there is no saving provision for it under section 1 of the Charter[3]. Moreover, the *Civil Rules* were crafted through an intricate

consultative process; they cannot be circumvented by the unilateral fiat of court staff or the silent inertia of a registrar. Deprivation of access to SCJ Courts violates **Section 96** of the *1867 Act*, specifically encroaching upon the "Core Jurisdiction" of the SCJ Courts. *Ipso facto*, violating a right of access constitutes a breach of the common law, the *Constitution*, and the *Core Jurisdiction*. The "**Core Jurisdiction**" is that protected nucleus of power that is essential to the court's status as a superior court, including the power of judicial review and the power to control its own processes to prevent abuse. As established in *MacMillan Bloedel Ltd. v. Simpson*, 1995 4 S.C.R. 725 (the "**MacMillan Bloedel 1995**"), a Legislature cannot strip the superior courts of their core powers without infringing upon the very nature of a **Section 96 Court**; it follows that what the legislature cannot do *directly*, the **Executive Branch** cannot do *indirectly* through the closure of electronic filing portals, **403 Error Code** (see: Draft Order for Motion #5, submitted to the Divisional Court Registrar on January 12, 2026) and/or the silence of its Divisional Court Registrar[4]. This protection **ensures** that the SCJ Courts remain the guardians of the *ROL*, capable of checking the excesses of both inferior tribunals and the executive government. Universal access contains both procedural and substantive elements: *Uhrik v. Terrigno* 2021 ABQB 604, *BOA, Tab 134* (the "**Uhrik**"), . As noted in *B.C.G.E.U. v. British Columbia (Attorney General)* (the "**BCGEU**"), *1988 2 S.C.R. 214*, referencing *Golder v. United Kingdom* (the "**Golder**"), *1975 ECHR 1*, as contained in the comprehensive BOA for the entire of the JRPA Proceeding as a courtesy to the Divisional Court President as BOA, Tab 35, *Timm v. Canada* (FCC) (2019), the *ROL* is supplanted by a "rule of men and women" if officials decide who shall have access to justice. This "rule of men" manifests whenever the Registrar and her subordinate staff to her in the exercise of those duties governed by statutes and regulations exercises a gatekeeping function that is **not** tethered to a clear, legally mandated duty, effectively deciding which litigants may cross the threshold of the court. The transition from a "**Rule Of Law**" to a "rule of women and men" is the **harbinger** of authoritarianism, where the right to be heard is replaced by the misguided sense of authority of being able to grant privilege to others of being permitted to speak. The State must not only provide courts but must also ensure that the ***pursuit*** (which is the act of chasing or following something or striving for a goal) of legal remedies is not met with retaliation, reprisal, or administrative "stonewalling", or even worse intentional obstruction of justice through physical or technological means. Access deprivation may manifest through actual obstructions, delays, arbitrary fee denials, or administrative inaction. By analogy, under

the *Personal Information Protection and Electronic Documents Act* (the "***PIPEDA***") or FIPPA (Ontario), such "stonewalling" triggers a complaint to the Office of the Privacy Commissioner of Canada (the "**OPCC**"). Conversely, in the *SCJ* context, any delay in confirming filings is entirely antithetical to justice. The judicial machinery must move with a celerity that respects the time-sensitive nature of legal remedies; to delay is, quite often, to deny. Within the framework of motor vehicle accident litigation and the Statutory Accident Benefits Schedule (SABS), systemic delays in the adjudicative process represent more than mere procedural friction; they constitute a direct denial of essential medical and rehabilitative care (see: *Zurich*, 2024). In the present matter, these delays have transformed a failure of process into a substantive deprivation of the Applicant's right to life, liberty, and security of the person. The clinical cost of this delay is objectively evidenced by the 2025 MRI results from St. Joseph's (see: Compendium For NOM #3), which document the active degeneration of the Applicant's lumbar vertebrae. Findings show that the pathology identified in 2022 and 2023 at the L5 and L4 levels has now ascended the spinal column to the L3, involving significant disc issues and foraminal narrowing. This progressive deterioration occurred while the Applicant was deprived of the very services meant to stabilize his condition following a high-velocity collision—an impact in which a heavy SUV propelled his stationary vehicle 30 feet uphill—and further ignores the ongoing challenges of a concurrent mild traumatic brain injury. The "stonewalling" identified in *PIPEDA* and *FIPPA* contexts is remarkably similar to the registrarial inertia experienced by the Applicant, where valid requests are met with an institutional "shrug" that leaves the litigant in a state of perpetual limbo. The principle of *primus inter pares* dictates that the **Chief Justice of the Superior Court of Justice** (the "**Chief Justice**"), as President of the Divisional Court, is uniquely vested with plenary authority to initiate disciplinary inquiries concerning curial administrative personnel. This prerogative is shared exclusively with the **Associate Chief Justice of the Superior Court of Justice** (the "**Associate Chief Justice**"), whose membership in the Canadian Judicial Council reinforces this mandate. Disciplinary oversight of a **Registrar** (the "**Registrar**") appointed under the *Public Service of Ontario Act, 2006* (the "*PSOA 2006*") resides within the administrative suzerainty of the **Deputy Attorney General** (the "**DAG**"). The *ipso facto* authority of the **DAG** is augmented by his dual appointment as the Commissioner of the Public Service Commission and his participation in the Executive Development Committee. *Prima facie* compliance with *section 74* of the *Courts of Justice Act* (the "*CJA*")

necessitates a bifurcated evidentiary threshold for the destruction of materials in a **court office** (the "**Court Office**"). Such destruction, directed by the **DAG**, remains strictly contingent upon the express "approval" of the respective Chief Justices of the *Ontario Court of Justice*, the *Superior Court of Justice*, or the *Court of Appeal for Ontario*. The term "approval" within the *CJA* maintains semantic alignment with the procedural prerequisites for *Justice Services Online Portal* filings external to the Toronto Region, necessitating a distinction from the "subject to confirmation" modality operative under the *Ontario Court Provincial Protocol* for the Toronto Region. The **Chief Justice** possesses the established capacity to formalize grievances against members of their own bench; furthermore, no jurisdictional impediment precludes a member of one court from initiating a complaint against a member of another. This was illustrated in the ("*Currie Matter*"), wherein the Chief Justice of the *Court of Appeal for Ontario* submitted a formal complaint to the **Ontario Judicial Council** (the "**OJC**") regarding Regional Senior Justice Paul Currie. Notwithstanding the withdrawal of criminal charges, the **OJC** determined *in limine* that a public inquiry was requisite to adjudicate allegations of non-consensual sexual intercourse and attempts to subvert the investigative process. Subsequent disclosures indicated the justice failed to surrender due to apprehensions regarding the custodial conditions at the Maplehurst Correctional Complex. A point of parenthetical reference must be made herein: the Applicant is in no way suggesting that atrocities that happened to this woman at the hands (literally and figuratively) of former Justice Currie are as atrocious as what has happened in denial of access to the courts. While the misconduct of Justice Currie, whether a criminal conviction could be secured or not although most suspicious with the "out of town Crown", strikes to the very fabric of a judge's integrity it was outside of the courtroom involved in his debaucherous lifestyle but a female victim suffered nonetheless involving her mental, physical, emotion and psychological integrity. This cannot be undone. Those are breaches to her very human and bodily rights. Herein, the breaches are to the Core Jurisdiction of the SCJ and they are not subject to the Charter per se or at least can be disposed of in relation to the Constitution Act, 1867 and the Core Jurisdiction Test. The **Applicant** (the "**Applicant**") has identified a **False Information Package** (the "**Impugned Package**") and a putative **Intake Court Endorsement** (the "**Endorsement**") lacking a physical signature despite assertions of digital authentication. These instruments originated from the same *Ontario Court of Justice (Brampton)* as the *Currie Matter*. It is posited that *had* the **Applicant** been deprived of liberty by the OPP (SOLGEN Kerzner purview

or the Peel Regional Police), via these *ultra vires* instruments, incarceration at the Maplehurst facility would have been inevitable. Given the antecedent attempt upon the **Applicant's** life on August 31, 2022, the utilization of a fraudulent *Criminal Code* Form 2 Information suggests an orchestrated effort by Executive Branch actors to achieve through procedural artifice what remained unaccomplished through physical violence. Under the *PSOA 2006*, an impugned **Registrar** may be subjected to dismissal or suspension pending investigation. The **Former Registrar Gentles** (the "**Former Registrar**") has remained in disciplinary suspension exceeding the statutory one-month period, creating a hiatus that threatens the *status quo ante* of the registry's administration. *O. Reg 373/07, Oaths and Affirmations* (the "*Oaths Regulation*") mandates that court personnel subscribe to a formal oath[5]. A violation of this oath—through intentional obstruction or negligent dereliction—constitutes a breach of the highest order. A **court officer** (the "**Court Officer**") is a constituent component of the curial machinery, bound by a fiduciary-like obligation to facilitate the administration of justice; any subversion thereof represents an existential threat to the legal system. It is observed that the requisite pecuniary consideration has been heretofore tendered by the Applicant for digital recordings (the "**Digital Recordings**") from the *Superior Court of Justice Regional Manager's Office* (the "**SCJ RMO**") pertaining to the *Judicial Review Procedure Act* proceeding (the "**JRPA Proceeding**") and the concomitant undisclosed criminal proceeding (the "**UCP**"). It is posited that the **UCP** was rendered *void ab initio* and constitutes a jurisdictional nullity due to the clandestine machinations of unidentified contrivers who engaged in the falsification of a false information package (the "**FIP**"), the existence of which was purportedly acknowledged by counsel for the *Ministry of the Attorney General* (the "**MAG**") in late June and early July 2025. Reference is made to the *Notice of Motion #3* (the "**NOM #3**") and *Motion #4* (the "**Motion #4**"), documenting that the Applicant's liberty was deprived on October 2, 2024, predicated upon an undisclosed and hitherto unverified signed arrest warrant (the "**Arrest Warrant**"). Within the **JRPA Proceeding**, a profound jurisdictional error was articulated by the Honourable Madam Justice Shore on October 10, 2025, regarding a purported incapacity to provide recordings for case conferences; simultaneously, misrepresentations by administrative functionaries within the **UCP** necessitate rigorous investigation to facilitate a restoration of the *status quo ante*. The **SCJ RMO** correctly observed that a mere judicial acknowledgement (the "**Judicial Acknowledgement**") was the sole prerequisite for the acquisition of transcripts for case conferences conducted via remote telecommunication

technology. The Applicant may need to seek an Order of *mandamus*, in the event the Registrar (Acting) does not comply with a section 76 of the CJA order, directing the discharge of ministerial duties and a petition for the permanent cessation of judicial oversight by the Honourable Madam Justice Shore in all matters concerning the Applicant, pursuant to the Divisional Court President's duty to relieve judicial officers whose prior involvement engenders a *prima facie* apprehension of bias (see: *Dugré v. Canada (Attorney General)* (the "***Dugre***"), *BOA*, Tab 168). The retention of public funds absent the mandated service constitutes a breach of the contract of administration and a violation of the *Administration of Justice Act*; furthermore, the accounting of these funds raises significant questions regarding compliance with the *Freedom of Information and Protection of Privacy Act* (the "***FIPPA***"). This administrative inertia (the "**Administrative Inertia**") functions as a constructive denial (the "**Constructive Denial**") of the record, precluding the Applicant from presenting evidence in **NOM #3** and potentially constituting further fraud upon the court under *Rule 59.06(2)(a)* of the *Rules of Civil Procedure*. Systematic withholding of court records by the registry creates an informational asymmetry that unfairly privileges state respondents and engenders a record gap (the "**Record Gap**") shielding adjudicators from curial oversight; it is fundamental that executive conduct antithetical to the *Constitution of Canada* is, *ipso facto, void ab initio*. *Section 52(1)* of the *Constitution Act, 1982* dictates that the **Rule Of Law** (the "**ROL**") must prevail over administrative convenience (see: *407 ETR Concession Co. v. Ontario (Registrar of Motor Vehicles)* (the "***407 ETR***"), *BOA*, Tab 98; and *Sunrise Senior Living Investments Inc. v. Canada (Attorney General)* (the "***Sunrise Senior Living***"), *BOA*, Tab 99). Unilateral executive conduct in matters assigned to the Judicial Branch represents *ultra vires* conduct and systemic interference necessitating intervention by the Divisional Court President pursuant to *Section 76* of the *Courts of Justice Act* (the "***CJA***"). Such unilateralism is hazardous when lacking institutional checks, especially as the **MAG** frequently represents to the *Office of the Information and Privacy Commissioner* (the "**OIPC**") that control of information assets resides within the judiciary's supervisory jurisdiction. It is observed that employees of the **MAG**, represented by the *Ontario Public Service Employees Union* (the "**OPSEU**"), frequently obstruct information, necessitating the involvement of counsel in the matter of *McIntosh v. Shore* (the "***McIntosh v. Shore***"), a proceeding involving allegations of extrajudicial defamation. A compelling inquiry is raised concerning the dissemination of derogatory statements by the Honourable Madam Justice Shore to the *Superior Court of Justice*

Toronto Region, most of whom preside over civil and insolvency matters rather than family law. The separation of powers is the foundational cornerstone of the constitutional order; Executive interference with the Judicial Branch's inherent adjudicative capacity strikes at the essence of this structural guarantee and results in the suspension of constitutional protections for the affected citizen.[6] As of 2019, the presumptive standard of reasonableness in *Canada (Minister of Citizenship and Immigration) v. Vavilov, 2019 SCC 65* ("Vavilov") is displaced by the standard of **correctness** for jurisdictional competence and interpretation of the *SABS*. This displacement is necessary because the questions at hand go to the heart of the tribunal's authority to act; a tribunal cannot be the final judge of its own jurisdictional boundaries.[7]

PART 1(A)(I): THE MULTIFARIOUS PERMUTATIONS OF ACCESS DENIAL

8. The deprivation of judicial access is a phenomenon that manifests in diverse modalities and magnitudes, extending beyond mere financial barriers to encompass administrative and procedural obstructions (the "**Systemic Obstruction Doctrine**"). Denial of access may occur *ab initio* at the stage of non-issuance of originating process, a failure which may carry deleterious consequences for the preservation of rights relative to statutory limitation periods. Procedural foreclosure may further manifest during the interlocutory stages, specifically involving the adjudication or processing of early motions within a proceeding, thereby impeding the orderly progression of the litigation. A significant breach of the "**Untouchable Constitutional Access Principle"** occurs through the non-compliance by the Registrar with governing statutes and regulations, such as the failure to facilitate the filing of a "First Defence" or directing a proceeding upon a trajectory that is fundamentally *ultra vires*. Access is effectively curtailed when the administrative apparatus fails to provide requisite digital infrastructure, such as the omission to extend an invitation for "Case Center" access, which is a prerequisite for modern judicial participation. In the context of applications under the *JRPA* the failure to comply with Rule 68.05(2) in placing the JRPA Application on a "listing for hearing" and issuing a Form 68(B) for hearing upon the court's record constitutes a profound administrative default. Denial of access is further exacerbated by misrepresentations concerning the mandatory nature of case management or the failure to process requisitions for urgent hearings, both of which serve to delay the administration of justice. Where a litigant is prevented from ascertaining a proximate hearing date before a judicial panel of the Divisional Court due to a failure to process requisitions compelling the Registrar's compliance,

the right to a timely hearing is rendered illusory. Like administrative interference being interference by any other name (see: *Imperial Tobacco* (BOA, Tab 155), the failure: (i) to process duly tendered filing fees; (ii) to provide access to documents filed, albeit clumsily denoted by submitting persons (i.e. five litigants on one filing when that would have been impossible) within the *Ontario Courts Public Portal* (the "**OCPP**") Case View constitutes a tangible barrier to the "universal access to the courts" guaranteed under the *Constitution Act, 1867*. There is an emphasis on the word "public". "Portal" is synonymous with "entrance" or "opening".

PART 1(A)(II): ANALOGOUS CONTRACTUAL OBLIGATIONS

9. The exiguous nature of court fees suggests a reciprocal arrangement reminiscent of a contractual obligation between the sovereign and the subject. It is a settled principle that commercial agreements in Canada are governed by an overarching implied duty of honest performance (the "**Duty of Good Faith**"). This principle was firmly established in *Bhasin v. Hrynew*, 2014 SCC 71 (the "**Bhasin**") and further refined in *C.M. Callow Inc. v. Zollinger*, 2020 SCC 32 (the "**Zollinger**"). This foundational case recognized the organizing principle of good faith and established a common law duty of honesty in contractual performance as a minimum standard. This jurisprudence expanded upon the principles in *Bhasin*, affirming that active deception, which includes "half-truths" or remaining silent while a counterparty operates under a false impression, constitutes a breach of the **Duty of Good Faith**.[8]

PART 1(A)(III): STATUTORY VIOLATIONS AND PROCEDURAL REMEDIES

10. Where a commercial organization demonstrates an intentional disregard for the *Consumer Protection Act, 2002* or related statutory frameworks, such conduct may warrant the imposition of punitive damages. In *Bernstein v. Peoples Trust Company*, 2019 ONSC 2867 (the "***Bernstein***"), it was determined that the ***intentional violation*** of consumer protection norms by sophisticated entities justifies significant judicial sanction. Furthermore, the presence of fraud, bribery, or extortion constitutes a fundamental defect that renders the subsequent proceedings *void ab initio*. As held in *Landreville v. The Queen*, [1978] 2 S.C.R. 58 (the "***Landreville***"), such egregious conduct unravels the integrity of the judicial process and necessitates an immediate restoration of the *status quo ante*. This authority confirms that any judicial or quasi-judicial determination predicated upon fraud or corruption is a nullity and cannot be sustained. To rectify such irregularities within the civil context, the *Rules of Civil Procedure* (the "***Civil Rules***") provide a specific mechanism for the challenge of tainted orders. *Rule 59.06(2)(a)* of the *Civil Rules*

empowers a party to move *in limine* within the original proceeding to set aside or vary an order on the basis of fraud or facts discovered subsequent to the issuance thereof. *Rule 2.02* is also an answer to the same but it involves steps, documents and/or orders that were unremedied irregularities, and judicial analysis as to whether the Moving Party had knowledge of an irregularity.

PART 1(A)(IV): THE OPEN COURT PRINCIPLE

11. Pursuant to the principles of the common law and Rule 59.06(2)(a), a determination of fraudulent conduct may be sustained not only against a primary respondent but also against non-litigants or members of the **Executive Branch** who, through omission or silence, facilitate deception. The standard of proof in these civil matters is the balance of probabilities, which remains distinct from the more stringent criminal standard of proof beyond a reasonable doubt. Charter, ss. 11(c) provides robust protections against compelled self-incrimination. This is inextricably linked to the **Open Court Principle** which ensures the protection of the "fourth estate" and the public's right to information pursuant to section 2(b) of the ***Charter***.[9]

CONCLUSION: THE CORE JURISDICTION AND THE RULE OF LAW

12. Where fraud has been perpetrated upon the court, or where bribery has prejudiced a litigant, the **Open Court Principle** and the right of "universal access to the courts" under the *Constitution Act, 1867* are elevated to an immutable status. To obstruct the pursuit of a legal remedy is an *ultra vires* act that offends the ***Rule Of Law***, a principle explicitly enshrined in the preamble of the **Charter** but the ROL has been read in to the Constitution Act, 1867 and **Judicature Sections** therein by our SCC. Our **SCJ Courts** or **Section 96 Courts** as the successor to the historic courts of law and equity, possesses an inherent core jurisdiction (the "**Core Jurisdiction**") that cannot be abrogated by legislation or administrative failure. These courts remain the primary guardians of the **Constitution Of Canada,** ensuring that justice is not merely a theoretical construct but a tangible reality for all litigants seeking redress for grievances. Justice delayed is justice denied. The Registrar of the Divisional Court through the OCPP admitted by representation that submitted filings would be processed and confirmed within three business day. It is observed with profound gravity that the former Registrar, Gentles, propounded assertions regarding these processing timelines that were demonstrably mendacious. This trajectory of administrative obfuscation has not been corrected; rather, the Acting Registrar, Parris, has perpetuated this state of misinformation. Such conduct

constitutes a departure from the required standard of *uberrima fides* (the **"Utmost Good Faith"**) expected of court officials. To permit such administrative failures to persist is to allow an *acta* of the **Executive Branch** to supersede the constitutional rights of the litigant, thereby undermining the very scaffolding of the judicial system. The cumulative effect of these administrative deficiencies represents a significant deviation from the constitutional mandate of the court. The *Core Jurisdiction* must be invoked to remediate these grievances, as the failure to process filings according to **represented** makes access to courts becomes illusory.

Part 1(B): Core Jurisdiction Test

13. The legal test for determining whether a power belongs to the "core" of a Superior Court has evolved through key cases like: *Re Residential Tenancies Act* (1981); *MacMillan Bloedel v. Simpson* (1995); and *Trial Lawyers Association of British Columbia v. British Columbia* (2014) (see: BOA Tabs #118, #120, and 132).

PART 1(B)(I): THE THREE-STEP RESIDENTIAL TENANCIES TEST

14. When a government attempts to move a power from the SCJ to an administrative tribunal or an "inferior" court, the following test is applied: (i) **Historical Inquiry; (ii) "Judicial Function"; and (iii) Institutional Context.**

PART 1(B)(II): THE CORE REFINEMENT IN MACMILLAN BLOEDEL

15. The Supreme Court in *MacMillan Bloedel* held that certain powers are so central to the "very nature" of a section 96 Court, made up of Section 96 appointed by the MOJ, approved by the Prime Minister of Canada, judge ("Section 96 Judges") that they can **never** be removed. Chief Justice Lamer found in *MacMillian Bloedel 1995* where he found section 96 "has come to stand for" the **guarantee** of judicial independence" (see: at page 523).

PART 1(B)(III): THE SEISMIC CHANGE IN 2014: INTERFERENCE WITH THE PURSUIT OF LEGAL REMEDIES IS CONTRARY TO ROL – ROL PART OF SECTION 96 OF CONSTITUTION ACT, 1982 INTERTWINED AS OF 2024 – BREACH OF CONSTITUTION ACT, 1982 – S. 96 – BREACH OF JUDICIAL INDEPENDENCE – MAKING INTERFERENCE WITH PURSUIT OF LEGAL REMEDY – MATTER ASSIGNED BY LAW TO THE JUDICIARY – SECTION 76 MANDATORY DUTY OF THE CJ OF THE SCJ (PRESIDENT OF THE DIVISIONAL COURT)

16. As established in *TLABC 2014*, the SCC found that access to the courts was a **Rule Of Law** and any denial by any person of the pursuit of legal remedies was a breach of the ROL. It further found that access to the courts was predicated upon s. 96 of the Constitution Act, 1867 and the ROL and s. 96 were inextricably interwoven. As such,

where the Executive Branch interferes with the mere "pursuit" of a legal remedy, the Executive Branch has engaged in conduct that is in contravention of s. 96 of the Constitution Act, 1867. If a contravention of a s. 96 of the Constitution Act, 1867, then it is a matter assigned by law to the Judiciary. If assigned by law to the Judiciary, and as such commands the immediate attention and corresponding discharging of duty by the CJ of the SCJ. This is an unassailable syllogism because the premises (minor and major) are unassailable.

PART 1(B)(IV): THE JUDICATURE SECTIONS OF THE *CONSTITUTION ACT, 1982* (SEE: 96-101)

17. The structural integrity of the Canadian judiciary is predicated upon the "Judicature" provisions of the *Constitution Act, 1867* (the "**Judicature Provisions**"), which function as the quintessential bulwark against executive or legislative incursion into the independent sphere of the Judiciary which compromises administrative or adjudicative independence with the former being qualified and the latter being absolute when measured in context of administrative privilege and adjudicative privilege. *Ipso facto*, when the conduct of a member of the judiciary is deemed incompatible with the requisite standard of "good behaviour," the mechanism for removal is facilitated through the *Canadian Judicial Council* (the "**CJC**"). Such proceedings are typically precipitated by a formal grievance initiated by a complainant. Furthermore, the judiciary possesses an inherent authority regarding self-regulation, specifically concerning the doctrine of recusal. *Smith v. Canada* (the "***Smith* Precedent**"), found at the *Book of Authorities* (the "**BOA**"), Tab 145, establishes the parameters for early or pre-emptive recusal to maintain the appearance of impartiality. *Smith* (the "**Recusal Principle**") dictates that a judge must withdraw from a proceeding if a reasonable apprehension of bias exists.

18. The separation of powers necessitates that communications between the **Executive Branch** and the judiciary remain transparent and bilateral; thus, any *ex parte* engagement regarding a response to a specific party, rather than a systemic administrative concern, is strictly prohibited. This principle is articulated in *Canada (Minister of Citizenship and Immigration) v. Tobiass* (the "***Tobiass* Ruling**"), *BOA*, Tab 146. *Tobiass* (the "**Executive Separation Doctrine**") reinforces the necessity of maintaining a sterile environment between the branches of government to prevent the perception of undue influence. Moreover, judges who have **not** yet become seized of a particular matter possess the prerogative to waive jurisdiction, as evidenced in *Ramsey v. The Queen* (the "***Ramsey* Decision**"), *BOA*, Tab 147. *Ramsey* (the "**Jurisdictional Waiver Authority**") confirms the administrative

flexibility required to ensure that matters are heard by the most appropriate adjudicative body. In instances characterized by ethical turbulence—such as those involving *Justices Cosgrove, Camp, and Brown*—the Chief Justice of the Superior Court of Justice assumes an imperative administrative function. The Chief Justice acts as the court's emergency administrator, effectively sequestering the controversial jurist from the caseload to ensure the preservation of the public's confidence (the "**Emergency Administrator Role**"). Collectively, these actions constitute a broader mandate to safeguard the integrity of the judicial system (the "**Preservation Public Trust Role**"). The Chief Justice of the Superior Court of Justice, as well as the Chief Justice of the *Court of Appeal for Ontario*, serves as the primary custodian of the court's integrity (the "**Constitutional Trust Role**"). The Chief Justice is characterized as *primus inter pares*, or 'first among equals'. This designation signifies not a hierarchical superiority over their colleagues, but rather a heightened burden of ensuring that the court, in its entirety, remains completely impervious to external influences. By synthesizing administrative prerogative with the principle of adjudicative equality, the office of the Chief Justice remains the paramount safeguard for the **Rule Of Law** within the Canadian legal landscape. This is corroborated in *Faber v. R., 2015 QCCS 12* (the "***Faber* Jurisprudence**"), at para 111, *BOA*, Tab 148. *Faber* (the "**Moral Authority Principle**") posits that the Chief Justice possesses a unique **moral** authority over the judges of their court to fortify judicial independence. It is imperative to recognize that "legal authority" and "**moral** authority" are not synonymous (the "**Authority Dichotomy**"). In this context, the term "**Moral**" pertains to the supra-legal, ethical influence derived from the Chief Justice's position as the spiritual and symbolic embodiment of the court's integrity (the "**Moral**").The application of the "**Moral**" herein is fundamental to the maintenance of the *status quo ante*; it requires the Chief Justice to exercise a persuasive suasion that transcends mere statutory mandate. While a Chief Justice may lack the legal authority to issue substantive directives regarding the exercise of a colleague's adjudicative discretion, they possess the **moral** authority to influence the administrative conduct of the bench to align with the overarching goals of judicial independence and public accountability (see also: section 71 of the CJA). *Prima facie*, it is through this **moral** suasion that the Chief Justice ensures adherence to directives to which the judges might not otherwise be legally subject, thereby insulating the bench from the *mens rea* of external political interference.

PART 1(C): VIOLATION OF JUDICIAL INDEPENDENCE

19. the comprehensive and venerable jurisprudence of the *Supreme Court of Canada* (the **"Supreme Court"**) has historically articulated that **judicial independence** (the **"Judicial Independence"**) is constituted by three unwritten, yet foundational, constitutional imperatives of primordial significance. It is posited that these mandates necessitate that the ***Executive Branch*** (the **"Executive"**) maintain a position of absolute non-interference, thereby ensuring the *impartiality* of the adjudicative process from extraneous political pressures. The *ratio decidendi* (the **"Ratio Decidendi"**) established in *Reference re Remuneration of Judges of the Provincial Court of Prince Edward Island* (the **"PEI Judges Reference"**)—being the seminal authority on judicial compensation—confirms that these protections are not merely for the benefit of the magistracy but are a *sine qua non* for the preservation of public confidence in the administration of justice within the Dominion with the focus on the third branch of that legal test: **Administrative Judicial Independence (the "Administrative Judicial Independence")**: It is a requirement of the constitutional order that the judiciary maintain exclusive jurisdiction over the administration of the courts and all matters assigned by law to the judicial sphere. As articulated in *MacKeigan v. Hickman* (the ***"MacKeigan Case"***)—which defines the scope of judicial immunity and administrative autonomy—any attempt by the *Executive* to control the "docket" or the internal management of the court constitutes an impermissible and unconstitutional encroachment upon the core functions of the judicial branch. While the manipulation of a judicial docket represents a significant constitutional concern, the systematic obstruction or hindrance occasioned by the failure to confirm submitted filings through the *Ontario Courts Public Portal* (the **"OCPP"**) represents a violation of a more profound and systemic nature. Such *acta* by the *Executive* function as a functional barrier to the exercise of the court's *inter al* powers. By failing to facilitate the processing of originating processes, the *Executive* effectively precludes the judiciary from exercising its *prima facie* duty to adjudicate disputes. This administrative torpor is not merely a procedural oversight; it is an active subversion of the **Administrative Judicial Independence**.

PART 1(D): THE ONTOLOGICAL DISSOLUTION OF THE RULE OF LAW

20. In the event that the *Executive* Branch interferes with the **Core Jurisdiction** (the **"Core Jurisdiction"**), the primary and most deleterious consequence is the comprehensive fragmentation of the **Rule Of Law** (the **"Rule Of Law"**). Such interference necessitates the following legal extrapolations: **Ultra Vires and Section 52 Sanctions**: Any

legislative instrument or executive action that purports to diminish a "core" judicial power is inherently *ultra vires* and must be rendered of no force or effect pursuant to *Section 52* of the *Constitution Act, 1982* (the **"Constitution Act"**); "**Void Ab Initio Determinations"**: Any conduct of the *Executive* or a government actor—as defined within the ambit of *Section 32* of the *Canadian Charter of Rights and Freedoms* (the **"Charter"**)—that infringes upon this **Core Jurisdiction** must be judicially declared *void ab initio* (the **"Void Ab Initio"**). It is a fundamental tenet that such conduct lacks the requisite constitutional validity from its inception and cannot be cured by subsequent administrative action**; Inapplicability of Section 1 Justification**: Where executive conduct not only exceeds the scope of its authority but simultaneously infringes upon the *Charter* rights of a person, such transgressions cannot be salvaged under the "reasonable limits" clause of *Section 1* of the *Charter*. An interference with the **Core Jurisdiction** of the court is fundamentally inimical to the principles of a free and democratic society and cannot satisfy the requirements of proportionality as set forth in *R. v. Oakes* (the **"Oakes Case"**), which establishes the criteria for justifying rights violations; and **Inapplicability Of Section 33 of Charter**. The erosion of **Judicial Independence** signifies the expiration of the judiciary's role as an autonomous arbiter between the state and the citizenry. *Ipso facto* the judiciary is rendered a mere extension of executive policy rather than a constitutional safeguard. Furthermore, because the **Core Jurisdiction** encompasses the inherent power of executive interference is strategically designed to render government actions "unreviewable." Such a *mens rea* behind administrative obstruction aims to elevate the *Executive* above the law, thereby dismantling the accountability mechanisms essential to a constitutional democracy. The prevention of filings *in limine* serves to immunize the state from legal scrutiny, representing a total abdication of the **Rule Of Law**. It is self-evident that the current state of administrative stagnation regarding the **OCPP** constitutes a profound breach of the "Unwritten Constitutional Principles" of the *Constitution Act, 1867* and the express provisions of the *Constitution Act, 1982*. To restore the status quo ante it is imperative that the *Executive* immediately cease all activities that function as a hindrance to the filing and processing of judicial documents.

PART 1(E): REMEDIES FOR CONCURRENT VIOLATIONS OF CONSTITUTIONAL ACTS

21. Pursuant to the *Constitution Act, 1867* (the "***1867 Act***") and the *Constitution Act, 1982* (the "**1982 Act**"), specifically *Part I* thereof, designated as the *Canadian Charter of Rights and Freedoms* (the "**Charter**"), the pursuit

of efficacious and immediate remedies is deemed a requirement that subserves both the individual litigant and the broader public interest, particularly in instances where the **unconstitutionality** of conduct perpetrated by the **Executive Branch** impinges upon the **Core Jurisdiction** of the *Superior Court of Justice* (the "**SCJ**"). In such circumstances, the issuance of a **Notice of Constitutional Question** (the "**NOCQ**") may be regarded as a secondary procedural vehicle rather than the primary mechanism for administrative rectification, as the **Chief Justice** of the *SCJ*, in the exercise of functions as the *Divisional Court President*, maintains a solemn statutory and constitutional obligation to superintend the **Registrar**, court personnel, and clerical staff within the territorial jurisdiction of Ontario. This mandate is exercised pursuant to *Section 76* of the *Courts of Justice Act* (the "**CJA**") concerning matters **assigned by law to the judiciary**, thereby requiring the *Divisional Court President* to direct **Registrars**, the court staff, and court clerks to act or to cease acting in a manner characterized as inconsistent with the law—with particular reference to those domains **assigned by law to the judiciary**. Since the seminal adjudication in *Trial Lawyers Association of British Columbia v. British Columbia (Attorney General)* [2014] (the "**Trial Lawyers Decision**"), which established that provincial legislatures are precluded from imposing hearing fees that effectively deny litigants access to superior courts, **access to justice** has been elevated to the status of an immutable constitutional prerequisite, the obstruction of which by **Executive Branch** conduct is categorized as a simultaneous infringement of the *1867 Act* under the **Core Jurisdiction Test** (the "**Concurrent Breaches**").The resolution of the **Concurrent Breaches** necessitates an intricate extrapolation of several legal pillars, including the *Doctrine of Mootness*, *Locus Standi*, *Section 76* of the *CJA*, the **Core Jurisdiction Test** under *Section 96*, the *Charter*, and the prerogative writ of *Mandamus*. The jurisprudence established in *Borowski v. Canada (Attorney General)* [1989] (the "**Borowski Case**"), which defines the parameters of judicial discretion in dismissing appeals where the legal substratum has disappeared, is recognized as the definitive Canadian authority regarding the *Doctrine of Mootness*, providing the evaluative framework for determining whether a tribunal should exercise judicial discretion to decline the adjudication of a matter where the "live controversy" between the parties has ceased to exist. In the *Borowski Case*, the *Supreme Court of Canada* (the "**SCC**") evaluated the challenge brought by Joseph Borowski against abortion provisions in the *Criminal Code*, which was rendered *prima facie* moot following the landmark decision in *R. v. Morgentaler* [1988] (the "**Morgentaler Case**"), wherein restrictive abortion laws were struck down as a

violation of security of the person under *Section 7* of the *Charter*. While a proceeding is generally deemed moot if the eventual *ratio decidendi* is projected to yield no practical effect on the rights of the parties, a sophisticated question remains as to whether a modified legal test should be invoked to address systemic interference when **Executive Branch** conduct involves a non-respondent; notwithstanding this, the judiciary may elect to adjudicate based on the **Adversarial Context**, ensuring vigorous argumentation by parties with a genuine stake, or the rationale of **Judicial Economy**, provided the issue is **recurring but evasive of review** or possesses **significant public importance**. In Canadian jurisprudence, *locus standi* (the "**Standing**") denotes the legal capacity of a party to initiate proceedings, a threshold issue that must be satisfied *in limine* before the court assesses the substantive merits of the dispute. **Private Interest Standing** is established *as of right* where the personal legal rights of a litigant are directly impinged or where a specific prejudice has been suffered, whereas **Public Interest Standing** is a discretionary grant allowing challenges to governmental *ultra vires* acts, provided the litigant satisfies a "flexible and purposive" three-factor test involving a **Serious Justiciable Issue**, a **Genuine Interest**, and **Reasonable and Effective Means** of bringing the matter to light. Under *Section 72(1)* of the *CJA*, the **Attorney General** superintends administrative matters, excepting those **assigned by law to the judiciary**, while *Section 76* mandates that in matters assigned to the judiciary—encompassing the transmission of **confirmations of submitted filings**, the processing of authorized **filing fees**, and the receipt (see: Rule 37.10.1, "giving to the Registrar via email") of **Confirmations of Motions**—**Registrars**, court clerks, and staff shall act at the direction of the **Chief Justice**. Given that the *Constitution of Canada* (the "**Constitution**") represents the supreme federal statute, any conduct inconsistent with its provisions constitutes a violation of law *ipso facto*, and no "saving provision" exists within the *1867 Act* for **Executive Branch** conduct that violates the **Judicature Sections**. The transition from a "federalism model" to a "**Rule Of Law** model" (the "**ROL Model**") was finalized during the "patriation" of 1982, as elucidated by Lamer CJ in *Reference re Remuneration of Judges of the Provincial Court of P.E.I.* [1997] (the "**PEI Judges Reference**"), which established that the preamble of the *1867 Act* contains unwritten principles protecting the financial and administrative autonomy of the courts. This constitutional development did not comprise a founding moment wherein the legal slate was wiped clean; rather, as noted by McLachlin CJ in *Professional Independence and the **Rule Of Law*** [2007] (the "**McLachlin Principles**"), the *1867 Act* confirmed

the pre-existing Westminster principles derived from the *Act of Settlement, 1701*, including **Judicial Independence**, and adapted them to the Canadian federation. The preamble to the *1867 Act* recognizes and affirms the basic principles which constitute the source of substantive constitutional provisions, inviting the use of organizing principles to fill lacunae in the express terms of the scheme. Consequently, the *1982 Act* carried forward and did not disturb the **Unwritten Constitutional Principles** assumed by the *1867 Act*, though the "complexion" of those arrangements evolved with the introduction of express limits on parliamentary sovereignty and the concomitant expansion of the role of the judiciary as the "guardian of the constitution." In *Toronto (City) v. Ontario (Attorney General)* [2021] (the "**Toronto City Case**"), it was clarified that **Unwritten Constitutional Principles** serve two primary analytical functions: (i) the interpretation of constitutional provisions; and (ii) the development of structural doctrines flowing from the architecture of the *Constitution*. An exemplar of such interpretive utility is found in the expansion of *Sections 96 to 100* of the *1867 Act*, where Lamer CJ noted in the *PEI Judges Reference* that the literal text is merely a "staffing provision" and that its broader meaning must be sought in deeper unwritten understandings. Consequently, *Section 96* has been interpreted to provide constitutional sanctuary for: (a) **Judicial Review** of administrative decisions on jurisdictional grounds, as affirmed in *Crevier v. A.G. (Québec)* [1981] (the "**Crevier Case**"), which precludes the insulation of tribunals from superior court oversight; (b) core aspects of **Inherent Jurisdiction**, as confirmed in *MacMillan Bloedel Ltd. v. Simpson* [1995] (the "**MacMillan Case**"), which protects essential judicial powers from legislative removal; (c) **Public Access** to the superior courts, as established in the *Trial Lawyers Decision*; and (d) the individual and Administrative Judicial Independence **of the Judiciary**. Whether an infringement of *Section 96* of the *1867 Act* originates from the provincial legislature or the **Executive Branch**, such conduct is deemed inherently inconsistent with the *Constitution* and, distinct from *Charter* rights, the protections read into *Section 96* are not subject to justification under *Section 1* or the notwithstanding clause of *Section 33*. The historic task of superior courts to resolve disputes between individuals and adjudicate questions of law is fundamental; ergo, any measures that prevent access to the courts, such as prohibitive hearing fees or the failure to process originating processes and motions, infringe upon the **Core Jurisdiction** and impermissibly impinge on *Section 96*. This connection is further solidified by the inextricable link between the *Section 96* function and the **Rule Of Law**, as the *Trial Lawyers Decision* affirmed that access to justice is fundamental to the

maintenance of the constitutional order. In the *PEI Judges Reference*, the *SCC* elucidated that the **Executive Branch**'s shutdown of the Manitoba Provincial Court through the withdrawal of court staff—known as "Filmon Fridays"—constituted a violation of **Administrative Judicial Independence,** establishing a precedent of *vertical stare decisis* that precludes the **Executive Branch** from unilaterally obstructing court sittings. As judicial independence is secured only by objective conditions or guarantees that ensure a reasonable perception of autonomy, as per *Valente v. The Queen* [1985] (the "**Valente Case**"), any **Executive Branch** conduct that fails to provide such guarantees is unconstitutional *ipso facto*.

PART 1(F): INTERWOVEN ISSUES AND REMEDIAL OBLIGATIONS

22. The resolution of the present matter necessitates a contextual analysis of whether a reasonable person, cognizant of the comprehensive circumstances, would conclude that the **Executive Branch** has violated the **Core Jurisdiction Test** and the *1867 Act*. Specifically, the record demonstrates that the **Registrar of the Divisional Court**, including court staff and the **OCPP** technological personnel, received via electronic transmission **NOM #3** on November 17, 2025, accompanied by the requisite documentation pursuant to *Rule 37.12.1* of the *Rules of Civil Procedure*, alongside a Confirmation Of Motion, prescribed fee payments, and strict adherence to the **OCPP** terms of use; notwithstanding the transition from the **JSO Portal** to the **OCPP** and the explicit written representations that filings would be adjudicated and processed within three business days, a period exceeding two months has elapsed without administrative resolution. Such a protracted failure to act, when situated within the architecture of the **Constitution**, constitutes a palpable interference with the complete administration of the **Judiciary** and a direct breach of *Section 96*. It is of critical significance to distinguish the remedial framework under the *1867 Act* from that of the *Charter*; whereas *Section 1* of the *Charter* permits "reasonable limits prescribed by law" and *Section 33* allows for the legislative override of certain rights, no such "saving provisions" exist to immunize **Executive Branch** conduct that infringes upon the **Judicature Sections** or the **Unwritten Constitutional Principles** of judicial independence. When conduct that breaches the **Core Jurisdiction Test**—comprising "access to the courts" as an indissoluble element of the **Rule Of Law**—is brought to the attention of the **Chief Justice** of the *SCJ*, the remedial obligation is both practical and immediate. The **Divisional Court President** is required to exercise his authority under *Section 76* of the *CJA* to direct the court staff to comply with the *1867 Act*, thereby ensuring that administrative inertia or

technological barriers do not continue to facilitate a denial of access. The questions posed by this systematic failure of the **Executive Branch** effectively answer themselves through the application of the **Core Jurisdiction Test**. If the **Executive Branch** were permitted to unilaterally obstruct the filing of originating processes through administrative neglect or the imposition of **Technical Barrier**s like the **403 Error Code**, the constitutional promise of an independent judiciary would be rendered illusory. Consequently, the only remedy consistent with the **ROL Model** is for the **Divisional Court President** to issue a formal directive to the **Registrar** and the **OCPP** staff to cease and desist from interference with the "**PURSUIT"** of "legal remedies" and to immediately restore the **Applicant's** access to the judicial machinery. Failure to intervene at this juncture would permit the **Executive Branch** to achieve an *ultra vires* removal of the court's jurisdiction through technological gatekeeping, a result that is fundamentally repugnant to the constitutional architecture of Canada.

Part 1(H): Access to Justice across the spectrums

23. As *custos rotulorum* and preeminent conservator of the **Court's** reputation, the **Chief Justice's** intercession is invoked herein as the extant grievances transcend idiosyncratic litigation to impinge upon the systemic veracity of the *Divisional Court's* administrative infrastructure. In the capacity of *primus inter pares*, the **Chief Justice** exercises inherent jurisdiction to ensure that the "administration of justice" remains a corporeal certainty and a foundational bulwark for the *status quo ante* of judicial independence. The quintessential philosophy of judicial obligation was articulated by the Honourable Justice John Roberts of the US Supreme COurt during his confirmation proceedings (the "**Roberts Testimony**"):

> "Mr. Chairman, I come before the committee with no agenda. I have no platform. Judges are not politicians who can promise to do certain things in exchange for votes. I have no agenda, but I do have a commitment. If I am confirmed, I will confront every case with an open mind. I will fully and fairly analyze the legal arguments that are presented. I will be open to the considered views of my colleagues on the bench. And I will decide every case based on the record, according to the **Rule Of Law**, without fear or favor, to the best of my ability. And I will remember that it's my job to call balls and strikes and not to pitch or bat."

24. The "ballpark" allegory illustrates the inextricable nexus between administrative *acta* and adjudicative functions; the latter is rendered illusory should the **Administrative Branch** fail to facilitate the litigant's initial entry (noting the words of "public" and "portal").

PART 1(I)): THE DUTY FOR THE CHIEF JUSTICE (PRESIDENT OF THE DC) TO SELF-ASSIGN

28. The concept of *primus inter pares*—first among equals—while frequently construed as a purely ceremonial designation of seniority, has undergone a complex evolution within Canadian law. Through a trajectory of landmark cases and ethical controversies, it has been revealed that the Chief Justice (or Chief Judge in provincial contexts) serves not merely as a judicial peer but as the "Master of the Roster," an administrative steward, and the primary guardian of institutional reputation. When the administrative power to assign or reassign cases intersects with external political pressure or internal ethical failures, the constitutional boundaries of judicial independence are tested. The decision in *Ruffo v. Conseil de la magistrature* (the "**Ruffo 1995**"), *[1995] 4 S.C.R. 267*, confirms that the Chief Justice possesses a unique "**moral** authority" associated with their status. The Chief Justice acts on behalf of the institution's integrity (the "**CJ Institution Integrity Role**"), a responsibility that relieves other judges of the court of the difficult task of laying complaints against colleagues where necessary. The *Ruffo 1995* decision established at paragraphs 58 and 59 that supervisory powers over ethics are inherent in the functions of a Chief Justice and need not be conferred by specific statutory provisions. Furthermore, the Federal Court of Appeal in *Canadian Judicial Council v. Girouard* (the "**CJC v. Girouard**"), *2019 FCA 148*, and the Federal Court in *Smith v. Canada (Attorney General)* (the "**Smith v. Canada**"), *2020 FC 629*, have reaffirmed that the Chief Justice has broad authority to coordinate, allocate, and supervise the work of judges. This includes the implied power to relieve a judge of certain judicial functions (the "**Dugré Doctrine**") pending the outcome of investigations, as seen in *Dugré c. Canada (Attorney General)* (the "**Dugré**"), *2019 FC 1604*. Such powers are essentially administrative functions required to preserve public confidence in the courts. A "Chief's case" (the "**Chief's Case**") may be defined by its challenges, its controversy, or its high-profile nature, particularly when the circumstances place the focus on the integrity of the court. As established in *R. v. Baldovi et al* (the "**Baldovi**"), *2016 MBQB 90*, the Chief Justice is uniquely placed to present leadership that addresses legal or ethical issues requiring administrative or adjudicative clarification. Even if the ultimate adjudication is not determinative in a traditional legal sense, the Chief Justice is the most appropriately positioned individual to conduct such adjudications given the stakes involved. The issue of *Madam Justice Shore's* conduct, raised without response from the since-resigned *Former Registrar Gentles*, underscores the necessity for the President of the Divisional Court to exercise this inherent

superintending authority. By self-assigning (i.e. to CJ of the SCJ in his capacity of the Divisional Court President) this *JRPA Proceeding*, particularly NOM #3 and Motion #4, the Chief Justice ensures that the administrative machinery of the court is not utilized by the **Executive Branch** as a weapon of interference.

PART 1(G): : MATERIAL FACTS

33. **The material facts are outlined in the Compendium for NOM #3 and the Motion Record for NOM #4.** Evidence confirms a "403-rejection code" when attempting to access the *OCPP* via a specific electronic mail account. This digital exclusion occurred precisely as the litigation reached a critical juncture, suggesting a non-coincidental obstruction. The timing of this "forbidden" error is a "smoking gun" of administrative interference that warrants the highest level of judicial scrutiny. It represents a "digital lockout" that is functionally equivalent to the "physical barring" of a litigant from the courtroom. Such interference constitutes a direct assault on the Applicant's ability to participate in the *JRPA Proceeding*. Furthermore, the history of non-compliance by curial staff—including the failure to acknowledge bank drafts and the refusal to provide audio recordings—illustrates a broader pattern of "stonewalling". These facts, taken together, necessitate the extraordinary relief sought herein to restore the constitutional status quo and ensure that the **Rule Of Law** remains a living reality for the Applicant. The "royal runaround" provided by the registry is a direct assault on the institutional integrity of the Divisional Court and cannot be permitted to continue with impunity. The retention of fees without the provision of services is a manifest injustice that the court must rectify *instanter*. In conclusion, the cumulative effect of these administrative failures and executive interferences is the effective suspension of the *ROL* as it pertains to the Applicant. The President of the Divisional Court is the only authority capable of rectifying these systemic abuses and ensuring that the *SCJ* remains a forum where the rights of all citizens—regardless of their status or the complexity of their claims—are determined in accordance with the law. The court's dignity and the public's confidence in the administration of justice are at stake in this proceeding, requiring a robust and unequivocal judicial response. The "gatekeepers" have failed, and only the "umpire" can restore order to the field.

PART 2: STATEMENT OF ISSUES

34. The issues in this Motion #5 necessitated by interference with the Applicant's pursuit of legal remedies:

a. Issue #1: whether the extant litigation—characterized by a factual matrix involving undisputed evidence of systemic fraudulent conduct, state-sponsored obstruction, and unprecedented administrative anomalies—so acutely compromises the institutional integrity of the Court that judicial independence must, of necessity, be understood as attaching to the Court in its collective and institutional capacity, thereby necessitating a robust, transformative, and prophylactic response that transcends the ordinary exercise of individual adjudicative discretion and addresses the structural vulnerabilities exposed by such occurrences;
b. Issue #2: In the event of an affirmative determination regarding the preceding issue, whether the President of the *Divisional Court*, in the capacity of primary *steward*, *custos rotulorum*, and *primus inter pares* of the institutional reputation and procedural rectitude of the Court, is most appropriately situated to address such controversies and systemic threats to the integrity of the judiciary, notwithstanding that the initial questions pertaining to the propriety of the judicial process may not be ultimately determinative of the substantive legal merits of the underlying *Application for Judicial Review* albeit unopposed;
c. Issue #3: In the event of an affirmative determination, what specific, robust, and extraordinary forms of relief—including but not limited to the exercise of the *inherent jurisdiction* of the Court to control its own process, the appointment of a special referee, *amicus curiae*, or a sequestered case management judge, and the issuance of prerogative writs such as *mandamus* or *certiorari*—are necessitated to preserve the administration of justice, ensure the "equality of arms," and restore public confidence in the judicial branch of government; and
d. Issue #4: Assuming, *hypothetically and arguendo*, that the President of the *Divisional Court* omitted the discharge of the duties inherent to that station as the administrative and **moral** lead of this intermediate court of appeal, whether such an omission would constitute a profound breach of the intrinsic obligations of the judicial office, the oath of allegiance, and the mandatory mandates prescribed by the *Courts of Justice Act* and the *Constitution Act, 1867*.

PART 3: ARGUMENT

ISSUE NO. 1: THE INTEGRITY OF THE COURT AND INSTITUTIONAL INDEPENDENCE

35. It is observed that these proceedings, initiated pursuant to the *Judicial Review Procedure Act,* are characterized by a confluence of unprecedented challenges and procedural anomalies that threaten the sanctity of the judicial process *ab initio*. The factual matrix encompasses an intricate web of allegations pertaining to pre-litigative misappropriation and fraudulent conduct, supplemented by the subsequent discovery of direct bribery and secret commissions. It is asserted that these remunerations were directed toward the primary perpetrator and certain non-parties, including social service employees, suggesting a coordinated effort to subvert the legal position of the aggrieved party through extra-judicial mechanisms. Such conduct facilitates the weaponization of public infrastructure, wherein the very instruments designed for social welfare are transmuted into tools of litigative oppression, thereby necessitating a robust judicial response to restore the equilibrium of justice.

36. Prior to the crystallization of this scheme, it is alleged that Mr. Papadimitropoulos, the client of Epstein Cole LLP (hereinafter the "Epstein Cole Client"), the former law firm of Madam Justice Shore, engaged in the egregious

falsification of a signature upon a TPL equipment loan agreement (October 28, 2024), an instrument executed with such patent ineptitude as to render the forgery *prima facie* evident to any reasonable observer. These events are inextricably linked to the misappropriation of a portable computing device on October 25, 2024, which served as the functional catalyst for a campaign of administrative obstruction and legal harassment designed to exhaust available resources and resolve. Such conduct challenges the capacity of the judicial system to protect the integrity of its own records from sophisticated external subversion, raising profound questions regarding the security of the judicial repository in the face of persistent cybernetic and physical intrusions. Furthermore, upon the formal service of the *HRTO NOCQ* on November 7, 2024—impugning an undisclosed arrest warrant which with the consistent theme of "non-disclosure" by intentional contravention of *section 29* of the *Criminal Code*—further fraudulent activities were undertaken by the individual Karat and the Epstein Cole LLP Client prior to his termination from TDIA Group as the SABS Manager in late January 2025. These actions represent an *actus reus* of such severity that continued judicial silence would constitute tacit complicity in the subversion of law and a surrender of supervisory jurisdiction. The subsequent escalation of attempted extortion was intended to coerce a capitulation to unlawful demands, suggesting a systemic attempt to utilize administrative and criminal processes as instruments of private malice. The implications of this conduct are far-reaching, as they suggest a breakdown in the firewall between public prosecutorial power and private litigative interests, a state of affairs that is fundamentally antithetical to the principles of a free and democratic society. These proceedings were further marred by the failure of the *Licence Appeal Tribunal* (hereinafter the "LAT") to "File" and "Deliver" (see: Rule 1.03) a *First Defence*, an omission occurring alongside the surreptitious provision of a partially completed *Notice of Appearance (Form 38A)* to counsel for the Respondent insurers. Such coordination violates the principle of the required independence and impartiality of an "adjudicative tribunal" and annihilated the already horrific perception of the LAT as a neutral arbiter. Notwithstanding its quasi-judicial status, the LAT ostensibly contravened the *Rules of Civil Procedure* by requesting case conference while procedurally barred pursuant to *Rule 77.03* and *Rule 77.05(b)*. This "surreptitious assistance" by, on its face, Ms. Lawrence (Ariel), generates a reasonable apprehension of institutional capture, wherein the tribunal appears to act as an adjunct to the executive or corporate respondents rather than an

independent body. The resulting procedural entropy threatens to dissolve the distinction between the adjudicator and the advocate, thereby undermining the foundational trust upon which the administrative state resides.

37. Within hours of the filing of the *Certificate of Perfection* (Dec 13, 2024) further identity fraud occurred to obtain public library credentials, surreptitiously associated with an investigative journalist to obfuscate the source of the fraud. These incidents represent an ongoing assault upon the capacity to participate in a fair hearing, constituting "litigation by attrition" that the Court is bound to restrain. The targeting of identity within public institutions underscores the precarious nature of the **Rule Of Law** when administrative safeguards are bypassed with impunity. It is posited that such actions constitute a form of digital disenfranchisement, effectively barring the litigant from the intellectual and procedural resources necessary to prosecute a claim of this magnitude. Despite mandatory temporal requirements under the *Judicial Review Procedure Act*, no opposition was recorded by the Respondents as of the date of the *Certificate of Perfection*. Having failed to **Deliver** *Notices of Appearance* by January 8, 2025, the Respondents are *ipso facto* precluded from challenging the Moving Party's assertions. Nevertheless, Her Honour Justice Shore intervened in a manner suggesting an *ultra vires* circumvention of standard assignment protocols. It is noted that the Moving Party was previously unaware of Her Honour's undisclosed role in an *ex parte, in camera* hearing regarding a "warrant in the first" (the Intake Court Endorsement [Sic] with an Intake Court Endorsement being most commonly associated with family law (wherein Madam Justice Shore is the team leader of the SCJ family law division) predicated upon a *Form 4 Indictment*. This intervention appears to have disproportionately benefited the Respondents, creating an untenable risk of bias and suggesting a departure from the principle of the "natural judge," which dictates that judicial assignments must be free from even the slightest suspicion of strategic selection. Compounding this, correspondence from an individual misrepresented as a "Trial Coordinator" (Ms. Evelyne Ibula) preceded the discovery of a "False Information Package" containing fraudulent court documents filed not in August to October 2024 as admitted by Madam Justice Shore's counsel. Justice Shore further misrepresented the Court's capacity to provide audio materials, a fundamental failure to distinguish between family and civil procedural regimes. Such use of fraudulent instruments within the Registry is an affront to the dignity of the Court, imperilling the institutional independence of the bench and the sanctity of the judicial record. The integrity of the court's physical and digital archives is not merely a matter of administrative housekeeping; it

is a prerequisite for the exercise of the judicial function itself, as a court that cannot trust its own records cannot hope to dispense justice with any degree of certainty. By analogy to *Baldovi v The Queen*, the random assignment of judges serves as a shield against the perception of favouritism or "judge-shopping" or "bench hunting". Any deviation from this randomness, particularly where a judge with a potential conflict appears specifically assigned, strikes at the heart of the "Appearance of Justice" doctrine. The integrity of the judicial lottery is a prerequisite for the legitimacy of any *ex parte* order; any mechanism allowing the "hand-picking" of an adjudicator constitutes a fundamental *defectus* in the administration of law. It is further asserted that the doctrine of the appearance of justice requires that justice not only be done but be seen to be done, a standard that is palpably unmet when judicial assignments remain shrouded in administrative opacity. While the administrative model for criminal matters remains opaque, it is asserted that case management must adhere to established protocols of neutrality. The current "administrative fog" surrounding the assignment of Justice Shore deepens the apprehension of bias. It is imperative that the machinery of justice be visible, lest "secret chambers" supplant the public courtroom and democratic accountability. The exercise of judicial power in the absence of transparency is a hallmark of arbitrary rule, and the Court must remain vigilant against the encroachment of executive-style secrecy into the heart of the adjudicative process. No formal assignment occurred through recognized channels; instead, directives attributed to Justice Shore bypassed standard safeguards, creating a vacuum of accountability. This procedural irregularity necessitates the immediate intervention of the President to restore the *status quo ante* and uphold the requirements of *stare decisis*. The principle of *stare decisis* applies not only to substantive law but also to the procedural norms that govern the conduct of the Court, and any unauthorized departure from these norms constitutes an error of jurisdiction that must be rectified.

38. Pursuant to the *Courts of Justice Act*, the President is mandated, pursuant to section 76(1) of the Courts of Justice Act to direct court staff and the Registrar, possessing plenary authority under *section 72(1)* to supervise the assignment of judicial duties. As affirmed in *Trial Lawyers Association of British Columbia v British Columbia (Attorney General)*, access to courts is a cornerstone of constitutional architecture. Any administrative barrier impeding this access constitutes a *prima facie* violation of the right to seek redress and functions as a "constructive

closure" of the Court. The duty to oversee the Registry is therefore a mandatory obligation, as the Registry serves as the gateway through which the constitutional right to seek judicial review is exercised.

39. Universal access is an indispensable component of the **Rule Of Law**. As articulated in *Trial Lawyers Association of British Columbia*, measures obstructing the resolution of legal disputes strike at the core of the jurisdiction protected by *section 96* of the *Constitution Act, 1867*. Registry inaction or arbitrary exclusion effectively places the state above the law, requiring the Court to exercise its inherent jurisdiction to rectify an *ipso jure* unconstitutional embargo on justice. The resulting state of "legal limbo" is intolerable in a constitutional democracy, as it effectively immunizes the **Executive Branch** from judicial oversight through the simple expedient of administrative paralysis.

40. In *Timm v Canada*, the Federal Court linked the prohibition against interfering with legal remedies to the fundamental principle of the **Rule Of Law**. Reprisals or retaliatory administrative actions against those exercising legal rights must be strictly prohibited and remedied *ex debito justitiae*. A litigant should not be required to "run a gauntlet" of administrative traps primarily **POST PERFECTION OF THE JUDICIAL REVIEW APPLICATION**. The imposition of such traps constitutes a form of "administrative malice" that the Court has both the power and the duty to excise from the judicial process. It is submitted that the actions attributed to Justice Shore, viewed in the context of the "False Information Package," constitute a sophisticated form of retaliation for the exercise of legal rights. Such interference chills the pursuit of justice and is fundamentally at odds with judicial ethics. The use of criminal process to frustrate civil litigation demands the intervention of the head of the court to restore the institutional balance. Such a restoration is essential to ensure that the criminal law is not perverted into a shield for civil wrongdoers, a scenario that would represent a radical inversion of the intended purpose of the *Criminal Code*. Retaliation has persisted through the "**403 Code**" digital lockout, used as a barrier to prevent the perfection of the record. The Successor Registrar is duty-bound by administrative law and the *Courts of Justice Act* to rectify these failures. The persistence of this code in the face of judicial knowledge constitutes a *mala fides* exercise of power and a direct challenge to the Court's inherent jurisdiction to control its own process. This digital embargo is not merely a technical error; it is a functional equivalent to the "physical barricading" of the courthouse doors, and its removal is a prerequisite for the continued operation of the **Rule Of Law**. This alone requires judicial intervention as the denial of access to justice for the Applicant—past, current, or prospective—represents a breach

of the social contract upon which the authority of the judiciary is predicated. The current challenges are without precedent. Pursuant to the open court principle and *section 2(b)* of the *Charter*, the Court must remain a sanctuary of law, not a bastion of administrative caprice. Where fraud, theft, bribery and forged Criminal Code Form 2 Information, with the backdrop of forged OCF-18's by the Epstein Cole LLP Client, then forged TPL loan equipment agreements by the Epstein Cole LLP Client (apparently fighting for his job when he was later terminated), foul the optics of justice, the President must act with decisive gravitas to protect the Court's reputation for impartiality. The reputation of the judiciary is a fragile asset, easily squandered through administrative neglect, and its preservation requires the constant vigilance of its highest officers. These circumstances have coalesced into a "Chief's Case," requiring the chief judicial officer to assume direct control to preserve the **moral** and legal authority of the institution and provide a "clean hands" adjudication. Such an adjudication is necessary to cleanse the record of the impurities introduced by unauthorized interventions and to signal to the public that the Court remains the final guarantor of procedural fairness. As per *High Crest Enterprises Limited v Canada,* a judge may be removed from a matter unless seized through a substantive hearing. As no *First Defence* was filed, the matter was ineligible for management under *Rule 77.06*. Justice Shore's involvement was a procedural nullity, authorizing the President to assume management of the file to prevent the rise of a "shadow docket." The existence of a shadow docket—wherein cases are managed outside the public view and without formal assignment—is an existential threat to the principle of judicial accountability and must be eliminated with all due haste. As *primus inter pares*, the Chief Justice must ensure the Court remains impervious to external influences, maintaining the "constitutional trust" as the final bulwark against the arbitrary exercise of state power. This trust is not merely a legal abstraction; it is the living reality that allows citizens to submit their disputes to the Court with the confidence that the law will be applied without fear or favour. The Legislature intended this structure to safeguard independence. The Chief Justice exerts a unique **moral** authority to ensure adherence to ethical standards, as noted in *Faber c R*. It is the duty of the President to wield this authority when the conduct of a colleague, whether in the Executive Branch (not in a Ministry office per se) or Judicial Branch threatens to bring the administration of justice into disrepute. This **moral** authority is the primary mechanism through which the internal integrity of the bench is maintained, and its exercise is essential to prevent the erosion of judicial standards. The office of the Chief Justice, protected under

section 96 of the *Constitution Act, 1867*, is the "institutional soul" of the Divisional Court, ensuring continuity and commitment to the highest standards of law. The President acts as the functional shepherd of this institutional mission, ensuring that the day-to-day operations of the Court reflect the profound constitutional values it is sworn to uphold. Without jurisdiction, a step, document or order is void *ab initio* and possesses no more legal weight than a mere whisper in the wind. Administrative Judicial Independence possesses an essential collective dimension. As affirmed in *Ruffo v Conseil de la magistrature*, the Chief Justice acts as the voice of the collective judiciary to ensure no single officer can derail the course of justice or compromise institutional reputation. This collective dimension ensures that judicial independence is not misused as a cloak for individual caprice, but remains a shield for the integrity of the institution as a whole. Judicial independence is a protective mechanism for the public interest (*Manitoba Provincial Judges Association v Manitoba (Minister of Justice)*). When compromised, it is the duty of the Chief Justice to protect that interest, even if it requires the internal disciplining or reassignment of personnel. The public interest in an independent judiciary is paramount, and any internal administrative arrangements that threaten this interest must be subjected to immediate and rigorous scrutiny. Current administrative inertia achieves a result functionally equivalent to the unauthorized closure of the Court. If executive-employed staff fail to process filings or block digital access, the separation of powers is threatened. A court without an operational Registry is incapable of protecting citizen rights against the state, effectively rendering the Bill of Rights and the *Charter* as mere parchment promises. Registry operation as an instrument of the Ministry generates a reasonable apprehension of bias. Potential conflicts of interest must be mitigated through direct judicial oversight and the assertion of control over Registry operations to ensure the "impartiality of the state" is maintained. The Registry must be seen as an extension of the Court's own authority, not as a branch of the executive government, to preserve the necessary distance between the judge and the state litigant. Judicial independence requires the performance of duties without interference, including "soft" administrative delay (*British Columbia v Imperial Tobacco Canada Ltd.*). Targeted delays constitute a breach of the institutional guarantee of independence and are *prima facie* unconstitutional. Such delays function as a form of "procedural attrition," designed to wear down the resolve of the litigant and to effect a denial of justice through the simple passage of time. Whether this Applicant has unwavering commitment to his

own cause, the public interest and better comparative stamina that the "army of opponents", many of them non-Respondents is an aggravating circumstances – not a mitigating one.

ISSUE #1: The Hogg Thesis and the Administrative Paradox Expanded

150. Professor Peter W. Hogg described the Chief Justice as managing the "delicate interface" between the judiciary and the executive. This role requires protecting the judicial "inner sanctum" from political and administrative pressure while the institution remains fiscally dependent on the state. This paradox of dependence is the primary structural vulnerability of the judiciary in a Westminster-style democracy, necessitating the constant vigilance of the head of the court to ensure that the "power of the purse" is not utilized to influence the "power of the robe." The appointment process—where the Prime Minister recommends the Chief Justice—underscores the role's status as the guardian of judicial autonomy and its primary advocate for necessary resources. This direct line of communication to the head of government reflects the constitutional importance of the office, as the Chief Justice acts as the primary diplomat for the third branch of government in its dealings with the executive. The role of "judge-administrator" demands leadership to foster consensus among independent peers and political acumen to navigate the **Executive Branch** of the Department of Justice without compromising neutrality. It is a role that requires a rare combination of legal scholarship and organizational mastery, as the Chief Justice must manage a body of professionals who are, by constitutional design, not subject to traditional hierarchical control. Chief Justices are almost exclusively selected from the existing bench to ensure an intimate understanding of judicial culture and internal institutional dynamics. This internal selection ensures that the head of the court possesses the necessary **moral** authority to lead their colleagues, a leadership that is based on shared experience and mutual respect rather than mere administrative rank. Tenure is protected by the standard of "good behaviour," and provincial Presidents are integral to the *Canadian Judicial Council* (CJC) as the ultimate disciplinary authority. This protection is essential to ensure that judges are free to make difficult and unpopular decisions without the fear of retaliatory removal by the political branches of government. The CJC acts as a disciplinary "buffer," preventing the executive from using threats of removal to influence outcomes. By requiring a CJC recommendation for removal, the Chief Justices safeguard security of tenure. This mechanism ensures that the disciplinary process remains within the hands of the judiciary itself, thereby protecting the principle of self-regulation that is essential to judicial independence.

Per *Valente v R*, institutional independence requires exclusive judicial control over "red line" powers: the assignment of judges, scheduling, and case prioritization. If the executive controls the docket, independence is an illusion. The power to decide *what* cases are heard and *when* they are heard is the functional heart of the judicial power, and its surrender to the **Executive Branch** would represent a fatal blow to the separation of powers. A paradox exists where the Chief Justice possesses the authority to manage functions but lacks the financial autonomy to fund them, creating a vulnerability to resource-based coercion. This vulnerability is particularly acute in an era of fiscal austerity, where the **Executive Branch** may be tempted to utilize budgetary constraints as a "soft" form of judicial management. The Attorney General, acting as both the Court's advocate in Cabinet and the "Principal Litigant," creates a potential conflict of interest. If the Ministry uses its control over the Registry to block litigation, the constitutional guarantee of access is curtailed. This "dual role" of the Attorney General requires a high degree of ethical rigour to prevent the subordination of judicial needs to the political goals of the government. The "Dilemma of Dual Loyalty" among court staff—public servants who serve the judiciary—can lead to administrative friction or "silent resistance" when judicial directions conflict with executive policies. In the digital age, this extends to IT staff managing court databases. The resulting tension can create a "shadow administration" within the courthouse, where the actual operation of the Registry is governed by executive policy rather than judicial direction. Hogg defended the traditional parliamentary model, which ensures the judiciary remains democratically accountable through public funding while the Minister absorbs political heat. This model relies upon a "constitutional convention" of restraint, wherein the **Executive Branch** provides the necessary resources without attempting to dictate the manner in which they are utilized by the Court. In *R v Askov*, the Supreme Court ruled that excessive delays violated the *Charter*, demonstrating that the judiciary possesses a "legal lever" to compel the executive to act when constitutional rights are at stake.[10] Federal reforms designating officials as "deputy heads" allow for more direct judicial control over staff and spending, insulating them from the broader departmental **Executive Branch**. This arrangement seeks to foster a primary loyalty to the judicial mission among court staff, thereby mitigating the risks associated with dual loyalty. The Chief Justice remains a "guardian of the judicial function," ensuring that funding processes do not influence the substance of decision-making or the perception of neutrality. This guardianship is a constant and demanding duty, requiring the head of the court to act as a permanent

watchman at the border between the two branches of government. Unlike the Supreme Court of Canada (see: Sydel), the Registrars of the Divisional Court lack comparable legal accreditation or institutional stature. Former Registrar Gentles possessed no formal legal qualifications, raising concerns regarding the criteria for such a sensitive appointment. The absence of legal training in the head of the Registry is a significant deficit, as the Registrar must frequently make decisions that have profound legal consequences for the parties. Successor Registrar Parris has remained unresponsive to inquiries regarding the "**403 Code**," furthering the perception of a Registry deliberately obstructing progress at the behest of external influences. This silence in the face of legitimate procedural inquiry is a breach of the duty of transparency that governs all public officials, particularly those who serve within the administration of justice. As affirmed in the *Judges Act (Canada)*, the President commands a higher salary reflecting the added administrative and oversight burdens of the office. This differential remuneration is a recognition of the fact that the President's role is not merely adjudicative, but involves a significant and demanding component of institutional leadership. Pursuant to *section 18* of the *Courts of Justice Act*, the President serves as the designated lead for daily operations and the protection of institutional integrity against administrative caprice. The President is therefore the functional head of the Divisional Court, and their authority must be respected by all court staff and judicial colleagues alike. *Notice of Motion (NOM) #3* regarding fraud and bribery remains unopposed. Silence in the face of such allegations often speaks louder than a formal denial. In the civil context, the failure of a party to respond to serious allegations of misconduct is often treated as a *de facto* admission of their truth, or at least as a reason to draw the strongest possible adverse inferences. *NOM #4*, seeking relief under *section 76* of the *Courts of Justice Act*, also remains unopposed, indicating a failure to justify the "**403 Code**" lockout. The continued persistence of this code, in the absence of any technical or legal justification, constitutes a prima facie abuse of administrative power that requires immediate judicial correction. Per *Ruffo*, the Chief Justice possesses an inherent duty to address ethical issues to preserve the public's perception that no member of the bench is "above the law." This duty is not merely discretionary; it is a mandatory obligation that arises from the Chief Justice's role as the steward of the constitutional trust. This power to initiate complaints is intrinsic to the responsibility of addressing conduct—such as surreptitious collaboration or the use of forged indictments—that threatens to bring the administration of justice into disrepute.

FINAL ANSWER TO ISSUE NO. 1: CHIEF JUSTICE MUST SELF-ASSIGN

172. Extraordinary challenges and administrative anomalies implicate the integrity of the Court. As judicial independence has been compromised by Registry conduct and unauthorized intervention, the President must act to preserve the institution. The only viable remedy in the face of such systemic failure is for the highest officer of the Court to assume direct control, thereby providing a "clean hands" adjudication that can restore the public's confidence in the impartiality and independence of the Superior Court.

Issue No. 2: The Appropriateness of the President's Intervention

173. As the questions in *NOM #3* and *NOM #4* touch upon the integrity of the process, the President is most appropriately positioned to ensure the "vessel of justice" is sound before the matter proceeds, thereby preventing an irreversible miscarriage of justice. The President's intervention is not merely a matter of administrative convenience; it is a requirement of the **Rule Of Law** in circumstances where the standard mechanisms of judicial assignment have been compromised.

Issue No. 3: The Forms of Relief Required

174. The President's power of self-assignment is necessitated by the failures described in *NOM #4*. Preservation of the process requires direct oversight by the highest officer. This oversight must encompass not only the substantive motions before the Court but also the administrative conduct of the Registry staff who have facilitated the current paralysis. Comprehensive draft orders have been provided to facilitate the restoration of procedural regularity and the vindication of constitutional rights. These orders are designed to provide a clear and enforceable path toward the hearing of this matter on its merits, free from the administrative and technical blockades that have characterized the proceedings to date. These unopposed motions may be granted via "bottom-line rulings," with reasons to follow, serving the interests of efficiency without sacrificing reasoned determination. Such rulings are particularly appropriate in matters of pressing institutional importance where the outcome is clear but the legal path requires the kind of detailed articulation that can only be provided through a comprehensive written judgment. Per *The Queen v Teskey*, the prompt announcement of a disposition serves the needs of justice in matters of pressing institutional importance. Such a disposition is necessary to end the current state of legal limbo and to allow the parties to proceed to a resolution of the underlying dispute. As noted in *Harrison*, immediate decisions with reasons

to follow are appropriate in complex matters where the outcome is clear but the legal path requires detailed articulation. The President should adopt this approach to signal that the Court has regained control of its own process and that the administrative blockade has been broken. The President must this approach to provide immediate relief and end the administrative lockout.

Issue No. 4: Inaction by the President of the Divisional Court would be violation of: (i) Section 96 of the Constitution Act, 1982; (ii) ROL; (iii) Judges Act; (iv) Judicial Ethics; ET AL

180. Failure to act would constitute a breach of the "Three Is" of judicial office: Independence, Integrity, and Impartiality. Inaction in the face of corruption signals that the Court is unable to protect its own integrity from internal and external decay. Such a signal would be a devastating blow to the reputation of the Superior Court and would invite further subversion of the judicial process. By invoking the right to remain silent, the Respondents have effectively abandoned their positions. While protected by *nemo tenetur seipsum accusare*, they cannot use silence as a shield to obstruct the civil course of justice. Adverse inferences must be drawn where the integrity of the process is at stake, as the silence of the state in the face of allegations of bribery and forgery is de facto an admission that no valid defense exists. Inaction would represent a breach of *section 80* of the *Judges Act*, further compounding the grievances already particularized regarding the conduct of Justice Shore. The resulting loss of constitutional authority would be a permanent stain on the record of the Divisional Court and a failure of the stewardship that is the primary duty of the President.

PART 4: DENOUEMENT AND ORDERS

192. It is posited, with reference to the authoritative pronouncements of the Supreme Court of Canada in *Trial Lawyers Association of British Columbia v. British Columbia (Attorney General)*, 2014 SCC 59 (the "**TLABC 2014**"), that the year 2014 heralded a **Seismic Change** (the "**Seismic Change**") in the understanding of judicial jurisdiction. The Court established that the inherent jurisdiction of the provincial superior courts necessarily encompasses, *inter alia*, a constitutionally entrenched **right of access to Superior Courts** (the "**Right of Access**"). By necessary implication, any legislative enactments or regulatory frameworks which render the initiation of litigation within the *Superior Court of Justice* effectively impermeable—specifically through the imposition of prohibitive fiscal requirements—are deemed to infringe upon this essential jurisdictional core and are, *ipso facto*,

to be declared of no force or effect. The gravamen of the current *Motion #5* (the "**Motion**") is predicated upon the principle that the **Interference** (the "**Interference**") with the **pursuit** of legal remedies (the "**Pursuit of Remedies**") is fundamentally contrary to the **Rule Of Law** (the "**ROL**"). As of the current legal landscape in 2024, the **ROL** is recognized as being inextricably intertwined with the *Constitution Act, 1982* (the "**Constitution Act, 1982**") and *Section 96* of the *Constitution Act, 1867* (the "**Section 96**"). Consequently, any administrative act that obstructs the **Pursuit of Remedies** constitutes not merely a procedural irregularity, but a substantive breach of the supreme law of Canada. It is further submitted that such **Interference** represents a profound **breach of judicial independence** (the "**Breach of Independence**"). The adjudication of matters and the management of the judicial process are responsibilities **assigned by law to the judiciary** (the "**By Law Judicial Assignment**"). When the **Executive Branch** (the "**Executive**"), through the administrative apparatus of the *Registrar of the Divisional Court* (the "**Registrar**"), interposes itself between a litigant and the court, it usurps the judicial function and undermines the institutional independence required for the impartial administration of justice. Pursuant to the *Courts of Justice Act*, and specifically the **section 76 mandatory duty** (the "**Mandatory Duty**"), the *Chief Justice of the Superior Court of Justice* (the "**Chief Justice**"), in their capacity as the *President of the Divisional Court* (the "**President**"), is vested with the exclusive authority to oversee the sittings and assigned matters of the court. Any administrative conduct by the **Executive** that frustrates the **Pursuit of Remedies** constitutes a collateral attack upon this **Mandatory Duty**, effectively bypassing the statutory and constitutional authority of the **Chief Justice**. It is maintained that breaches of the **ROL**, the **Section 96**, and the **Principle** by the **Executive** possess no remedial or **saving provision** (the "**Saving Provision**") analogous to *Section 1* of the *Canadian Charter of Rights and Freedoms* (the "**Charter**"). Furthermore, as the **Executive** is distinct from the **Legislature** or **Parliament**, the invocation of the notwithstanding clause under *Section 33* of the *Charter* remains unavailable. Consequently, the **Conduct** of the **Registrar** must be viewed as an unmitigated constitutional violation, as the *status quo ante* cannot be maintained in the face of such fundamental procedural disenfranchisement. Therefore, the conclusion is rendered self-evident: the **Executive** has engaged in, and persists in, a trajectory of **Conduct** that undermines the judicial function and the separation of powers by denying the mere "pursuit" of "legal remedies"[11]

Part 4(B): Orders Sought

197. In consideration of the President of the Divisional Court's capacity as the Master of the Roster and the pre-eminent guardian of the institutional integrity of the Divisional Court, a petition is respectfully submitted for the following relief:

1. A mandatory Order that the President of the Divisional Court self-assign the present proceeding under the *JRPA* to his own jurisdiction, or in the alternative, adjudicate the relief sought in NOM #3 and by natural extension this Motion #5 and #4. i. (*nota bene*: This is necessitated by the inextricable nexus between the matters at hand and the requirement for the highest level of judicial oversight to prevent a miscarriage of justice);
2. An Order by direction to the court staff responsible for the Ontario Courts Public Portal (the "**OCPP**") compelling the immediate rectification of the digital interface to extinguish the "403 Forbidden Error Code" precluding access to the *OCPP* as it relates to the Applicant's account with the email utilized herein; i. (*nota bene*: such digital disenfranchisement violates the procedural expectations of a self-represented litigant and constitutes a constructive denial of the right to be heard (*audi alteram partem*));
3. An Order that the President of the Divisional Court directs the *SCJ* Recording Management Office to provide the Applicant with copies of the digital recordings that he ordered by a Request Form Undertaking, duly signed and prescribed payment made by bank draft in the sum of $34 for those case conferences in this *JRPA Proceeding*;
4. An Order that the President of the Divisional Court directs the *SCJ* Recording Management Office to provide the Applicant's retained and paid for in advance authorized transcriptionist (Ontario) (the "**ATO**") with the "tapes and materials required for transcription" in relation to the case conferences herein;
5. An Order that the Chief Justice of the *SCJ* directs the Divisional Court (court staff) to provide the Applicant with access to the requested documents in their custody or control in relation to the Undisclosed Criminal Proceeding;
6. An Order that the Chief Justice of the *SCJ* directs the court staff at any courthouses within his purview to provide the Applicant with access to any requested documents, information, information assets, *et al.* in relation to his Non-*FIPPA* requests of those courthouses;
7. An Order directing that the Chief Justice of the Superior Court of Justice pronounce determinations regarding NOM #5, #4, and #3 immediately or forthwith with comprehensive reasons to be promulgated thereafter (the "**Immediate Announcement Order**"); and
8. Such further and other relief as this Honourable Court may deem just and consistent with the overarching interest of justice, including practice directions to mitigate procedural delays.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this _____ day of January, 2026.



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APPENDICES

APPENDIX #1: AUTHORITIES

Part I: Legislation (Statutes and Regulations)

The Constitution Act, 1867, 30 & 31 Vict, c 3
The Constitution Act, 1982, Schedule B to the Canada Act 1982 (UK), 1982, c 11
Judges Act, RSC 1985, c J-1
Canadian Judicial Council Inquiries and Investigations By-laws, 2015, SOR/2015-203
Supreme Court Act, RSC 1985, c S-26
Rules of the Supreme Court of Canada, SOR/2002-156
Personal Information Protection and Electronic Documents Act, SC 2000, c 5
Breach of Security Safeguards Regulations, SOR/2018-64
Electronic Commerce Protection Regulations, SOR/2013-221
Regulations Specifying Publicly Available Information, SOR/2001-7
Canada Evidence Act, RSC 1985, c C-5
Secure Electronic Signature Regulations, SOR/2005-30
Regulations Specifying Investigative Bodies, SOR/2001-6 (Repealed)
Judicial Review Procedure Act, RSO 1990, c J.1 (the "JRPA")
Courts of Justice Act, RSO 1990, c C.43 (the "CJA")
Rules of Civil Procedure, RRO 1990, Reg 194 (the "Civil Rules")
Designation of Regions, RRO 1990, Reg 18
Legislation Act, 2006, SO 2006, c 21, Sch F
Public Service of Ontario Act, 2006, SO 2006, c 35, Sch A
Conflict of Interest Commissioner: Powers, Duties and Functions, O Reg 384/07
Dismissal Without Cause (Part III of the Act), O Reg 380/07
Ethics Executive: Additional Powers, Duties and Functions Under Part IV of the Act, O Reg 383/07
Oaths and Affirmations, O Reg 373/07
Provision of Legal Services Under Section 147 of the Act, O Reg 385/07
Public Bodies and Commission Public Bodies - Definitions, O Reg 146/10
Suspension Pending Investigation (Part III of the Act), O Reg 379/07
Administration of Justice Act, RSO 1990, c A.6
Superior Court of Justice and Court of Appeal Fees, Reg 293/92
Fees and Expenses - Sheriff's Officers, Process Servers, Escorts and Municipal Police Forces, RRO 1990, Reg 6
Fees for Court Transcripts, O Reg 94/14
Sheriffs - Fees, O Reg 294/92
Evidence Act, RSO 1990, c E.23
Certification of Recordings and Transcripts, O Reg 158/03
Statutory Powers Procedure Act, RSO 1990, c S.22
Licence Appeal Tribunal Act, 1999, SO 1999, c 12, Sched G
Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009, SO 2009, c 33, Sch 5
Adjudicative Tribunals and Clusters, O Reg 126/10
Appointment to Adjudicative Tribunals, O Reg 88/11
Business Plan — Contents, O Reg 89/11
Deadlines re Accountability Documents, O Reg 90/11
Ethics Plan - Contents, O Reg 91/11
Tribunal Adjudicative Records Act, 2019, SO 2019, c 7, Sch 60
TARA General Regulation, O Reg 211/19

Insurance Act, RSO 1990, c I.8
Automobile Insurance Regulation (Reg 664), Reg 664/90
Disputes Between Insurers Regulation (Reg 283), O Reg 283/95
Agents Regulation (Reg 347), O Reg 347/04
Administrative Penalties Regulation (Reg 408), O Reg 408/12
Prescribed Information for the Purposes of Section 101.1 (Reg 534), O Reg 534/06
Statutory Accident Benefits Schedule - Before Jan 1, 1994, RRO 1990, Reg 672
Statutory Accident Benefits Schedule - 1993 (Accidents After Dec 31, 1993), O Reg 776/93
Statutory Accident Benefits Schedule - 1996 (Accidents on/after Nov 1, 1996), O Reg 403/96
Statutory Accident Benefits Schedule - 2010, O Reg 34/10
Statutory Accident Benefits Schedule - 2014 Version, O Reg 34/10 (as amended)
(a) Statutory Accident Benefits Schedule - 2016 Version, O Reg 34/10 (as amended)
Access to Justice Act, 2006, S.O. 2006, c. 21 - Bill 14

PART II: AMENDING REGULATIONS (RULES OF CIVIL PROCEDURE)

Amending Regulations to the Rules of Civil Procedure

(a) **O. Reg. 14/04** (Electronic Documents and Issuing)
(b) **O. Reg. 42/05** (Interpleader Orders)
(c) **O. Reg. 69/95** (Parties Under Disability)
(d) **O. Reg. 131/04** (Document Formatting and Service Outside Ontario)
(e) **O. Reg. 226/25** (Ontario Courts Public Portal and Proportionate Justice)
(f) **O. Reg. 231/13** (Limited Scope Retainers and Service)
(g) **O. Reg. 260/05** (Definitions and Discovery Obligations)
(h) **O. Reg. 284/01** (Simplified Procedure and Motion Costs)
(i) **O. Reg. 292/99** (Court Structure and Judicial Review Updates)
(j) **O. Reg. 300/24** (Authenticity Certificates and Hyperlinks)
(k) **O. Reg. 322/24** (Vexatious Litigant Framework)
(l) **O. Reg. 344/10** (Procedural Amendments)
(m) **O. Reg. 383/21** (Probate and Small Estates)
(n) **O. Reg. 427/01** (Solicitor Authority and Data Handling)
(o) **O. Reg. 438/08** (Expert Duties, Pre-Trials, and Discovery Plans)
(p) **O. Reg. 441/20** (Civil Submissions Online - CSO)
(q) **O. Reg. 442/97** (Testamentary Instruments)
(r) **O. Reg. 456/19** (Modernization and Construction Act Updates)
(s) **O. Reg. 484/94** (Wills and Estates)
(t) **O. Reg. 535/92** (Service Outside Ontario)
(u) **O. Reg. 570/98** (Case Management and References)
(v) **O. Reg. 575/07** (Nomenclature Update: Lawyer vs. Solicitor)
(w) **O. Reg. 584/17** (Electronic Filing and Original Document Retention)
(x) **O. Reg. 689/20** (Virtual Proceedings and Email Service)
(y) **O. Reg. 709/21** (Streamlining Estate Administration Forms)
(z) **O. Reg. 711/20** (Associate Judges and CaseLines Platform)

PART III: JURISPRUDENCE (MOTION RECORDS AND COMPENDIUMS)

ATCO Gas & Pipelines Ltd. v. Alberta (Energy & Utilities Board), 2006 SCC 4 ["ATCO Gas"]
Green v. Law Society of Manitoba, 2017 SCC 20 ["Green"]
Cash Converters Canada Inc. v. Oshawa (City), 2007 ONCA 502 ["Cash Converters"]
Sydel v. Canada (Attorney General), 2013 FC 1116 ["Sydel"]
Mary Shuttleworth v. Licence Appeal Tribunal, 2018 ONSC 3790 ["Shuttleworth"]

Shuttleworth v. Ontario (SLASTO), 2019 ONCA 518 [“Shuttleworth CA”]
R. v. Jordan, 2016 SCC 27 [“Jordan”]
Ref re Independence and Impartiality of Judges of the Prov. Court of P.E.I., 1997 CanLII 317 (SCC) [“P.E.I. Judges”]
Ruffo v. Conseil de la magistrature, 1995 CanLII 49 (SCC) [“Ruffo”]
Canadian Judicial Council v. Girouard, 2019 FCA 148 [“Girouard”]
R. v. Siwicki, 2021 MBQB 42 [“Siwicki”]
Smith v. Canada (Attorney General), 2020 FC 629 [“Smith”]
Dugré c. Canada (Attorney General), 2019 FC 1604 [“Dugré”]
R. v. Baldovi et al, 2016 MBQB 90 [“Baldovi”]
Ermina v. Canada (Minister of Citizenship and Immigration), 1998 CanLII 8969 (FC) [“Ermina”]
Kosko v. Bijimine, 2006 QCCA 671 [“Kosko”]
R. v. Swaine, 2025 ONCA 614 [“Swaine”]
High-Crest Enterprises Limited v. Canada, 2017 FCA 88 [“High-Crest”]
The Role of a Chief Justice in Canada (Peter W. Hogg, 1993-94) [“Hogg”]
Lepp v Toronto Star Newspapers Limited, 2022 CanLII 39874 [“Lepp”]
Regina v. Spezzano, 1977 CanLII 1371 (ON CA) [“Spezzano”]
R. v. Zeck, 1980 CanLII 2849 (ONCA) [“Zeck”]
R. v. Wijesinha, 1995 CanLII 67 (SCC) [“Wijesinha”]
Toronto Star v. AG Ontario, 2018 ONSC 2586 [“Toronto Star”]
Abara v. Registrar of Motor Vehicles, 2024 ONSC 7085 [“Abara”]
Baxter Student Housing Ltd. et al. v. College Housing Co-operative Ltd. et al., 1975 CanLII 164 (SCC) [“Baxter”]
Julius v. Oxford (Bishop of) (1880), 5 App. Cas. 214 (H.L.) [“Julius”]
Rex v. Havering Atte Bower, 5 B. & Ald. 691 [“Havering”]
Macdougall v. Paterson, 11 C. B., 755 [“Macdougall”]
Drysdale v. Dominion Coal Co., 1904 CanLII 57 (SCC) [“Drysdale”]
The Minister of Finance of British Columbia v. The King, 1935 CanLII 351 (SCC) [“Minister of Finance”]
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Appendix #2: PDF documents of the Error **403 Code**

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[1]These definitions are critical to maintaining the conceptual integrity of the Applicant's submissions and ensuring a consistent nomenclature across the various branches of this litigation. In a proceeding of such complexity, involving layered constitutional challenges and administrative failures, the precision of language is the only safeguard against the obfuscation of the issues by the Responding Parties. The definitions serve as the glossary of the Applicant's constitutional grievance, providing the necessary clarity for the court to navigate the administrative labyrinth of the registry.

[2]See: Rule 59.06(1): **59.06** (1) An order that contains an error arising from an accidental slip or omission or requires amendment in any particular on which the court did not adjudicate may be amended on a motion in the proceeding. R.R.O. 1990, Reg. 194, r. 59.06 (1).

[3]In order to be capable of justification under section 1, the limit on the right or freedom must be "prescribed by law". The limit may be:

- either express or implied in a statute or a regulation (*R. v. Therens*, [1985] 1 S.C.R. 613; *R.* v. *Thomsen*, [1988] 1 S.C.R. 640; *R. v. Orbanski*; *R. v. Elias* [2005] 2 S.C.R. 3);
- in a government policy, where: (1) the government entity was authorized to enact the policy; (2) the policy sets out binding rules of general application, *i.e.*, of a legislative nature, (such as rules of a regulatory body or provisions of a collective agreement) as opposed to those which are administrative in nature (such as internal guidelines or interpretive aids for government officials); (3) the policy is sufficiently precise so as to enable people to regulate their conduct by it, and so as to provide guidance to those who apply the law; (4) the policy is sufficiently accessible to give notice to the public of the rules to which they are subject (*Greater Vancouver Transportation Authority v. Canadian Federation of Students - British Columbia Component*, [2009] 2 S.C.R. 295, at paragraphs 50, 65).
- a common law limit, assuming there is sufficient government action for the Charter to apply (*Therens, supra; RWDSU v. Dolphin Delivery*, [1986] 2 S.C.R. 573; *R. v. Swain*, [1991] 1 S.C.R. 933; *Dagenais v. Canadian Broadcasting Corporation*, [1994] 3 S.C.R. 835); *R. v. N.S.*, [2012] 3 S.C.R. 726).

[4]"registrar" means the Registrar of the Divisional Court or Court of Appeal, or a local registrar of the Superior Court of Justice, as the circumstances require

[5]"I swear (or solemnly affirm) that I will faithfully discharge my duties as a public servant; I will respect the laws of Canada and Ontario, including the recognition and affirmation of the aboriginal and treaty rights of Indigenous peoples in the Constitution; and, except as I may be legally authorized or required, I will not disclose or give to any person any information or document that comes to my knowledge or possession by reason of my being a public servant. So help me God. (Omit this phrase in an affirmation.)" (see: Oaths and Affirmations, O Reg 373/07, s 3, <https://canlii.ca/t/s4h#sec3>, retrieved on 2026-01-14).

[6]The legal test for *mandamus*—requiring a matured duty, a demand, and a refusal—is squarely met in the present circumstances where the registry has maintained a posture of obstinate silence in the face of valid filings and fee payments. As noted in *Sunrise Senior Living v. Vaughan (City)* (the "**Sunrise**"), *2010 ONSC 1523*, the court will not permit a public officer to evade their duties through silence; a failure to respond to a valid demand is, in law, a refusal to act. The writ of *mandamus* is the court's primary tool for compelling the **Executive Branch** to adhere to the rule of law, ensuring that public duties are not abandoned at the whim of the official. In the current context, the "public officer" is the Registrar, and the "legal duty" is the processing of the Applicant's filings.

[7] In *Vavilov*, the Supreme Court reaffirmed that the standard of correctness applies to constitutional questions and questions of central importance to the legal system as a whole, both of which are engaged by the *LAT's* arbitrary narrowing of the parties to the dispute. These are "General Questions of Law of Central Importance," particularly following *Zurich Insurance Company v. TD General Insurance Company* (the "**Zurich 2024**"), *2024 ONCA 603*. The systematic misidentification of insurers requires the correctness standard to prevent cascading prejudice across the insurance system. The interpretation of the "first insurer" rule under *Regulation 283/95* is a matter of profound provincial importance, affecting the predictability and stability of the insurance landscape for all citizens. A reasonable standard would be insufficient to provide the necessary clarity and uniformity required for the administration of the *SABS* regime across the Province. The court's role is to provide the "final word" on these critical legal questions, ensuring that the insurance industry operates within a clear and predictable legal framework that respects the rights of the insured.

[8]In the commercial context, the deployment of strategic silence or the dissemination of half-truths by an entity constitutes a contumacious departure from the requisite standard of conduct. Consequently, the failure of automated systems to finalize a transaction, while retaining funds in an authorized state, may be viewed as an *acta* contrary to the expected transparency and *bona fides* of a public service provider.

[9] For instance, should admissions be provided in response to the **NOM #3** that are inculpatory regarding fraud or extortion, such evidence could *ipso facto* be utilized in subsequent criminal proceedings. Similar considerations apply to individuals such as the person identified as Mr. David Karat (the "**Mr. Karat**"), who appears *prima facie* involved in the alleged unauthorized appropriation of property (the "**TDI Karat Theft**") and the subsequent obstruction of justice.

[10]This lever is a necessary counterweight to the executive's control over the budget, ensuring that the government cannot avoid its constitutional obligations through the simple expedient of underfunding the courts.

[11]The Registrar is the essential guarantor of operational continuity. The vacancy at the helm of the registry severs the court from its litigants. This failure of the **Executive Branch** necessitates that the Chief Justice self-assign to restore institutional integrity. Such an assignment is the final and only viable safeguard against the total breakdown of the judicial process in these proceedings. Delay in confirming filings and the "**403 Code**" constitute unconstitutional interference. Registry inaction is characterized as a violation of Administrative Judicial Independence. A return to the foundational object of the *Rules*—the just, most expeditious and least expensive determination of every civil proceeding on its merits—is necessitated to restore the integrity of the system. The President must exercise independence to remedy the extant paralysis. Registry inaction

achieves a shutdown of the court without judicial consent. Integrity requires that the administrative "buffer" remain immune from executive blockades, failing which supervisory oversight by the CJC is invited. The President's role as the voice of the collective judiciary is paramount in these circumstances, as they must act to protect the reputation of the entire bench from the fallout of administrative caprice. Interference with the pursuit of a legal remedy is a breach of the Constitution. The Registry is a creature of statute; its failure to process filings strikes at the heart of the Core Jurisdiction. Judicial intervention is required to address misleading information disseminated by the Executive and to ensure that the law as written by the legislature is the law as applied in the courtroom. The interference with Administrative Judicial Independence—manifested through the "**403 Code**" and constructive closure of registries—represents a breach of the constitutional requirement for an independent judiciary. Such failures deprive the Applicant of access and violate the ROL. These circumstances categorically require the Chief Justice or President to self-assign and grant the relief sought to ensure the due execution of office and prevent a multiplicity of proceedings. The Rule of Law requires no less than the absolute and unwavering commitment of the Court to the protection of its own process from external subversion.

Tab 70

Mr. Kevin McLean <mcleansettlement@gmail.com>

Dec 11, 2025, 8:39 PM

to SCJ-CSJ, roxanne.parris

PRIVATE AND CONFIDENTIAL
Via Electronic Transmission
December 11, 2025

Divisional Court File Designation	DC-24-00000718-00JR
Short Style of Cause	*McLean v. TDHA et al.*
Short Style of File Number	24/718/00JR
Document Type	Email with attachments
Sender's Status in JRPA Application	The Applicant
Sender's Status on Motion (NOM #3")	The Moving Party
Sender's Name	Mr. Kevin A. McLean, B.A., J.D., C.I.M.

The Divisional Court of Ontario
Osgoode Hall,
130 Queen Street West
Toronto, Ontario
M5H 2N5
Attention: The Registrar of the Divisional Court as of Wednesday, December 3, 2025, in Ms. Roxanne Parris as LSO licensed paralegal (the "**Current Registrar**")

SUBJECT I: CONFIRMATION OF THE DELIVERY AND FILING STATUS OF TWO DISTINCT DOCUMENTS SUBMITTED VIA MAIL TO THE DIVISIONAL COURT ON DECEMBER 9 AND DECEMBER 11, 2025, COMPRISING THE UPDATED DRAFT ORDER AND THE COMPENDIUM FOR NOTICE OF MOTION NO. 3.
SUBJECT II: ENCLOSURE OF THE COVER LETTER AND EVIDENTIARY IMAGES OF THE MAIL FILED COMPENDIUM FOR NOTICE OF MOTION NO. 3.
SUBJECT III: RESIDUAL MATTERS PERTAINING TO ADMINISTRATIVE IRREGULARITIES AND THE PRINCIPLE OF MINISTERIAL DUTY.

Dear Sirs/Mesdames:

I. Introduction and Governing Definitions
I cordially write regarding the above-referenced matters. It is sincerely hoped that all judicial and administrative personnel, inclusive of the **Current Registrar**, are maintaining optimal health and wellness. Judicial efficiency and the preservation of the rule of law depend fundamentally upon the timely and scrupulous execution of administrative duties, a principle which forms the core of this correspondence. The Court's administrative function must be seen not merely as a matter of internal organization, but as a critical component of judicial legitimacy,

ensuring that procedural justice is not eroded by bureaucratic inertia. The Applicant seeks not special treatment, but the timely, mandated performance of a public duty.

I adopt all definitions from previously, indirectly or directly, cited correspondence. For the purposes of this present communication, the following appellations and definitions shall be utilized, ensuring consistency in terminology throughout this document:

1. *The Rules of Civil Procedure*, R.R.O. 1990, Regulation 194 (the "**Rules**")
2. The Updated Draft Order (Form 59(A) under the **Rules**) (the "**Draft Order**")
3. The Compendium for Notice of Motion No. 3 as of December 7, 2025 (the "**Compendium**")
4. The Notice of Motion No. 3 (the "**NOM #3**")
5. The Ontario Courts Public Portal (the "**OCPP**")
6. The Honourable Judge Morawetz, in his capacity as the Chief Justice of the Superior Court of Justice and *ipso facto* the President of the Divisional Court (the "**President of the Divisional Court**")
7. The Responding Parties (the "**Opposite Litigants**")
8. *Roncarelli v. Duplessis*, 1959 CanLII 50 (SCC), $$1959$$ SCR 121 (the "**Roncarelli Decision**")

II. Procedural Impediments and Substantive Compliance

Confirmation is herewith proffered regarding the precise chronology and procedural context of the **NOM #3**. The requisite fee for the **NOM #3** was paid on November 26, 2025, subsequent to the service upon the **Opposite Litigants** on November 17, 2025. Following payment, the Factum, Motion Record, initial **Draft Order** (dated November 19, 2025), and Affidavit of Service (dated November 21, 2025) were all submitted for filing. This was done notwithstanding the four business days' advance notice provided to the Divisional Court via electronic mail on November 24, 2025, concerning the proposed written hearing returnable on December 3, 2025, as prescribed by the **Rules**.

The uninterrupted and inexplicable failure to process the requisite documentation and officially "confirm" the filing status subsequent to the prescribed service and submission periods constitutes, *prima facie*, an administrative **dereliction** that directly impedes the Applicant's fundamental right to prompt and effective adjudication. This administrative lapse has resulted in a state of **"constructive non-filing,"** where the Court is in physical possession of all necessary documents and fees, yet administratively refuses to afford them legal status. This delay is not merely an inconvenience; it constitutes an obstruction to justice by rendering the Applicant's case effectively inert, potentially prejudicing the Applicant's position by extending the *lis pendens* without legal justification. Furthermore, the ambiguity created by the lack of confirmation introduces unnecessary uncertainty for the **Opposite Litigants** regarding the formal status of the motion, although their failure to oppose remains a separate issue. The prevailing circumstance suggests, with considerable persuasive force, that the **OCPP** is either technically defective or not being staffed to operate at its represented and mandatory capacity. Critically, the explicit representations issued by the Court concerning the expected three-business-day processing timeframe are not being scrupulously honoured. This failure has been consistently observed *ad seriatum* regarding filings subsequent to the initial submission of the **NOM #3** material on November 28, 2025.

This technical malaise is further compounded by the sudden and unheralded departure of the Former Registrar (Ms. Gentles). This administrative vacuum, which suggests a severe lack of adequate succession planning, is a clear instance of institutional negligence and has a direct causal link to the current chaos. This chaos is magnified by a demonstrable, ongoing failure to responsibly monitor the storage capacity of the Divisional Court’s electronic mail system—a fundamental component for the mandatory transmission of documents such as the Confirmation of Motion (Form 37(B)). The Applicant's compliance with the mandates of *Rule 37.10.1(1)(a)(i)* of the **Rules**, which requires this document to be given (not filed *per se*) via electronic mail, cannot be frustrated by the Court's internal and remediable failure to manage its digital infrastructure. Such institutional failures do not merely result in delay; they impose an unjust and undue financial and temporal burden upon self-represented litigants seeking to diligently prosecute their cause, thereby creating a substantial and unconstitutional barrier to the effective access to justice, contrary to Section 7 of the *Canadian Charter of Rights and Freedoms*. The Applicant is placed in an untenable position, having fulfilled all *party* obligations, only to be stalled by *institutional* non-performance.

III. Non-Opposition and Procedural Expediency

It is noteworthy that the **Opposite Litigants** were afforded ample and prescribed opportunity to offer opposition to the **NOM #3** through various modalities: non-opposition, consent, written opposition, or the presentation of oral argument. As not a solitary **Opposite Litigant** exercised any of these options within the specified timelines, the **NOM #3** remains **unopposed**. *Ipso facto*, there existed, and continues to subsist, no extant scheduling exigency necessitated by opposition, thereby removing any legitimate basis for the administrative delay. Proof of service was duly tendered to the Divisional Court via electronic mail and was simultaneously submitted for filing through the **OCPP**.

The absence of opposition is not merely a procedural convenience; it is a critical factor that elevates the administrative delay from a necessary scheduling challenge to a purely bureaucratic breakdown. When a motion is unopposed, the core adjudicative function of the Court—resolving conflict—is minimized. The administrative priority ought to be the swift processing of uncontested matters to conserve judicial resources for contested proceedings, thereby honouring the overriding purpose of the **Rules** as articulated in *Rule 1.04(1)*: "to secure the just, most expeditious and least expensive determination of every civil proceeding on its merits." By delaying the confirmation of an *unopposed* motion, the administrative body demonstrates a profound misallocation of public resources and a fundamental disregard for the principle of procedural expediency which underpins the **Rules**. The delay is, therefore, purely one of internal clerical processing, disassociated entirely from any complexities arising from the adversarial nature of the proceeding, and is, in principle, indefensible.

IV. Legislative Will: The Dichotomy of Acceptance versus Confirmation

The statutory distinction between the superseded JSO Portal regime and the current **OCPP** scheme is monumental, representing a fundamental philosophical shift in the procedural governance of court filings. The JSO Portal paradigm necessitated a two-tiered approach: Registrar's "Acceptance" (Rule 4.05.2(3)), followed by the Registrar's "Confirmation" (Rule 4.05.2(4)). This prior requirement of "Acceptance" inherently conferred upon the Registrar a **quasi-discretionary** veto power over the initiation of the record, potentially blurring the line between a purely administrative **clerical** function and a substantive, judicially reviewable **adjudicative** act. The former requirement of acceptance was predicated on the notion of an administrative offer of filing creating a binding *quasi-contract* subject to the Registrar's proactive approval.

Conversely, the current **OCPP** scheme (Rule 4.05.2.1), effectuated through *O. Reg. 226/25, s. 4*, is predicated solely upon the concept of a filing being "Subject to Confirmation," where the document is deemed filed or issued exclusively upon the electronic transmission of confirmation by the registrar or sheriff (Rule 4.05.2.1(4)).

The legal distinction between a condition of 'acceptance' (a discretionary act) and a condition 'subject to confirmation' (a mandatory, ministerial act) is analogous to the distinction between a condition precedent where a contract is already in force but subject to a condition to be met, which the Registrar is so required, and the offer of something to another for their acceptance. In the latter, when there is no acceptance, there is no binding contract between those persons which is of course subject to return consideration. Under administrative law principles, the former ("acceptance") requires the Registrar to make a decision based on subjective criteria (*vires* testing), while the latter ("confirmation") requires the Registrar only to verify objective facts (e.g., file integrity, prescribed fee payment).

The term "confirmation" implies a process more **perfunctory**, **technical**, and **ministerial** in nature, merely attesting to the reception and entry of the submission into the court's electronic record. The ministerial duty of the Registrar, in this context, is simply to acknowledge the successful electronic submission and verify basic, easily ascertainable technical standards, such as file format and size limits. This deliberate legislative shift effectively eliminates the Registrar's capacity to unilaterally reject a document on grounds of substantive non-compliance, thereby precluding the application of principles such as *delegatus non potest delegare* to a purely clerical function. The power to assess the sufficiency or formal compliance of the document is now correctly and exclusively vested in the Presiding Motions Judge, who is the proper authority to exercise judicial discretion and control over the proceedings.

It is thus **self-evident** that the legislative intent underlying the **OCPP** amendments was to streamline the filing process by removing the prerequisite of discretionary "acceptance," recognizing that unnecessary layers of administrative review only introduce delay. This necessary administrative evolution reflects a considered policy decision to reduce the burden on the public purse and expedite the processing of documents. The judicial scrutiny regarding the formal compliance of documents, which was formerly exercised prematurely by the Registrar, has been thereby relocated to the Presiding Motions Judge or Panel, to be adjudicated, *inter alia*, by way of objection advanced by the opposing litigant. This extrapolation of legal principle dictates that the administrative focus should

expeditious, **cost-effective**, and **just determination of matters upon their merits**, rather than an *in limine* administrative acceptance requirement that unnecessarily burdens court resources and delays the progression of proceedings. The Registrar's duty is, therefore, one of **mandatory execution**, not **discretionary oversight**, and the current non-performance is a violation of this mandate.

V. Conversion of Paper Documents and Mitigation of Delay

The aforementioned procedural complexities, including the delays attributed to the malfunctioning of the **OCPP** and the administrative transition from the Former Registrar to the **Current Registrar**, cannot be imputed as a fault to the Applicant. The Applicant's imperative, grounded in the overarching principle of mitigating any potential loss or injury and ensuring the integrity and completeness of the judicial process, was to secure the substantive presence of the critical documents before the Divisional Court.

As such, the two critical documents—the **Draft Order** (mailed on December 8, 2025) and the **Compendium** (delivered on December 11, 2025)—were submitted via mail filing pursuant to *Rule 4.05* of the **Rules**:

Rule 4.05(4): Filing by Leaving in Court Office or by Mail

Any document, other than one that is to be issued, may be filed by leaving it in the proper court office or mailing it to the proper court office, accompanied by the prescribed fee. R.R.O. 1990, Reg. 194, r. 4.05 (4).

The delivery of these hard copy documents is evidenced by tracking numbers from the postal carrier, thereby obviating any potential allegation of non-receipt under *Rule 4.05(6)*. The presence of these tracking numbers effectively removes the operation of the rule that deems non-received documents as non-filed, providing conclusive **acta** of delivery to the proper court office. This mail filing, therefore, cured the administrative defect caused by the electronic delay and perfected the filing status under the alternative paper regime, ensuring that a properly filed record is now indisputably before the Court.

Furthermore, pursuant to *O. Reg. 226/25, s. 1*, the Registrar possesses the statutory power of conversion:

Conversion from Paper Format

(11) In the case of a proceeding that is commenced or continued in the City of Toronto, the registrar may prepare an electronic copy of any document that was filed or issued in the proceeding in paper format and include it in the court file.

It is explicitly confirmed that the Applicant does not require the restitution of the documents following their electronic conversion. These documents must remain with the Divisional Court to constitute the complete and comprehensive record of the proceeding. This is the **Current Registrar's** second, non-delegable ministerial duty: to convert and incorporate the paper-filed documents into the electronic Case Center record for the review of the Presiding Motions Judge. The word *may* in *Rule 4.05(11)* must be interpreted as *shall* in this context, given the overwhelming policy interest in maintaining a unified, accessible electronic court file as the default under the new **OCPP** regime.

V-A. Judicial Discretion and Rule 37.01 Compliance

As noted in the quoted language, "

MOTIONS AND APPLICATIONS RULE 37 MOTIONS — JURISDICTION AND PROCEDURE Notice of Motion 37.01 A motion shall be made by a notice of motion (Form 37A) unless the nature of the motion or the circumstances make a notice of motion unnecessary or these rules provide otherwise. R.R.O. 1990, Reg. 194, r. 37.01; O. Reg. 322/24, s. 4.", the Presiding Motions Judge can rely upon the motion so filed, but delayed without lawful reason for confirmation only, or decide the relief sought in the draft order by reference to confirming that such notice of motion was unnecessary based on the circumstances.

This rule confers a significant inherent power upon the Presiding Motions Judge to control the court's process and dispense with unnecessary technical formalities. Given that the delay in confirming the electronic filing is purely an **administrative failure**—a clerical omission rather than a substantive party error—the judicial officer has the discretion to deem the notice of motion—having been properly served, fully documented, and paid for—as having been advanced in circumstances that make the technical confirmation requirement "unnecessary." This judicial power extends to issuing an order *nunc pro tunc* (now for then), which effectively backdates the legal effect of the filing to the date of original submission, thereby curing the administrative lag. The use of a *nunc pro tunc* order is appropriate only to correct a clerical or administrative error, not to remedy a party's mistake, making it the perfect judicial tool to counteract the Registrar's delay. This judicial act would effectively ratify the filing *nunc pro tunc* and allow the relief sought in the **Draft Order** (which is now properly mail-filed and dated December 4, 2025) to be considered on its merits, without further administrative impediment. In this regard, the Presiding

Trudeau Judge can rely on the mail filed documents to approve the draft order contained therein at the most recent tab therein (December 4, 2025). This is the only recourse available to counteract the administrative paralysis that currently threatens to subvert the Applicant's timely right to justice.

VI. Compendium Status and Registrar's Exclusive Upload Duty (Rule 4.05.3)

I confirm that I am the only party per se. I reproduce the following, which governs the use and population of Case Center:

“Requirement to Use Case Center

(3) Every party participating in the hearing or conference shall provide the following documents to the court by uploading them to Case Center in accordance with this rule:

1. A copy of every document filed with the court by the party in respect of the hearing or conference.
2. Subject to subrule (5), a copy of any other document in the court file on which the party intends to rely at the hearing or conference that has not already been uploaded to Case Center by another party.
3. Unless the court directs otherwise and subject to subrule (3.1), a compendium that meets the requirements of subrule (7). O. Reg. 300/24, s. 2 (1).

   Modification, City of Toronto

   (3.0.1) In the case of a proceeding that is commenced or continued in the City of Toronto, the documents referred to in paragraphs 1 and 2 of subrule (3) in respect of each party shall be uploaded to Case Center by the registrar and not by the party. O. Reg. 226/25, s. 5 (1).

   Compendium

   (3.1) A compendium is not required to be provided with respect to a conference or the hearing of an unopposed motion or motion on consent, unless the court directs otherwise. O. Reg. 300/24, s. 2 (1).

   Deadline

   (4) Subject to subrules (4.1) and (5), the documents listed in subrule (3) must be uploaded to Case Center by the following deadline:
4. In the case of the hearing of a motion or application where the party is required to give the registrar a confirmation of motion (Form 37B) or confirmation of application (Form 38B), the deadline is 2 p.m. three days before the hearing date, unless the court orders otherwise.
5. In any other case, the deadline is five days before the date of the hearing or conference, unless the court orders otherwise. O. Reg. 689/20, s. 7; O. Reg. 224/22, s. 1; O. Reg. 300/24, s. 2 (6); O. Reg. 301/24, s. 1; O. Reg. 226/25, s. 5 (2).

   (4.1) Subrule (4) does not apply to the registrar. O. Reg. 226/25, s. 5 (3).”

The preceding provisions establish a critical, *sui generis* procedural framework for Toronto proceedings. The "Modification, City of Toronto" (Rule 4.05.3(3.0.1)) is a clear policy directive recognizing the unique volume and complexity of filings in the Toronto region, thus centralizing the document upload function with the court administration. Specifically, *Rule 4.05.3(3.0.1)* unequivocally delegates the primary responsibility for uploading all filed documents (paragraphs 1 and 2 of subrule (3)) to Case Center **exclusively to the Registrar**, thereby absolving the Applicant of this burden. Furthermore, *Rule 4.05.3(4.1)* explicitly provides that the stringent deadlines of subrule (4) **do not apply to the Registrar**. The legislative intent here is to remove the pressure of time constraints on the administrative process for uploads, allowing the Registrar to perform this function methodically, but this immunity from deadlines must not be misinterpreted as a license for indefinite delay. In this regard, I note that subrule 4.05.3(3)(2.) requires only a party to be able to invoke that right to have any other document in the “court file” to be relied upon. Since the Applicant is the only party per se, this right is exercised and requires the Registrar to upload any relied-upon documents from the "court file." Ergo, only the Registrar can upload filed documents but not subject to any deadline. The conclusion is therefore inescapable: the Registrar has an absolute, non-discretionary, and non-time-constrained ministerial duty to complete the court record by uploading all filed documents, whether submitted electronically or, as here, via the mail-filing exception. This duty is the single remaining procedural hurdle.

Confirmation is provided that neither the **Draft Order** of December 4, 2025, nor the **Compendium** required physical binding. Pursuant to *Rule 4.05.3(3.1)*, the Compendium was not required due to the *unopposed* status of the **NOM #3**. The Compendium was filed nonetheless as a matter of good practice and procedural completeness.

Furthermore, the requirement for buff covers applies exclusively to an "appeal book and compendium" under *Rule 4.07(3)*, which mandates:

Appeal Book and Compendium

(3) An appeal book and compendium shall be bound front and back in buff covers. O. Reg. 19/03, s. 1 (1).

It is **trite law** that a compendium prepared for a motion is patently distinct from that mandated for an appeal, rendering the binding requirement **inapplicable**. The deliberate decision not to bind the motion **Compendium** was therefore not a procedural irregularity but an act of strict compliance with the **Rules**.

Pursuant to *Rule 4.07(7)*, which governs electronic documents:

Electronic Documents

(7) This rule does not apply to a document that is filed electronically in accordance with these rules or uploaded to Case Center under rule 4.05.3; however, if the same document is filed or provided to the court in paper format, this rule applies to the paper version of the document. O. Reg. 689/20, s. 9; O. Reg. 300/24, s. 4 (2); O. Reg. 301/24, s. 1.

The Applicant confirms that the mail-filed **Draft Order** and **Compendium** will not be subsequently filed electronically. In that regard, the "same document" will not be dually filed in both paper and electronic format by the Applicant, thus consciously avoiding the application of the latter clause of the rule to prevent any procedural complication and maintaining a singular, definitive version of the record.

VII. Conclusion and Request for Remedial Action

Given the demonstrable delays within the **OCPP** system, the egregious breach of administrative representations concerning confirmation timelines, and the fundamental principle that court staff are compelled to act at the direction of the **President of the Divisional Court**, a copy of this correspondence shall be provided to the **President of the Divisional Court** to ensure the **Current Registrar** executes the duties required by law with appropriate diligence and dispatch.

It is a cardinal principle, reaffirmed by the **Roncarelli Decision** (see: *supra*), that statutory or regulatory discretion is not an absolute prerogative. It must be exercised judiciously and according to the rules of reason and justice, not according to *private opinion*, administrative humour, or bureaucratic convenience. Lord Halsbury's guidance in *Sharp v. Wakefield* remains a potent syllogism: discretion must be "legal and regular," and not "arbitrary, vague, and fanciful." The continued failure to execute the non-discretionary duty of confirmation and document conversion constitutes an administrative action that falls outside the boundaries of good faith and legal regularity, equating to an abuse of public power. The **honest approach**, appreciating the sensitive administrative transition, dictates that the **Current Registrar** must promptly process all outstanding submissions and furnish confirmations, as the statutory mandate is one of ministerial confirmation, not of discretionary acceptance.

While careful consideration was given to the filing of a Motion to Compel the **Current Registrar** and to seek the appropriate order for costs against the Ministry of the Attorney General (the "**MAG**"), such a procedural initiative was ultimately deemed unnecessary and an instance of **overkill**, particularly in light of section 76 of the *Courts of Justice Act* (*CJA*). Section 76 empowers the Chief Justice to issue directions necessary to enforce the integrity and efficiency of the court process. The **President of the Divisional Court** is constrained to act when the statutory language dictates "shall," and his inherent authority to issue directions is activated upon receipt of clear, undisputed evidence of a systemic administrative failure. The provision of this current electronic correspondence to the **President of the Divisional Court** furnishes the requisite knowledge, thereby establishing the necessary obligation upon him to issue the directive. Failure by the **President of the Divisional Court** to act upon this clear evidence of administrative disarray would constitute an unfortunate acquiescence to the systemic failure. In this manner, the necessity of an additional motion is obviated, ensuring that the merits of the Judicial Review Application (**JRPA**) Proceeding can be decided in an **expeditious**, **cost-effective**, and **just** manner. The cost of a procedural motion to compel the Registrar, including the associated preparation time and judicial resources, would be an additional, unwarranted burden on the Applicant, caused entirely by the administrative arm of the Court.

As this was another some thousands of dollars in disbursements with the printing of pages, purchase of binders, tabs, paper, and mail filing, which was excessive but not my fault, I reserve the right to provide an amended Bill of Costs and current **Draft Order**. These costs, being directly attributable to the Applicant's necessary mitigation efforts against the Court's administrative failure (i.e., duplicating the filing in paper format), are reasonable and recoverable as special damages arising from institutional negligence.

I reserve to rely on this email document for any lawful purposes including seeking additional costs along with asserting my legal rights in a professional and lawful manner.

I further reserve the right to give, send, file (mail or electronic) any further documents to ensure that this JRPA Proceeding with particular reference to **NOM #3** is decided in a manner consistent with the law along with reference to the binding principles in the *Zurich v. Chubb* cases including the dissenting opinion of Juriansz J.A. that was adopted verbatim by the Supreme Court of Canada in 2015 and the binding decision of The Honourable Justice Akazaki in May 2024. I reserve the right to formalize and expand upon these principles in a formal request or requisition of the Divisional Court where applicable.

The administrative delays currently being experienced do not constitute a mere inconvenience; they represent a material obstruction to the Applicant's entitlement to the **expeditious and just** resolution of the extant application for judicial review, directly impacting the right of access to justice. Such institutional failings, if allowed to persist without immediate **rectification**, inevitably erode public confidence in the judicial process and contravene the overarching policy objectives enshrined in the **Rules**.

The **President of the Divisional Court**, by virtue of his statutory nomenclature and judicial eminence, bears the ultimate responsibility for conducting the court's administrative functions in a manner entirely consistent with the **Rules** and established judicial principles. It is therefore respectfully requested that the administrative confirmation of all outstanding filed documents be effected without further delay, thereby preserving the *status quo ante* of the timely filing and ensuring that the matter can proceed to an unbiased determination on its merits.

To the extent that the representations are not honoured, I have nonetheless mitigated the same to assist the Presiding Motions Judge to approve the draft order, sign the same and have the Registrar file and enter the same with a copy to me.

Warm regards,

/s/Mr. Kevin A. McLean (BA, JD, CIM)

Mr. Kevin A. McLean (BA, JD, CIM)
Applicant and Moving Party
DC-24-00000718-00JR
24/718/00JR
December 11, 2025

...

2 Attachments • Scanned by Gmail

M

Mr. Kevin McLean <mcleansettlement@gmail.com> Dec 12, 2025, 10:51 AM

to SCJ-CSJ, roxanne.parris

Date: December 12, 2025
Via: Email
Classification: Private and Confidential

Purpose: provision of a Word Copy of the Factum for NOM #3 for the Registrar for her uploading of the same into Case Center

Divisional Court File Designation	**24/718/00JR**
Short Style of Cause	*McLean v. TDHA et al.*
Document Type	Email with attachment of Word copy of Factum for NOM #3
Sender's Status	The Applicant and Moving Party in Notice of Motion No. 3 (*NOM #3*)
Sender's Name	Mr. Kevin A. McLean, B.A., J.D., C.I.M.

TO:

The Divisional Court of Ontario (Toronto Region)
Osgoode Hall, 130 Queen Street West
Toronto, Ontario M5H 2N5
Attention: The New Registrar, Ms. Roxanne Parris (the "Registrar")
SUBJECT I: PROVISION OF MICROSOFT WORD COPY OF FACTUM FOR NOTICE OF MOTION NUMBER THREE (THE "FACTUM")
SUBJECT II: FACILITATION OF FACTUM UPLOADING TO CASE CENTER (THE "CASE CENTER") IN ACCORDANCE WITH THE *RULES OF CIVIL PROCEDURE* (THE "RULES")

Introduction and Contextual Preamble

I cordially write regarding the above-enumerated subjects, the central purpose of which is the provision of an electronic, editable iteration of the Factum (the "**Word Factum**") to facilitate the administration of justice.
I adopt all definitions from previously, indirectly or directly, cited correspondence, motions, and materials herein, and hereby introduce the following definitions for precision:

- The Divisional Court of Ontario (Toronto Region) (the "**Court**")
- The **Factum** (the Factum for Notice of Motion No. 3 (the "**NOM #3**"), which was formally served and filed on November 18, 2025)
- The "**Registrar"** (Ms. Roxanne Parris, in Her Official Capacity)
- The *Rules of Civil Procedure*, R.R.O. 1990, Regulation 194 (the "**Rules**")
- The *Courts of Justice Act*, R.S.O. 1990, c. C.43, s. 98 (the "**Act**")
- The Ontario Courts Public Portal (the "**OCCP**").

Provision of Factum and Rationale

The genesis of this present correspondence is the recent and salutary amendments to the *Rules* and the concomitant issuance of the Divisional Court Practice Direction (the "**Practice Direction**"), a copy of which is appended hereto. While the Practice Direction is, *per se*, an administrative directive and remains subordinate to the mandatory provisions of the *Rules*, it nonetheless stipulates, as a procedural requirement, that **Factums must also be uploaded in Word format** to the Case Center for the Court's administrative benefit.

Therefore, attached *hic et nunc* (the "**Attached Document**") is the Word Factum for NOM #3, which corresponds precisely in substance and content to the executed Portable Document Format (PDF) version previously served and filed on the eighteenth day of November, 2025. Although the Word Factum is not adorned with the digital signature of the Applicant, the integrity of the record is preserved, as the **OCCP** maintains the filed, signed PDF iteration. This provision is tendered as a professional and collegial courtesy (*pro bono*) to the Court, ensuring strict adherence to the **Practice Direction** insofar as it stipulates:

> *"All documents must be uploaded in PDF format. The indexes to all Records should include hyperlinked bookmarks.* ***Factums must also be uploaded in Word format."***

This submission, being in conformity with the recent regulatory shift, is a proactive measure to sustain the streamlined and efficient administration of the Court's processes, thereby maintaining the established **status quo ante** of judicial efficacy.

Offer of Further Assistance

It is cognizable that the Court may also require the Word Factums corresponding to earlier filed documents, specifically the Factum filed on December 12, 2025, and the Factum related to Notice of Motion Number Two (the "**NOM #2**") of February 1, 2025. I note that these antecedent documents were submitted exclusively in PDF format, in accordance with the then-prevailing *lex fori* as accepted and confirmed by the previous Registrar.

The Applicant maintains a continuing posture of helpfulness and gracious cooperation with the Court. Should the Registrar encounter any exigencies or require the electronic, editable copies of the aforementioned previous Factums in order to effectuate their uploading to the Case Center, I remain unequivocally at the Court's service. *Ubi jus, ibi remedium*.

This comprehensive cooperation, while not strictly required *ab initio* for documents filed prior to the Practice Direction's amendment regarding Word format, is demonstrative of the Applicant's unwavering commitment to the resolution-oriented, functional operation of the Court's electronic repository. This is an action taken ***in limine*** to prevent any future administrative impediment.

Conclusion

In conclusion, the Word Factum is herewith transmitted. The Applicant trusts that this submission is received as a welcome contribution to the Court's administrative necessities and efficiency on all fronts.

Yours most appreciatively and gratefully,

/s/Mr. Kevin A. McLean (BA, JD, CIM)

Mr. Kevin A. McLean (BA, JD, CIM) (he/him)

The Applicant and Moving Party in NOM #3

Enclosure:

1. The Word Factum for NOM #3 (the Factum for Notice of Motion No. 3)

...

One attachment • Scanned by Gmail

M

Mr. Kevin McLean <mcleansettlement@gmail.com> Dec 16, 2025, 5:16 PM

to SCJ-CSJ, roxanne.parris

Date: December 16, 2025
Via at first instance: Electronic Mail Transmission (may follow via mail, drop off and fax)
Classification: Private and Confidential
Purpose: drawing submitted filing documents in the Ontario Courts Public Portal ("OCPP")[i] to the attention of the Divisional Court Registrar in Ms. Parris, LSO licensed paralegal, and the President of the Divisional Court
Time sensitivity: Urgent

Divisional Court File Designation	**24/718/00JR**
Short Style of Cause	*McLean v. TDHA et al.*
Document Type	Email with copy of submitted filing of Request/Requisition for: (i) access to uncertified copy of Document #48 in the Ontario Courts Public Portal ("OCPP) under "Other Submissions" submitted by five different persons [sic]; (ii) compliance with predecessor obligations; (iii) compliance with prior requisitions; and (iv) other residual obligations
Sender's Status	The Applicant and Moving Party in Notice of Motion No. 3 (*NOM #3*)
Sender's Name	Mr. Kevin A. McLean, B.A., J.D., C.I.M.

Particulars involving NOM #3	▪ **NOM #3 made date:** November 17, 2025 ▪ **NOM #3 served on Responding Parties date:** November 17, 2025 ▪ **NOM #3 Motion Record, Factum and Draft Order service date:** November 19, 2025 ▪ **Affidavit of Service date:** Friday, November 19, 2025 ▪ **Confirmation of Motion given to Registrar:** Monday, November 24, 2025 ▪ **Submitted Filing of NOM #3, Motion Record, Factum, Draft Order, Affidavit of Service, Confirmation of Motion, 1st Updated Motion Record (included distinctions between previous Divisional Court JRPA Guide and amended Divisional Court JRPA Guide (June 30, 2025 as per metadata):** November 26, 2025 ▪ **Representation by Divisional Court through OCPP as to processing time:** with three business days o Requirement under Rules of Civil Procedure for newly passed provision relating to OCPP in Toronto Region: merely "Subject to Confirmation" (as opposed to "Registrar Acceptance Required" and "confirmation" (two stage process) under the JSO Portal (which remains for 'non' Toronto Region matters ▪ Current status of said submitted filing through OCPP: merely "received" but payment has been authorized and denoted via credit card ▪ **Deadline for Responding Parties (includes Respondents, none of which filed a "First Defence" to the JRPA Application) to have "delivered" a response in accordance with Rule 37.12(5) of Rules of Civil Procedure:** November 28, 2025 or December 1, 2025 (depending on interpretation of "within") ▪ **Date of Moving Party's Compendium for NOM #3 submitted filing:** November 28, 2025 ▪ Date of Mail filed documents: o Draft Order for the Independent Presiding Motions Judge consideration: Monday, December 8, 2025 o Compendium For NOM #3 (December 7, 2025 completed, then printed, tabbed, hole punched and placed into ten binders): Thursday, December 11, 2025

To:

The Divisional Court of Ontario
Osgoode Hall,
130 Queen Street West
City of Toronto[ii]
Province of Ontario
M5H 2N5

Attention: The new Registrar of the Divisional Court (as of December 3, 2025) in Ms. Roxanne Parris ("**Divisional Court Registrar**", "**Registrar**" or "**Current Registrar**")

AND TO:

The President of the Divisional Court, The Honourable Chief Justice Morawetz

361 Queen Street West
Toronto, Ontario
M5H 2N5

Subject: Urgent compliance with outstanding obligations of the registrar's office of the Divisional Court by way of notice and provision of the submitted filing of the request/requisition of December 15, 2025

Dear Divisional Court and Registrar of the Divisional Court:

1. This communication is tendered *in re* the aforementioned matter. Confirmation is hereby provided that the attached Requisition was submitted for filing on December 15, 2025. Appended hereto is the confirmed receipt issued by the Divisional Court, documenting the said submitted filing. It is attested that the OCPP authorizes the electronic submission of requisite documentation, including the payment for notice of motion number three ("NOM #3"), which was duly *effectuated* on the aforementioned date, utilizing the Ministry of the Attorney General ("MAG") authorized software. Further, it is confirmed that, **effective October 3, 2025**, the JSO Portal ceased to be the applicable electronic conduit for filings within the City of Toronto or the "Toronto Region."

2. In consideration of the protracted administrative delays; the *demission* of the Registrar (which was brought to the attention of the undersigned on December 3, 2025, the scheduled date for the written hearing, which seems rather non-coincidental, notwithstanding the non-opposition of any named Respondents in the style of cause or Responding Parties which were non-named Respondents (see: Affidavit of Service of the Applicant (Moving Party) (see: supra)); the Divisional Court's evident *non-compliance* with the *Judicial Review Procedure Act* (*JRPA*), the *Courts of Justice Act* (*CJA*), and the *Rules of Civil Procedure*; and the resultant *dereliction* in honouring prior written representations to the undersigned, the following mail-filing actions were subsequently *effectuated*: the draft order (*Form 59(A)*) dated December 4, 2025, was filed on Monday, December 8, 2025, and the Compendium for NOM #3 (dated December 7, 2025), comprising ten binders (Volumes 1 through 10), was filed under separate cover on Thursday, December 11, 2025.

3. Should the requisite confirmation of all outstanding submitted filings, consistent with the temporal mandates stipulated by the OCPP and written representations by the Registrar in the OCPP, not be provided, relief may be pursued via a draft order submitted to the President of the Divisional Court, who serves concurrently as the Chief Justice of the Superior Court of Justice (SCJ). Said draft order will, *inter alia*, move the Court, but only the President of the Divisional Court as per the CJA et al, to mandate the Registrar of the Divisional Court to *remediate* all deficient submitted filings via the OCPP and ensure compliance across manifold administrative facets.

4. Given the demonstrated pattern of administrative delays and the recurrent failure to honour prior assurances, the submission of a conventional *Notice of Motion* and the attendant expense is deemed unnecessary and impracticable. Consequently, reliance shall be placed upon *Rule 37.01* of the *Rules of Civil Procedure*, which permits the making of a motion without a formal *Notice of Motion* where circumstances do not so require or where it is unnecessary. In such an event, the Registrar of the Divisional Court shall constitute the sole Responding Party, being the functionary against whom the motion is made (it is emphasized that "made" is distinct from "service," "filing," and "delivery"). Should the Registrar's continued *recalcitrance* necessitate this expenditure, an order for costs shall be sought against that functionary. While it is appreciated that a portion of administrative culpability rests with the Former Registrar—whose record evinced a history of *non-compliance* even under the JSO Portal—the extant duties of the Current Registrar are immutable, and the office is necessarily tasked with addressing the transgressions of the *status quo ante*.

5. The jurisdictional basis compelling the President of the Divisional Court to adjudicate this potential motion—which would be supported by submissions and evidence, notwithstanding its deviation from *Form 37(A)*—is articulated in *section 76 of the Courts of Justice Act* (*CJA*), which vests the President of the

Divisional Court and only the President of the Divisional Court with the authority to direct court staff and the Registrar concerning the fulfillment of their duties. Given the statutory obligation to assign judicial duties to certain judges, the President possesses the discretion to assign an independent judge (an "Independent Presiding Motions Judge") to consider the mail-filed documents contained within the Compendium for NOM #3 and the Draft Order of December 4, 2025 (*vide: supra*).

6. It is the fervent hope of the undersigned that such a motion will prove *superfluous*, contingent upon the expeditious fulfillment of the Current Registrar's outstanding obligations.

7. Nevertheless, should compliance not be *effectuated* with the utmost expediency, specifically by no later than 12:00 P.M. on the succeeding day (**December 17, 2025**), the aforementioned motion to the President of the Divisional Court shall be commenced without further *admonition*. While recognizing the administrative friction attendant to the technological transition involving the OCPP (October 14, 2025) and the change in Registrar (December 3, 2025), it is *verily* believed that ample time has been accorded to the Current Registrar to *remediate* the prior *transgressions* of the Former Registrar and to honour written assurances pertaining to the confirmation timelines for submitted filings. Furthermore, given that NOM #3 is uncontested and the *JRPA* Application proceeded *undefended*, without the submission of a **First Defence** by any Respondent, there remains a substantial quantum of administrative irregularity requiring *remediation* and *unwinding* of which I was required to bring my motion intra this JRPA Proceeding.

8. Provided that the Registrar *remedies* the outstanding deficiencies—by confirming all submitted filings by 12:00 P.M. on December 17, 2025, extending an immediate invitation to the Case Center to the undersigned, and uploading all filed documents in the *JRPA* Proceeding to the Case Center by close of business on Thursday, December 18, 2025—the necessity of bringing the intended motion, pursuing costs, and amending the bill of costs previously filed (via mail in the Compendium for NOM #3) shall be obviated.

9. This communication is submitted for the Divisional Court's urgent consideration and necessary administrative action.

10. Ergo, I must rely on the poignant adage, “There is never a wrong time to do the right thing”. Thank you.

Best regards,

/s/Mr. Kevin A. McLean (BA, JD, CIM)

Mr. Kevin A. McLean (BA, JD, CIM)

Enclosures:

1. Request/Request submitted for filing on Monday, December 15, 2025
2. Receipt of said submitted filing

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[i] https://canlii.ca/t/t8m#sec4.05.2.1

[ii] ***Application, City of Toronto***

(2) This rule applies with respect to,

(a) the filing and issuance of documents in proceedings commenced or continued in the City of Toronto

Yours faithfully,

/KAM

Mr. Kevin A. McLean (BA, JD, CIM)

Sender's name: Mr. Kevin Alexander McLean (BA, JD, CIM)
Sender's address: 410-775 King Street West, Toronto, Ontario, M5V 2K3
Sender's Telephone Number: (647) 370-9354
Sender's email address: mcleansettlement@gmail.com

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2 Attachments • Scanned by Gmail

M

Mr. Kevin McLean <mcleansettlement@gmail.com> Dec 22, 2025, 4:12 PM

to SCJ-CSJ, roxanne.parris

Date: December 22, 2025
Via at first instance: Electronic Mail Transmission (may follow via mail, drop off and fax)
Classification: Private and Confidential
Purpose: drawing submitted filing documents in the Ontario Courts Public Portal ("OCPP")[i] to the attention of the Divisional Court Registrar in Ms. Parris, LSO licensed paralegal, and the President of the Divisional Court
Time sensitivity: Urgent

Divisional Court File Designation	**24/718/00JR**
Short Style of Cause	*McLean v. TDHA et al.*
Document Type	Email with Draft Order for Motion #4 (due to the infra without Form 37(A))
Sender's Status	The Applicant and Moving Party in Notice of Motion No. 3 (*NOM #3*)
Sender's Name	Mr. Kevin A. McLean, B.A., J.D., C.I.M.
Particulars involving NOM #3	▪ **NOM #3 made date:** November 17, 2025 ▪ **NOM #3 served on Responding Parties date:** November 17, 2025 ▪ **NOM #3 Motion Record, Factum and Draft Order service date:** November 19, 2025

- **Affidavit of Service date:** Friday, November 19, 2025
- **Confirmation of Motion given to Registrar:** Monday, November 24, 2025
- **Submitted Filing of NOM #3, Motion Record, Factum, Draft Order, Affidavit of Service, Confirmation of Motion, 1st Updated Motion Record (included distinctions between previous Divisional Court JRPA Guide and amended Divisional Court JRPA Guide (June 30, 2025 as per metadata):** November 26, 2025
- **Representation by Divisional Court through OCPP as to processing time:** with three business days
    - Requirement under Rules of Civil Procedure for newly passed provision relating to OCPP in Toronto Region: merely "Subject to Confirmation" (as opposed to "Registrar Acceptance Required" and "confirmation" (two stage process) under the JSO Portal (which remains for 'non' Toronto Region matters
        - Current status of said submitted filing through OCPP: merely "received" but payment has been authorized and denoted via credit card
- **Deadline for Responding Parties (includes Respondents, none of which filed a "First Defence" to the JRPA Application) to have "delivered" a response in accordance with Rule 37.12(5) of Rules of Civil Procedure:** November 28, 2025 or December 1, 2025 (depending on interpretation of "within")
- **Date of Moving Party's Compendium for NOM #3 submitted filing:** November 28, 2025
- Date of Mail filed documents:
    - Draft Order for the Independent Presiding Motions Judge consideration: Monday, December 8, 2025
    - Compendium For NOM #3 (December 7, 2025 completed, then printed, tabbed, hole punched and placed into ten binders): Thursday, December 11, 2025
- Motion, without the Form 37(A) due to lack of necessity and/or the circumstances make a notice of motion unnecessary (see: Rule 37.01 of the Rules of Civil Procedure), made to the Divisional Court (defined as "Motion #4"): December 22, 2025

EXCLUSIVELY TO:
To:

The Divisional Court of Ontario
Osgoode Hall,
130 Queen Street West
City of Toronto[ii]
Province of Ontario
M5H 2N5

Attention: The new Registrar of the Divisional Court (as of December 3, 2025) in Ms. Roxanne Parris ("**Divisional Court Registrar**", "**Registrar**" or "**Current Registrar**")

AND TO:

5001

The President of the Divisional Court, The Honourable Chief Justice Morawetz
130 Queen Street West
Toronto, Ontario
M5H 2N5

Subject: my motion #4, without form 37(A) due to lack of necessity and/or the circumstances do not require a notice of motion, and unlikely to even require service on the registrars due to the lack of contested facts (all denoted by record of proceeding) and extant mandatory duties of the former and current registrar

Dear Divisional Court (attention: President) and Registrar of the Divisional Court:

The undersigned submits this formal correspondence to address a persistent, deleterious, and arguably contumacious failure on the part of the Office of the Registrar—encompassing the professional conduct of both the predecessor and the incumbent—to discharge their mandated administrative obligations. Notwithstanding the *prima facie* validity and technical sufficiency of the materials submitted via the *Ontario Court Case Portal* ("OCCP"), there has been a demonstrable and prolonged omission in the processing of filings. Such inaction constitutes a profound departure from the strictures of the *Rules of Civil Procedure, R.R.O. 1990, Reg. 194*, and the specific protocols governing the Toronto Region of the Superior Court of Justice and the Divisional Court.
In view of the extant and historical neglect of these ministerial duties, the further utilization of the OCCP for repetitive filings, accompanied by the redundant remittance of prescribed fees, is deemed computationally futile, economically inefficient, and procedurally nonsensical. To persist in a digital framework that fails to acknowledge or validate receipt is to engage in a hollow exercise of form over substance. Such a course of action would merely perpetuate a state of *status quo ante* wherein the administration of justice remains obstructed by a pervasive bureaucratic inertia that borders on administrative paralysis.

II. THE LEGAL FRAMEWORK FOR MANDAMUS AND THE EXTRAPOLATION OF REGISTRARIAL OBLIGATIONS

It is asserted that the conditions precedent for the seeking of the extraordinary remedy of *mandamus* have been satisfied *in toto*. The Registrar is bound by a public legal duty to act—a duty that is executory, ministerial, and entirely non-discretionary in nature. The right to the performance of said duty is vested in the undersigned as a litigant entitled to the orderly progression of the colonial-judicial machinery.
The necessity of judicial intervention is underscored by the following extrapolations of fundamental legal principles:

1. **A Clear and Vesting Right to Performance:** The applicant has maintained an unassailable record of adherence to all statutory requirements. This includes the meticulous service and filing of documentation and the timely remittance of all prescribed fees. The failure of the Registrar to respond to these completed conditions constitutes a breach of the social contract between the judicial administration and the public it serves.
2. **The Absence of an Alternate, Adequate, or Efficacious Remedy:** No collateral avenue exists to rectify the persistent failure of the Registrar to process filings within the represented temporal parameters. The administrative "black hole" created by the current state of the OCCP renders ordinary inquiries toothless, necessitating an order from this Honourable Court to compel the performance of a duty that should, *ex debito justitiae*, be automatic.
3. **The Practical Value and Determinative Effect of the Order:** An order compelling performance would not merely be symbolic; it would have immediate, tangible utility by rectifying the procedural irregularities and nullities occasioned by the Registrar's *ultra vires* inaction. It is essential to distance the record from this lack of compliance to ensure that the eventual adjudication of the merits is not tainted by the preceding administrative delinquency.

Reference is made to the nuanced jurisprudential distinctions regarding procedural irregularities as articulated in *Long v. Redbranch Investments Ltd., 2018 BCCA 468*, as applied and distinguished within the specific context of these proceedings. Furthermore, the balance of convenience unequivocally favours the applicant. The undersigned has been uniquely prejudiced by the Registrar's failure to facilitate the provision of digital recordings and

transcripts on CD—despite Justice Shore's uncorrected misinterpretation of the law—notwithstanding the satisfaction of all financial prerequisites via bank draft.

III. THE DOCTRINE OF IMPLIED REFUSAL AND THE URGENCY OF RECTIFICATION

While the legal test for *mandamus* is ostensibly met, it is conceded that should the Registrar comply with all outstanding statutory and prescribed obligations by 17:00 hours this day, the necessity for the relief sought in *Motion #4* may be partially or entirely obviated. However, the Court must recognize that a refusal to act need not be express; in the absence of compliance, the refusal is deemed implied through continued and unreasonable inaction, as evidenced by the ignored *Requisitions #11 through #15*.

The peculiar circumstances of this matter dictate that the Registrar(s) are the only parties whose interests are directly affected by the orders sought, as they are the primary actors in this administrative default. It is further noted that the Respondents have failed to file *Notices of Appearance* with proof of service as mandated by the plain language of *Form 68A*. This delinquency was unequivocally confirmed by a comprehensive audit of the OCCP *CaseView*. Consequently, the Registrar remains under a mandatory, non-shifting obligation to correct these administrative deficiencies *ipso facto* and to account for payments that may otherwise fail to be "finally captured" due to the expiry of digital payment windows.

IV. SACROSANCT STATUTORY OATHS AND THE PRINCIPLE OF PROCEDURAL CONTINUITY

The attention of the Court is directed to the *Courts of Justice Act, R.S.O. 1990, c. C.43* and the *Public Service of Ontario Act, 2006, S.O. 2006, c. 35, Sched. A*, regarding the solemn oath of office required of public servants. As an officer of the Court, the Registrar is bound by a perpetual statutory duty that transcends the individual identity of the office-holder. The errors, omissions, or systemic oversights of the predecessor do not—and cannot—absolve the incumbent of the immediate obligation to ensure procedural regularity and the integrity of the court record. To suggest otherwise would be to allow the transition of personnel to serve as a shield for the erosion of the rule of law.

V. CONCLUSION AND THE PHYSICAL LODGING OF MATERIALS

To facilitate the President of the Divisional Court in directing staff to rectify these lapses, a comprehensive Motion Record and detailed written submissions have been prepared. While such voluminous documentation should, in an ideal procedural environment, be redundant, they will be provided *ex abundanti cautela* to ensure the Court is fully apprised of the gravity of this administrative failure and the resulting prejudice to the applicant.

Should the electronic portal remain in its current state of dysfunction, the *Draft Order for Motion #4* and all supporting materials shall be delivered via physical strata—by mail or direct drop-off—to the Court's registry to ensure they are brought to the personal attention of the Regional Senior Judge.

Ergo, adhering to the poignant and prevailing adage that "there is never a wrong time to do the right thing," the undersigned remains:

Best regards,

/s/Mr. Kevin A. McLean (BA, JD, CIM)

Mr. Kevin A. McLean (BA, JD, CIM)

Enclosures herein and to follow via piecemeal

---

[i] https://canlii.ca/t/t8m#sec4.05.2.1

[ii] ***Application, City of Toronto***

(2) This rule applies with respect to,

(a) the filing and issuance of documents in proceedings commenced or continued in the City of Toronto

Yours faithfully,

/KAM

Mr. Kevin A. McLean (BA, JD, CIM)

Sender's name: Mr. Kevin Alexander McLean (BA, JD, CIM)
Sender's address: 410-775 King Street West, Toronto, Ontario, M5V 2K3
Sender's Telephone Number: (647) 370-9354
Sender's email address: mcleansettlement@gmail.com

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One attachment • Scanned by Gmail

M

Mr. Kevin McLean <mcleansettlement@gmail.com> Dec 23, 2025, 1:02 PM

to Tashekah, SCJ-CSJ, roxanne.parris

PRIVATE AND CONFIDENTIAL
URGENT – TIME SENSITIVE

DATE: December 23, 2025

VIA: Electronic Mail Transmission (with hard copies to follow via physical delivery, mail filing and facsimile)

ADDRESSEES

TO:

The Divisional Court of Ontario
Osgoode Hall, 130 Queen Street West
Toronto, Ontario M5H 2N5
Attention: The Registrar of the Divisional Court, Ms. Roxanne Parris
(hereinafter the "Current Registrar")
AND TO:

The Former Registrar of the Divisional Court, Ms. Gentles
(hereinafter the "Former Registrar")
AND TO:

The President of the Divisional Court, The Honourable Chief Justice Morawetz
Osgoode Hall, 130 Queen Street West
Toronto, Ontario M5H 2N5

MATTER DETAILS

5004**Court File Number:** DC-24-00000718-00JR

- **Short Style of Cause:** *McLean v. TD Home and Auto Insurance Company, et al.*
- **Document Classification:** Correspondence and Submission of Final Draft Order regarding Motion #4
- **Sender:** Mr. Kevin A. McLean, B.A., J.D., C.I.M. (the "Moving Party" and "Applicant")

I. PREAMBLE AND FORMAL SUBMISSION

The Applicant, *ipso facto* the Moving Party in the extant proceedings, respectfully submits this comprehensive and meticulously structured correspondence alongside the appended Final Draft Order pertaining to *Motion #4*. I confirm that this current and final draft order is a substitute for the previous one submitted yesterday. This submission is necessitated by an egregious, multifaceted accumulation of administrative irregularities, systemic failures, and clerical stasis that have, *prima facie*, impeded the orderly and equitable progression of *Notice of Motion No. 3* (*NOM #3*). Such irregularities, if left unrectified by judicial intervention, threaten to undermine the very foundations of procedural fairness and the core tenets of the rule of law within this jurisdiction.

By way of this formal instrument, the Moving Party seeks the immediate, decisive, and remedial attention of the President of the Divisional Court and the Registrars to rectify the *status quo ante*. It is of paramount importance to ensure that the judicial process is not rendered *ultra vires* by clerical omissions, technological inertia within the Ontario Courts Plus Portal (OCPP), or the inadvertent negligence of the physical registry. The Moving Party posits that administrative efficiency is not a mere aspirational convenience but a mandatory, non-negotiable prerequisite for the effective exercise of judicial authority and the protection of a litigant's right to a timely hearing.

II. CHRONOLOGY OF PROCEDURAL COMPLIANCE AND ADMINISTRATIVE STASIS

1. **Initiation and Service of NOM #3:** On November 17, 2025, the Moving Party formally issued *NOM #3*, effecting comprehensive and valid service upon all Responding Parties on even date. Subsequent thereto, on November 19, 2025, the exhaustive *Motion Record*, *Factum*, and *Draft Order* were meticulously served, followed by the requisite filing of the *Affidavit of Service*. These actions were undertaken in strict adherence to the *Rules of Civil Procedure*, demonstrating the Moving Party's unwavering commitment to procedural rectitude.
2. **Confirmation and Digital Filing Imperatives:** On November 24, 2025, a *Confirmation of Motion* was transmitted to the Registrar. On November 26, 2025, the Moving Party successfully navigated the complexities of the OCPP to submit the filing of *NOM #3* and its ancillary documentation. Despite the passage of several weeks and the explicit authorization of the requisite fees, the status of said filing remains perpetually relegated to a "received" state. This failure of the system to transition to "accepted" status as contemplated by the *Rules* constitutes a significant, albeit artificial, barrier to the Moving Party's right to have his motion adjudicated.
3. **Procedural Default of Responding Parties:** It is a matter of record that the Respondents, none of whom have delivered a "First Defence" to the *Judicial Review Procedure Act* (*JRPA*) Application, have failed to adhere to the temporal mandates of *Rule 37.12(5)*. This procedural lethargy, compounded by a total absence of responsive material, constitutes a default that necessitates judicial notice. The Respondents have effectively abdicated their responsibility to participate in the adversarial process, yet they remain shielded by the Registry's failure to process the Moving Party's records.
4. **Physical Augmentation and the Voluminous Record:** Notwithstanding the digital impasse, the Moving Party provided hard copies of the *Draft Order* on December 8, 2025, and delivered ten comprehensive, tabbed binders of the *Compendium for NOM #3* via mail filing on December 11, 2025. This physical augmentation of the record—requiring significant personal and financial resources—was undertaken to ensure that the Court remained fully apprised of the evidentiary foundations of the motion.
5.

III. CASE VIEW VERIFICATION AND RESPONDENT PRECLUSION

I further hereby confirm that in light of my review of the Case View in the OCPP, the Respondents are precluded from being served with any of my documents, receiving steps in the *JRPA* Application, and have not opposed the *JRPA* Application. This lack of opposition underscores the *prima facie* validity of the Moving Party's position and highlights the unnecessary delays caused by administrative inaction. The record demonstrates that the

Respondents have waived their right to participate in these interlocutory stages through their own inaction and failure to comply with the *Rules*.
While pursuant to *Section 9(4)* of the *JRPA* the Attorney General for Ontario (AGO) is entitled to be heard at the hearing of the *JRPA* Application, that is not a matter that is currently relevant to the interlocutory administrative relief sought herein. The focus remains exclusively on the rectification of the Registry's records to reflect the actual state of the litigation.

IV. LOSS OF CONFIDENCE AND REDUNDANT FILING PROTOCOLS

As I have lost confidence and the public confidence has been eroded as a result of the failures primarily of Former Registrar Gentles, a copy of these documents will be mail or drop off filed by a third party or courier, along with being provided via email. Furthermore, a copy of this email and the appended Draft Order will be transmitted via facsimile to the attention of the President of the Divisional Court by way of attention to his judicial assistant.

This redundant methodology of service and filing is necessitated by the aforementioned administrative failures and is intended to ensure that the judicial record is perfected notwithstanding the current state of registry stasis. The Moving Party asserts that such measures are a regrettable but necessary consequence of the erosion of trust in the Registry's ability to maintain the *status quo* of a functioning judicial system.

V. LEGAL SYLLOGISMS AND THE NECESSITY OF JUDICIAL INTERVENTION

The Moving Party posits that the administrative functioning of the Registry is not merely a ministerial convenience but a fundamental component of the *constitutionally required judicial independence* and the right to a fair adjudication. To the extent that there is any further opposition or interference, or even if compliance is affected in tardy fashion, the *mandamus* relief may become necessary even if moot, as a prophylactic measure against recurrent administrative irregularities.
The following syllogism illuminates the necessity of the requested relief:

- **Major Premise:** The *Courts of Justice Act* and the *Rules of Civil Procedure* mandate that the Registrar shall facilitate the orderly filing, processing, and transmission of judicial records to ensure the accessibility of justice.
- **Minor Premise:** The Registry has failed to process the Moving Party's electronic filings and has omitted to transfer said records to the *Case Center* platform, thereby obstructing the judicial view of the record and preventing the scheduling of a hearing.
- **Conclusion:** Ergo, the administrative omission has resulted in a constructive denial of access to the Court, necessitating an exercise of the Court's inherent jurisdiction to grant remedial relief *nunc pro tunc*.

In limine, the failure of the Registrar's office to discharge its corollary legal duties—specifically the transition of documents to *Case Center*—represents a breach of the mandatory obligations set forth in *Section 76* of the *Courts of Justice Act*. Justice delayed by a computer terminal is no less a denial of justice than a closed courtroom door.

VI. THE RELIEF SOUGHT IN THE FINAL DRAFT ORDER

The Moving Party presents the Final Draft Order for *Motion #4*, which contemplates a multi-faceted approach to restoring procedural integrity, including *inter alia*:

- **Temporal Abridgment:** The immediate abridgment of time for service and filing to reflect the exigent nature of the administrative failure.
- **Judicial Dispensation:** The formal waiver of procedural formalities, such as the *Form 37A*, which have been rendered redundant or impracticable by the Registry's current state of stasis.
- **Mandatory Registrarial Directions:** Explicit instructions to the Current Registrar to facilitate the immediate upload of all electronic filings to *Case Center*.
- **Judicial Assignment:** The appointment of an independent motions judge, untainted by prior involvement or perceived bias, to adjudicate the merits of *NOM #3*.
- **Writ of Mandamus:** A conditional provision for a *Writ of Mandamus* to compel the performance of these ministerial acts should the Registrar fail to comply within twenty-four (24) hours.
-

VII. IMPLICATIONS OF CONTINUED ADMINISTRATIVE NONFEASANCE

The consequences of continued non-feasance extend beyond the parties involved in this specific litigation. If the Registry is permitted to remain in a state of perpetual delay without judicial oversight, the integrity of the *Divisional Court* as a venue for the review of administrative action is compromised. The Moving Party's right to *certiorari* and other prerogative remedies is predicated upon a functioning court system that respects the timelines established by the legislature.

Furthermore, the administrative obligations of the Divisional Court are not personal to the incumbent but attach to the office. *Ipso facto*, the Current Registrar is legally and ethically bound to rectify the omissions and defaults of the Former Registrar. The doctrine of continuity of office ensures that the transition of personnel does not result in the expiration of public legal duties owed to litigants.

VIII. CONCLUSION AND FINAL DEMAND FOR RECTIFICATION

The Moving Party maintains that the declarations and orders sought are self-evident reflections of the current procedural reality. I find it most regrettable but necessary to have taken these steps. I reserve the right to rely on this document and attached documents, by reference, for any lawful purposes including costs.

Should you rectify any and all failures of your public duties to act, we can jointly notify or I can separately notify the Divisional Court to the attention of the President of the Divisional Court forthwith to be efficient with the usage of public resources. However, I have made sufficient demands regarding the same and the delay has been unreasonable.

The Court's inherent jurisdiction to control its own process is the only remaining safeguard against the administrative inertia that has plagued this file. Should the Responding Parties or the Registry persist in their administrative obstruction or fail to rectify their defaults in the face of these written demands, the Moving Party shall seek costs on a substantial or full indemnity basis.

It is the earnest hope of the Moving Party that this correspondence serves as an *acta* of finality, precipitating the necessary administrative actions to restore the integrity of this *JRPA* proceeding and ensuring that justice is not only done but is seen to be done *instanter*.

Respectfully submitted,

/s/Mr. Kevin A. McLean (BA, JD, CIM)
Mr. Kevin A. McLean, B.A., J.D., C.I.M.

Applicant and Moving Party

Enclosures:

1. Final Draft Order for Motion #4 (Form 59A)
2. Supporting Documentation (to follow via piecemeal transmission)

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One attachment • Scanned by Gmail

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Mr. Kevin McLean <mcleansettlement@gmail.com> Dec 23, 2025, 5:16 PM

PRIVATE AND CONFIDENTIAL
URGENT – TIME SENSITIVE
DATE: December 23, 2025

VIA: Electronic Mail Transmission (with hard copies to follow via physical delivery, mail filing and facsimile)

ADDRESSEES

TO:

The Divisional Court of Ontario
Osgoode Hall, 130 Queen Street West
Toronto, Ontario M5H 2N5
Attention: The Registrar of the Divisional Court, Ms. Roxanne Parris
(hereinafter the "Current Registrar")
AND TO:

The Former Registrar of the Divisional Court, Ms. Gentles
(hereinafter the "Former Registrar")
AND TO:

The President of the Divisional Court, The Honourable Chief Justice Morawetz
Osgoode Hall, 130 Queen Street West
Toronto, Ontario M5H 2N5

MATTER DETAILS

- **Court File Number:** DC-24-00000718-00JR
- **Short Style of Cause:** *McLean v. TD Home and Auto Insurance Company, et al.*
- **Document Classification:** Factum or Written Submission relating to Motion #4
- **Sender:** Mr. Kevin A. McLean, B.A., J.D., C.I.M. (the "Moving Party" and "Applicant")

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

In light of the continued non-compliance with public legal duties to act, kindly find attached my factum or written submission in support of the Draft Order by motion (absent a Form 37A due to its lack of necessity and circumstances necessitating the same). The motion record will follow in electronic and mail filing copy of he same.

I confirm that my draft order provided today was successfully faxed to the attention of the President of the Divisional Court. A cop of this factum will also be sent to his attention as well.

Govern yourselves in accordance with the law.

Thank you.

Yours faithfully,

/KAM

Mr. Kevin A. McLean (BA, JD, CIM)

5008

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One attachment • Scanned by Gmail

M

Mr. Kevin McLean <mcleansettlement@gmail.com> Dec 31, 2025, 4:58 PM

to evelyne.ibula, SCJ-CSJ, roxanne.parris, Tashekah

PRIVATE AND CONFIDENTIAL
URGENT – TIME SENSITIVE
DATE: December 31, 2025

VIA: Electronic Mail Transmission (with hard copies to follow (or already occurred) via physical delivery, mail filing and with facsimile copies to the attention of the President of the Divisional Court pursuant to, inter alia, section 76 of the CJA)

ADDRESSEES

TO:

The Divisional Court of Ontario
Osgoode Hall, 130 Queen Street West
Toronto, Ontario M5H 2N5
Attention: The Registrar of the Divisional Court, Ms. Roxanne Parris
(hereinafter the "Current Registrar")
AND TO:

The Former Registrar of the Divisional Court, Ms. Gentles
(hereinafter the "Former Registrar")
AND TO:

The President of the Divisional Court, The Honourable Chief Justice Morawetz
Osgoode Hall, 130 Queen Street West
Toronto, Ontario M5H 2N5

MATTER DETAILS

- **Court File Number:** DC-24-00000718-00JR
- **Short Style of Cause:** *McLean v. TD Home and Auto Insurance Company, et al.*
- **Document Classification:** Enclosure of Motion Record #4 in bookmarked and hyperlinked format as a courtesy to the Divisional Court and President of the Divisional Court
- **Sender:** Mr. Kevin A. McLean, B.A., J.D., C.I.M. (the "Moving Party" and "Applicant")

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

I. INTRODUCTION

1. I cordially write regarding the above. I adopt all definitions from previously, indirectly or directly, cited correspondence.
2. It is my distinct privilege to facilitate the delivery of the enclosed copies of the *Motion Record #4* (the "Motion Record"), alongside the secondary documentation articulated *infra*. Subject to a comprehensive verification of the extant tracking particulars, the *inter vivos* physical filing of these materials via post should be deemed efficacious as of the current date. The *Moving Party* has exercised exhaustive diligence to ensure that the physical and digital manifestations of these pleadings are synchronized to prevent any jurisdictional or administrative dissonance.

II. PROCEDURAL TRANSMISSIONS AND ADMINISTRATIVE COGNIZANCE

3. An identical reproduction of the *Motion Record* shall be dispatched via facsimile to the *President* of the *Divisional Court*. This redundancy is necessitated by the exigencies of the current circumstances to ensure the *status quo ante* of the judicial record is preserved with meticulous precision. Given the gravity of the relief sought and the complexity of the underlying *Judicial Review Procedure Act* (the "JRPA") application, the *Moving Party* deems it imperative that the *President* be possessed of these materials through multiple secure channels to preclude any potential for administrative oversight.
4. In light of the resignation of the *Former Registrar* and the emergence of recently discovered evidentiary substantiation concerning Ms. Evelyne Ibula (the "Ibula Evidence"), as detailed in the *Cover Letter regarding "mail filed" Motion Record* (the "Cover Letter"), I have included her as a recipient *ex abundanti cautela*. The transition between the *Former Registrar* and the *Current Registrar* introduces a critical juncture in the management of this file, necessitating a high degree of transparency to maintain the integrity of the court's record-keeping functions.
5. Based upon my extensive review of the *Public Service of Ontario Act, 2006, SO 2006, c 35, Sch A* (the "PSOA") and attendant regulations, it is unclear if *Former Registrar* Gentles resigned, was terminated for cause or without cause, or abandoned her position. While it is not particularly relevant *per se* but for determining the reasons for the failures in processing submitted documents for filing, which remain outstanding—which in turn means *Motion #4* is increasingly urgent and naturally dovetailed to *Notice of Motion #3* (the "NOM #3") and the requirements to bring such a motion in this proceeding herein—it is also vital in determining whether *Registrar* Parris is the permanent *Registrar* of the *Divisional Court* or merely filling a void left by the delinquency in duties by *Former Registrar* Gentles.
6. This inclusion further serves the purpose of ascertaining whether Ms. Ibula was, or remains, a *de facto* employee or a contractual agent of the *Ontario Government* or the *Ministry of the Attorney General* (the "MAG"). A preliminary inquiry suggests a conspicuous absence of her credentials within the public service records or the *Government of Ontario Employee and Organization Directory* (the "Directory"). The current *prima facie* evidence suggests a potential lack of institutional affiliation, given the absence of a designated telephonic extension within the *Divisional Court* premises. Such irregularities mandate a robust investigative posture to ensure that no *ultra vires* communications have influenced the trajectory of this litigation.

III. ACCURACY, EFFICACY, AND JURISPRUDENTIAL AUTHORITY

7. The *Moving Party* confirms *ipso facto* that the mail-filed iteration of the *Motion Record* is substantive and identical to the electronic version provided herein. The electronic version incorporates sophisticated bookmarking and hyperlinked authorities—provided as a professional courtesy to the *Divisional Court* and the *President*. In light of my continued good faith efforts to respect the resources and efficiency of the public purse, I may provide, as a courtesy, a *Book of Authorities* to ensure that justice is not merely done but seen to be done.
8. In this regard, I will now highlight, while contained in the bookmarked version of *Motion Record #4*, the authority of *Ruffo v Conseil de la magistrature, [1995] 4 SCR 267* (the "Ruffo") at the following paragraphs in summarized form:

> 57 In my opinion, this last observation also applies to the chief district judge. Until 1940, disciplinary control of judges of the chief district judge's court was subject to the dismissal procedure, which required a vote by both legislative assemblies in favour of dismissal (R.S.Q. 1909, ss. 3263 and 3292; R.S.Q. 1925, c. 145,

5010 ss. 221 and 269); starting in 1941 it required a report of the Court of King's Bench (Appeal Side), the predecessor of the present Court of Appeal (R.S.Q. 1941, c. 15, ss. 221 and 269; R.S.Q. 1964, c. 20, ss. 76 and 119; R.S.Q. 1977, c. T-16, ss. 85, 127 and 133; S.Q. 1988, c. 21, s. 30; and R.S.Q., c. T-16, s. 95). It must not be forgotten that a large part of the chief judge's role in maintaining high-quality justice was defined gradually over the years, in the same way as judicial precedents. Many aspects of this role derived from judicial tradition without being transferred to legislation. Therefore, the fact that there was no explicit legislation on ethics until quite recently does not mean we can doubt the continuity that marked the development of the chief judge's responsibilities in this regard. It accordingly cannot be argued that the supervisory powers conferred on the chief judge by the present s. 96 *CJA* were assigned spontaneously by the legislature; in my view, they must rather be seen as the expression of a reality that is consistent with general practice and gradual developments over time.

58 This opinion is shared by the American author C. G. Geyh, who asserts that the chief judge's supervisory powers over ethics are inherent in the exercise of his or her functions and need not be conferred by specific statutory provisions ("Means Of Judicial Discipline Other Than Those Prescribed By The Judicial Discipline Statute, 28 U.S.C. Section 372(c)", in *Research Papers of the National Commission on Judicial Discipline and Removal* (1993), vol. 1, 713, at p. 756). I agree.

59 We must recognize that the chief judge, as *primus inter pares* in the court, the efficient operation of which he or she oversees in all other respects, is in a preferred position to ensure compliance with judicial ethics. First, because of the chief judge's role as co-ordinator, events that may raise ethical issues are more readily brought to his or her attention. As well, because of the chief judge's status, he or she is often the best situated to deal with such delicate matters, thereby relieving the other judges of the court of the difficult task of laying a complaint against one of their colleagues where necessary. In short, the power to lay a complaint is an intrinsic part of the chief judge's responsibility in this area and it would not be fitting for the chief judge to act through someone else, whether a judge or a person outside the judiciary, to fulfil his or her obligations in this regard.

9. As such, *Motion #4* is multi purposed and in the public interest as per the explicit language therein. This technological augmentation is intended to mitigate the cognitive burden on the judiciary, allowing for a more fluid extrapolation of legal principles and a more efficient verification of the cited *jurisprudence*.
10. Obviously, whatever complaint process of the President of the Divisional Court purview is not my prerogative to know but nonetheless part of my duty (moral, ethical, legal or otherwise) to assist in the public interest so others do not suffer in the same or similar

IV. CLOSING REMARKS

10. It is the *Applicant's* anticipation that the self-evident nature of the enclosed materials, coupled with the rigorous adherence to the governing statutes and *Rules of Civil Procedure, RRO 1990, Reg 194* (the "Rules"), despite certain processes being frustrated will assist the *Divisional Court* in resolving the pending motions without further delay.
11. I confirm that as of today's date, the Registrars, court staff and court clerks of the Executive Branch (MAG), have NOT opposed any relief sought herein.

Respectfully submitted,
/s/Mr. Kevin A. McLean (BA, JD, CIM)
Mr. Kevin A. McLean, B.A., J.D., C.I.M. Applicant and Moving Party
Enclosures:

1. *Motion Record #4 of the Applicant* (the "Motion Record"), presented in a hyperlinked and bookmarked format.
2. Electronic copy of the *Cover Letter regarding "mail filed" Motion Record* (the "Cover Letter").

...

2 Attachments • Scanned by Gmail

5011

Mr. Kevin McLean <mcleansettlement@gmail.com> Dec 31, 2025, 6:12 PM

to SCJ-CSJ, roxanne.parris, Tashekah

PRIVATE AND CONFIDENTIAL
VIA ELECTRONIC TRANSMISSION
DATE: December 31, 2025
TO: The Superior Court of Justice — Divisional Court (the "Divisional Court")
ATTENTION: The President of the Divisional Court (the "President")
SUBJECT I: CONFIRMATION THAT THE ONLY POTENTIAL CORRECT EMAIL COORDINATES OF MS. IBULA IS NOT ACTIVE WITH THE ONTARIO GOVERNMENT
SUBJECT II: RESERVATION OF RIGHTS IN RELATION TO SUBJECT I
SUBJECT III: DEMAND IN PERPETUITY FOR THE REGISTRAR OF THE DIVISIONAL COURT AS REPRESENTED BY FORMER REGISTRAR GENTLES

Dear Divisional Court of Ontario:

I. INTRODUCTION

I cordially write regarding the above. I adopt all definitions from previously, indirectly or directly, cited correspondence.

II. FACTUAL ANTECEDENTS AND THE STATUS OF MS. EVELYNE IBULA

It has been ascertained, through diligent inquiry, that the electronic mail address previously associated with Ms. Evelyne Ibula (the "Ibula Email") no longer constitutes an active conduit for communication. *Perforce*, a comprehensive examination of the signature block utilized by the individual (**see: Appendix #1**), which notably omitted any telephonic contact information during her representation as the "Assistant Trial Coordinator" (the "Coordinator Role") in January 2025, militates toward the conclusion that Ms. Ibula was neither a permanent employee nor a contractually retained agent of the *Divisional Court* at the material time.

The undersigned has copied and pasted the relevant information from the "Delivery Status Notification" (Failure):

Mail Delivery Subsystem <mailer-daemon@googlemail.com> 4:58 PM (1 hour ago)

to me

Address not found

Your message wasn't delivered to **evelyne.ibula@ontario.ca** because the address couldn't be found

The undersigned herein places reliance upon publicly accessible jurisprudence, *Cover Letter regarding mail filed Motion Record #4 at page 4*, (the "Ibula Jurisprudence") which references Ms. Ibula in capacities distinct from the public service (**see: Appendix #1**). Consequently, the *Ibula Email* has been expunged from all current and prospective itineraries of communication.

III. SYLLOGISTIC EVALUATION OF CONFLICTS AND ADMINISTRATIVE PROPRIETY

The revelation that Ms. Ibula's recent professional affiliations were tethered to *Martin Barristers* (the "Private Firm")—an entity situated at the identical municipal address and suite as counsel for Mrs. Aphrodite Artopoulos—in conjunction with the actions of Mr. David Karat of the Respondent Insurance Companies (collectively the "Respondents") regarding the McLean Property (the "Property"), engenders profound apprehension. Such a nexus necessitates the immediate attention of the *President* in light of the multifaceted supervisory obligations articulated in *Ruffo v. Conseil de la magistrature*, [1995] 4 SCR 267 (the "Ruffo").

The principles elucidated in *Ruffo* have been unequivocally adopted by the *Federal Court of Appeal* in *Canadian Judicial Council v. Girouard*, 2019 FCA 148 (the "Girouard"), at paragraph 42. *Ipso facto*, the Chief Justice, in the capacity of *President*, possesses an inherent mandate to investigate the circumstances surrounding the *ad hoc* emergence of Ms. Ibula within the administrative architecture of the Court, particularly as her involvement appears coincident with the purported compulsory case conference requirements mandated by Madam Justice Shore.

IV. STATUTORY ANALYSIS OF THE PUBLIC SERVICE OF ONTARIO ACT AND COURTS OF JUSTICE ACT

While the Deputy Attorney General (the "DAG"), acting as the Commissioner under the *Public Service of Ontario Act, 2006, SO 2006, c 35, Sched A* (the "PSOA"), maintains the *ultra vires* power to terminate or deem abandoned the positions of unionized employees of the Ontario Public Service Employees Union (the "OPSEU"), such statutory authority does not preclude the *President* from discharging the delicate obligation of investigating "colleagues," as envisioned by the Supreme Court of Canada in *Ruffo*. Furthermore, the *Courts of Justice Act, RSO 1990, c C.43* (the "CJA"), under section 73(2) and 73(2.1), permits the *DAG* or a designate to assign duties to persons regardless of their appointment status under the *PSOA*. It remains a matter of grave concern whether Former Registrar Gentles (the "Former Registrar") attempted to vest Ms. Ibula with such authority *in limine*. There exists a palpable necessity for a "cooling off" period for individuals transitioning from private advocacy within the same jurisdictional region to roles within the *Divisional Court* administrative apparatus.

Should it be determined that the assignment of Ms. Ibula was procedurally defective or otherwise *prima facie* improper, the undersigned reserves the right to seek the unwinding or setting aside of all derivative steps, documents, or unmade orders as a matter of *status quo ante*.

V. CONCLUSION AND RESERVATION OF RIGHTS

This comprehensive missive is intended for the direct perusal, jointly, of the *President*; however, in light of the erosion of faith and confidence—and presumably that of the public where similar contraventions have transpired—I shall transmit the final two electronic communications and the respective attachment via facsimile, as performed heretofore. I shall continue to exercise *ex abundanti cautela* and due diligence regarding these administrative anomalies. I reserve the absolute right to rely upon this correspondence for any lawful purpose.

As *Motion #4* remains unopposed, I shall refrain from seeking costs at this juncture. Although it was previously intimated that an "army" was being marshalled against the interests of the undersigned, the supremacy of the *Constitution Act, 1982*, the *Canadian Charter of Rights and Freedoms*, and the overarching rule of law ensures that the legal apparatus remains the ultimate arbiter. It is suggested that this multi-jurisdictional army, formed *ad hoc* for the purpose of my destruction, directs its focus toward a comprehension of the Canadian legal system. To the extent they possess such knowledge—which appears improbable given their sparse attempts at legal analysis culminating in a variety of sophisms

and fallacious syllogisms—they should attempt to prevail on a balance of probabilities rather than through the manipulation of documentation and the utilization of various criminal law enforcement divisions.

The undersigned maintains that the preservation of legal integrity outweighs individual mortality. With a valid will and power of attorney, I am prepared to persevere through extreme incapacity, serious impairments, and disabilities inclusive of death. If such a stand is not taken, particularly given the perceived threat that the state may turn upon practitioners while the Attorney General of Ontario holds a prominent role under the *Law Society Act, RSO 1990, c L.8*, the public interest will suffer irretrievably. Consequently, the *Divisional Court* need not anticipate a potential settlement, as a confidential and non-disclosable resolution serves no public good. Oddly, this allows me a certain lacuna or opening to have evened the scales of justice which underscores the nefarious and unlawful efforts by the MAG, TPS, OPP et al that have tried and have delayed justice. Nonetheless, the rule of law must be adhered to. The inference regarding the *ad hoc* inclusion of Ms. Ibula suggests that employees of the Ministry of the Attorney General (the "MAG") within the *Divisional Court* possessed knowledge of an undisclosed *ex parte in camera* hearing judge who authorized an arrest warrant and were, understandably, hesitant to communicate with the undersigned. I welcome any written opposition to my beliefs while the sources of my beliefs have been highly particularized.

Finally, a formal demand is hereby reiterated that the current Registrar of the *Divisional Court* (**see: Appendix #2**) discharge all non-discretionary public legal duties necessitated by the omissions of the *Former Registrar*, specifically regarding the systemic failure to ensure communication channels remained unobstructed. It is demanded that all outstanding submitted filings are processed without delay and *forthwith*.

I thank the *President* of the *Divisional Court* in advance for discharging the duty to direct the Registrar, court clerks, and other court staff in matters encompassing *Motion #4*, all of which are assigned by law to the judiciary and only to the judiciary.

A blessed and Happy New Year to all herein and beyond.

Yours most appreciatively and gratefully,

/s/Mr. Kevin A. McLean (BA, JD, CIM)
Mr. Kevin A. McLean (BA, JD, CIM)
(He/Him)
Appendix #1: Correspondence signature of Evelyne Ibula and citation of Ibula Jurisprudence.
Appendix #2: Notification of Registrar transition from T. Gentles to R. Parris, dated December 3, 2025.
Appendix #3: Correspondence from Former Registrar Gentles regarding jurisdictional constraints, dated September 9, 2025.

APPENDIX #1

Sincerely,
Evelyne Ibula (She/Her/Elle)
Assistant Trial Coordinator
Superior Court of Justice – Divisional Court
Osgoode Hall, Room 174
130 Queen Street West
Toronto, ON M5H 2N5

Appendix #2:

5014

Gentles, Tashekah (JUD) Wed, Dec 3, 10:45 AM

to me

NOTIFICATION

PLEASE NOTE: I am no longer the Registrar/Manager for Divisional Court. If your email relates to Divisional Court, please forward same to Roxanne Parris the new Registrar for Divisional Court. Roxanne can be reached @ roxanne.parris@ontario.ca.

Please note the Divisional Court e-mail Inboxes for communicating with the court:

Filing and General communication:
SCJ-CSJ.Divcourtmail@ontario.ca

Scheduling information:
DivCourtSchedule@ontario.ca

Thank You,

Tashekah Gentles

Appendix #3: Email from Ms. Gentles wherein I was seeking access as a matter of right to the undisclosed to information or indictments signed and filed with the originating courthouse or within the control or custody of the Divisional Court involving the undisclosed signed arrest warrant which were required to be provided to me upon request and without charge – remaining outstanding as of today's date (nota bene: Former Registrar Gentles and the Divisional Court were corrected on the distinction between the jurisdiction of a judge of the dc, also a judge of the SCJ but a judge of the "SUPERIOR COURT OF CRIMINAL JURISDICTION" under the Criminal Code and the concepts of custody and control (see: the right to make a demand for records) of a court which the Divisional Court had and has in light of the presiding judge who made, issued and signed an arrest warrant involving myself of which the executive branch and the courts have refused, contrary to federal and provincial law, to provide a copy of the same.

Gentles, Tashekah (JUD) <Tashekah.Gentles@ontario.ca> Tue, Sep 9, 9:04 AM

to me, Daniel

Good morning Mr. McLean,

5015
Please note Divisional Court does not have jurisdiction to hear criminal matters. This court only hear matters relating to civil and family. As the Registrar for Divisional Court, I do not have jurisdiction to address matters that are criminal in nature.

Regards,

Superior Court of Justice
Divisional Court

Tashekah Gentles

Yours faithfully,

/KAM

Mr. Kevin A. McLean (BA, JD, CIM)

Sender's name: Mr. Kevin Alexander McLean (BA, JD, CIM)
Sender's address: 410-775 King Street West, Toronto, Ontario, M5V 2K3
Sender's Telephone Number: (647) 370-9354
Sender's email address: mcleansettlement@gmail.com

...

M

Mr. Kevin McLean <mcleansettlement@gmail.com>

Jan 2, 2026, 1:49 PM

to SCJ-CSJ, roxanne.parris, Tashekah

Classification: PRIVATE AND CONFIDENTIAL
Time Sensitivity: URGENT – TIME SENSITIVE
DATE: January 2, 2026

Initial Sending Method: Electronic Mail Transmission
Subsequent transmission methods: facsimile *et al*

ADDRESSEES

TO:

The Divisional Court of Ontario
Osgoode Hall (Toronto)
130 Queen Street West

Room 174
Toronto, Ontario
M5H 2N5

(the "**Divisional Court**")

Attention: The Registrar of the Divisional Court, Ms. Roxanne Parris
(hereinafter the "**Current Registrar**" or "**Replacement Registrar**")
Email: Roxanne.parris@ontario.ca

AND TO:

The Former Registrar of the Divisional Court
Ms. Tashekah Gentles
(hereinafter the "**Former Registrar**")
Email: Tashekah.Gentles@ontario.ca

AND TO:

The **President** of the Divisional Court,
The Honourable Chief Justice Morawetz
Osgoode Hall,
130 Queen Street West
Toronto, Ontario
M5H 2N5
Fax: 416.327.6011

MATTER DETAILS

I. **Court File Number:** DC-24-00000718-00JR
II. **Short Style of Cause:** *McLean v. TD Home and Auto Insurance Company, et al.*
III. **Document Classification:** Email with attachment: Canada Post confirmation tracking number of "Mail **Filed**" **Motion Record #4** (January 2, 2026)
IV. **Sender:** Mr. Kevin A. McLean, B.A., J.D., C.I.M.
V. **Sending Party Status in relation to Motion #4**: "Moving Party"
VI. Date that Motion #4 was made (i.e. Draft Order with Factum or Written Submission made): Tuesday, **December 23, 2025**
VII. **Non-opposing Respondents (by virtue of their failure to comply with the explicit language in Form 68A of the Rules of Civil Procedure et al) and prohibited by law to have filed or presented any evidence or submissions in the JRPA Proceeding by the same explicit language in Form 68A**: in style of cause
VIII. **Responding Parties in relation to Motion #4**: the Former Registrar and Current Registrar of the Divisional Court (collectively, the "Divisional Court **Registrars**")

SUBJECT I: CONFIRMATION – MAIL FILING (SEE: RULE 4.05(5) OF THE RULES OF CIVIL PROCEDURE) – MOTION RECORD #4

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

I. INTRODUCTION AND DEFINITIONS

1. I cordially write regarding the above. I adopt all definitions from previously, indirectly or directly, cited correspondence.

2. For the purposes of this communication, the *Rules of Civil Procedure, RRO 1990, Reg 194*, shall be referred to as (the "*Rules*"). The motion record **filed** via postal services on the date hereof shall be referred to as (the "**Motion Record #4**"). The collective administrative leadership, former and current of the court shall be referred to as (the "**Registrars**").

II. FILING AND STATUTORY OBLIGATIONS

3. It is observed, *ex abundanti cautela*, that in light of persistent and profound irregularities concerning the failure of the **Registrars** to discharge their public legal duties—which are unequivocally statutory and prescribed in nature according to the letter of the law—**Motion Record #4** was dispatched and finally effected via **mail-filing** (see: Rule 4.05(5) of the Rules of Civil Procedure) to the *Divisional Court* this morning (the "**Filing**"). This proactive measure is necessitated by the requirement to preserve the integrity of the judicial process and to ensure that the Moving Party's rights are not attenuated by administrative inertia or procedural circumvention.

4. *Ipso facto*, the Office of the Registrar is under a non-discretionary and mandatory obligation to exigently and expeditiously affix the judicial stamp to **Motion Record #4**, effective as of the date of this correspondence, pursuant to the strictures of *Rule 4.05(5)* of the *Rules*. Any deviation from this prescribed duty would constitute a departure from the *status quo ante* and potentially invite a finding of *ultra vires* conduct regarding the administrative handling of the record.

5. To preclude any potential for jurisdictional ambiguity, or subsequent disputation regarding the receipt of the **Filing**, the attached *Canada Post* tracking identifier (the "**Tracking Documentation**") serves as *prima facie* evidence of delivery. This documentation ensures that the relevant and sole *court office* cannot maintain a vacuum of information or assert a lack of knowledge regarding the receipt of a document that has been "**filed by mail**" under the auspices of *Rule 4.05(6)* of the *Rules*. The temporal certainty provided by the **Tracking Documentation** is conclusive and rebuts any assertion of non-receipt.

III. SERVICE AND PREVIOUS CORRESPONDENCE

6. It is further confirmed that, *inter alia*, the substantive application and underlying legal syllogisms supporting Motion #4 were initiated and "made" on December 23, 2025, and concurrently served upon the **Registrars** in their official capacity. The efficacy of this service is absolute, thereby placing the **Registrars** on constructive and actual notice of the relief sought and the evidentiary basis contained therein.

7. Furthermore, the Draft Order and Motion #4 Factum, defined *infra*, were transmitted via facsimile to the **President** of the *Divisional Court* (the "**President**"). This transmission was executed to facilitate the **President**'s requisite and urgent adjudication and deliberation of the relief sought, with specific reference to the *Factum* or *Written Submission for Motion #4* (the "**Factum**") and the accompanying Draft Order. These transmissions occurred with precise regularity on the following occasions:

a. December 23, 2025, at 18:42 hours; and
b. December 23, 2025, at 23:17 hours.

8. Such repetitive notification underscores the urgency of the matter and ensures that the judicial mind is fully seized of the complexities and the necessitated interventions required to prevent a miscarriage of justice or an inequitable delay in the proceedings.

IV. Conclusion

9. The language and specific relief articulated within the **Motion #4 Draft Order** remain entirely applicable, relevant, and efficacious as of the current date.

10. It is salient to observe that there has been an *absence* of any countervailing submissions or formal opposition from the **Responding Parties**, rendering the requested relief effectively unopposed and the conclusions therein self-evident.

11. In strict and unwavering adherence to the *Rules*, it is respectfully requested and required (see: language in requisition form) that the Office of the Registrar provide a copy of the Order once it has been made, issued, and entered into the judicial record of proceedings for this JRPA Proceeding.

12. Should the **President** of the *Divisional Court* require any refinements, clarifications, or *in limine* modifications to the instrument to better reflect the Court's intent, the undersigned remains available to redraft the same. This ensures that the final document is entirely congruent with the Court's findings and the high standards of stylistic elegance expected in such high-stakes, generally and specifically, and public interest litigation, prior to its subsequent filing and entry into the record of proceeding.

13. Otherwise, I shall presume, reliance on the adverse inference doctrine, that I have complied, in light of the lack of necessity of a Form 37A along with the frustration of the process with electronic filings with the OCPP and the circumstances dictating the absence of a Form 37A, that Motion #4 and its relief sought in the form a hard copy made, provided and served Draft Order via email and fax, and "mail filed" is decided without opposition to the relief sought.

14. Should the Divisional Court and the President of the Divisional Court require any further clarification or assistance in this regard, I remain available via this email.

15. Thank you kindly.

Respectfully submitted:
...

One attachment • Scanned by Gmail

M

Mr. Kevin McLean <mcleansettlement@gmail.com> Jan 12, 2026, 2:58 PM

to SCJ-CSJ, roxanne.parris

Classification: PRIVATE AND CONFIDENTIAL Time Sensitivity: URGENT – TIME SENSITIVE DATE: January 12, 2026
Initial Sending Method: Electronic Mail Transmission
Subsequent transmission methods: facsimile et al

ADDRESSEES

TO:
The Divisional Court of Ontario
Osgoode Hall (Toronto)
130 Queen Street West
Room 174
Toronto, Ontario M5H 2N5
(the "Divisional Court")
Attention: The Registrar of the Divisional Court, Ms. Roxanne Parris *(hereinafter the "Current Registrar" or "Replacement Registrar")* Email: Roxanne.parris@ontario.ca

ATTN TO: *(TO BE DIRECTED TO IN RELATION TO THE DRAFT ORDER AND DOCUMENTS TO FOLLOW SUBJECT TO ANY IMMEDIATE RECTIFICATION AND REMEDYING OF THE NON-COMPLIANCE INCLUDING THE NOW RECURRING ISSUE OF A 403 FORBIDDEN CODE)*
The President of the Divisional Court, The Honourable Chief Justice Morawetz Osgoode Hall, 130 Queen Street West
Toronto, Ontario M5H 2N5
Fax: 416.327.6011

MATTER DETAILS

I. **Court File Number:** DC-24-00000718-00JR
II. **Short Style of Cause:** McLean v. TD Home and Auto Insurance Company, et al.
III. **Document Classification:** Email with enclosures: (1) Canada Post confirmation tracking number for Motion Record #4; (2) **Draft Order for Motion #5** (January 12, 2026 version - V3); (3) **Summary of Factum or Written Submission in Support of Motion #5**.
IV. **Sender:** Mr. Kevin A. McLean, B.A., J.D., C.I.M.
V. **Sending Party Status:** "Moving Party" in relation to Motion #4 and Motion #5, and NOM #3 (along with NOM #1 and #2) and Applicant in relation to JRPA Application

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

I write to you on an urgent and extraordinary basis, compelled by circumstances that threaten to render the judicial process a nullity. I repeat, rely upon, and incorporate by reference the entirety of the relevant correspondence previously submitted to this Court as though fully set out herein. The situation has reached a critical juncture where the administration of justice is being systematically obstructed by a combination of technical failure, registrarial paralysis, and institutional silence.

The Digital Blockade and the "403 Forbidden" Exclusion: I confirm that as of today's date, there continues to be a persistent and impenetrable "403 Forbidden Error Code" whenever I attempt to access the Ontario Public Courts Portal (OCPP) using my designated email, password, and verification codes. In technical terms, a "403 Forbidden" error signifies that the web server understood the request but affirmatively refuses to authorize access to the requested resource. It indicates that the user lacks the necessary permissions—functioning as a locked door even when the litigant possesses the correct key.

This digital blockade is not a generalized system outage but appears to be a targeted and deliberate exclusion. Through rigorous comparative testing conducted for investigative purposes, I have confirmed that other OCPP accounts remain fully accessible from the same IP address and hardware configuration. However, my specific credentials result in an immediate and absolute refusal. This "digital excommunication" represents a "smoking gun" of administrative interference, occurring precisely as critical litigation deadlines approach. It is a violation of the fundamental principle that digital infrastructure must serve the law, not function as a weapon for "digital gatekeeping" to exclude specific litigants from their constitutional right to be heard. To deny a litigant their digital portal is to effectively evict them from the modern courthouse.

The Administrative Vacuum and Registrarial Absence: While I acknowledge that Ms. Roxanne Parris has served as Acting Registrar since December 3, 2025, there appears to be a total breakdown in institutional continuity. I have verified through direct telephonic inquiry that Successor Registrar Gentles has been absent since December 10, 2025, with an expected return only on January 9, 2026. This month-long absence, occurring during the returnable period for Notice of Motion #3, has left the Registry in a state of functional paralysis. I have preserved an audio recording of the official voicemail message confirming this absence as evidentiary proof of the "institutional silence" currently pervading the Registry.

This administrative vacuum, coupled with the unexplained 403 technical lockout, constitutes a "constructive closure" of the courthouse. When a litigant cannot file, cannot speak to a Registrar, and cannot receive confirmations of service, the rule of law is effectively suspended. The combined effect of these factors creates a "legal vacuum" where rights are asserted in a void but never adjudicated, effectively insulating administrative decisions from judicial review. This is not merely a matter of administrative convenience; it is a substantive prerequisite for a functioning democracy that the state remains subject to the superintending authority of an independent judicature.

Constitutional Imperatives and the Core Jurisdiction of the SCJ: In light of the ongoing 403 Error Code, I respectfully require and demand that this technical barrier be rectified forthwith and by no later than the close of this business day. Access to justice is an inviolable constitutional principle (*TLABC v. BC*, 2014 SCC 59). In the 21st century, access to the Superior Court is synonymous with digital access; to extinguish a litigant's ability to file

effectively is to render the constitutional promise of access a dead letter. This blockade represents an unconstitutional attempt by the Executive Branch to achieve indirectly what it is barred from doing directly: ousting the "Core Jurisdiction" of the Superior Court as protected under Section 96 of the *Constitution Act, 1867*. Any administrative policy or registrarial "standard operating procedure" that conflicts with these constitutional mandates is, *ipso facto*, of no force or effect.

Enclosures, Versioning (V4), and the Piecemeal Record: Please find enclosed the **Draft Order for Motion #5** (dated January 12, 2026). I have designated this Draft Order as "V" (Version 3). For purposes of good faith and full disclosure, should updated evidence or status changes require a subsequent revision to bring the status current, I will entitle the same "V5" for ease of reference. This staggered delivery is necessitated by the insurmountable technical barriers I am currently facing, which have forced me to resort to physical mail-filing and facsimile transmissions to preserve my rights. I expressly confirm that I will maintain the highest substantive standards of legal argument in my Factum, maintaining the integrity of the record in spite of the technical non-compliance forced upon me.

PARTICULARIZED LIST OF THE TWENTY-ONE (21) ORDERS SOUGHT IN DRAFT ORDER (V3)

The Applicant seeks the following specific orders to restore the Rule of Law and ensure institutional integrity:

I. DISPENSATION AND ABRIDGMENT OF TIME

1. **DISPENSATION OF FORM 37A:** That the requirement for a formal Notice of Motion (Form 37A) for this Motion #5 be dispensed with, necessitated by the insurmountable technical barriers of the "403 Forbidden Error Code" which has effectively severed the Applicant's primary means of service.
2. **ABRIDGMENT OF TIME:** That the time for service and filing be abridged, declaring this motion properly returnable this day, January 12, 2026, to address the urgent need for judicial oversight over the digital and administrative components of this litigation.
3. **NUNC PRO TUNC ORDERS:** That all orders involving timing and filing relating to this matter be granted *nunc pro tunc*, ensuring the record is perfected despite the administrative failures encountered by the Applicant.

II. JUDICIAL ASSIGNMENT AND INSTITUTIONAL OVERSIGHT 4. **SELF-ASSIGNMENT BY THE PRESIDENT:** That the President of the Divisional Court self-assign this proceeding to his own jurisdiction. This is vital to prevent a miscarriage of justice necessitated by the inextricable nexus between the matters at hand and the requirement for the highest level of judicial oversight to restore public confidence. 5. **RELIEF OF JUSTICE SHORE:** That Madam Justice Shore be relieved from all duties involving the Applicant to maintain the appearance of total judicial impartiality and ensure the merits of the JRPA proceeding are not obscured by collateral disputes regarding judicial conduct.

III. SECTION 76 OF THE CJA AND CONSTITUTIONAL ACCESS 6. **MANDATORY RECTIFICATION OF OCPP:** That IT administrators immediately rectify the "403 Forbidden" status, including whitelisting the Applicant's IP address and restoring full electronic filing and retrieval privileges. 7. **PROVISION OF IT CONTACT:** That court staff provide an individual email contact for the IT department to troubleshoot the 403 issue in the event that the technological court staff cannot fix the same. 8. **PRODUCTION OF ACCESS LOGS:** That the OCCP manager and Registrar provide the President with all relevant logs regarding the Applicant's access attempts to determine exactly when and why the blockade commenced. 9. **ALTERNATIVE EMAIL FILING:** That until the 403 error is fixed, the Applicant is entitled to file via email to the Registry and Acting Registrar Roxanne Parris, with documents deemed filed at the time of transmission. 10. **DECLARATION OF CONSTRUCTIVE DENIAL:** A declaration that digital disenfranchisement constitutes a "constructive denial of the right to be heard" (*audi alteram partem*) and a breach of the Core Jurisdiction of the SCJ as protected under Section 96.

IV. ACCESS TO COURT RECORDINGS, DOCUMENTS, AND INFORMATION ASSETS 11. **COPIES OF RECORDINGS:** That the SCJ Recording Management Office provide copies of digital recordings for all case conferences for which a Request Form Undertaking has been submitted and payment remitted. 12. **PROVISION TO TRANSCRIPTIONIST:** That the RMO provide the Applicant's authorized transcriptionist (ATO) with the specific tapes and materials required for the production of certified transcripts. 13. **ACCESS TO "UNDISCLOSED CRIMINAL PROCEEDING":** That staff provide immediate access to requested documents in their custody related to relevant criminal proceedings, to the extent such documents are relevant to the grounds of judicial review. 14. **"NON-FIPPA" ACCESS:** That staff at any SCJ courthouse provide access to requested documents and information assets, recognizing that the "open court principle" extends to administrative records necessary to verify procedural regularity. 15. **48-HOUR RESPONSE MANDATE:** That court staff and Registrars respond to the

Applicant within 48 hours to compensate for significant procedural delays and ensure the Applicant is not further marginalized by administrative silence. 16. **ITEMIZED FEE ESTIMATES:** That the Registrar provide detailed, itemized estimates of costs for document access. If not provided within 48 hours, such fees shall be deemed waived. **V. ADJUDICATION AND GENERAL PROVISIONS** 17. **IMMEDIATE ANNOUNCEMENT ORDER:** That the President pronounce determinations regarding Motions #3, #4, and #5 immediately, with comprehensive, detailed reasons to follow. 18. **MOOTNESS OF PRIOR ORDERS:** That to the extent these orders dispose of any other orders, the relief sought in other motions is rendered moot. 19. **IMMEDIATE EFFECT:** That this Order be effective immediately and settled/signed solely by the President without requirement for approval as to form or content by defaulting Respondents. 20. **PRESIDENTIAL SIGNATURE:** That only the President may sign this order, with formal issuing to be completed by the Registrar's office forthwith and without delay. 21. **LEAVE TO SEEK DIRECTIONS:** That the Applicant is granted leave to seek further directions or submit evidence to assist the Court with the status of these orders.

EXPANDED SUMMARY OF FACTUM OR WRITTEN SUBMISSION IN SUPPORT (MOTION #5)

THE "CONSTRUCTIVE CLOSURE" DOCTRINE & THE ADMINISTRATIVE LEVIATHAN This Motion seeks extraordinary intervention to remedy a state of "digital excommunication." As established in *TLABC v. BC*, access to justice is the skeletal framework upon which the body of Canadian constitutionalism is draped. The "403 Forbidden Error Code" represents a unilateral administrative act that renders the constitutional promise of access a dead letter. When the Executive Branch—through its control of court services—interferes with the Judicial Branch's ability to hear a case, it strikes at the heart of the separation of powers. This is a "Chief's Case" (*R. v. Baldovi*, 2016 MBQB 90), requiring the President to act as the ultimate guarantor of the Court's institutional reputation in the face of executive overreach.

INSTITUTIONAL INTEGRITY & THE "FALSE INFORMATION PACKAGE"

This letter and the Factum addresses a factual matrix of systemic fraudulent conduct, including identity fraud and forged signatures on equipment loan agreements (e.g., the Epstein Cole TPL loan). Central to this motion is the discovery of a "False Information Package" containing fraudulent court documents and the unauthorized involvement of Justice Shore in unrecorded *ex parte* proceedings. These anomalies threaten the appearance of total judicial impartiality. The "independence of the judiciary" is not a privilege for judges, but a shield for the public; institutional silence in the face of bribery and forgery constitutes a surrender of supervisory jurisdiction.

THE DIGITAL BARRICADE & THE RULE OF LAW VS. THE RULE OF MEN (see: Timm v. Canada (BOA, Tab 135)

Access to justice transcends mere administrative grace; it is a substantive prerequisite for a functioning democracy. The Rule of Law is supplanted by a "rule of men" if administrative officials decide who shall have access to the court through server-side blacklisting. Pursuant to *407 ETR v. Ontario*, 2005 CanLII 49963 (Div. Ct.), the Registrar's duty to process documents is a ministerial duty with no residual discretion. The digital blockade functions as "litigation by attrition," intended to wear down the Applicant's resolve through administrative "stonewalling" and the creation of a "digital underclass" of litigants.

PART 4: THE PRESIDENT AS CUSTOS ROTULORUM & MANDAMUS (CONDITIONAL UPON THE INITIAL SECTION 76 OF THE CJA ORDER) (Ruffo, Baldovi and others (see: BOA, Tabs 64 and 69)

The Chief Justice/President possesses the unique "moral authority" to protect the "constitutional trust" (*Ruffo v. Conseil de la magistrature*). This role requires intervention when "shadow assignments" or registrarial paralysis threaten the Court's institutional integrity. The Applicant seeks a Writ of Mandamus to compel the performance of ministerial duties, including the production of case recordings for which payment has been retained without service—a manifest breach of the "contract of administration." Only the President can pierce the "administrative fog" and ensure that the courtroom gates are reopened.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 12th day of January, 2026.

Kevin A. McLean

(Applicant and Moving Party)

Enclosures (may be by piecemeal basis)

1. Draft Order for Motion #5 of today's date submitted by Applicant (file name: Draft Order - Motion 5 - Applicant - Moving Party - Mr McLean - 12-Jan-2026 - v4)
2. Factum or Written Submission to follow;
3. Index of authorities contained in enumerated list #3; and
4. Book of authorities (if necessary)

Yours faithfully,

/KAM

Mr. Kevin A. McLean (BA, JD, CIM)

Sender's name: Mr. Kevin Alexander McLean (BA, JD, CIM)
Sender's address: 410-775 King Street West, Toronto, Ontario, M5V 2K3
Sender's Telephone Number: (647) 370-9354
Sender's email address: mcleansettlement@gmail.com

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One attachment • Scanned by Gmail

M

Mr. Kevin McLean <mcleansettlement@gmail.com> Jan 16, 2026, 3:41 PM

to Tashekah, SCJ-CSJ, roxanne.parris

DATE: January 16, 2026
CLASSIFICATION: PRIVATE AND CONFIDENTIAL

TIME SENSITIVITY: URGENT – TIME SENSITIVE

SENDING METHOD: Via Email Transmission (Subsequent transmission via facsimile et al.)

TO:

The Divisional Court of Ontario

Osgoode Hall (Toronto)

130 Queen Street West, Room 174

Toronto, Ontario M5H 2N5

(the "Divisional Court")

Attention: The Registrar of the Divisional Court, Ms. Roxanne Parris

(the "Current Registrar" or "Replacement Registrar")

Email: Roxanne.parris@ontario.ca

5023

TO:

The President of the Divisional Court, The Honourable Chief Justice Morawetz

Osgoode Hall, 130 Queen Street West

Toronto, Ontario M5H 2N5

(the “President”)

Fax: 416.327.6011 (or other fax numbers to his attention in light of the continued breaches of the Core Jurisdiction Test, CA 1867, and ROL)

MATTER DETAILS

I. Court File Number: DC-24-00000718-00JR

II. Short Style of Cause: McLean v. TD Home and Auto Insurance Company, et al.

III. Document Classification: Letter with enclosures

IV. Sender: Mr. Kevin A. McLean, B.A., J.D., C.I.M.

V. Sending Party Status: “Moving Party” in relation to Motion #4 and Motion #5, and NOM #3 (along with NOM #1 and #2) and Applicant in relation to JRPA Application

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

I. INTRODUCTION AND PROCEDURAL PREAMBLE

I cordially write regarding the above. I adopt all definitions from previously, indirectly or directly, cited correspondence and filed instruments. This correspondence is intended to serve as a formal bridge between the physical filings already in the possession of the **Divisional Court** and the digital exigencies necessitated by the current technological impasse. It constitutes a deliberate act of procedural preservation, ensuring that the record of these proceedings reflects the Moving Party’s unwavering commitment to the *Rule of Law* (the “**ROL**”) despite the systemic obstructions encountered.

II. TRANSMISSION OF EXECUTORY INSTRUMENTS AND RESTORATIVE ENCLOSURES

Please find appended hereto the following instruments which were submitted for mail filing on the morning of January 14, 2026, as evidenced by the *Canada Post Tracking Attachment* (the “**Tracking Confirmation**”) provided *infra*. Each document serves as a vital component in the overarching architecture of the Moving Party's pursuit of a meritorious adjudication:

1. **Draft Order for Notice of Motion #3 (Liability)** (the “**NOM #3 Liability Order**”): A foundational instrument designed to resolve the threshold questions of liability that have remained in a state of administrative suspended animation for an unacceptable duration.
2. **Draft Order for Notice of Motion #3 (Costs)** (the “**NOM #3 Costs Order**”): An essential restorative measure intended to address the significant disbursements and full-indemnity costs incurred through the protracted procedural history and the necessity for repeated mitigatory filings.
3. **Draft Order for Motion #4** (the “**Motion #4 Order**”): Provided herein as courtesy copies, having been previously mail filed, this order seeks to compel the **Current Registrar** to discharge the

statutory and ministerial duties mandated by the *Courts of Justice Act*, R.S.O. 1990, c. C.43 (the "**CJA**").

4. **Draft Order for Motion #5** (the "**Motion #5 Order**"): A sophisticated request for judicial self-assignment and technical remediation, ensuring the functional efficacy of the court's process and the protection of the Moving Party's right to be heard.
5. **Factum in Support of Motion #5** (the "**Motion #5 Factum**"): Meticulously prepared in hyperlinked and bookmarked fashion, this document provides an intricate extrapolation of the legal principles governing the core jurisdiction of the superior courts and the constitutional necessity of access.

Concomitantly, copies of the following are provided to ensure a complete record of the Moving Party's due diligence:

1. The cover letter dated January 14, 2026 (the "**January 14 Correspondence**"), which enclosed the aforementioned for mail filing; and
2. The **Tracking Confirmation**, establishing the precise *tempus regit actum* of the physical submission and confirming the receipt of these materials by the **Divisional Court**.

III. MEDICAL EXIGENCY AND THE CONSTITUTIONAL IMPERATIVE FOR ADJUDICATION

As is manifest from the *2025 MRI* (the "**2025 MRI**") and the totality of the medical evidence within the record of proceeding, the physiological condition of the Moving Party undergoes a progressive and non-linear decline. A definitive adjudication upon the merits of the *Judicial Review Procedure Act*, R.S.O. 1990, c. J.1 (the "**JRPA**") proceeding is not merely a procedural preference but an imperative of natural justice. This is particularly salient given that the Certificate of Perfection (the "**Certificate of Perfection**") was duly filed and the requisite fees remitted on December 13, 2024.

Notwithstanding this perfection, there has been a profound and unexplained administrative omission to schedule the **JRPA** proceeding for a hearing, contrary to the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194 (the "**Rules**") and the solemn oaths of office undertaken by the **Divisional Court** personnel. This failure to list the matter involves the institutional integrity of this Honourable **Divisional Court** and falls within the exclusive purview of the **President**. The Moving Party asserts that any further delay constitutes a *de facto* denial of the right to be heard, as the window for meaningful recovery or management of health through medical expert opinions continues to narrow. In order for the Moving Party to determine how to manage their health with the benefit of medical expert opinions *et al.*, the legal status of the insurance coverage must be resolved *instanter*. The *status quo ante* cannot be restored if the subject of the litigation—the health and viability of the Applicant—is permitted to deteriorate beyond the point of medical remediation due to administrative inertia.

IV. JURISPRUDENTIAL EXTRAPOLATIONS AND ADMINISTRATIVE RECTIFICATION

The deleterious impact of such administrative inertia, compounded by the Respondents' pattern of obfuscation, finds clarity in the observations of the Honourable Justice Akazaki in *Zurich Insurance Company Ltd. v. TD Home and Auto Insurance Company, 2025 ONSC 151* (the "**Zurich 2025**"), where his Honour stated:

"[16] As described in the prevailing appellate decisions, the purpose of this regulation was to prevent SABS claims, including vital treatments and income benefits, from being delayed while insurers fought over priority under *s. 268(2)* of the *Insurance Act*."

This syllogism underscores the legislative intent of the *Insurance Act*, R.S.O. 1990, c. I.8 (the "**Insurance Act**") and its associated regulations: the facilitation of expeditious relief for the injured. While the Respondents have frequently misled the **Divisional Court**, the conduct of Ms. Tashekah Gentles (the "**Former Registrar Gentles**"), in her erstwhile capacity as the leader of the court clerks and staff, has stained the reputation and integrity of the **Divisional Court**. This administrative malaise must be corrected *instanter*.

The Moving Party kindly reminds **Former Registrar Gentles**, appreciating that she was absent from her duties for a duration of one month spanning December 10, 2025, to January 9, 2026, of the necessity of rectifying administrative errors of the past. This mandate includes addressing and attending to the discharge of duties involving requisitions so filed or submitted for filing within the Justice Services Online

Portal (the "**JSO Portal**"). It matters not who was specifically responsible for the original delay; what is paramount from a standpoint of justice is the immediate identification of a First Insurer (the "**First Insurer**") and the restoration of proper record management through Health Claims for Auto Insurance (the "**HCAI**") and related protocols. The persistence of this delay serves to subvert the very consumer protection objectives that the **Insurance Act** was enacted to preserve, effectively allowing administrative dysfunction to trump substantive statutory rights.

V. PROCEDURAL STANDING AND THE DEFICIENCY OF RESPONDING INSTRUMENTS

The Moving Party formally confirms that, as of the date of this correspondence, there has been no filing or delivery of any First Defence (the "**First Defence**") by any of the Respondents. Consequently, pursuant to the provisions of *Form 68A* (the "**Form 68A**") of the **Rules**, there exists no extant procedural requirement for the Moving Party to serve the Respondents with the current instruments, save for the inherent right of the Attorney General of Ontario (the "**AGO**") to be heard at the plenary hearing of the **JRPA** Application.

It is of paramount importance to distinguish that Motions #3 (which encompass Notice of Motion #1 (the "**NOM #1**") and Notice of Motion #2 (the "**NOM #2**")) through Motion #5 do not constitute the final hearing of the **JRPA** Application itself; they are interlocutory restorative measures necessitated by the Respondents' non-compliance and administrative failures. Therefore, the Moving Party's standing to proceed with these motions is unimpeachable, particularly given that the Respondents have effectively abdicated their right to respond by failing to file a **First Defence** within the timeframes mandated by the **Rules**.

VI. NON-OPPOSITION TO ADMINISTRATIVE COMPULSION (MOTION #4)

I confirm that the **Former Registrar Gentles** and the **Current Registrar** (Acting Registrar) have not opposed the relief sought in Motion #4 (the "**Motion #4 Relief**") despite being duly served with the same since prior to Christmas Day, specifically on December 23, 2025. Their continued silence and failure to file responding materials constitutes a *de facto* admission of the administrative deficiencies particularized in the moving materials.

In the law of evidence, such silence in the face of serious allegations often permits an adverse inference, and in this context, it further underscores the necessity for the **President** to grant the restorative orders sought to compel the discharge of their statutory and judicial duties. The lack of opposition from those tasked with the administration of the court's business suggests a recognition of the procedural failures that Motion #4 seeks to rectify.

VII. THE 403 BARRIER: DIGITAL GATEKEEPING AND THE RULE OF LAW

It is formally confirmed that the 403 Forbidden Error Code (the "**403 Barrier**") persists as of the date of this correspondence, effectively severing the Moving Party's access to the Ontario Courts Public Portal (the "**OCPP**"). This digital disenfranchisement is viewed as an impermissible and likely *ultra vires* encroachment upon the *Constitution Act, 1867* (the "**1867 Act**") and the **ROL**.

The **403 Barrier**, if not corrected forthwith and/or ordered to be corrected by this Honourable Court, may necessitate the formal intervention of the Auditor General of Ontario (the "**Auditor General**") to investigate the systemic failure of the court's digital infrastructure and the potential misappropriation of administrative authority. While the Moving Party maintains the utmost respect for the considerable resources and competing demands upon the **President**, these matters are unprecedented in nature, involving serious allegations of fraud, bribery, and extortion. These concerns are compounded by various misrepresentations made to the Moving Party by previous court staff, some of whom are no longer employed in their current roles. While the Moving Party is empathetic to any personal loss experienced by these individuals, the institutional integrity of the **Divisional Court** must remain the paramount consideration.

In light of the landmark determination in *Trial Lawyers Association of British Columbia v. British Columbia (Attorney General), 2014 SCC 59* (the "**TLABC 2014**"), it is a settled principle that access to the superior courts is a constitutionalized prerequisite for the maintenance of the **ROL**. The **403 Barrier** functions as an unconstitutional gatekeeper, preventing the Moving Party from exercising the core right of access to the judiciary. The integrity of the **Divisional Court** depends upon its

transparency; a "forbidden" screen is the antithesis of the open court principle and risks creating a tiered system of justice where only those with specific digital permissions may seek relief.

VIII. THE ROLE OF THE PRESIDENT AS PRIMUS INTER PARES

The circumstances particularized herein require the immediate and sustained attention of the **President**. It is respectfully submitted that the relief sought in the draft orders falls within the exclusive supervisory jurisdiction of the **President** in his capacity as the *primus inter pares* of the **Divisional Court** and the ultimate guardian of its functional efficacy. The Moving Party seeks the granting of relief in substantially the same form as the draft orders to ensure the due execution of office and prevent a multiplicity of proceedings.

It is further confirmed that the Honourable Madam Justice Shore (the "**Justice Shore**") is to have no involvement in the adjudication or management of this matter. Any such involvement would be viewed as a violation of judicial duties and a breach of the requirements for an impartial tribunal. It is asserted that **Justice Shore** must be relieved of all duties, specifically if not generally, pending comprehensive investigations into the conduct particularized in the **Motion #5 Factum**. The Moving Party contends that the removal of **Justice Shore** from this file is a mandatory step to preserve the appearance of judicial impartiality and to restore public confidence in the administration of justice within this region.

IX. FISCAL CONSIDERATIONS AND THE EFFICACY OF MOTION #5

The Moving Party expresses a profound reluctance to seek costs against the public purse (the "**Public Purse**"), cognisant that such expenditures are drawn from taxpayer resources. I would loathe to seek costs against the **Public Purse** as it is taxpayer money, but I have paid **Prescribed Fees** (the "**Prescribed Fees**") continuously without the law being followed.

As noted, Motion #5 will assist the **Public Purse** through the *power of the robe* in avoiding a multiplicity of proceedings and having to follow up on outstanding obligations of various persons. By centralizing these restorative measures and providing the **President** with the tools to rectify the technological and administrative failures in a single, comprehensive order, the court can mitigate the long-term fiscal impact of continued litigation and administrative rework. The granting of Motion #5 represents the most economically and procedurally efficient path forward for all stakeholders, including the public whose taxes fund the judiciary.

X. CONCLUSION AND RESERVATION OF RIGHTS

The Moving Party remains available should the **President** require clarification in relation to any of the instruments mail filed with the **Divisional Court** or contained in the record of proceeding by filings within the **JSO Portal**. Furthermore, the Moving Party remains available to finalize a fulsome book of authorities and a hyperlinked index to follow this transmission.

Should the continued silence in the face of these grave administrative and constitutional concerns remain, the Moving Party reserves all rights to ensure that the **President** has full notice of the same so he can discharge his responsibilities to the public and the legal profession. I reserve the right to include all correspondence into further evidence and seek costs and full indemnification for the disbursements necessitated by this forced reliance on physical mail filing as a measure of mitigation against digital exclusion.

Yours most appreciatively and gratefully,

/S/ *Mr. Kevin A. McLean (BA, JD, CIM)*

Mr. Kevin A. McLean, B.A., J.D., C.I.M.

Applicant / Moving Party (Pro Se)

LIST OF ATTACHMENTS:

1. **NOM #3 Liability Order**
2. **NOM #3 Costs Order**
3. **Motion #4 Order**
4. **Motion #5 Order**

 Motion #5 Factum (Hyperlinked and Bookmarked)

6. **January 14 Correspondence**
7. **Tracking Confirmation**

...

7 Attachments • Scanned by Gmail

M

Mr. Kevin McLean **<mcleansettlement@gmail.com>** Jan 30, 2026, 4:43 PM (4 days ago)

to SCJ-CSJ, roxanne.parris, Tashekah

Classification: PRIVATE AND CONFIDENTIAL DATE: January 30, 2026
SENDING METHOD: Via Electronic Mail Transmission
ADDRESSEES TO: The Divisional Court of Ontario
Osgoode Hall (Toronto)

130 Queen Street West, Room 174

Toronto, Ontario M5H 2N5

(the "**Divisional Court**")
Attention: The Registrar of the Divisional Court, Ms. Roxanne Parris (the "**Current Registrar**")
AND TO: The President of the Divisional Court, The Honourable Chief Justice Morawetz
Osgoode Hall, 130 Queen Street West

Toronto, Ontario M5H 2N5

MATTER DETAILS I. Court File Number: DC-24-00000718-00JR
II. Short Style of Cause: *McLean v. TD Home and Auto Insurance Company, et al.* (the "***McLean* Proceeding**")
III. Subject I: *McLean v. TD Home and Auto Insurance Company, et al.* (Court File No. DC-24-00000718-00JR)
IV. Subject II: Comprehensive Expansion of the Electronic Book of Authorities and Formal Submissions regarding Jurisdictional Vitiation, Administrative *Mandamus*, the Remediation of Procedural Nullities, and the Preservation of the Open Court Principle.
Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

I cordially write regarding the above. The undersigned adopts all definitions from previously, indirectly or directly, cited correspondence.

I. PRELIMINARY TRANSMISSION OF ELECTRONIC COMPENDIA AND THE CONSTITUTIONAL IMPLICATIONS OF TECHNOLOGICAL VICISSITUDES It is with distinct professional gratification and a steadfast commitment to the efficiency of the *curia* that a comprehensive Book of Authorities (the "BOA") is provided to this Honourable Court in an electronic format, meticulously bifurcated by indexed tabs and enumerated pagination. The undersigned has done the utmost to confine the volume of pages within these authorities to relevant passages, executive summaries, and essential pages to ensure judicial economy and facilitate an expeditious review,

thereby avoiding the presentation of superfluous data. To the extent that further authorities would assist this Honourable Divisional Court and the Honourable Divisional Court President, I will provide them by referencing the version and date.
Owing to the substantial magnitude of the digital data comprising these authorities, which encompass several decades of binding appellate jurisprudence and complex statutory instruments, the **BOA** shall be transmitted via successive electronic mail attachments. This incremental delivery is necessitated to circumvent the constraints of digital throughput and server-side limitations inherent in the current judicial infrastructure. The undersigned hereby confirms the persistence and validity of all prior testamentary filings delivered via physical post, which remain the primary record of truth and the definitive evidentiary foundation of this application, notwithstanding these supplemental digital transmissions.
Furthermore, a contemporaneous verification shall be conducted to ascertain the status of the "403 Forbidden" error code (the "**Access Impediment**") currently plaguing the digital filing interface. This technological obstruction constitutes a *prima facie* barrier to the administration of justice and a fundamental frustration of the litigant's right to file and be heard within a reasonable timeframe. The "Open Court Principle" (the "**Open Court Principle**") is rendered illusory if the electronic portal serves as a digital blockade rather than a gateway. I note that the credit card payment remains in a finalized transaction status (the "**Finalized Payment**") for the motion, yet the administrative processing remains in a state of stasis, suggesting a disconnect between the financial and procedural arms of the Registry. The implications of this blockade are not merely technical but constitutional in nature, as they impede the movement of a proceeding toward its rightful adjudication and create a state of procedural ossification.
Should this administrative paralysis remain unresolved by the meridian of the forthcoming Monday, a formal application shall be commenced to seek the indemnification of substantial costs and disbursements necessitated by this forced procedural detour and the resulting expenditure of legal resources. This technological gatekeeping results in a disparate impact on those seeking judicial review, effectively creating a procedural *lacuna* that prejudices the Applicant and privileges the administrative inertia of the Respondents. The state's failure to maintain a functional digital infrastructure is a form of administrative negligence that cannot be permitted to viciate the substantive rights of the parties or the integrity of the *status quo ante*.

II. JURISDICTIONAL INFELICITY AND THE VITIATION OF THE CASE MANAGEMENT DIRECTIVE

An exacting historical exegesis of the *Rules of Civil Procedure*, *R.R.O. 1990, Reg. 194* (the "*Rules*") reveals that the procedural maneuvers executed by the Honourable Madam Justice Shore (the "Interlocutory Justice") constitute a profound departure from the post-2010 legal landscape. It is submitted that the purported directives are not merely irregular but are *void ab initio*, representing a nullity upon a nullity. The jurisdiction to invoke the mechanism of case management is strictly contingent upon the satisfaction of the filing of a first defence (the "Filing Requirement") pursuant to *Rule 77.05*.

In the context of an application for judicial review under the *Judicial Review Procedure Act* (the "***JRPA***"), this jurisdictional predicate is analogous to the delivery of a Notice of Appearance (the "**NOA**"). As the Respondents failed to effectuate the delivery of their respective **NOAs** with requisite proof of service, the court remained *divested* of the statutory authority to trigger case management. The principle of *ex debito justitiae* dictates that no court may assume a management function over parties who have not yet submitted to the jurisdiction of the court through the requisite responsive pleadings. To allow a judge to "manage" a file where no party has appeared is to invite a form of judicial overreach that subverts the adversarial foundations of our legal system. Jurisdictional competence is not a matter of judicial convenience but a requirement of natural justice (*audi alteram partem*). The absence of an **NOA** means the Respondents have no *locus standi*; ergo, there are no "sides" to manage, and the attempt to do so is a jurisdictional *felo de se*.
To suggest that there have been profound transgressions of ethics, *statutes* (inclusive of the *Constitution of Canada*), *regulations*, and foundational ethical requirements would be an understatement; indeed, it

constitutes a fundamental erosion of procedural due process. The *fons et origo* of this error lies in the assumption that judicial discretion can override the mandatory statutory preconditions for case management. Consequently, the purported assignment and the subsequent directive issued on January 7, 2025 (the "**January Directive**"), were executed *ultra vires*. The law does not permit a tribunal to "manage" parties into compliance; rather, procedural compliance remains the *sine qua non* for the invocation of management authority. To permit the **January Directive** to stand would be to endorse a jurisdictional overreach that undermines the structural integrity of the ***Rules***. The court cannot grant itself jurisdiction through a case management order when the statutory preconditions for that order have not been met. This failure to adhere to the *ratio decidendi* of the ***Rules*** creates a procedural vacuum that threatens the stability of the entire proceeding and necessitates an immediate *restitutio in integrum* to return the parties to their rightful procedural positions.

III. THE PARADIGMATIC "CULTURE SHIFT" AND THE MISAPPLICATION OF RULE 77 A general question of law of central importance arises regarding the undisclosed prior judicial involvement (the "UPJI") of a presiding member and whether such an omission constitutes a fraud upon the court. The 2010 reforms inaugurated a categorical "Culture Shift" (the "Culture Shift") in Ontario litigation, prioritizing proportionality and the mitigation of administrative "over-administration." This shift was intended to facilitate the "resolution of the dispute on the merits," as articulated in *Hryniak v. Mauldin*, 2014 SCC 7 (the "*Hryniak* Decision"). However, *Rule 77.01(1)* provides for judicial intervention only where a demonstrated necessity exists, yet here, the intervention occurred in a vacuum of procedural standing. The "Culture Shift" was never intended to serve as a license for judicial officers to bypass the foundational requirements of the *Rules* or to ignore the mandatory hierarchy of procedural steps.

Pursuant to *Rule 77.02(4)*, the provisions of *Rule 77* maintain paramountcy over all conflicting ***Rules***, including *Rule 50*. In the instant **McLean Proceeding**, no valid assignment under *Rule 77.05* or *Rule 77.06* transpired. Ergo, the direction issued via the "Ibula Email" on January 7, 2025, lacked legal validity as:

(i) no **Filing Requirement** was satisfied, leaving the court without a functional record to manage;
(ii) no exercise of discretion under *Rule 77.05(4)* was manifest, recorded, or justified by any exceptional circumstance; and
(iii) the Respondents, having failed to "deliver" their **NOAs**, forfeited their standing to participate in any procedural steps, let alone a case management conference.

This misapplication of *Rule 77* creates an untenable precedent wherein administrative convenience is elevated above the mandatory strictures of the ***Rules***. The consequence of "over-administration" is the creation of an administrative straitjacket that stifles substantive justice under the guise of efficiency. Management without pleadings is akin to a trial without a jury where the law requires both. Without the **Filing Requirement** being met, any attempt at "management" is a hollow exercise in procedural fiction that fails to satisfy the *prima facie* requirements of the law. This is the very definition of procedural "over-administration" that the ***Hryniak* Decision** sought to eradicate. The proportionality principle requires that judicial resources be expended only when a proceeding is properly before the court and only to the degree necessary to advance the matter toward a resolution on its merits.

IV. UNDISCLOSED PRIOR INVOLVEMENT AND THE BREACH OF JUDICIAL ETHICS It is now manifest that the impetus for the breach of the *Courts of Justice Act* (the "*CJA*") was the Interlocutory Justice's prior undisclosed participation in an *ex parte in camera* hearing (the "Undisclosed Proceeding"). This failure to provide disclosure regarding the UPJI in the context of an undisclosed criminal proceeding (the "UCP") engenders a reasonable apprehension of bias and violates the *Judicial Code of Ethics*. While the concept of *mens rea* is typically reserved for the criminal law, the intentionality behind this non-disclosure suggests a cognitive avoidance of the

fundamental duty of impartiality (*nemo judex in sua causa*). The public trust in the judiciary is contingent upon the transparent disclosure of any potential conflict of interest, especially where such involvement could influence the judicial perception of the litigants.

Such non-disclosure satisfies the criteria for fraud discovered post-facto, thereby invoking *Rule 59.06(2)* and necessitating the vacating of all subsequent *acta*. A judge who has been privy to *ex parte* submissions in a related matter is fundamentally compromised in their ability to preside over the subsequent litigation without the express and informed consent of all parties. The failure to disclose this *status quo ante* involvement constitutes an incurable defect in the proceedings, rendering the subsequent directives unenforceable *in limine*. The integrity of the judicial office requires that judges remain "above the fray," and any secret participation in related proceedings viciates the neutrality required for the adjudication of the current dispute. The legal right to an impartial tribunal is a *jus cogens* norm of the Canadian legal order, the obviation of which results in a jurisdictional nullity that cannot be cured by later acquiescence. To ignore this breach is to permit a corruption of the judicial process that strikes at the very heart of public confidence in the administration of justice.

V. ADMINISTRATIVE MALFEASANCE AND THE MINISTERIAL DUTY OF THE REGISTRAR Regarding the *Ontario Courts Public Portal* (the "OCPP") and *O. Reg. 226/25*, these digital reforms replaced the "Registrar's Acceptance" model with a "Subject to Confirmation" model. However, the systematic rejection of filings via the Access Impediment constitutes a breach of the ministerial duty to facilitate access to the *curia*. In accordance with the jurisprudential framework established in *Re Union Canadienne de l'Industrie des Peches et des Travailleurs, Local 140*, 1981 CanLII 3556 (NBCA) (the "*Union Canadienne*"), the absence of permissive language such as "if it considers it advisable to do so" indicates a mandatory obligation. The Registrar's office is the physical and digital threshold of the court, and it must remain open to all who seek justice.

While the *Industrial Relations Act* examined in ***Union Canadienne*** granted certain discretionary latitudes, the ***Rules*** governing the **Current Registrar** employ the imperative "shall." The failure of the Registry to issue a Form 68B (the "**Notice of Listing**") following the perfection (the "**Perfection**") of the **McLean Proceeding** on December 16, 2024, represents a severe departure from the mandatory strictures of the ***Rules***. When the Executive branch implements a digital blockade through malfunctioning software, the judiciary must assert its inherent jurisdiction to restore the *status quo ante* and ensure that the right to be heard is not extinguished by technological or administrative incompetence. The Registrar's function is ministerial, not judicial; it is to process documents, not to adjudicate their merit through silence or rejection. This administrative malfeasance represents an unwarranted interference with the litigant's *vested rights* to a timely hearing and constitutes a *dereliction of duty* that threatens the administration of justice. The Registrar acts as a conduit for the court, not a censor for the Crown.

VI. THE SUPERVISORY ROLE OF THE PRESIDENT AND THE REMEDY OF MANDAMUS The President of the Divisional Court, in his capacity as the Master of the Roster, maintains a solemn statutory obligation under *Section 76* of the *CJA* to superintend the administrative secretariat and rectify the systemic inertia of the Registry. Pursuant to the venerable principle in *Julius v. Oxford (Bishop of)* (the "*Julius* 1880"), where a statutory power is coupled with a legal right or the public interest, the permissive "may" is transformed *ipso facto* into a mandatory "must." The President's supervisory jurisdiction is the ultimate safeguard against administrative paralysis and ensures that the administrative arm of the court remains subservient to the judicial mission.

I thank the President of the Divisional Court, in his distinguished capacity as a member of the Canadian Judicial Council and as the *primus inter pares* who possesses the exclusive jurisdiction to self-assign

and relieve judges specifically and generally of their duties. He remains the steward of constitutional trust, the emergency administrator, and the guardian of the rule of law. As the moral voice of the Divisional Court, he possesses the authority to take over and manage public issues and to impose his will upon those judges who do not comply with the law, thereby ensuring that public confidence in the judiciary remains at a premium. The extraordinary remedy of *mandamus* (the "***Mandamus***") is sought as a restorative measure to compel the performance of public legal duties unlawfully withheld. This is a remedy of last resort, necessitated by the administrative blockade that has paralyzed this litigation and effectively denied the Applicant his day in court. The issuance of ***Mandamus*** would not only remediate the present harm but would also reaffirm the principle that administrative staff are servants of the law and cannot exercise their functions in a manner that obstructs the path to justice.

VII. CONCLUSION AND THE PURSUIT OF PROCEDURAL RECTITUDE Notwithstanding the anomalous circumstances surrounding the transition of the Former Registrar to the Current Registrar, exhaustive efforts have been dedicated to preparing this BOA for the President's consideration. The Respondents have failed to oppose the *McLean* Proceeding or satisfy the Filing Requirement since December 2025, yet they continue to benefit from the administrative paralysis of the Registry. As you know, there is no requirement for service on the Respondents because of their failure to "file" and "deliver" their NOAs as unequivocally admitted by record in the Case View OCPP. I confirm that they are not entitled to any notice of steps and I will rely on strict compliance with the *Rules of Civil Procedure*.

This state of affairs is inherently prejudicial and violates the principles of fundamental justice and the "**Culture Shift**" promised by the modern ***Rules***. The persistence of these procedural nullities creates a cumulative injustice that can only be rectified through high-level judicial intervention to restore the *status quo ante*. The implications of continued silence from the Registry are profound, as they signal a collapse of the administrative apparatus designed to support the judiciary. It is trusted that the **Current Registrar** shall transmit these authorities to the President's immediate attention, along with the draft orders previously mail-filed, for his judicial review and approval. The undersigned reserves the right to rely on this correspondence for any lawful purpose, internally or externally, inclusive of the assessment of costs. The pursuit of procedural rectitude is not merely a technical endeavor but a requisite for the preservation of the rule of law and the avoidance of a total collapse of process. Thank you.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 30th day of January, 2026.

Yours most appreciatively and gratefully,

Kevin A. McLean

(Applicant and Moving Party)

Enclosure: 1. **BOA** (Tabs 1 to 307) – *To be transmitted in piecemeal electronic installments.* --

- (THIS VERSION: PAGES 1 TO 1500)

Appendix #1: CURRENT VERSION OF RULE 77 AS OF JANUARY 1, 2010 (BUT FOR THE CHANGES THEREAFTER FROM MASTER TO ASSOCIATE JUDGES)

RULE 77 CIVIL CASE MANAGEMENT

Purpose and General Principles

Purpose

77.01 (1) The purpose of this Rule is to establish a case management system that provides case management only of those proceedings for which a need for the court's intervention is demonstrated and only to the degree that is appropriate, as determined in reliance on the criteria set out in this Rule. O. Reg. 438/08, s. 64.

General Principles

(2) This Rule shall be construed in accordance with the following principles:

5032 Despite the application of case management under this Rule to a proceeding, the greater share of the responsibility for managing the proceeding and moving it expeditiously to a trial, hearing or other resolution remains with the parties.

2. The nature and extent of the case management provided by a judge or associate judge under this Rule in respect of a proceeding shall be informed by any relevant practices, traditions, customs or judicial resource issues that apply locally in the region in which the proceeding is commenced or to which it is transferred. O. Reg. 438/08, s. 64; O. Reg. 383/21, s. 15.

Application

Scope

77.02 (1) This Rule applies to actions and applications commenced in or transferred to one of the following counties on or after January 1, 2010 and assigned to case management by an order under these rules:

1. The City of Ottawa.
2. The City of Toronto.

...

2 Attachments • Scanned by Gmail

M

Mr. Kevin McLean <mcleansettlement@gmail.com> Jan 30, 2026, 4:54 PM (4 days ago)

to SCJ-CSJ, roxanne.parris, Tashekah

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

Please find part 2 of 5 attached for record purposes. Thank you.

Yours faithfully,

/KAM

Mr. Kevin A. McLean (BA, JD, CIM)

Sender's name: Mr. Kevin Alexander McLean (BA, JD, CIM)
Sender's address: 410-775 King Street West, Toronto, Ontario, M5V 2K3
Sender's Telephone Number: (647) 370-9354
Sender's email address: mcleansettlement@gmail.com

...

2 Attachments • Scanned by Gmail

M

Mr. Kevin McLean <mcleansettlement@gmail.com> Jan 30, 2026, 4:55 PM (4 days ago)

to SCJ-CSJ, roxanne.parris, Tashekah

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

Please find part 3 of 5 attached for record purposes. Thank you.

Yours faithfully,

/KAM

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Sender's name: Mr. Kevin Alexander McLean (BA, JD, CIM)
Sender's address: 410-775 King Street West, Toronto, Ontario, M5V 2K3
Sender's Telephone Number: (647) 370-9354
Sender's email address: mcleansettlement@gmail.com

...

2 Attachments • Scanned by Gmail

M

Mr. Kevin McLean <mcleansettlement@gmail.com> Jan 30, 2026, 4:55 PM (4 days ago)

to SCJ-CSJ, roxanne.parris, Tashekah

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

Please find part 4 of 5 attached for record purposes. Thank you.

Yours faithfully,

/KAM

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Sender's name: Mr. Kevin Alexander McLean (BA, JD, CIM)
Sender's address: 410-775 King Street West, Toronto, Ontario, M5V 2K3
Sender's Telephone Number: (647) 370-9354
Sender's email address: mcleansettlement@gmail.com

2 Attachments • Scanned by Gmail

M

Mr. Kevin McLean <mcleansettlement@gmail.com> Jan 30, 2026, 4:57 PM (4 days ago)

to roxanne.parris, Tashekah, SCJ-CSJ

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

Please find part 5 of 5 attached for record purposes. Thank you.

Yours faithfully,

/KAM

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Sender's name: Mr. Kevin Alexander McLean (BA, JD, CIM)
Sender's address: 410-775 King Street West, Toronto, Ontario, M5V 2K3
Sender's Telephone Number: (647) 370-9354
Sender's email address: mcleansettlement@gmail.com

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2 Attachments • Scanned by Gmail

M

Mr. Kevin McLean <mcleansettlement@gmail.com> Jan 30, 2026, 4:59 PM (4 days ago)

to SCJ-CSJ, roxanne.parris, Tashekah

...

2 Attachments • Scanned by Gmail

Tab 71

5036

FORM 59A

Courts of Justice Act

ORDER

Court file no. DC-24-00000718-00JR

ONTARIO SUPERIOR COURT OF JUSTICE

(**DIVISIONAL COURT**)

_____ _____

Name of Judge: Date

[SEAL]

BETWEEN:

KEVIN ALEXANDER MCLEAN

APPLICANT

AND

TD HOME AND AUTO INSURANCE COMPANY, SECURITY NATIONAL INSURANCE COMPANY, TD GENERAL INSURANCE COMPANY, EXECUTIVE DIRECTOR, LICENCE APPEAL TRIBUNAL, HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, REPRESENTED BY EXECUTIVE CHAIR OF TRIBUNALS ONTARIO IN MR. SEAN WEIR, THE ATTORNEY GENERAL OF ONTARIO

RESPONDENTS

ORDER

THIS MOTION, made by the Applicant on November 17, 2025, pursuant to Rule 37.12.1(4) of the Rules of Civil Procedure, for the relief sought therein which is reproduced infra in the operative parts of this order, with notice to the Responding Parties, was heard (in writing and without attendance of the Applicant and the Responding Parties) on December 3, 2025, at the Divisional Court (Osgoode Hall), 130 Queen Street West, Toronto, Ontario.

The made and served motion was unopposed by each and all of the Responding Parties including the Respondents and Non-Respondents.

While the Applicant paid for the Notice of Motion number three ("NOM #3") in the sum of $339.00 and it was represented by the Divisional Court that it would be processed within three business days from November 26, 2025, that representation had not been complied with in advance of December 3, 2025, or thereafter.

In the circumstances, the Moving Party submitted for filing three requisitions or requests under Divisional Court Form 1 or the unnumbered form with the Divisional Court via the OCPP as follows:

1. December 2, 2025, requisition, Divisional Court Form 1 (Written Request) and Divisional Court unnumbered form (Application Hearing Request) which sought inter alia the following with exact quotation:
    a. **Registrar:** Comply with mandatory duties and immediately process all urgent filings by the Applicant, including, but not limited to, *Notice of Motion* Number Three, which are delineated for clarity at Appendix B. The urgency of these filings is amplified by the facts presented in Appendix A and the substantive evidence of irreparable harm in **Compendium Tab #3** and the ongoing security issues noted in the **Affidavit of Service (November 21, 2025)**;
    b. **Registrar:** Upload all filed documents in this JRPA Application as required by the *Rules of Civil Procedure* and provide the necessary invitation access to the Applicant for his own uploading (where applicable) and for review of the complete electronic record; and
    c. **Honourable Divisional Court/Registrar (where applicable):** Grant such further and ancillary relief as may be deemed just and expedient in the circumstances by way of hearing request, written request, or requisition to ensure that the NOM #3 and its relief, including that in the JRPA Application are

heard in an expeditious, timely and cost-effective manner while the Moving Party has again complied with all serving, filing and proof of service along with payment requirements.

2. Requisition #11 was tendered forthwith after the Moving Party knew, unequivocally, that the Respondents failed to "deliver" (the components of 'file', with proof of service in relation to the Respondent Insurance Companies and all three components under "Delivery" in relation to the LAT) in their Notices of Appearances. The Moving Party did not take any further step in the proceeding after obtaining knowledge of those failures with specific reference to his knowledge from the OCPP (Case View section which was not present in the former JSO Portal), but for the filing of the Requisition #11.

   ("Requisition #11")

   (see: Appendix #1)

3. December 2, 2025, the Moving Party filed a requisition on December 2, 2025, as per the Responding Parties not objecting to the form of hearing in the form of a written hearing or without attendance of the Applicant (Party) and Responding Parties ("Requisition #12). Requisition #12 sought the following:
   a. Immediately stamp the filed documents in relation to NOM #3, and provide the Applicant with the properly stamped and recorded copies of the Notice of Motion and supporting documents, confirming their original filing date therein;
   b. Ensure all filed documents are uploaded to Case Center as required by the Registrar under the Rules of Civil Procedure for Toronto Region;
   c. Immediately provide the Applicant with an Invitation to Case Center so he can upload the Compendium For NOM #3; and
   d. All other necessary actions in accordance with the law.
4. The Moving Party cited the various legal principles and bases for the Requisition which are contained at Appendix #2 for Requisition #12.
5. The authorization of a credit card affects the payor's credit limit and operates as a payment of the same irrespective of the delinquent capture of the same.

5039. On December 3, 2025, the date of this written hearing (without attendance of the Applicant and those non-participating responding Parties), the Applicant filed a Requisition with the Divisional Court that was in the nature of direction to the Registrar and the President of the Divisional Court for purposes of compelling the court staff to act in accordance with the law ("Requisition #13"). Requisition #13 relied upon the JRPA, Legislation Act, the AJA and attendant regulation, the CJA, the intermediate appellate jurisdiction and equitable jurisdiction of the Honourable Divisional Court, and Rules of Civil Procedure.

7. Requisition #13 sought inter alia the following and required the following from the Registrar where applicable

    a. **Retroactive Validation (*Nunc Pro Tunc*):** That the entirety of the relevant filings for NOM #3, specifically those submitted on or about November 26, 2025, be **forthwith accorded the validation stamp bearing the date of November 26, 2025**, which date constitutes the legal date of effectual filing.

    b. **Processing of all outstanding filings in the OCPP by the Applicant**

    c. **Transmission by uploading to the Judiciary and Presiding Motions Judge:** That the complete and validated Motion Record for NOM #3, in conjunction with the Primary Draft Order (November 30, 2025), be **immediately uploaded and transmitted to the Presiding Superior Court of Justice Motions Judge** to ensure the instantaneous

8. On December 3, 2025, the Moving Party learned that former Registrar, Ms. Tashekah Gentles, was relieved or her duties as the Registrar of the Divisional Court and replaced by LSO licensed paralegal in Ms. Roxanne Parris (see: Appendix #4).

9. On December 3, 2025, the Applicant followed up with new Registrar Ms. Parris.

10. On December 4, 2025, Ms. Parris did not respond.

11. On December 5, 2025, the Applicant mail filed this Draft Order which was sent on expedited delivery which arrived at the Divisional Court on December 8, 2025. The Moving Party enclosed a cover letter that enclosed this Draft Order (see: Appendix #5).

CHAPTER #2: THE MATERIALS "READ"

ON READING the following materials so particularized in this motion which are from Tabs #1 to #66 in the Applicant's **Compendium For NOM #3** (November 28, 2025, served and filed) ("**Compendium For NOM #3**"), with the Motion Record comprising Tabs #1 to #22 of the **Compendium For NOM #3**:

1. **FOUNDATIONAL DOCUMENTS FOR MOTION NUMBER 3 (NOM #3) (SEE: TABS #1, #2, #3, #4, #21 AND #22):**

    a. **TAB #**2 (the Motion made on at least 14 days notice):
        i. **NOM #**3 of the Applicant (Motion to be heard in writing) of November 17, 2025;
    b. **TAB #**1 (the Factum For Motion In Writing:
        i. Factum of the Applicant "Factum For Motion in Writing" of November 18, 2025;
    c. Applicant's Draft Order for **NOM #**3 of November 18, 2025 (see: **TAB #**21)
    d. Filed and served, with proof of service, evidence contained therein (Tabs #3 to #5):
        i. October 13, 2025, declared evidence of the Applicant (Exhibits "A" to "Z") (see: **TAB #**3);
        ii. November 14, 2025, declared evidence of the Applicant (Exhibit "A" to "N") (see: **TAB #**4);
        iii. Affidavit of Applicant (including Affidavit of Service) of November 21, 2025 (see: **TAB #**22):
            1. Included "proof of service" of **NOM #**3, including Factum, Motion Record and Draft Order;

2. **EVIDENTIARY EXHIBITS TO THE OCTOBER 13, 2024, DECLARED EVIDENCE** (expressly adopted by affidavit of the Applicant (see: Tab 22) (see: Tab #3, Exhibits A–Z):

    a. Judicial Administration Correspondence (Exhibits A-E, H, I, T):
        i. Documents detailing persistent attempts to procure records—specifically audio recordings, transcripts, and administrative files—from the Superior Court of Justice (SCJ) Recording Management Office (RMO), the **DIVISIONAL COURT**, and the SCJ CSD Records Division.
        ii. These exhibits chronicle the Applicant's due diligence efforts to invoke the supervisory authority of the Chief Justice and Regional Senior Justice to resolve systemic refusals and delays.
            1. The substance of this correspondence denotes a fundamental breakdown in the chain of custody or production of essential court materials in the UCP or this *JRPA* Proceeding, vital for prosecuting the appeal or judicial review, thereby raising significant due process concerns regarding the Applicant's right to a full and fair hearing along with an undisclosed prior judicial involvement involving Madam Justice Shore.
            2. The legal implication of the LAT intentionally failing to provide the official record is profound: without a complete record, the Superior Court is potentially unable to fulfill its constitutional mandate to supervise lower tribunals.
            3. The invocation of high judicial authority underscores the perceived gravity of the administrative hurdles encountered, demonstrating an attempt to leverage the inherent jurisdiction of the superior courts to compel institutional compliance.
        iii. The continuous requests for audio and transcripts in the Undisclosed Criminal Proeeding and case conferences in this *JRPA* Proceeding are particularly indicative of a dispute over the accuracy of the written record or a need to confirm the verbatim dialogue to support claims of procedural unfairness, such as judicial or administrative commentary that may have been inappropriate or demonstrated bias along with the undisclosed prior judicial involvement with Madam Justice Shore vis-à-vis the Applicant in "Ex Parte In Camera Hearing", "Ex Parte In

Camera Unrecorded Hearings", and, by virtue of non-production of documents that the Applicant was and is entitled to without charge and upon request, "Ex Parte In Camera Unrecorded Hearings Unretained Indictment Processes".

iv. This pursuit is rooted in the common law principle that the superior court requires the complete and accurate record of proceedings below to exercise its supervisory function effectively and that any records that have bearing on the independence of the judiciary and a specific SCJ Judge, which includes a judge of the DIVISIONAL COURT, must be produced in the DIVISIONAL COURT'S truth seeking function for civil litigation.

v. The consistent frustration documented in these emails suggests a pattern that the Applicant will argue, in writing, constitutes a separate, actionable denial of procedural justice, compounding the original error alleged at variety of persons and actors. The documents, spanning multiple judicial administrative offices, underscore the complexity of obtaining a unified record in a decentralized court system or at least records that were required by law, including the Criminal Code, to be disclosed to the Applicant in advance of his bringing of the *JRPA* Application;

b. **Allegations of Fraud and Tainting of Process** (Exhibits G, O):

i. Communications outlining the Applicant's assertions regarding a "False Information Package" allegedly utilized by the Toronto Police Service (TPS).

1. These include intricate narratives detailing manifest deficiencies in the spurious document (Exhibit G) and a high-level forensic analysis of the "False Information Package" positing fabrication or malicious manipulation (Exhibit O).

ii. Exhibit G, in particular, may contain a detailed critique of the document's structure, dating, or content inconsistencies, potentially demonstrating how the falsification impacted the flow of justice in underlying criminal or police matters that intersect with the current civil/administrative review. Proving "fraud on the court" requires demonstrating, by clear and convincing evidence, that a deliberate scheme was used to deceive the judicial or administrative body, and that the deception affected the result. This is a higher burden than proving simple misrepresentation.

iii. Exhibit O's "forensic analysis" of metadata review, document comparison against original versions, or expert analysis of typeface and formatting—used to buttress the claim that critical documents were intentionally altered or fabricated, thereby corrupting the factual matrix upon which earlier proceedings may have relied. The consequence of successful proof of this fraud would be the vitiation of any step, document, requirement, order or decision relying on the tainted evidence, a serious remedy sought in this Judicial Review.This is a crucial element of the motion, as a finding of fraud on the court, even in an administrative context, constitutes an exceptional circumstance that severely limits the deference traditionally afforded to the Tribunal's decision.

iv. The **DIVISIONAL COURT**, utilizing its inherent jurisdiction or equitable jurisdiction, possesses the authority to conduct an inquiry into the integrity of the evidence presented below, a power that is rarely invoked but essential for maintaining the public's confidence in the administration of justice. The seriousness of the allegation requires compelling extrinsic evidence, which Exhibit O aims to provide through technical analysis. The success of this claim would likely lead to a remedy of setting aside the LAT decision *ab initio* (from the beginning), bypassing the substantive administrative law analysis entirely. The introduction of extrinsic evidence, particularly the forensic analysis, is justified because the fraud is alleged to relate to the very documents forming the record of the proceedings below and occurring post April 2025 by way of discovery.

3. **CONTEXTUAL EVIDENCE FOR FACTS ARISING OR DISCOVERED AND/OR FRAUD ARISING OR DISCOVERED POST ANY "STEPS, DOCUMENTS, OR ORDERS" HAVING BEEN TAKEN WITHOUT THE KNOWLEDGE OF THE APPLICANT AND WITHOUT THE APPLICANT OUGHT TO HAVE KNOWN OF THESE FACTS, IRREGULARITIES**

5042**AND/OR FRAUD ALONG WITH THE COMMON LAW SPECIAL CATEGORIES OF CAUSES OF NULLITIES (SEE: FRAUD, BRIBERY AND EXTORTION** (see: Tab 4, Exhibits A–N):

a. A second, distinct statutory declaration and its attendant exhibits further delineate the Applicant's evidentiary foundation, focusing on purported fraud committed against both the Applicant and, allegedly, the court. This section expands the narrative of misconduct beyond mere administrative error. Key components include;
b. LAT Tribunal Proceedings (Exhibits A, B, C, D, E, F):
    i. Documents demonstrating the history of the Tribunal process, including the Respondent Insurance Companies' alleged failure to file Notices of Appearance (Exhibit B), which could imply a procedural default or lack of engagement; the Applicant's Human Rights Tribunal of Ontario (HRTO) Application (Exhibit C), indicating a secondary claim of discrimination or infringement tied to the primary dispute; and subsequent communications pertaining to the Judicial Review Application (Exhibits D, E, F), showcasing the ongoing adversarial exchange between the parties post-Tribunal.
    ii. The exhibits detailing communications in the Judicial Review Application (Exhibits D, E, F) serve to document the resistance or cooperation level of the Respondents following the filing of the *JRPA*, offering contemporary context for the necessity of the current motion (**NOM #**3). The alleged failure to file a Notice of Appearance (Exhibit B), if substantiated, raises questions about the Respondent's compliance with **DIVISIONAL COURT** *Rules of Civil Procedure* and whether they should be deemed to have attorned to the jurisdiction of the court for the purposes of the Judicial Review;
c. Records Access Appeals (Exhibit I, J, K, L):
    i. Due diligence efforts which remain ongoing:
        1. Detailed records of the Applicant's appeal under *FIPPA* to the Office of the Information and Privacy Commissioner (OIPC) (Exhibit I), as well as requests for prima facie adjudicative records under the *Tribunals Adjudicative Records Act* (*TARA*) (Exhibit L). These documents demonstrate that the pursuit of records is not limited to internal judicial channels but also involves external oversight bodies like the OIPC. The reliance on *TARA* is particularly salient, as it governs access to records specifically created and held by administrative tribunals, providing a statutory mandate for the information the Applicant seeks to obtain for the Judicial Review. The OIPC appeal indicates a formal challenge to the institutional gatekeeping of information, suggesting that transparency and access to the administrative record itself are perceived as barriers to justice.
        2. The *TARA* requests reinforce this, targeting the very documentation produced during the LAT proceedings—such as internal memoranda, policy application notes, or specific evidentiary logs—which the Applicant requires to build a robust record of procedural irregularity before the **DIVISIONAL COURT**. The persistent invocation of these statutes implies that the administrative record is either incomplete or has been selectively disclosed, necessitating intervention from external regulatory bodies to achieve a fully transparent review.
        3. The failure to disclose the, at the very least, Two Undisclosed Motion Orders, by the LAT is further evidence of fraud along with an intentional breach of the *JRPA*, section 10.
        4. This concerted effort to obtain the full record is central to the Applicant's argument that the court cannot properly exercise its review function without complete access. Success in the OIPC appeal (Exhibit I) regarding access to information would provide an external, quasi-judicial finding that the administrative body violated its disclosure duties, a highly persuasive piece of evidence for the **DIVISIONAL COURT** on the issue of institutional transparency and fairness.

4. **CORE APPLICATION AND INITIAL FILINGS** (Tabs 5–19; and **TAB #**66 (a) to (d)):

a. This section encompasses the original instruments filed in the *JRPA* Application and initial procedural motions, establishing the genesis and preliminary procedural posture of the **DIVISIONAL COURT** case;
    i. ***JRPA* Application** and Factum for ***JRPA* Application** (Tabs 5, 6):
        1. ***JRPA* Application** was served and filed on November 15, 2024:

5. **PERFECTION AND REQUISITIONS (TABS 7, 8, 9):** The Certificate of Perfection and Requisitions for a "listing hearing" and an urgent hearing, signaling the initial efforts to expedite the matter.
    i. Perfection confirmed that the Applicant's ***JRPA* Application**, Application Record and Factum before the court has been complete since no later than December 16, 2024, while the requisitions underscored the Applicant's desire for swift resolution, potentially due to the severity of the alleged procedural issues or the impact of the underlying Tribunal decision.
    ii. The urgency requisition denoted a pressing need, possibly related to ongoing financial hardship resulting from the denial of insurance benefits, which necessitates an accelerated judicial calendar.
    iii. The successful perfection of the record is a necessary precursor to scheduling the substantive hearing, confirming the administrative completeness of the application.
    iv. The Certificate of Perfection, signed by the Applicant, carries an especially high burden of veracity given the ongoing allegations of record-tampering and administrative non-disclosure and the failure to be heard along with the compounding and aggravating factor of Madam Justice Shore engaging in her insertion into the JRPA Proceeding without disclosure of her undisclosed prior judicial involvement in the Undisclosed Criminal Proceeding.

6. **NOM #1 AND #2 IN THE *JRPA* APPLICATION DOCUMENTS** (Tabs 10–19):
    a. This group includes the Notice of Motion for **NOM #**1 and the supporting affidavits, along with various procedural endorsements and case correspondence that set the stage for the current application. These prior attempts highlight the systemic nature of the Respondent's failure to participate and provide the necessary documents for a fair judicial review.
        i. **NOM #**1:
            1. **NOM #**1 served and filed on January 22, 2025 (see: **TAB #**10 of **Compendium For NOM #3**);
            2. Draft Orders for **NOM #**1:
                a. The Applicant's Draft Order for **NOM #**1 was filed on January 29, 2025 in the unopposed motion (to be heard orally) (see **TAB #**11 of the **Compendium For NOM #3**);
            3. Written Submissions for **NOM #**1: **TAB #**12 of **Compendium For NOM #3** of January 30, 2025
        ii. **NOM #**2 documents:
            1. **NOM #**2 Motion Record:
                a. **NOM #**2 served on January 31, 2025 (see: **TAB #**13);
                b. **NOM #**2 Factum For Motion In Writing on February 1, 2025; (see: **TAB #**14);
                c. **NOM #**2 Draft Order for **NOM #**2 (February 14, 2025);

AND on not receiving any documents, evidence or submissions from the lawyers for the **Respondent Insurance Companies** and the **LAT** despite being duly served with the Applicant's **NOM #**3, Factum, Motion Record, Draft Order (see: Tab #21 of the Applicant's Compendium), along with proof of service by the Applicant (see: Tab #22 of the **Compendium For NOM #3**) and the DIVISIONAL COURT being copied on the service of the Applicant's

Compendium For NOM #3 upon them after the Applicant had filed the **Compendium For NOM #3** on the same date;

AND upon the Applicant's knowledge that the Respondent Insurance Companies and the LAT, along with the AGO, failed to file a first defence (see: Rule 77 of the Rules of Civil Procedure), which precluded the request by the LAT on December 3, 2024, that the JRPA Proceeding be assigned for Case Management (see: Rule 77.05(2) of the Rules of Civil Procedure) and the Assignment For Case Management of the JRPA Proceeding by Madam Justice Shore on January 7, 2025, along with all other steps undertaken in relation to that null and void and void ab initio request for case management by the LAT and void ab initio "direction" or "compulsory attendance by the parties [sic]" by Madam Justice Shore,

AND UPON the Motion having proceeded as a written hearing on the 3rd day of December, 2025, pursuant to the Rules of Civil Procedure;

AND NOTWITHSTANDING the exclusion of any **solely served documents** by the Respondent Insurance Companies and the Licence Appeal Tribunal (LAT) due to their manifest failures to "file" and "deliver" their respective Notices of Appearances, it is observed that: the Respondents were served with the Applicant's Judicial Review Procedure Application (JRPA Application) immediately subsequent to its online filing on November 15, 2024; non-service of the LAT's Notice of Appearance (NOA) of November 27, 2024, is evident, concomitant with the absence of its requisite "filing" or "delivery"; and the NOA of the Respondent Insurance Companies, dated December 3, 2024, was duly served upon the Applicant but neither "filed" nor "delivered" upon the Applicant;

AND FURTHER NOTING that the Tribunal neglected or failed to discharge its statutory obligations pursuant to the *Judicial Review Procedure Act* and the *Statutory Powers Procedure Act (SPPA)* to forthwith file a complete record of proceedings, inclusive of all content requirements stipulated at section 20 of the *SPPA*, and did not proffer opposition or consent to the Applicant's antecedent **NOM #**1 seeking compliance therewith; that the Respondent Insurance Companies failed to adhere to the Practice Direction entitled "Information Submitted to the Court" within the prescribed two-week period following the issuance of the JRPA Application, or at any subsequent juncture; that the Responding Parties failed to comply with Rule 68.04(4) of the *Rules of Civil Procedure* subsequent to being served with the Applicant's Factum and Application Record (December 12, 2024), nor did they seek leave to deliver

respective factums and application records post-January 13, 2025; and that neither the Respondent Insurance Companies nor the Tribunal (collectively, the "Remaining Respondents") complied with Rule 37.12.1(5) within ten days of the promulgation (making) on notice of the Applicant's **NOM #**3, nor did they file any objections to **NOM #**2, despite being jurisdictionally precluded from doing so without first seeking and obtaining a mandatory order of this Honourable Court to effect the "delivery" of their Notices of Appearances, which are now approximately 366 days late, or seeking an oral hearing (vide: Rule 37.12.1(5)(d)); and

AND FURTHER NOTING that all of the Responding Parties, including Respondents and Non-Respondents were served with the Applicant's **NOM #**3, Factum, Motion Record, Draft Order and Compendium For NOM #3, but did not choose to oppose (the collective "Non-Opposition NOM #3") this NOM #3;

CHAPTER #3: ORDERS AND DECLARATIONS

THIS DIVISIONAL COURT GRANTS THE FOLLOWING ORDERS AND DECLARES THE FOLLOWING (WHERE APPLICABLE):

CHAPTER #3(A): INITIAL ORDERS

1. **THIS DIVISIONAL COURT ORDERS** that the motions of the Applicant, denoted as **NOM #**1, **NOM #**2 and **NOM #**3 (collectively, the "Motions"), were consolidated for hearing and were all heard in writing, without the attendance of the Applicant, who was the sole party as of the date of the hearing, and "Responding Parties" (which includes the Respondents and Non-Respondents (see: **TAB #**22 of Affidavit of Service of Applicant) and none of the Responding Parties complied with Rule 37.12(5) of the *Rules of Civil Procedure* by consenting, not opposing, opposing (with a motion record, prescribed notice agreeing to have the motion heard and determined in writing and a factum for motion in writing) or providing a notice of intending to make oral argument on Wednesday, December 3, 2025, at the **DIVISIONAL COURT** of Ontario at 130 Queen Street West, Toronto, Ontario;
2. **THIS Divisional Court DECLARES AND ORDERS** that:
    a. There was a dispensation of compliance with any rules, in the interest of justice at any and all times on a retroactive, current and prospective basis in relation to any rules that allowed this NOM #3 to be heard, in writing, on December 3, 2025;
        a. Specifically, a Declaration that the Applicant made his motion to the Divisional Court, via email, with service of the NOM #3 on November 17, 2025;
            1. Specifically, a Declaration, in the alternative, the Applicant's NOM #3, in the circumstances made the motion unnecessary pursuant to Rule 37.01 of the Rules of Civil Procedure;
    b. A Declaration that there was no practice direction of the Divisional Court in effect concerning the scheduling of a motion proposed in writing and without attendance of the party(ies);
    c. A Declaration that the Moving Party filed his motion with the Divisional Court with proof of service before the hearing date and on November 26, 2025;
    d. A Declaration that the Moving Party was not required to serve the Responding Parties, or in the alternative the Respondents, with his NOM #3, Motion Record, Factum, and initial Draft Order

(November 19, 2025), although he did on the aforementioned dates in this subparagraph. A further Declaration and Order that, pursuant to, inter alia, Rules of Civil Procedure Rule 37.08(2), that the Moving Party was entitled to filed the NOM #3 at or before the hearing which was required to have been "confirmed" on November 26, 2025, and within three business days of that date;

a. In the alternative, a Declaration and Order that this Divisional Court dispensed with compliance for the filing of the NOM #3 and the Registrar of the Divisional Court was directed to return the payment of $339.00 to the Moving Party;

1. In the further alternative, this Divisional Court requested that the court file was placed before the presiding motions judge or by way of requisition of the Applicant wherein he was directed to file the same and such order was granted nunc pro tunc;

e. A Declaration that the Applicant (Moving Party) gave the Registrar, as she then was, a Confirmation of Motion (Form 38(B)) on Monday, November 24, 2025, via email;

f. A Declaration that this hearing was conducted in writing, without attendance of the party (Applicant) and pursuant to Rule 37.11(1)(a) in the absence of the public;

g. A Declaration that any compliance issues regarding the "filing" of the aforementioned documents by the Moving Party were through no fault of his own;

h. A Declaration that any filings via mail or leaving at the court office of the Divisional Court, even if duplicate of OCPP filings, are dated to the date of the filing in the OCPP by receipt date;

i. A

3. **THIS DIVISIONAL COURT DECLARES** that the Attorney General of Ontario confirmed in writing on January 30, 2025, with the Applicant, other Respondents and the Court that it would not participate in the ***JRPA* Proceeding** and to be removed from any future correspondence;
4. **THIS DIVISIONAL COURT ORDERS** that the delegated or presiding motion judge, for this motion was not the Honourable Madam Justice Shore and/or any other judge employed by Epstein Cole LLP prior to the commencement of and after the filing and serving of this ***JRPA* Application**;
5. **THIS DIVISIONAL COURT ORDERS** that all Orders herein contained shall be granted *nunc pro tunc*, along with any abridgment of time pursuant to *inter alia* Rule 3.02(1) and (2) where such retroactive application is applicable;
6. **THIS DIVISIONAL COURT ORDERS** that consistent with the amendments to the Rules of Civil Procedure in October 2025 that the DIVISIONAL COURT (court staff) (registrar) must upload all of the Applicant's filed documents for purposes of NOM #3 (see: Rule 4.05.3 (3.0.1);
7. **THIS DIVISIONAL COURT ORDERS** that the DIVISIONAL COURT (court staff) (registrar) must provide an invitation to the Applicant to upload his Compendium For NOM #3 (see: Rule 4.05.3(3.));
8. **THIS COURT FURTHER DECLARES** that the Tribunal had failed to file a record of the proceeding forthwith or at all and the Respondent Insurance Companies, and breached section 10 of the *JRPA*;
9. **THIS DIVISIONAL COURT FURTHER DECLARES** that the Tribunal failed to "deliver" responsive factums and application records in accordance with Rule 68.04(4) of the *Rules of Civil Procedure*;
10. **THIS DIVISIONAL COURT DECLARES AND ORDERS** that that LAT failed to serve its Notice of Appearance (Form 38(B)) on November 27, 2024;
11. **THIS DIVISIONAL COURT DECLARES** that the LAT failed to "file" and "deliver" its Notice of Appearance forthwith, prior to December 3, 2024, or thereafter;
12. **THIS DIVISIONAL COURT DECLARES** that Respondent Insurance Companies served their Notices of Appearances on December 3, 2024, at 4:50 p.m.
13. **THIS DIVISIONAL COURT FURTHER DECLARES** that the LAT's request for a case conference was on or before 3:30 p.m. on December 3, 2024;
14. **THIS DIVISIONAL COURT DECLARES AND ORDERS** that the LAT's request for a case conference on or before December 3, 2024, was null and void, and void *ab initio*, on account of none of the Respondents having filed a first "Defence" (see: Rule 77.03 of the *Rules of Civil Procedure*: "defence" includes a notice of intent to defend, a statement of defence, a notice of appearance and a notice of motion in response to a proceeding)) (defined as "First Defence") prior to the LAT's request for a case conference;
15. **THIS DIVISIONAL COURT DECLARES AND ORDERS** that any "**Assignment For Case Management**" (see: Rule 77.05 of *Rules of Civil Procedure*) of the ***JRPA* Proceeding** by "the case

management judge" (Madam Justice Shore) was null and void, void *ab initio* and of no force and effect because there was no consent of any "parties" (Rule 77.05(1) of the *Rules of Civil Procedure*) and the LAT's request, as there was no motion from the LAT, for a case conference was void *ab initio* and of no force and effect (see: Rule 77.05(2)(b));

16. **THIS DIVISIONAL COURT ORDERS AND DECLARES** that, to the extent that that Justice Shore's considered the **LAT**'s ***void ab initio*** request for **Assignment For Case Management** of the ***JRPA* Proceeding** and subsequently considered herself to be assigned to the ***JRPA Proceeding*** to herself was an **impermissible delegation of authority**, and/or was directly contrary to *Rule 77* of the *Rules of Civil Procedure*, any "source law", the common law or equitable principles;
17. **THIS DIVISIONAL COURT FURTHER DECLARES** that to the extent that Madam Justice Shore believed she could on her own volition require the Applicant and Respondents to appear before her for a case conference no such power under any "source law" so existed at the time of such consideration and compulsion.
    a. **THIS DIVISIONAL COURT FURTHER DECLARES** that to the extent that Madam Justice Shore believed her power arose from Rule 77.08, dovetailed to Rule 50.13 of the *Rules of Civil Procedure*, no such power existed because of the failure of the Respondents to file a First Defence and said Rule 50.13 arises under pre-trial procedures.
    b. **THIS DIVISIONAL COURT FURTHER DECLARES** that to that Madam Justice Shore was relying upon Rule 50.03 she did not compel the parties [sic] to a pre-trial conference.
    c. **THIS DIVISIONAL COURT FURTHER DECLARES** that to the extent that Madam Justice Shore was seeking to compel the parties [sic] to a conference under Rule 50, she failed to order that the "parties" [sic] themselves participate and such case conferences were null and void on that ground alone.
    d. **THIS DIVISIONAL COURT FURTHER DECLARES** that to the extent that Madam Justice Shore was relying on Rule 50.13 of the *Rules of Civil Procedure*, the LAT was not a party at the time of the written request (December 3, 2024) by failure to "deliver" its NOA, not lawfully served, and there was no filing of a First Defence at said time, and as consequence of Rule 50.13(2), Madam Justice Shore failed to order that all of the "parties" [sic] participate in addition to their lawyers as a consequence, and the case conferences are hereby set aside on said legal ground;
18. **THIS DIVISIONAL COURT FURTHER DECLARES AND ORDERS** that any purported case conference compulsory requirement relating to the exchange of materials (if necessary [sic]) and to discuss prematurity [sic] was null and void on account of the LAT, which was the only Respondent purportedly raising the issue albeit without party status, as there was only one "party" at said time in the Applicant;
    a. **THIS DIVISIONAL COURT FURTHER DECLARES AND ORDERS** that any potential timetable arising out of that purported or alleged case conference compulsory attendance requirement, which would have required the lawyers for the parties [sic] and the parties themselves, absent order of the court, did not operate as a stay or abeyance of obligations of the Respondents to comply with the *JRPA* and *Rules of Civil Procedure* (where applicable);
19. **THIS DIVISIONAL COURT FURTHER DECLARES AND ORDERS** that as a consequence of the Applicant having already **perfected** his ***JRPA* Application** on December 16, 2024, there were no further materials for him to exchange and the deadline for the Respondents to file their responsive application records and factums was **Monday, January 13, 2025**;
20. **THIS DIVISIONAL COURT ORDERS AND DECLARES** that any purported filings, whether ***de facto*** or ***de jure***, submitted by the **LAT** or the **Respondent Insurance Companies** post-November 27 or December 3, 2024, respectively, are rendered ***void ab initio*** and are subject to the vitiating effect of insufficient notice rules stipulated under the *Rules of Civil Procedure*, and any setting aside of the same are heard on three days notice;
21. **THIS DIVISIONAL COURT FURTHER DECLARES AND ORDERS** that all steps and documents involving the "**Assignment For Case Management**" and any "case management conferences" are void *ab initio*, null and void and of no force and effect, and hereby set aside.
    a. **THIS DIVISIONAL COURT FURTHER DECLARES** AND ORDERS that any "orders" arising from "case conferences" are null and void, void *ab initio* and of no force and effect, and set aside;

22. **THIS DIVISIONAL COURT DECLARES AND ORDERS** that any conference conducted without the Applicant possessing access to Case Center for this DIVISIONAL COURT Proceeding (***JRPA* Proceeding**) by way of invitation, as per the state of the *Rules of Civil Procedure* at said time and without the ability to **upload** his filed documents at least five days prior to said case conferences (see: Rule 4.05.3 et al) rendered said case conferences null and void, void *ab initio*, of no force and effect, and they are hereby set aside without reference to their merits otherwise;
23. **THIS DIVISIONAL COURT DECLARES** that the Applicant was entitled to an invitation to the **DIVISIONAL COURT** Case Center electronic platform immediately upon the formal commencement or bringing of this ***JRPA* Application** on or around November 15, 2024, pursuant to, inter alia, the *JRPA*, the *Rules of Civil Procedure* and the **DIVISIONAL COURT *JRPA* Guide** in force at said time;
    a. **THIS DIVISIONAL COURT DECLARES** that the portion of the **DIVISIONAL COURT** *JRPA Guide* relating to the provision of an invitation to Case Center upon the bringing of a ***JRPA Application*** is not inconsistent with the *Rules of Civil Procedure;*
24. **THIS DIVISIONAL COURT FURTHER DECLARES AND ORDERS** that but for the notice that the Applicant provided herein in relation to **NOM #**3, the Applicant is permitted to not further file or serve the Respondent Insurance Companies and LAT with any further filings or otherwise but for any challenges by the LAT in the constitution and *Charter* questions relating to its control or authority of any of the Respondent Insurance Companies and its agents involved in the theft of the Applicant's property and subsequent impersonation, extortion and bribery;

CHAPTER #3(B): NULLIFICATION IN TOTO AND MISLEADING OF THE APPLICANT BY FRAUDULENT MISREPRESENTATION AND FINDINGS OF PRIOR JUDICIAL INVOLVEMENT (UNDISCLOSED)

25. **THIS DIVISIONAL COURT DECLARES AND ORDERS** the setting aside, ***in toto*** and ***ab initio***, all of the **Justice Shore Steps** pursuant to: i. The Declarations of Law herein; ii. *Rule 38.11* of the *Rules of Civil Procedure* on account of insufficient or non-existent notice; iii. *Rule 59* of the *Rules of Civil Procedure* on the grounds of fraud and miscarriage of justice, as the underlying judicial steps were irrevocably and fundamentally tainted by misconduct and conflict; iv. Rule 2.02 of the *Rules of Civil Procedure*;
26. **THIS DIVISIONAL COURT FURTHER DECLARES** that all fraudulent misrepresentations made by commission or omission whether iterated by the **DIVISIONAL COURT** (court staff), as particularized herein, are attributed to the "**case management judge**" after December 3, 2024;
27. **THIS DIVISIONAL COURT FURTHER DECLARES** that there is no prerequisite or requirement under *Rule 59.06(2)(a)* of the *Rules of Civil Procedure* that the fraud must be committed exclusively against an opposing party or solely by a party, Respondent or non-Respondent, and that it may be committed by any **person** so long as it had a material effect (i.e. may have been a factor or reasonably affected the outcome of the proceeding);
28. **THIS DIVISIONAL COURT FURTHER DECLARES** that, on a balance of probabilities and due to the lack of opposition of this **NOM #**3, that Madam Justice Shore had a prior judicial involvement with the Applicant in the **Undisclosed Criminal Proceeding**.
    a. **THIS DIVISIONAL COURT FURTHER DECLARES AND ORDERS** that Madam Justice Shore's prior judicial involvement in undisclosed fashion amounted to facts or fraud discovered post April 2025 by the Applicant, and all of her steps taken and orders issued are hereby set aside;
29. **THIS DIVISIONAL COURT FURTHER DECLARES** that the **undisclosed** prior judicial involvement of Madam Justice Shore with the Applicant amounted to a fraudulent misrepresentation upon the Applicant of which was material to the outcome of the ***JRPA* Proceeding** and all steps, documents and/or orders involving or relating to Madam Justice Shore are hereby set aside;

CHAPTER #3(C): FRAUD, BRIBERY AND EXTORTION INVOLVING THE RESPONDENT INSURANCE COMPANIES AND LAT;

CHAPTER #3(C)(I): FRAUD

30. **THIS DIVISIONAL COURT FURTHER DECLARES AND ORDERS** that that the Licence Appeal Tribunal (**LAT**) and the Respondent Insurance Companies committed a demonstrable fraud, whether by omission or commission, upon the Court with specific and precise reference to the facts fully particularized in the Applicant's Affidavits, Factum, and evidence to be gleaned from the case conference transcripts, thereby tainting the entire ***acta*** of the proceeding with fraud, and they cannot retain any benefits of the same.
    a. **THIS DIVISIONAL COURT FURTHER DECLARES AND ORDERS** that all steps, documents and/or orders relating to said fraudulent conduct, particularized in the Applicant's **Compendium For NOM #3**, may have reasonably affected the outcome of the ***JRPA*** **Proceeding**, and they are hereby set aside;

CHAPTER #3(C)(II): BRIBERY

31. **THIS DIVISIONAL COURT FURTHER DECLARES** AND ORDERS that the conduct involving Mr. Karat, an employee or contractor to the Respondent Insurance Companies, in the unauthorized appropriation of the Applicant's property on October 25, 2024, and subsequent related actions (including the purchase of new property and the utilization of a fictitious name by Ms. Julia Dunk) ascended to the level of a bribe or an act of bribery.
    a. **A FURTHER DECLARATION AND ORDER** that the aforementioned declared act of bribery has irreparably tainted the proceeding and rises to the level of a special nullity such that any and all steps, requirements, orders, decisions, or judgments prejudicial to the Applicant must be, ipso facto, set aside.

CHAPTER #3(C)(III): EXTORTION

32. **THIS DIVISIONAL COURT FURTHER DECLARES AND ORDERS** that the Respondent Insurance Companies committed the criminal offence of extortion and obstruction of justice, on a balance of probabilities, and the associated intentional torts, both prior to the origination of this ***JRPA Proceeding*** and throughout its subsequent bringing, commencement and advancement;

CHAPTER #3(D): INTERIM, INTERLOCUTORY AND INJUNCTIVE RELIEF

33. **THIS DIVISIONAL COURT ORDERS** that that all automotive insurance entities within the TDIA Group, Mr. Karat, and his then supervisor or manager, Mr. Papadimitropoulos, shall undertake all reasonable, efficacious, and affirmative steps to preserve and secure all confidential and proprietary information pertaining to the Applicant, whether such information exists in tangible hard-copy form or as electronic data, pending the final and conclusive disposition of the within proceeding (constituting an "**Interim, Interlocutory And Permanent Injunction"**)
34. **THIS DIVISIONAL COURT ORDERS** that that all persons who have control, possession and/or custody of the stolen property, some or all, of the Applicant, that was subjected to the unauthorized appropriation (the "**TDI Karat Theft"**) on October 25, 2024 at the premises of 1025 Queen Street West, Toronto, Ontario (visitor area of CAMH's building known as the "McCain Recovery Complex Building"), and subsequently utilized and/or disclosed said stolen property including personal information, confidential information and/or personal health information, compelling the immediate and unreserved delivery up of the Applicant's property with such property to be restored to the Applicant within three (3) days of the formal pronouncement of this Order;

35. **THIS DIVISIONAL COURT ORDERS** that any all of unauthorized possessors or controllers or custodians of the stolen property of the Applicant shall forthwith cease from any such usage and comply with the above orders forthwith;
36. **THIS DIVISIONAL COURT ORDERS** that the SCJ recording management office ("RMO") is required to provide the Applicant's retained authorized transcriptionists in Ontario ("**ATO**") with, in their custody, possession and/or control, copies of the "tapes and materials required for transcription" in the following proceedings:
    a. **Undisclosed Criminal Proceedings** and "Ex Parte In Camera Hearing(s") involving the Applicant; and
    b. The case conferences in this **DIVISIONAL COURT** Proceeding.
37. **THIS DIVISIONAL COURT ORDERS** that the SCJ RMO is obligated to provide the Applicant with the following documents which are copies on CD Of the digital recordings he requested by his Request Form Undertaking, with payment of the prescribed fees pursuant to Reg 293/92, for the following:
    a. Undisclosed Criminal Proceedings and "Ex Parte In Camera Hearing(s") involving the Applicant; and
    b. The case conferences in the **DIVISIONAL COURT** proceeding;
38. **THIS DIVISIONAL COURT ORDERS** that the Superior Court of Justice (**SCJ**) or the DIVISIONAL COURT, if a judge of the DIVISIONAL COURT heard and considered *Criminal Code* Form 2 "Information" or "Informations" involving the Applicant or a *Criminal Code* Form 4 *Criminal Code* Indictment or "Indictments", shall produce copies of any and all informations and indictments received involving the Applicant, including any associated or supporting documents or records.
39. **THIS DIVISIONAL COURT ORDERS** that the Toronto Police Service (TPS) produce any documents and records involving TPS Occurrence Numbers of Sunday September 15, 2024, and Sunday, September 22, 2024, and Police Case ID: 457197, including but not limited to any complaints made by any of the Respondents or their agents (actual or purported).
40. **THIS DIVISIONAL COURT ORDERS** that any relevant ministry of the Ontario Government, with particular reference to the Ministry of the Attorney General (**MAG**) and the Ministry of the Solicitor General (**SOLGEN**), shall produce to the Parties (aside from itself with respect to the **MAG**) copies of any draft or signed *Criminal Code Form 4* Indictments and/or any other documents relating to the Applicant.
41. **THIS DIVISIONAL COURT ORDERS** that that all Respondents and persons formally notified of this **NOM #3** shall produce all documents, things, papers, records, or communications that are demonstrably **relevant** to this **NOM #3**, irrespective of the physical or electronic situs of their storage or custody.
42. **THIS DIVISIONAL COURT ORDERS** that all records of the ***JRPA Proceeding***, including but not limited to those documents purportedly served but never legally "filed" or "delivered" according to the Rules, being irrevocably tainted by fraud and bribery, shall be sealed and/or administratively expunged from all publicly accessible databases to prevent the dissemination of records arising from a **special nullity** (the "**Protective Expungement Orde**r" and "**Open Court Principle Regularization Order**").

CHAPTER #3(E): NOM #1 ORDERS (STILL APPLICABLE)

43. **THIS DIVISIONAL COURT ORDERS** that in addition to the LAT's ongoing requirement to file the record of proceeding that the LAT shall provide copies of the two undisclosed motion orders, on a forthwith basis to the Applicant and the DIVISIONAL COURT, denoted in the LAT's provided portions of the purported record of proceeding index pursuant to a *TARA* request by the Applicant on July 24, 2024, and August 16, 2024;
44. **THIS DIVISIONAL COURT ORDERS** that the Applicant is entitled to costs of **NOM #**1 as per his Costs Submissions (see: **Compendium For NOM #3**, **TAB #**28) and Bill of Costs (see: **Compendium For NOM #3**, **TAB #**29)

CHAPTER #3(F): CONVERTING THIS MOTION INTO A MOTION FOR JUDGMENT BUT FOR CONSTITUTIONAL AND *CHARTER* ISSUES AND THOSE ISSUES ARISING

5051 **THIS DIVISIONAL COURT ORDERS** that **NOM #**3 was converted into a motion for Judgment (see: Rule 1.03(2)) pursuant to Rule 37.13(2)(a) but for any Constitutional or *Charter* issues in the Applicant's NOCQ.

a. **THIS DIVISIONAL COURT FURTHER ORDERS** that the AGO is entitled to participate in the hearing of the NOCQ and any final relief arising under this ***JRPA*** **Application**;

CHAPTER #3(G): NOM #2 ORDERS

46. **THIS DIVISIONAL COURT ORDERS** that the following relief is granted:
    a. An Order setting aside the final orders, decisions and determinations of **VC Morrisette of the LAT** (September 13, 2024) that refused the Applicant's relief sought to add TDHA as a party and substituting it with an order that **TDHA** is added as a party to the LAT Appeal, along with the upholding or affirming of the same by VC Lake on October 16, 2024 ;
    b. An Order that **TDHA** has 14 days from the date of this order to file a responsive pleading to the causes of action of the Applicant's LAT Appeal that it received on December 24, 2023, via fax;
    c. An Order that **TDHA** is declared as the **First Insurer** pursuant to *Reg 283*;
    d. An Order that TDHA is required to comply with all of its obligations under the *Insurance Act*, *Reg 283*, and *SABS* forthwith on a past, current and future bases;
    e. An Order SNIC and TDHA shall take all necessary steps to provide the correct name of 'the insurer' that first received the Applicant's Completed Application with current mailing address and fax number to the Applicant at his email for his accident benefits claim at mcleansniclat@gmail.com, and correct the same with the central processing agency also known as HCAI within 7 days of this order; and
    f. An Order that the Applicant is at liberty to seek any relief against TDHA at law.

CHAPTER #3(H): *CHARTER* DETERMINATION WITHIN 30 DAYS OF THE DATE OF ALL ORDERS HEREIN AND THOSE ARISING FROM ANY ADDITIONAL FILING OF EVIDENCE AND SUBMISSIONS ARISING FROM THE INTERIM, INTERLOCUTORY AND INJUNCTIVE RELIEF HEREIN

47. **THIS DIVISIONAL COURT ORDERS** that the determination of the said *Charter* relief shall proceed via written argument or oral hearing, to be finally adjudicated and decided by the presiding **DIVISIONAL COURT** Judge within thirty (30) days of all orders herein and any orders arising from any evidence or submissions of the Applicant arising from the interim, interlocutory and injunctive relief;

CHAPTER #3(I): LEAVE TO SUBMIT FURTHER EVIDENCE AND SUBMISSIONS ARISING

48. **THIS DIVISIONAL COURT ORDERS** that the Applicant is entitled to leave to file further submissions and supplementary evidence, the quantum of which shall be restricted to a predetermined number of pages, based upon the granting of the interim, interlocutory and injunctive relief and prior to the judicial adjudication of the outstanding and herein Orders, contingent upon the Applicant's receipt of the documents, records, evidence, and things sought through the production mandates herein established and/or through his multitude of *PIPEDA* requests and OPCC complaints along with *FIPPA* requests and OIPC Appeals;
49. **THIS DIVISIONAL COURT ORDERS** that the Applicant is entitled to seek subsequent directions regarding the implementation or interpretation of any of the provisions contained herein;

Date of issuance: ……

The Honourable Mr. Justice Morawetz
President of the Divisional Court
Chief Justice of the SCJ (Ontario)

---- Nothing Past this Line but Appendices ----

FORM 4C

Courts of Justice Act

BACKSHEET

McLean v. TDHA et al

Court file no. DC-24-00000718-00JR

ONTARIO SUPERIOR COURT OF JUSTICE (DIVISIONAL COURT)

PROCEEDING COMMENCED AT **TORONTO**

DRAFT ORDER FOR NOM #3 (LIABILITY)
(MADE ON NOVEMBER 17, 2025, AND RETURNABLE ON DECEMBER 3, 2025)

Mr. Kevin A. McLean (B.A., J.D., CIM)
Applicant in this Notice of Application For Judicial Review ("**JRPA Application**") and perfected on December 16, 2024
775 King Street West
Suite 410
Toronto, Ontario
M5V 2K3
Email: mcleansettlement@gmail.com

SERVED UPON THE RESPONDENTS AND PERSONS ENTITLED TO NOTICE (IF KNOWN) – UNOPPOSED BY ALL RESPONDENTS AND RESPONDING PARTIES (SEE: AFFIDAVIT OF SERVICE OF THE APPLICANT OR MOVING PARTY ON NOVEMBER 21, 2025)

RESPONDENTS

Licence Appeal Tribunal: jesse.boyce@ontario.ca
TD Home and Autor Insurance Company: Matthew.Nieuwland@tdinsurance.com
Security National Insurance Company: Matthew.Nieuwland@tdinsurance.com
TD General Insurance Company: Matthew.Nieuwland@tdinsurance.com
Attorney General Of Ontario: judie.im@ontario.ca

RESPONDING PARTIES (NON-RESPONDENTS):
Toronto Police Services Board:
Falguni.Debnath@tps.ca; and
Legal.Services@torontopolice.on.ca

Solicitor General of Ontario:

	SOLGEN.Correspondence@ontario.ca; michael.kerzner@pc.ola.org Minister.SOLGEN@ontario.ca; nicolas.dimarco@ontario.ca; christopher.johns@ontario.ca; joe.dipietro@ontario.ca; and jenna.fullerton@ontario.ca. Ms. Julia Dunk at jdunk@himprolaw.com; Mr. David Karat at david.karat@tdinsurance.com; Mr. Papadimitropoulos at andrew.papadimitropoulos@td.com and andrew.papadimitropoulos@tdinsurance.com; : **PERSON ENTITLED TO NOTICE:** Attorney General of Canada: AGC_PGC_OTTAWA@justice.gc.ca and other email in the singular email thread for communications involving all parties and interested persons in *McLean v. TDHA et al*

Tab 72

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FORM 59A

Courts of Justice Act

ORDER

Court file no. DC-24-00000718-00JR

ONTARIO SUPERIOR COURT OF JUSTICE

(**DIVISIONAL COURT**)

The Honourable Mr. Justice Morawetz	Date:

[SEAL]

BETWEEN:

KEVIN ALEXANDER MCLEAN

APPLICANT

- AND -

TD HOME AND AUTO INSURANCE COMPANY, SECURITY NATIONAL INSURANCE COMPANY, TD GENERAL INSURANCE COMPANY, EXECUTIVE DIRECTOR, LICENCE APPEAL TRIBUNAL, HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, REPRESENTED BY EXECUTIVE CHAIR OF TRIBUNALS ONTARIO IN MR. SEAN WEIR, THE ATTORNEY GENERAL OF ONTARIO

5057
RESPONDENT

ORDER (COSTS)

THIS MOTION, made by the Applicant on November 17, 2025, for relief including the costs of this motion and prior motions, was heard in writing on December 3, 2025, at the Divisional Court (Osgoode Hall), 130 Queen Street West, Toronto, Ontario.

ON READING the Applicant's Costs Submissions and Bill of Costs filed in relation to Notice of Motion #3 which incorporated NOM #1 and #2, and all associated efforts, time spent, and disbursements associated with his due diligence efforts relating to seeking relief under Rule 59.06(2)(a) et al:

1. **THIS DIVISIONAL COURT ORDERS** that the Applicant is entitled to costs of NOM #1 as per his Costs Submissions and Bill of Costs.
2. **THIS DIVISIONAL COURT ORDERS** that costs of this motion (NOM #3) are awarded to the Applicant on a full-indemnity basis as set out in his Costs Submissions and Bill of Costs in the amount of **$888,661.00** (the "**Costs Award**").
3. **THIS DIVISIONAL COURT ORDERS** that the **Costs Award** is apportioned as follows: a. 75 percent liability against the Respondent Insurance Companies, jointly and severally; and b. 25 percent liability against the Licence Appeal Tribunal (LAT).
4. **THIS DIVISIONAL COURT FURTHER ORDERS** that the Costs Award is subject to pre-judgment interest and post-judgment interest in accordance with the *Courts of Justice Act*.

_____

Date of Issuance _____

Signature of The Honourable President of the Divisional Court (Chief Justice of the Ontario SCJ in The Honourable Mr. Justice Morawetz)

FORM 4C

Courts of Justice Act

BACKSHEET

McLean v. TDHA et al

Court file no. DC-24-00000718-00JR

ONTARIO SUPERIOR COURT OF JUSTICE (DIVISIONAL COURT)

PROCEEDING COMMENCED AT **TORONTO**

DRAFT ORDER FOR NOM #3 (COSTS)
(MADE ON NOVEMBER 17, 2025, AND RETURNABLE ON DECEMBER 3, 2025)

Mr. Kevin A. McLean (B.A., J.D., CIM)
Applicant in this Notice of Application For Judicial Review ("**JRPA Application**") and perfected on December 16, 2024
775 King Street West
Suite 410
Toronto, Ontario
M5V 2K3
Email: mcleansettlement@gmail.com

SERVED UPON THE RESPONDENTS AND PERSONS ENTITLED TO NOTICE (IF KNOWN) – UNOPPOSED BY ALL RESPONDENTS AND RESPONDING PARTIES (SEE: AFFIDAVIT OF SERVICE OF THE APPLICANT OR MOVING PARTY ON NOVEMBER 21, 2025)

RESPONDENTS

Licence Appeal Tribunal: jesse.boyce@ontario.ca
TD Home and Autor Insurance Company: Matthew.Nieuwland@tdinsurance.com
Security National Insurance Company: Matthew.Nieuwland@tdinsurance.com
TD General Insurance Company: Matthew.Nieuwland@tdinsurance.com
Attorney General Of Ontario: judie.im@ontario.ca

RESPONDING PARTIES (NON-RESPONDENTS):
Toronto Police Services Board:
Falguni.Debnath@tps.ca; and
Legal.Services@torontopolice.on.ca

Solicitor General of Ontario:

	SOLGEN.Correspondence@ontario.ca; michael.kerzner@pc.ola.org Minister.SOLGEN@ontario.ca; nicolas.dimarco@ontario.ca; christopher.johns@ontario.ca; joe.dipietro@ontario.ca; and jenna.fullerton@ontario.ca. Ms. Julia Dunk at jdunk@himprolaw.com; Mr. David Karat at david.karat@tdinsurance.com; Mr. Papadimitropoulos at andrew.papadimitropoulos@td.com and andrew.papadimitropoulos@tdinsurance.com; : **PERSON ENTITLED TO NOTICE:** Attorney General of Canada: AGC_PGC_OTTAWA@justice.gc.ca and other email in the singular email thread for communications involving all parties and interested persons in *McLean v. TDHA et al*

Tab 72

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FORM 59A

Courts of Justice Act

ORDER

Court file no. DC-24-00000718-00JR

ONTARIO SUPERIOR COURT OF JUSTICE

(**DIVISIONAL COURT**)

The Honourable Mr. Justice Morawetz	Date:

[SEAL]

BETWEEN:

KEVIN ALEXANDER MCLEAN

APPLICANT

- AND -

TD HOME AND AUTO INSURANCE COMPANY, SECURITY NATIONAL INSURANCE COMPANY, TD GENERAL INSURANCE COMPANY, EXECUTIVE DIRECTOR, LICENCE

APPEAL TRIBUNAL, HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, REPRESENTED BY EXECUTIVE CHAIR OF TRIBUNALS ONTARIO IN MR. SEAN WEIR, THE ATTORNEY GENERAL OF ONTARIO

RESPONDENTS

ORDER

THIS MOTION, made by the Applicant ("**Moving Party**") for the relief in his motion, absent a **Form 37A** due to the lack of necessity in the same, the urgency of the relief sought herein and in NOM #3, and the circumstances particularized contained in the record of proceeding for this **JRPA Proceeding**, the Applicant's N**OM #3, Compendium For NOM #3**, which was mail filed on December 11, 2025, with the Divisional Court (Toronto Region office at Osgoode Hall) and motion record for his motion number four ("**Motion #4**") (collectively, "**Motion Record #4**"), made on abridged notice on the **Responding Parties** in the former **Registrar** of the Divisional Court in Ms. Tashekah Gentles (the "**Former Registrar**") and the **Current Registrar** of the Divisional Court in Ms. Roxanne Parris (the "**Current Registrar**") was heard in writing on December 23, 2025 at Osgoode Hall, Divisional Court of Ontario, 130 Queen Street West, Toronto, Ontario, M5H 2N5, by the Applicant's provision and/or referencing to:

(i) filed documents formerly in the **JSO Portal**, transferred to the **OCPP** in this JRPA Proceeding;

(ii) submitted filings in the **OCPP** from November 2025 to December 15, 2025, and

(iii) provided documents, inclusive of electronic emails and attachments, via email to the Divisional Court, the **Former Registrar**, and the **Current Registrar**, along with, in relation to some of the documents including a draft order, by way fax to the Divisional Court and to the attention of the President of the Divisional Court from November 17, 2025 to present

(collectively, the "**Read Documents**" or "**Documents In Support**")

ON READING the **Moving Party**'s **Documents In Support** and reading any and all written submissions of the **Moving Party**, contained in the above or separately that are relevant to this motion, made without a Form 37(A), by

hearing without attendance of the **Moving Party** and Responding **Registrar** Parties, and without oral argument, and on an urgent basis, in the absence of the public, without the necessity of responsive submissions or hearing from the **Registrar** Responding Parties:

a. **DECLARATION RE: FORM 37A NOT REQUIRED OR CIRCUMSTANCES DO NOT REQUIRE; AND DISPENSING WITH NOTICE PERIODS ET AL:**

i. **THIS COURT DECLARES** that the requirement to file a **Form 37A** is hereby dispensed with, this Divisional Court being satisfied that such filing was unnecessary and in the specific circumstances, such filing would not have been complied with by the **Registrar** in accordance with her legal duties at all or in sufficient time to decide the urgent issues herein;

ii. **THIS COURT ORDERS** that requirements under Rule 37.06 by way of content in the **Form 37A** are dispensed with;

iii. **THIS COURT ORDERS** that the requirement under Rule 37.07 are formally dispensed and email provision of the Form 59A by the **Moving Party** and any **Documents In Support** via email were sufficient for compliance with the *Rules of Civil Procedure* purposes;

iv. **THIS COURT ORDERS** that Rule 37.08 with respect to the filing of the Form 37(A) under Rule 37.08 is dispensed with;

v. **THIS COURT ORDERS** that the **Moving Party** was not required to provide a **Confirmation of Motion** pursuant to Rule 37.10.1 of *Rules of Civil Procedure* but he may provide one for the record of proceeding purposes and any such giving of the same to the **Registrar** shall be deemed to have been given on December 23, 2025;

b. **ABRIDGMENT OF TIME, DISPENSING OF COMPLIANCE WITH REQUIREMENTS UNDER *Rules of Civil Procedure* ET AL, AND NUNC PRO TUNC ORDERS:**

i. **THIS COURT ORDERS** that this motion was declared as an urgent motion;

ii. **THIS COURT ORDERS** that the time for service and filing of the Notice of Motion and supporting materials be and is hereby abridged, such that this motion is properly returnable today on **December 23, 2025**, and any further requirements under the *Rules of Civil Procedure* regarding filing, service, time et al are dispensed with;

C. EFFECTIVE DATE OF ORDER:

i. **THIS COURT ORDERS** that this Order is effective from the time it was made on December 23, 2025, by providing an email confirmation to the Applicant at his email with the Divisional Court of the relief granted herein;

d. SETTLEMENT AND SIGNING OF ORDER:

i. **THIS COURT ORDERS** that, pursuant to, *inter alia*, Rule 59.04, this Order shall be settled and signed by the President of the Divisional Court without the necessity of obtaining the approval as to form and content from any other party or person involved or affected by this Motion No. 4;

e. Section 76 of the *Courts of Justice Act*:

i. **THIS COURT ORDERS** pursuant to the requirement that **Registrar**s, court staff *et al* are directed by the Chief Justice of the SCJ, which in this instance is the President of the Divisional Court, that the **Current Registrar** of the Divisional Court is required to discharge all extant obligations of the **Former Registrar** and herself, by successor obligation (where applicable) in relation to this Applicant under statute, regulations and at law on a forthwith basis.

ii. **THIS COURT FURTHER ORDERS** that the **Moving Party** is required to confirm with the Divisional Court and Divisional Court **Registrar**, within 24 hours, of receipt of any processed filings submitted to the OCPP, invitations to Case Center, et al, that have been confirmed with him by email or by invitation requiring his login to Case Center;

1. **THIS COURT FURTHER ORDERS** the **Registrar** to immediately upload all documents filed by the Applicant in this matter to the Case Center platform to ensure a complete and accurate digital record and that such filed documents in support of his NOM #3 have been brough to the attention of the presiding motions judge and any future judges assigned with judicial duties in this JRPA Proceeding
2. **THIS COURT ORDERS** the **Registrar** to issue an electronic invitation to the Applicant for the relevant Case Center bundle forthwith upon the issuance of this Order;
3. **THIS COURT ORDERS** that upon the Applicant receiving his invitation to Case Center, he is required to upload any Compendia For NOM #3 within 24 hours pursuant to, inter alia, Rule 4.05.3.0.1;

f. DECLARATION RE: NOTICES OF APPEARANCE:

i. **THIS COURT DECLARES**, upon a review of the **Case View** in the **OCPP** and the Applicant's Requisitions and Requests (Form 1 of the Divisional Court and the unnumbered form in the **OCPP**) submitted for filing on various dates in December 2025, that the Respondents, named in the style of cause, have failed, neglected or omitted to file Notices of Appearance in accordance with the Rules as required by Form 68(A) in relation to a self-represented litigant (Applicant), and have failed to provide proof of service of the same;

g. DECLARATION RE MAIL FILING:

i. **THIS COURT DECLARES** that the Applicant effectively and lawfully filed by mail, pursuant to Rules of Civil Procedure, Rule 4.05(4), on the following documents on the dates specified:

1. The Draft Order dated December 4, 2025 (filed December 8, 2025); and
2. The Compendium for Notice of Motion #3 dated December 7, 2025 (filed December 11, 2025).

h. ASSIGNMENT OF INDEPENDENT MOTIONS JUDGE:

i. **THIS COURT ORDERS** that to the extent that a presiding motions judge was not assigned to the Applicant's NOM #3 which was returnable on December 3, 2025, an assignment of a presiding motions judge to determine the Applicant's Notice of Motion #3 and such judge shall be independent of the parties and have had no prior conflicting involvement in the matters or with the responding parties named herein.

i. ADJUDICATION OF NOTICE OF MOTION #3:

i. **THIS COURT ORDERS** that the assigned motions judge shall determine the relief sought in Notice of Motion #3 (heard in writing on December 3, 2025) and issue Orders therein an interim and permanent bases, in respect thereof, with formal reasons to follow;

j. MANDAMUS RE: REGISTRAR DUTIES (CONDITIONAL OR POTENTIAL REGARDING ABOVE)

i. **THIS COURT ORDERS**, that to the extent that the **Registrar** does not comply with any or all of the above public legal duties to act within 24 hours of receipt of the Applicant's draft order, the Applicant is entitled to notify this Divisional Court of the same via email, fax and/or mail or drop off, and seek a Writ of Mandamus by written submission or factum, however so styled, by providing a copy of those written submissions or factum to the Divisional Court via email with mail or drop off filing thereafter, with the effective date of filing with the Divisional Court being the email delivery date, and the **Respondent Registrar Parties** shall provide written submissions in relation to the same within three business days;

ii. **THIS COURT DECLARES** that such determination of issues involving a potential issuance of a Writ of Mandamus are independent of the above orders and the **Registrar** of the Divisional Court must comply forthwith with all above obligations relevant to her;

k. COSTS:

i. **THIS COURT ORDERS** that to the extent that the Registrar Responding Parties do not comply with any of the above public legal duties to act within 24 hours or opposes the relief sought by any means or methods, the **Moving Party** is entitled to seek costs by a five page costs submissions emailed to the Divisional Court;

Date of issuance: ……

The Honourable Mr. Justice Morawetz
President of the Divisional Court

Chief Justice of the SCJ (Ontario)

RCP-E 59A (November 1, 2005)

FORM 4C

Courts of Justice Act

BACKSHEET

McLean v. TDHA et al

Court file no. DC-24-00000718-00JR

ONTARIO SUPERIOR COURT OF JUSTICE (DIVISIONAL COURT)

PROCEEDING COMMENCED AT **TORONTO**

DRAFT ORDER FOR MOTION #4 (Made on December 23, 2025) ("Motion to Compel Registrar")
(MADE ON DECEMBER 23, 2025 BY PROVISION OF FACTUM AND DRAFT ORDER IN LIGHT OF THE FAILURES OF THE REGISTRARS OF THE Divisional Court to comply with their duties assigned by law to the Judiciary)
MAIL FILED THEREAFTER

EXCLUSIVELY WITHIN THE PURVIEW OF THE PRESIDENT OF THE Divisional Court

Mr. Kevin A. McLean (B.A., J.D., CIM)
Applicant in this Notice of Application For Judicial Review ("**JRPA Application**") and perfected on December 16, 2024
775 King Street West
Suite 410
Toronto, Ontario
M5V 2K3
Email: mcleansettlement@gmail.com

SERVED ON
Former Registrar of the Divisional Court in Ms. Tashekah Gentles (no longer the Registrar of the Divisional Court as of December 3, 2025) (email: tashekah.gentles@ontario.ca)
Acting Registrar of the Divisional Court as of December 3, 2025, in Ms. Parris (Roxanne.parris@ontario.ca)

Tab 74

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FORM 59A

Courts of Justice Act

ORDER

Court file no. DC-24-00000718-00JR

ONTARIO SUPERIOR COURT OF JUSTICE

(**DIVISIONAL COURT**)

_____ _____ _____

The Honourable Mr. Justice Morawetz Date:

[SEAL]

BETWEEN:

KEVIN ALEXANDER MCLEAN

APPLICANT

- AND –
-

TD HOME AND AUTO INSURANCE COMPANY, SECURITY NATIONAL INSURANCE COMPANY, TD GENERAL INSURANCE COMPANY, EXECUTIVE DIRECTOR, LICENCE APPEAL TRIBUNAL, HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, REPRESENTED BY EXECUTIVE CHAIR OF TRIBUNALS ONTARIO IN MR. SEAN WEIR, THE ATTORNEY GENERAL OF ONTARIO

RESPONDENTS

THIS MOTION, initiated by the Applicant, Mr. Kevin A. McLean (the "Moving Party"), in consideration of the President of the Divisional Court's specialized capacity as the Master of the Roster and the pre-eminent guardian of the institutional integrity and functional efficacy of the Divisional Court, seeking mandatory orders for judicial self-assignment, technical rectification of the Ontario Courts Public Portal ("**OCPP**"), and the production of court records and recordings essential to the advancement of this judicial review, was adjudicated this day via written format;

ON READING the Factum in Support of Motion #5, the supporting evidence regarding the persistent "403 Forbidden Error Code," the prior Motion Records for Notice of Motion #3 and Motion #4, the Compendium For NOM #3, Request Form Undertakings for digital recordings; and noting with concern that the Respondents have failed to file and/or deliver Notices of Appearance, responding documents, or otherwise oppose the relief sought in the prior motions as required by the *Rules of Civil Procedure*, thereby necessitating extraordinary judicial intervention to ensure the orderly administration of justice;

I. DISPENSATION AND ABRIDGMENT OF TIME

1. **THIS COURT ORDERS** that the requirement for the filing of a formal Notice of Motion (Form 37A) for this Motion #5 is hereby dispensed with, such dispensation being necessitated by the insurmountable technical barriers presented by the "**403 Forbidden Error Code**"[i] that the Applicant is currently experiencing with the OCPP. This digital lockout has effectively severed the Applicant's primary means of service and filing involving the email for service herein, and given the history of previous controversies and procedural challenges in this proceeding, a formal dispensation is required to prevent further prejudice to the Moving Party.
2. **THIS COURT ORDERS** that the time for service and filing of this motion and all supporting documents be and is hereby abridged, and this motion is declared to be properly returnable this day, January 12, 2026, to address the urgent need for judicial oversight over the digital and administrative components of this litigation.
3. **THIS COURT ORDERS** that all orders involving timing, service, and the filing of documents relating to the hearing of this matter and the preceding motions are granted *nunc pro tunc*, ensuring that the record is perfected despite the administrative failures encountered by the Applicant.

II. JUDICIAL ASSIGNMENT AND INSTITUTIONAL OVERSIGHT

4. **THIS COURT ORDERS** that the President of the Divisional Court hereby self-assigns the present proceeding under the *Judicial Review Procedure Act* to his own jurisdiction, or in the alternative, shall adjudicate the relief sought in NOM #3 and by natural extension Motion #5 and #4. [ii]**THIS COURT FURTHER ORDERS AND DECLARES** that this JRPA Proceeding has faced extraordinary challenges and controversies that raise profound issues concerning the integrity of the Divisional Court as an institution, requiring the direct supervision and supervisory jurisdiction of the President of the Divisional Court as the primus inter pares to restore public and litigant confidence in the judicial process before it;
5. **THIS COURT ORDERS** that Madam Justice Shore is relieved from all duties involving the Applicant or any related proceedings involving the Applicant without any finding at this time as to whether or not she was in a conflict of interest and/or breached the Applicant's rights;[iii]

III. SECTION 76 OF THE *CJA* AND CONSTITUTIONAL ACCESS

6. **THIS COURT ORDERS** that court staff, IT administrators, and any officials responsible for the Ontario Courts Public Portal ("**OCPP**") immediately take all necessary technical and administrative steps to rectify the digital interface and extinguish the "403 Forbidden Error Code" precluding access to the OCPP as it relates to the Applicant's account and the email utilized herein. This rectification shall include, but is not limited to, the whitelisting of the Applicant's IP address and the restoration of full electronic filing and retrieval privileges;
7. **THIS COURT ORDERS** that the court staff must provide the Applicant with an individual email contact of the Divisional Court and OCPP (IT department) to troubleshoot the 403 Error Code issue as it relates to his email address herein in the event that the technological court staff cannot fix the same;
8. **THIS COURT ORDERS** that the OCCP manager of the IT department and the Registrar of the Divisional Court are to provide to the President of the Divisional Court, forthwith copies of all relevant logs of the Applicant's seeking to access the OCCP along with when the 403 Error Code commenced and why it has persisted and the reasons for the same;
9. **THIS COURT ORDERS** that until the court staff fix the 403 Error Code, the Applicant is entitled to file documents via email and they shall be deemed filed at the time that they are emailed to the Divisional Court

 correspondence email and Acting Registrar Ms. Roxanne Parris (LSO licensee as a paralegal licensee – currently non practising) and such order shall be granted *nunc pro tunc* in relation to all email submitted documents;

10. **THIS COURT DECLARES** that such digital disenfranchisement, denoted in the Factum for Motion #5 and supporting evidence therein, violates the procedural expectations of a self-represented litigant and constitutes a constructive denial of the right to be heard (*audi alteram partem*). **THIS COURT FURTHER DECLARES AND AFFIRMS** the rule of law principle that universal access to the courts is a constitutionalized and untouchable principle. Any technical or administrative interference with a litigant pursuing a legal remedy—whether intentional or through systemic neglect—is a violation of the rule of law and the *Constitution of Canada*. Access to justice, specifically in the form of access to the Superior Court of Justice and its digital records, is an untouchable constitutional imperative, and any sustained lockout constitutes a breach of the Core Jurisdiction of the SCJ as protected under Section 96 of the *Constitution Act, 1867*;

IV. ACCESS TO COURT RECORDINGS, DOCUMENTS, AND INFORMATION ASSETS

10. **THIS COURT ORDERS** that the SCJ Recording Management Office (attention: Ms. Hsieh, Ms. Amirthalingam, Ms. Azim et al) provide the Applicant with copies of the digital recordings for all case conferences held in this *JRPA* proceeding; [iv]
11. **THIS COURT ORDERS** that the SCJ Recording Management Office provide the Applicant's retained and authorized transcriptionist (Ontario) ("ATO") with the specific "tapes and materials required for transcription" required for the production of certified transcripts in relation to the case conferences herein;
12. **THIS COURT ORDERS** that Divisional Court staff and the Registrar provide the Applicant with immediate access to, and copies of, the requested documents in their custody or control in relation to the "Undisclosed Criminal Proceeding," to the extent that such documents are relevant to the grounds of the judicial review or the conduct of the administrative bodies below;
13. **THIS COURT ORDERS** that court staff at any courthouses within the purview of the Chief Justice of the Superior Court of Justice provide the Applicant with access to any requested documents, information, information assets, or judicial records in the custody or control of the SCJ in relation to his "Non-FIPPA"

 requests. This order recognizes that the open court principle extends to the administrative records necessary to verify the regularity of court proceedings;

14. **THIS COURT ORDERS** that the court staff, court clerks, and Registrars of any relevant SCJ courthouses or the Divisional Court must respond to the Applicant within 48 hours of receipt of an email, fax, and/or letter directed to the Applicant's email denoted for return correspondence; [v]
15. **THIS COURT ORDERS** that to the extent that the Applicant is required to pay any fees for any access to copies of documents filed in this JRPA Proceeding, which are denoted in the requisitions or requests in Compendium For NOM #3 and Motion Record #4, the Registrar shall provide him with a detailed, itemized estimate of the cost of the same prior to the assessment of such fees. To the extent that the Registrar does not provide the Applicant with the same within 48 hours of this order, no fees will be due and owing for the same;

V. ADJUDICATION AND GENERAL PROVISIONS

16. **THIS COURT ORDERS** that the President of the Divisional Court pronounce determinations regarding NOM #5, #4, and #3 immediately or forthwith. To ensure the timely progression of this matter, the Court may announce the result of these motions via an "Immediate Announcement Order," with comprehensive, detailed reasons to be promulgated and delivered to the parties thereafter;
17. **THIS COURT ORDERS** that to the extent that any orders herein granted dispose of any other orders, the relief sought in other motions or requests are hereby rendered moot;
18. **THIS COURT ORDERS** that this Order shall be effective immediately and shall be settled and signed by the President of the Divisional Court without the requirement for approval as to form or content by any other party, given the Respondents' continued state of default without rectification;
19. **THIS COURT ORDERS** that only the President of the Divisional Court may sign this order, and any formal issuing and entering of this order must be completed by the Registrar's office forthwith and without delay;
20. **THIS COURT ORDERS** such directions may be issued to the court services division in accordance with the above, Motion #4 and NOM #3, with a copy to the Applicant, as may be required to mitigate procedural delays and protect the overarching interest of justice; and

2. **THIS COURT ORDERS** that the Applicant is entitled to seek directions, is granted leave to submit any further submissions or evidence to assist this Divisional Court with status relating to the above orders sought (where applicable).

Date of issuance: ……

The Honourable Mr. Justice Morawetz
President of the Divisional Court
Chief Justice of the SCJ (Ontario)

RCP-E 59A (November 1, 2005)

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[i] A 403 Forbidden error means the web server understood your request but refuses to authorize access to the requested page or resource, indicating you lack the necessary permissions, like a locked door even with a key (see: https://www.plesk.com/blog/various/403-forbidden-error-what-is-it-how-to-fix-it/#elementor-toc__heading-anchor-0)

[ii] This assignment is vital to prevent a miscarriage of justice necessitated by the inextricable nexus between the matters at hand and the requirement for the highest level of judicial oversight.

[iii] This order is made purely to maintain the appearance of total judicial impartiality and to ensure that the adjudication of the merits of the JRPA proceeding is not obscured by collateral disputes regarding judicial conduct;

[iv] This order applies to all requests for which a Request Form Undertaking has been submitted and for which the Applicant has made the prescribed payment, ensuring that the Applicant has a complete and accurate record of all oral submissions and judicial directions;

[v] This timeline is mandated to compensate for the significant procedural delays already incurred and to ensure the Applicant is not further marginalized by administrative silence;

FORM 4C

Courts of Justice Act

BACKSHEET

McLean v. TDHA et al

Court file no. DC-24-00000718-00JR

ONTARIO SUPERIOR COURT OF JUSTICE (DIVISIONAL COURT)

PROCEEDING COMMENCED AT **TORONTO**

DRAFT ORDER FOR MOTION #5 (Made on January 12, 2026)

EXCLUSIVELY WITHIN THE PURVIEW OF THE PRESIDENT OF THE Divisional Court

Mr. Kevin A. McLean (B.A., J.D., CIM)
Applicant in this Notice of Application For Judicial Review ("**JRPA Application**") and perfected on December 16, 2024
775 King Street West
Suite 410
Toronto, Ontario
M5V 2K3
Email: mcleansettlement@gmail.com

SERVED ON
Former Registrar of the Divisional Court in Ms. Tashekah Gentles (no longer the Registrar of the Divisional Court as of December 3, 2025) (email: tashekah.gentles@ontario.ca)
Acting Registrar of the Divisional Court as of December 3, 2025, in Ms. Parris (Roxanne.parris@ontario.ca)

Tab 75

Court File No. DC-24-00000718-00JR

ONTARIO SUPERIOR COURT OF JUSTICE
(DIVISIONAL COURT)

BETWEEN:

KEVIN ALEXANDER MCLEAN

APPLICANT

- AND -

TD HOME AND AUTO INSURANCE COMPANY, SECURITY NATIONAL INSURANCE COMPANY, TD GENERAL INSURANCE COMPANY, EXECUTIVE DIRECTOR, LICENCE APPEAL TRIBUNAL, HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, REPRESENTED BY EXECUTIVE CHAIR OF TRIBUNALS ONTARIO IN MR. SEAN WEIR, THE ATTORNEY GENERAL OF ONTARIO

RESPONDENTS

THE BRIEF WRITTEN OUTLINE FOR COMPENDIUM FOR MOTIONS #3 TO #5 OF THE APPLICANT

EXCLUSIVELY TO FOR ADJUDICATION, ADMINISTRATION AND IN MATTERS ASSIGNED BY LAW TO THE JUDICIARY TO THE PRESIDENT OF THE Divisional Court (see: Primus inter pares of the SCJ of Ontario; and primus inter pares of the Divisional Court of Ontario)

THE DIVISIONAL COURT OF ONTARIO
The Honourable Chief Justice Mr. Geoffrey B. Morawetz
130 Queen Street
Toronto, Ontario

The Applicant relies upon:

1. Compendium for Motions #3 to #5 of February 3, 2026 (Tabs 1 to 74); and
2. Book of Authorities of January 30, 2025 (provided to the Divisional Court via email) (Tabs 1 to 307).

A CHIEF JUSTICE'S CASE: UNPRECEDENTED, UNPARALLELED, UNMATCHED IN FACTS, CONTROVERSIES, CHALLENGES, ETHICAL AND MORAL CONCERNS REGARDING THE INTERCONNECTEDNESS, UNIFICATION AND FUSION OF THE EXECUTIVE BRANCH AND A MEMBER(S) OF THE JUDICIARY

VOLUME #1: THE CONSTITUTIONAL IMPERATIVE FOR FORTHWITH ADJUDICATION

1. It is observed that, periodically, a specific litigation presents as a **"chief's case"** (the "Chief's Case"). Such a case is defined by the intrinsic challenges, the pervasive controversy, or the high-profile nature thereof, effectively situating the institutional integrity of the court as the primary focus (see: *Baldovi v. R.*, 2016 MBQB 167 (the "**Baldovi**"), paragraph 72; BOA, *Tab 69*, as per the reasoning of the Honourable Chief Justice of the Manitoba King's Bench, Mr. Justice G. Joyal, whose observations are herein adopted as pertinent to the current administration of the *Superior Court of Justice* in Ontario). In such instances, the standard adjudicative process is deemed insufficient to preserve the perceived and actual dignity of the institution, requiring instead the unique stewardship of the President of the Divisional Court to ensure that the rule of law remains the preeminent consideration over and above administrative convenience. The current proceeding, characterized by systemic failures within the registry and the unauthorized assumption of jurisdiction, constitutes a definitive and ontological example of such a case, where the very legitimacy of the tribunal is subjected to profound scrutiny.
2. Within the hallowed and coveted framework of the Canadian judiciary, there exist merely ten chief justices presiding over the provincial superior courts, or **"section 96 courts"** (the "Section 96 Courts"). The Honourable Chief Justice Morawetz has occupied the office of Chief Justice of the *Superior Court of Justice* (Ontario) since 2019, having ascended to the bench in 2005. Since the 1995 adjudication in *Ruffo v. Conseil de la magistrature*, [1995] 4 S.C.R. 267 (the "**Ruffo**"), as cited by *Baldovi*, the doctrine of **"primus inter pares"** (the "Primus Inter Pares") has emerged as a substantive, rather than merely ceremonial, designation of seniority. This doctrine has incrementally evolved through the *interstices* of judicial precedent to recognize that a Chief Justice of a *Section 96 Court* possesses an inherent suite of responsibilities that need not be explicitly conferred by statute or regulation (collectively, the **"13 Chief Justice Duties"**):
    a. ultimate jurisdiction (the "**Ultimate Jurisdiction**"): The possession of the definitive and final authority over the adjudicative and administrative functions of the Court, ensuring that the judicial hierarchy remains intact and that the *status quo ante* is preserved against unauthorized deviation;

b. constitutional trust stewards (the "**Constitutional Trust Stewards**"): The non-delegable responsibility to serve as the primary guardian of the constitutional trust bestowed upon the judicial branch by the sovereign and the citizenry, a trust that is predicated upon the absolute neutrality of the bench;

c. imperviously influenced mandate (the "**Imperviously Influenced Mandate**"): The requirement to remain completely impervious to external influences, bearing the unique burden of ensuring the Court as a whole remains insulated from such pressures, whether they be political, executive, or administrative (see: *Faber c. R.*, 2015 QCCS 12 (the "**Faber**"), paragraph 111; BOA, *Tab #133*, pp. 3028–3030);

d. master of the roster (the "**Master of the Roster**"): The absolute authority over the scheduling and distribution of judicial resources, preventing the emergence of "judicial silos" or the arbitrary and *ad hoc* assumption of jurisdiction by individual members of the bench;

e. self-assignment power (the "**Self-Assignment Power**"): The inherent authority to *take over* or self-assign matters of profound institutional significance where high-quality justice or the reputation of the tribunal is at risk due to administrative capture;

f. administrative steward (the "**Administrative Steward**"): The duty to oversee the clerical and registry functions as a necessary extension of judicial sovereignty, ensuring that the administrative arm of the court does not operate in a state of lawlessness or procedural stasis;

g. institutional reputation guardian (the "**Institutional Reputation Guardian**"): The obligation to serve as the face of the Court and the protector of its standing in the public eye, rectifying any conduct that may cast a pall upon the perceived impartiality of the judiciary;

h. efficiency operation duty (the "**Efficiency Operation Duty**"): The responsibility to ensure the seamless and efficient operation of all Court functions, preventing the occurrence of administrative *lacunae* or the functional stagnation of the list;

i. ethical compliance guarantee (the "**Ethical Compliance Guarantee**"): The occupation of a preferred position to ensure and guarantee absolute compliance with judicial ethics within the tribunal, acting as the final arbiter of professional conduct;

j. complaint laying power (the "**Complaint Laying Power**"): The intrinsic authority to initiate formal complaints against colleagues where ethical breaches are identified, a power that is central to the self-regulating nature of the judicature;

k. puisne judge removal power (the "**Puisne Judge Removal Power**"): The authority to relieve or reassign a colleague from judicial duties during the pendency of ethical inquiries or complaints, thereby preserving the public's perception of institutional integrity;

l. moral barometer (the "**Moral Barometer**"): The role of serving as the ethical and integrity barometer for the entire judicial institution, setting the standard for comportment and professionalism; and

m. moral authority (the "**Moral Authority**"): The power to impose judicial will upon other *puisne* judges through the exercise of moral authority regarding directives to which they may not be legally subject but are ethically bound to follow for the collective good.

3. In the context of the present application, the defining characteristics of a *Chief's Case* are manifest through three fundamental pillars—controversy (the "**Controversy**"), challenges (the "**Challenges**"), and integrity (the "**Integrity**")—which are characterized by intentional, systematic, and documented breaches of the *Constitution Act, 1867* (the "**Constitution**"), the *Courts of Justice Act* (the "**CJA**"), and the *Rules of Civil Procedure* (the "**Rules**"). These pillars do not merely describe procedural friction; they articulate a state of institutional crisis where the very machinery of the *Divisional Court* has been turned against the constitutional mandate of access to the judicature, necessitating a corrective *actum* from the highest level of judicial leadership. The failure to address these structural abnormalities would constitute a functional abdication of the *Constitutional Trust Stewards* duty and invite a state of jurisdictional anarchy.

4. The *chronology* of this proceeding reveals a series of *acta* constituting structural violations of the **"legal balance"** (the "**Legal Balance**"), initiated by the pervasive failure to adhere to *Rule 1.06* and *Form 68A* regarding the provision of notice to Respondents who had neglected to *deliver* their *Notices of Appearance*. This was followed by the continued provision of notice to Respondent Insurance Companies who failed to effect service of a *Notice of Appearance* until December 3, 2024. Such deviations represent not mere oversight, but a functional bypass of the adversarial safeguards intended to prevent the "shadow of the executive" from influencing the independent

record of the Court. The unauthorized inclusion of non-parties in procedural steps violates the core requirements of the *Rules* and invites the appearance of institutional capture, wherein the Registry becomes a tool of the Respondents rather than a neutral arbiter of the record.

5. In light of the antecedent and publicly disseminated misconduct involving Madam Justice Shore, specifically the jurisprudence in *McIntosh v. Shore*, 2023 ONSC 1234 (the "**McIntosh**"), this request is framed as a response to a systemic problem rather than a personal grievance against a party. The *prima facie* evidence of previous judicial censure suggests a pattern of conduct that warrants the most rigorous scrutiny of the Chief Justice in his supervisory capacity. The implications of allowing such conduct to remain unremedied are far-reaching, as they threaten to undermine the public's confidence in the impartiality of the *Superior Court of Justice*. When a member of the bench has been previously identified as having deviated from ethical norms, it is incumbent upon the leadership of the court to ensure that no further *acta* are performed that could be construed as a recurrence of such deviations, particularly when such conduct directly impedes the access of a litigant to the court's core functions. The protection of the *Institutional Reputation Guardian* duty necessitates proactive management rather than reactive dismissal of such concerns, as the shadow of previous censure looms over current adjudications.
6. The rationale for the notification of the Respondents and the *Divisional Court*, inclusive of the Acting Registrar, Ms. Parris, is predicated upon an abundance of caution, strict adherence to the *Rules*, and the legal principles articulated in *Canada (Minister of Citizenship and Immigration) v. Tobiass*, [1997] 3 S.C.R. 391 (the "**Tobiass**"). In *Tobiass*, the Supreme Court of Canada determined that while a Chief Justice is mandated to rectify "tardiness" within the tribunal, such intervention must not be a "response to a party rather than to a problem." The ruling established *ipso facto* that administrative case management must never be conducted as a response to *ex parte* demands from a litigant; even when acting as *primus inter pares*, the Chief Justice possesses a *moral authority* that may exert undue pressure upon other members of the bench, thereby compromising the appearance of institutional impartiality which is an unwritten constitutional principle of the *Constitution*. The preservation of this impartiality is the cornerstone of the *Imperviously Influenced Mandate*, requiring that judicial administration remain insulated from the caprice of individual litigants.
7. The underlying factual matrix in *Tobiass* involved private colloquies between the Department of Justice and the Chief Justice of the Federal Court, which the Supreme Court concluded were "clearly wrong." In the present

instance, the moving party eschews private audiences in favour of a transparent request—predicated upon the existing court record—to resolve the issues identified in Motion #2, which necessitate immediate adjudication. The denial of a transparent forum for these objections would constitute a further abnormality in the judicial process, violating the principle of audi alteram partem (the "**Audi Alteram Partem**") and rendering the proceeding coram non judice (the "**Coram Non Judice**"). The Applicant herein does not seek an *ex parte* advantage, but rather the restoration of a transparent and lawful process that has been subverted by irregular self-assignment and administrative capture, ensuring that the judicial contract remains unblemished by the perception of back-channel influence.

8. Pursuant to the principles elucidated in *Faber*, paragraph 111, immediate intervention is requested. It is submitted that the Chief Justice is both privileged and duty-bound to exercise his moral authority to impose his will upon the impugned Madam Justice Shore and, to the extent that Justice Nakatsuru engaged in the impermissible redirection of the *JRPA Proceeding* to case management without compliance with the filing first defence requirement (the "**Filing First Defence Requirement**"), then upon him as well. The *Faber* decision underscores that the Chief Justice acts as a guardian against judicial overreach, ensuring that the master of the roster (the "**Master of the Roster**") function is exercised with surgical precision and ethical clarity, thereby preventing individual judges from becoming a "law unto themselves" within isolated judicial silos that operate independently of the Chief Justice's central oversight.

9. Notwithstanding the foregoing, a comparative analysis suggests that the actions of Madam Justice Shore represent a more severe departure from judicial standards than those attributed to Justice Nakatsuru. While the latter may have erred in the procedural application of the *Rules*—specifically regarding the premature assumption that the matter was ripe for case management—the former has engaged in a substantive denial of the right to be heard—a constitutional transgression that reaches into the very heart of the Superior Court's inherent jurisdiction. Such an error is corrected only through the decisive intervention of the *primus inter pares*, as the hierarchy of the court is designed to prevent the emergence of "judicial silos" where law and procedure are ignored with impunity. The refusal to "read" submissions is not a mere administrative preference; it is a fundamental breakdown of the search for truth that defines the judicial process and a functional closure of the judicature to the citizen.

10. As cited in *Baldovi v. R.*, 2021 QCCA 123 (the "**Baldovi 2021**"), the Supreme Court's decision in *Ruffo* serves as the primary authority for the preferred position (the "**Preferred Position**") of the Chief Justice in ethical considerations. The Court held that the supervisory powers of Chief Judges over ethical matters are inherent to their functions; the Chief Justice possesses a unique moral authority naturally associated with their status, allowing them to initiate complaints against colleagues to protect the institution's reputation without compromising the impartiality of subsequent disciplinary processes. The *Ruffo* decision establishes that the Chief Justice is the primary arbiter of the court's ethical landscape, a role that necessitates proactive monitoring of judicial conduct in limine (the "**In Limine**") to prevent systemic contagion of judicial impropriety. This preferred position is the ultimate safeguard against the erosion of hallowed judicial norms and the preservation of the hallowed dignity of the bench.

11. It must be recalled that, according to the teachings of the *Supreme Court of Canada*, the supervisory powers of a chief justice with respect to professional conduct are inherent in the exercise of his judicial functions and do not require any specific legislative authority, whereas, as *primus inter pares* (the **"Primus Inter Pares"**), he therefore occupies a privileged position (the "**Privileged Position**") to ensure compliance with judicial ethics (*Ruffo v. Conseil de la magistrature*, 1995 CanLII 49 (SCC), [1995] 4 S.C.R. 267 at paras. 58-59) (the **"Ruffo"**). In any event, when a committee of inquiry (the "**Committee of Inquiry**") has been established under *subsection 63(3)* of the *Judges Act, R.S.C., 1985, c. J-1* (the **"Judges Act"**), the Chief Justice has the implied power to relieve, in whole or in part, a judge of certain judicial functions, pending the outcome of the investigation into a disciplinary complaint, to the extent that this may appear necessary in the best interests of justice and its administration, and to preserve public confidence in the courts and the judges who are part of them. This implied power is an essential instrument of the *Puisne Judge Removal Power*, intended to shield the administration of justice from the deleterious effects of unremedied misconduct.

12. Administrative dereliction became evident through the misleading of the Applicant regarding the entitlement to *Case Center* access and the subsequent failure to provide the necessary digital invitation. The Former Registrar Gentles neglected the mandatory duties prescribed by *Rule 68.05*, specifically the listing of the *JRPA Proceeding* for hearing and the issuance of *Form 68B* following the perfection of the application on December 13, 2024. The failure of the Registry to act upon a perfected application constitutes a functional denial of the right to be heard, as

the administrative arm of the Court effectively placed the litigation in a state of terminal dormancy, effectively allowing the rat ship (the "**Rat Ship**") of administrative silence to determine the final outcome. Such stasis is a breach of the *Efficiency Operation Duty* and represents a structural barrier to the judicature that no administrative convenience or Registry dysfunction can justify.

13. It is submitted that pursuant to the reasoning of Cronk, G.J. Epstein and Huscroft JJ.A. in *König v. Hobza*, 2015 ONCA 885 (the "**König**"), of which the Chief Justice of the *Superior Court of Justice*, President of the *Divisional Court*, is bound by law pursuant to vertical stare decisis (the "**Stare Decisis**"), steps taken in direct contravention of the *Rules* transcend mere irregularities and constitute a direct contravention entering the realm of nullity (the "**Realm of Nullity**"). Where the Registry or the Bench bypasses mandatory provisions of the *CJA* or the *Rules*, such *acta* are void ab initio (the "**Ab Initio**") and must be set aside as a matter of right (see: BOA, *Tab 160*, pp. 3243–3250). To allow a procedural nullity to stand is to permit a state of lawlessness within the tribunal, rendering the *Rules* a mere suggestion rather than a mandatory framework, thereby undermining the *Ultimate Jurisdiction* of the Chief Justice to ensure a cohesive and lawful judicial process across the province.

14. In maintaining a measured and diligent posture, the observations attributed to the Chief Justice's office in the CBC News article entitled **"Ontario judge presided over Toronto-area court cases from the Caribbean despite directive from chief justice"** (the "**CBC Article**"), published February 17, 2021, are noted. The article emphasized that judges are ultimately responsible for their own conduct and that judicial independence does not provide an absolute shield against administrative oversight when conduct impacts the public's perception of the judiciary. The beachfront justice (the "**Beachfront Justice**") scenario illustrates the necessity of administrative accountability even in matters of personal convenience, as the physical and intellectual presence of the judge is a **"sine qua non"** (the "**Sine Qua Non**") for the exercise of Section 96 powers. The failure to maintain this presence is an abdication of the sacred duty to the public and the hallowed institution of the Court.

15. The contrast between that geographic transgression and the present substantive transgression is stark; whereas the former involved a breach of administrative directive regarding physical presence, the latter involves a breach of the fundamental right of access to the courts through the refusal to entertain legal submissions. This intellectual distance is a matter of constitutional integrity that threatens the very legitimacy of the *JRPA Proceeding*. It is crucial to distinguish that the *Divisional Court* is unique; a Regional Senior Judge (the **"RSJ"**) does not exercise oversight

ver the *Divisional Court*. By statutory mandate, specifically *Section 18* of the *CJA*, the President of the *Divisional Court* maintains this authority. This centralized authority is a deliberate legislative choice designed to ensure that the *Administrative Steward* duty is performed with provincial consistency, shielding the appellate function from regional interference or localized administrative capture.

16. Furthermore, the void ab initio assignment of the *JRPA Proceeding* to case management in breach of *Rule 77*, compounded by the directive that the *Divisional Court* would no longer entertain written objections on points of law, constitutes a breach of the *Constitution*, as interpreted in *Trial Lawyers Association of British Columbia v. British Columbia (Attorney General)*, 2014 SCC 59 (the "**TLABC**"). The *TLABC* decision confirms that the legislatures and the courts cannot impede access to the superior courts in a manner that undermines their core jurisdiction. The directive to cease reading communications from a litigant is a functional closure of the court's doors, a move that is a fortiori (the "**A Fortiori**") unconstitutional when performed by an officer sworn to uphold them. This "intellectual walling-off" of the court represents a functional denial of the Section 96 mandate that is fundamentally inconsistent with the *Moral Barometer* expected of the superior bench.

17. The unilateral inclusion of threatening and extortionary language by a member of the *Superior Court of Justice*, without addressing substantive legal challenges, is tantamount to a state of willful blindness. Such conduct risks setting a precedent where judicial fiat replaces the reasoned application of the law, thereby eroding the very foundations of the Canadian legal system. The threat of sanctions for voicing valid legal objections creates a "chilling effect" that stifles the ability of self-represented litigants to advocate for their rights under the *Rules*. It is a fundamental tenet of our legal system that a litigant must be permitted to state their case; to threaten them for doing so is to engage in a form of judicial intimidation that is incompatible with the high office of an *SCJ* judge and the requirement of the *Institutional Reputation Guardian*.

18. The directive issued by the Honourable President of the Divisional Court on January 6, 2021, advising judges to avoid non-essential travel, was an exercise of moral authority intended to align the judiciary with the public interest. A similar exercise of authority is now required to align the conduct of Madam Justice Shore with the requirements of natural justice. Just as the travel directive preserved the court's reputation during the pandemic, a directive regarding the mandatory consideration of litigant submissions would preserve the court's reputation for procedural fairness. The "moral authority" discussed in *Tobiass* is the precise tool required to rectify the current administrative

pathology within the *Divisional Court*, ensuring that judicial independence remains a servant of justice rather than a shield for administrative indifference or judicial pique.

19. While judicial privacy is respected, such privacy cannot be invoked to shield a judge from accountability for *acta* performed in an official capacity. Transparency in judicial conduct is the sine qua non (the "**Sine Qua Non**") of a functioning democracy. The distinction between a judge's personal life and their judicial conduct is clear; however, when a judge's posture leads to the "walling-off" of the court and the usage of administrative staff to issue threats, the matter transcends the personal and becomes one of public institutional concern. The "confidentiality" of personal reasons for travel cannot justify the "secrecy" of a judge's refusal to read a litigant's submissions or the "in camera" nature of unrecorded conferences that effectively deny the public's right to open courts and a transparent record.

20. No such mitigating circumstances can justify the "court-closing" language and the denial of access to the judicature employed by Madam Justice Shore. The communications between the judiciary and court staff, specifically Ms. Badwal, are highly irregular and suggest an informal administrative structure that bypasses the formal requirements of the *Rules*. The utilization of a "single judge motions coordinator" to communicate a compulsory requirement for an unrecorded case conference (the "**Case Conference**") creates an in camera (the "**In Camera**") environment antithetical to the principle of open courts and the requirements of the *CJA*. This informalization of the judicial process creates a risk of arbitrary decision-making that strikes at the core of the *Ethical Compliance Guarantee* and violates the Section 96 mandate for a functional and public judicature.

21. It is observed that a *Case Conference* constitutes a mere procedural instrument available to a properly assigned member of the judiciary; such a mechanism does not confer a right of self-assignment (the "**Self-Assignment**") nor the authority to supersede the *Master of the Roster*. Should individual members of the bench be permitted to utilize the *Case Conference* as a jurisdictional 'hook' for the assumption of authority, the administrative architecture of the *Superior Court* would inevitably descend into a state of jurisdictional chaos, thereby rendering the role of the Chief Justice as *primus inter pares* nugatory. The integrity of the judicial list is contingent upon a centralized and transparent assignment process, insulated from the *ad hoc* interventions of individual judges. The instrumentalization of a *Case Conference* to effectuate an unauthorized *Self-Assignment* represents a procedural artifice that undermines the *Rules* and the statutory authority of the President.

22. Consequently, it is submitted that Madam Justice Shore has usurped the inherent and implied authority of *Self-Assignment* exclusively reserved to the President of the *Divisional Court*. This usurpation transcends technical error, constituting a direct challenge to the administrative sovereignty of the Chief Justice and the institutional stability of the *Divisional Court*. The resulting proceeding is characterized by pervasive controversies and a deficit of the procedural certainty requisite for the proper administration of justice. It is therefore incumbent upon the Chief Justice to reassert his constitutional authority to restore the *Master of the Roster* to its intended function and to ensure that judicial conduct remains strictly within the established hierarchy of the Court. Any failure to rectify this usurpation would allow a precedent of administrative anarchy to take root, threatening the very foundations of judicial independence and the Rule of Law.

23. In the instance of the unnamed judge presiding from Turks and Caicos, the Chief Justice's office took corrective action, demonstrating that the Chief Justice will intervene when judicial conduct deviates from the expected standard. This proactive management is a precedent that the Applicant urges the Chief Justice to follow to rectify the "oversight" of Justice Shore's self-assignment. The President possesses the power to "de-schedule" a judge when circumstances render their continued participation inappropriate, thereby preserving the integrity of the judicature sections (the "**Judicature Sections**") of the *Constitution*. This exercise of the *Puisne Judge Removal Power* is the necessary corollary to the *Master of the Roster* authority, ensuring that the personnel of the court are aligned with the requirements of the hallowed institution and the public interest.

24. Any member of the judiciary who represents to a litigant that legal objections will be ignored in limine (the "**In Limine**"), and who fails to address previous challenges regarding a void ab initio (the "**Void Ab Initio**") self-assignment, acts contrary to the *CJA* and the *Constitution*. The authority to assign judges resides exclusively with the Chief Justice or, in his absence, the Associate Chief Justice, the Honourable Justice Faye E. McWatt. The unauthorized assumption of this power is an act that is *ipso facto* void and unenforceable, as it lacks the necessary jurisdictional foundation provided by the *Master of the Roster*. The "Take Over" power of the Chief Justice is the only remedy for such an unauthorized assumption of jurisdictional authority, as a legal nullity cannot be cured by the passage of time or administrative acquiescence.

25. As articulated by the late scholar Peter W. Hogg in **"The Role of a Chief Justice in Canada"**, (1993-94) 19 Queen's L.J. 248 (the "**Hogg**"), the Chief Justice is the *Master of the Roster* and possesses the exclusive power of

self-assignment. This power is a constitutional safeguard that prevents the arbitrary selection of judges, ensuring the bench remains independent from internal and external pressures. Professor *Hogg* emphasizes that the Chief Justice serves as the vital diplomatic bridge (the "**Diplomatic Bridge**") between the state and the law, a role requiring absolute control over judicial assignments to prevent even the appearance of "forum shopping" or judicial favoritism. When an individual judge self-assigns, they bypass this critical diplomatic and constitutional safeguard, creating a risk that the court will be perceived as a collection of individuals rather than a unified and impartial institution, thereby eroding the public's hallowed trust.

26. There remains but one definitive objective—comprising four distinct instruments—specifically, the endorsement of the separate documents designated as the **"four outstanding orders"** (the "Four Outstanding Orders"), which were submitted via **"mail filing"** (the "Mail Filing") on January 16, 2026 (Friday), in response to the pervasive challenges and controversies currently impacting the institutional integrity of the *Superior Court of Justice* (*Divisional Court*). This *actum* was performed approximately five days prior to the public announcement of the Chief Justice's retirement; nevertheless, the hallowed duties of the office persist until the effective date of departure, in contrast to the administrative tenure of the Former Registrar Gentles, which was subject to resignation upon brief notice or immediate termination. Consequently, this comprehensive written outline is presented for the benefit of the Chief Justice in his capacity as the President of the *Divisional Court* and for the benefit of the public, as the independence of the judiciary within a *Section 96 Court* is a constitutional hallmark maintained for the benefit of the public. The clock of the *Efficiency Operation Duty* continues to tick regardless of impending transitions, necessitating the finality of record perfection.

27. Pursuant to the historical amendments to the *Rules* enacted during the current decade, strict compliance with the mandates of *Rule 59.02* through *Rule 59.05* is strictly required, necessitating the formal issuing, filing, and entering of judicial orders. It is submitted that the Court, as a hallowed institution of record, requires the formalization of "real paper" and cannot maintain its constitutional mandate through the ephemeral medium of electronic correspondence alone. Furthermore, the Applicant, in conjunction with a cadre of hallowed and professional service providers (the "**Service Providers**"), requires the formalization of these orders to secure the stability of the proceedings. These professionals, exhibiting commendable fortitude, have prioritized the search for truth over immediate remuneration, facilitating multiple magnetic resonance imaging (the "**MRI**") procedures that confirmed

the Applicant's cerebral and spinal impairments. As predicted by the distinguished radiologist Dr. Lychacz, Bohdan Iwan (see: CPSO#: 32073) of St. Joseph's Health Centre, these spinal pathologies have exhibited the anticipated state of degeneration. The endorsement of these orders is, therefore, not merely a procedural formality but a constitutional necessity to ensure the health, safety, and security of the Applicant and to recognize the diligent toil of those providing essential medical and legal services under extreme institutional pressure.

28. In contemplation of the Chief Justice's retirement in May 2026, and noting that approximately one hundred days remain before this distinguished conclusion, the administration of justice is best served through the *forthwith* resolution of these motions. As the motions are unopposed, and the *JRPA Proceeding* is, *prima facie*, unopposed by operation of law, there exists no justification for the continued deferral of relief. The restoration of the constitutional order demands nothing less than the immediate exercise of the Chief Justice's inherent and supervisory powers to conclude this matter some one hundred days prior to a distinguished retirement. The Chief Justice, as the **custodian of constitutional trust**, is urged to restore the status quo ante (the "**Status Quo Ante**") through the exercise of the *Self-Assignment Power*, ensuring the health, safety, and security of the Applicant and the integrity of the *Divisional Court*. The preservation of the judicature's reputation is the final and most critical burden of the *Primus Inter Pares*.

29. The legal standard of proof remains the same and that is the balance of probabilities – the civil standard. The standard of review on all of the final determinations, decisions and orders of the LAT is unequivocally correctness. Therefore, this Divisional Court has the power to substitute its decision for that of an admitted criminal in Vice Chair Morissette (see: https://lobbycanada.gc.ca/en/investigations/reports-on-investigation/the-lobbying-activities-of-trina-morissette/). No better two quotes could summarize the above and below:

    a. Birds of a feather flock together; but

    b. Eagles fly alone and pigeons fly together.

30. As Professor Emeritus Mr. Hogg found that the Chief Justice of the SCJ is a lonely job and a loneliness of office. While the Applicant would not be so bold to compare the "fraud army" that attacked him in such a manner over such a sustained period, he certainly can understand the path less travelled and a lonely one.

31. The penalty for delay by the LAT and Respondent Insurance Companies is apportioned as it should, substantively, spiritually, ethically, lawfully and numerically in the form of the costs award. In relation to the delays and "musical

chairs game" with three different insurance companies in the TDIA Group, the quote comes to mind on many levels, "There can only be one number one" and only one "First Insurer". Without any dispute by the Respondent Insurance Companies before the LAT or herein, that First Insurer was and is TD Home and Auto Insurance Company located at the very location where the land line fax number was so situated at the material time (see: Fax Number: 416.774.3120 at 3650 Victoria Park Avenue, 4th floor, District of North York, City of Toronto). While SNIC provided its physical address in Markham, a different city from Toronto, the fax number provided was that of 3650 Victoria Park Avenue, 4th floor, District of North York, City of Toronto), the first to receive the same was that of TDHA by fax. The Applicant had the option of sending the same via fax or mail. He chose fax and not mail. It is all about the first to receive and that first recipient was TDHA on October 13, 2022. TDHA had 90 days from October 13, 2022, to dispute its obligations under Reg 283. It chose not to. As such, it became the First Provision Insurer on October 13, 2022, and the First Permanent Insurer on January 9, 2023.

32. TDHA was at the material time and still is licensed in automobile insurance. As the Applicant relied on the fax number provided to him by SNIC, which was not SNIC's fax but TDHA, was the Applicant's decision to fax TDHA, without knowing it was TDHA until 2024, and ongoing before and thereafter, arbitrary or random? The question answers itself. He relied on the representation from SNIC.

33. SNIC's motives? They are immaterial.

34. To bring it back to the Factum of the Applicant from December 12, 2024, one day prior to the filing and paying for the "Certificate Of Perfection" wherein this JRPA Proceeding should have been concluded in summary fashion as per the JRPA, ss. 2(1) to (5), the Applicant as a courtesy copies and pastes the same from paragraphs 26 to 32; and 36 to 51:

> [26] *SABS* and *Reg 283*, having undergone major amendments in 2010 after being submitted to industry consultations and amendments before proclamations, they reflect important policy choices to ensure order and stability in regulated industries. Said "order and stability" in the regulations must be matched by this ONSC by reference to the **Final Word Requirement**, **Final Answer Requirement**, **Uniform Answers Requirement**, **Vertical *Stare Decisis***, and **Intolerance Conflicting Orders Requirement** pursuant to the ROL.
>
> [27] *Reg 283* is designed to keep priority disputes out of the courts.[1] *Reg 283* is also purposed to prevent *SABS* claims, including vital treatments and income benefits, from being delayed while insurers fight over priority dispute under section 268(2) of the *Insurance Act*.[2] As a matter of

principle, there is NO[3] difference between an insurer's failure to pay under section 2 of *Reg 283* and a failure to pay under any provision of *SABS*. [4] [5]

[28] While a **First Insurer**, like TDHA, may have never received insurance premiums from the insured persons, or be deemed to have received the same pursuant to the Insurance Act after a determined insured person was an occupant in said 'insured automobile' may seem intuitively wrong, the Legislature, by passage of statutes with *Royal Assent*, and LGIC's intent, must be respected. There is no, *per se*, harshness to be alleviated by a sophisticated insurance company, with endless resources, who received the **McLean Completed Application**, who fails to investigate within three months and provide a notice, in form A143, to an insured person and other insurers under sections 3 and 4 of *Reg 283*. The provisional first-insurer rule under the regulation and the priority regime under the statute operate *differently*.[6] Irrespective of whether a claimant is an "insured person" or not in the *subjective* mind of the **First Insurer**, the **First Insurer** must respond to the Claimant and pay benefits where applicable and required (see: *Reg 283*, ss. 2.1(6)). Acceptance during the 90-day period is merely provisional.[7] If the **First Insurer** does not dispute, within 90 days, its liability to pay all benefits, in accordance with *SABS*, of the claimant, there is *no other process* for the **First Insurer** to transfer the *SABS* claim, dispute the same and recover any paid or to-be-paid benefits to the claimant.[8]A **First Insurer**'s calculus to not *accept* a claim for whatever subjective reason can turn out to a costly and permanent mistake.[9] The lack of acceptance in this regard is functionally equivalent to "*not accepting service of a claim*," which is distinct from not accepting an offer in relation to a proposed contract.

Volume #3: Requirement to "step into the shoes" of Sole Underwriter[10]

[29] In *Zurich 2015*[11], the SCC held that Chubb ought to have responded to the *SABS* claim immediately on a 'pay first and dispute later' basis.[12] If the sending of the **Completed Application** by the claimant was not arbitrary, there is a *nexus* between the claimant and the **First Insurer**.[13] The SCC restored Goldstein J.'s judgment (ONSC) ["*Zurich 2012"*[14]] in its verbatim adopting[15] the dissent of Juriansz J.A. ["*Zurich 2014*"][16], as he then was before retiring after an illustrious legal and judicial career in 2021,[17]: **2014 ONCA 400**[18]. A vague recollection about seeing an insurer's name at a rental car office was sufficiently non-arbitrary to require the **First Insurer** (Chubb in *Zurich 2015*[19])) to "*step into the shoes"* of another insurance company(ies) that was liable under a "contract of insurance" for the purposes of section 2(1) of *Reg 283*.[20] The policy behind the inflexible rule that an insurer (like TDHA), which fails to: (i) respond provisionally to a claimant; (ii) fails to pay benefits provisionally to the claimant; (iii) fails to put other insurers on notice; and (iv) fails to put the insured person on notice of a potential transfer of the insured person's claim to other insurer(s), after receipt of a Completed Application, when there is *SOME* nexus, being permanently responsible for the claimant's benefits is to promote compliance with the *validly binding* statutory scheme.

[30] The ONSC in *Zurich 2024*[21] (May) settled the law in the above regards as follows: (i) breach of section 2 of *Reg 283*, according to the case law, does not result in an insurer being required to pay benefits to the claimant permanently; BUT (ii) the *failure* TO AVAIL itself of section 3 does. Section 3 dovetails to section 4 which requires the First Insurer (TDHA) to provide notice to the insured person. Section 5 of *Reg 283* provides the consequences for an insured person not delivering its objection notice to the First Insurer within 14 days of receipt of the dispute notice form (A143) from the First Insurer. A143 requires the First Insurer, which receives the same, to fill out the form correctly and have a representative sign the same.

[31] Herein, there is some incredibly prejudicial and fatal evidence, as it relates to any defence by TDHA that it could not meet the 90-day requirement to provide an A143 notice, and that is the signature block of Mr. Karat wherein he, as an ADR specialist, represented, multiple times, in 2024, that he was authorized to represent, "SNIC, TDGIC, Primmum, and TDHA".

[32] TDHA's permanent liability for responding to the *SABS* Applicant and paying benefits to him was a *self-inflicted consequence* of its failure to adhere to the requirements and protections of section 2 to 4 of *Reg 283*.The combination of provisions in *Reg 283* transformed TDHA's provisional liability into a permanent one.[22] For TDHA to not be declared as the **First Insurer** would mean that there were no consequences for the conduct (or inaction) of TDHA by receipt of the **McLean Completed Application** and by continuing to have its former branch office address (**East Mall Address**) auto-populate in HCAI, without Mr. McLean having access to the same as he was not a "service provider" and no ability for any service provider to amend the same, it would defeat the legislation's public policy: "*pay now and dispute later"*. The consequence would be that the "rule of law" would not matter and the LGIC's proclaimed amendments to *Reg 283* and *SABS* had *no teeth* and were of no force and effect. Put another way, the mandatory provisions therein would become discretionary based on the arbitrary and subjective beliefs and whims of insurance companies within a group of insurers. There would be no stability and consistency in the application of *Reg 283*, and the **Uniform Answers Requirement** or what is more commonly known as "horizontal and vertical *stare decisis*" in our provincial common law (judge made law) jurisdictions.

VOLUME # #4(B)(II): Legislation

[36] Section 280 of the *Insurance Act* contains six subsections, which were passed in 2014, of which only four are potentially relevant herein. [23] [24]The *SPPA* provides who may be parties to a proceeding which is by "statute" or "by law". The *Insurance Act* does not define or delineate who may be parties so the relevant part of section 5 is the "by law" component of the legislative section. TDHA, as the First Insurer on a provisional basis from October 13, 2022, to January 10, 2023, (the "**Provisional Period**") and then on a permanent basis from January 10, 2023, to present and in perpetuity (the "**Permanent Period**"), is the only insurance company in the TDI Group that, "by law", that was and *is* entitled to be the respondent party. Of note, the Applicant sent his LAT Appeal to the **TDHA Fax Number** and it was received by TDHA.

VOLUME # #4(B)(II): Regulations

[37] Benefits" means *SABS* as defined under section 224(1) of the *Act*.[25] An insurer shall *promptly* provide an OCF-1 and any other appropriate *forms* in accordance with the *Schedule* to an applicant who notifies the insurer [a "First Notified Insurer"] that she wishes to apply for benefits: 2.1(2) of *Reg 283*.[26] A *SABS* applicant shall use the Application provided by the insurer and shall send the Completed Application to only one insurer: ss. 2.1(4) of *Reg 283*.[27] An insurer that provides an application [a "**First Notified Insurer**"] under subsection (2) to an applicant shall: [1] not take *any* action *intended*: (i) to prevent; or (ii) stop, the applicant from submitting a completed application to *the insurer*; and [2] shall not: (i) refuse to accept the completed application *or* (ii) redirect the applicant to another insurer (see: ss. 2.1(5) of *Reg 283*). [28]

VOLUME # #4(B)(II)(c): Disputes between Insurers: independent breaches by **First Notified Insurer** and First Insurer under section 2.1 of *Reg 283*

[38] Conceivably, the "First Notified Insurer" and "First Insurer" (not the "First Party Insurer" under *Insurance Act* as referenced in *Reg 664*[29]), could independently and disjunctively breach different subsections under section 2.1 of the *Reg 283*. For example, the First Notified Insurer could breach section 2.1(5) of the *Reg 283*, by taking some action intended to prevent or stop the 'applicant" from even *submitting* a completed application to "the insurer". "The insurer" may or may not be the First Notified Insurer. Under the last part of the sentence in subsection 2.1(5) of *Reg 283*, "an insurer" may breach section 2.1(5) by refusing to ***ACCEPT***[30] the Completed Application OR redirecting the same to *another* insurer. Ergo, a **First Notified Insurer** could conceivably breach sections 2.1(2), 2.1(3) and (5) of *Reg 283*. [31] [32] [33]

VOLUME # #4(B)(II)(d): First Insurer: how could such an insurance company breach section 2 of *Reg 283*? Which subsections of section 2 of *Reg 283* did TDHA breach?

[39] Juxtaposed to that, the First Insurer may not be First Notified Insurer wherein an individual contacts, delirious after the Accident, and notifies the insurance company it believes to be a sole underwriter for the vehicle in which she was injured. However, after complying with that seven-day notification requirement under section 32 of *SABS*, an individual may, perhaps after the benefit of ILA, realize that said **First Notified Insurer** is not ***the insurer*** that has a duty to respond to her and pay benefits in accordance with the *Schedule*. As seen in much of the jurisprudence, wherein insurance companies are willing to engage in a litigation for over nearly two decades, she may have multiple policies that could apply. She then submits her Completed Application to "the insurer" (not "an insurer" or the "**First Notified Insurer**") wherein the First Notified Insurer and First Insurer are distinct and separate entities (not "*one and the same*"). The First Insurer may fail to commence paying benefits in accordance with the provisions of *SABS pending* the resolution of any dispute as to which insurer is required to pay benefits (*nota bene*: the "**First [Recipient] Insurer**" in its capacity as the "**First Provisional Insurer**"). Such a First Insurer may breach section 2.1(6) on a provisional basis and only during the provisional period and/or beyond.

VOLUME # #4(B)(II)(e): Consequences of Non-Compliance[34] (ss. 2.1(7) of *Reg 283*) and distinction between section 2(1) (LGIC proclamation in 1995) and ss. 2.1 (LGIC proclamation in 201)

[40] The word "reasonable" utilized by the LGIC indicates the objective person test. Therefore, the threshold and quantum for the fees under legal, adjusting, admin or disbursements is what a reasonable person would find in terms of whether they are owed and in what quantum. The only difference (see: *supra*, "the statute and regulation operate differently" as per Justice Akazaki) between section 2(1) and 2.1(6)[35] is that the former references the requirement to pay benefits under section 268 of the *Insurance Act* whereas section 2.1(6) reference the requirement of that **First [Recipient] Insurer** to pay benefits in accordance with the provision of the *Schedule*.

VOLUME # #4(III): Argument

[41] Vice Chair Morrissette obviously knows more than the Applicant as to what was represented to the Tribunal in written or oral form – not that which is correct at law – "behind the scenes". [36]There is no prescribed right of insurance companies, irrespective of whether they may or may not be affiliated within a group of insurance companies, to accept priority over an "insurance policy". No such right exists in relation to a claim for accident benefits after a Completed OCF-1 is received by AN insurance company. NIC did not refuse to accept the **Completed Application** as it did not receive the **Applicant's Completed Application** *first*. It is unclear if it even received it second or in what order or if at all. The reference to "it at all" is grounded in the record of proceeding and the denial letters in that SNIC never enclosed a copy of the initial OCF-1 delivered to TDHA at first instance or other documents but rather would reference them in a vague and ambiguous manner.[37] To encapsulate the application of the uncontroverted evidence to ss. 2.1(5) of *Reg 283*, SNIC was the only insurance company that provided the OCF-1 but it cannot be found to have prevented the Applicant from submitting his Completed Application to "the insurer" but rather *encouraged* him to do so by providing a North York, Toronto, fax number (**VP Building 4th Floor Fax Number**) of TDHA which was an "*in province*" insurer licensed in the class of automobile insurance. Therefore, there was a nexus between the Applicant and TDHA as he did not select TDHA on a whim but was exclusively directed to it by SNIC – at least "on paper".

[42] TDHA was the First Insurer as the only two lead tenants at the Victoria Park Ave Building were that of TDGIC and TDHA. TDGIC occupied floors 7 to 9 with the 9th floor being its mailing address

and TDHA occupying floors four to six with the four floors being its mailing address. Once the Applicant had honed in on the deception, the mathematical computation of how Bell Canada Inc. had assigned the numbers within the building was rather rudimentary. The area code of 416 was only for Toronto-based locations. 774 was assigned as a "prefix" to numbers within the District of North York and then within the VP Building, the 3 was a common feature to many landlines of tenants therein. The "120" was a string of three digits with numerical value of "1" being on the fourth floor and the numerical string of "629" with "six" being on the 9th floor. For sake of completeness: "2" was on the fifth floor; "3" was on the sixth floor; "4" was on the seventh floor; "5" was on the eighth floor; and "6" was on the ninth floor. The Tribunal's notice of hearing orders are orders at law and subject to judicial review, and neither SNIC nor TDGIC sought to challenge them by a section 21.1 of the *SPPA* motion or judicial review and/or appeal. It is trite that if those fax numbers that the Tribunal had found were to be for service of documents to SNIC and TDGIC were not their fax numbers, they would have objected or confirmed the same with the Tribunal.[38]

[43] Therefore, SNIC had no provisional obligation to respond to the Applicant and pay benefits as its obligation to respond was merely the provision of forms and explanation of benefits as a mere stakeholder in the insurance industry, but rather TDHA had that obligation to respond and pay benefits. Therefore, pursuant to section 280(4), the LAT was required to resolve the LAT Proceeding in accordance with *SABS* and *Reg 283*.

[44] In order for the Tribunal to determine the *JRPA* Applicant's claims under *Reg 664*, s. 10 (Dispute Resolution under section 280 of the *Insurance Act*).[39] Conceivably, s.10 of *Reg 664* could involve two insurers because a provisional First Insurer could have delayed commencing paying benefits and further delayed during the provisional period, and a different agreed to, with or without the consent of an insured person subject to said claimant receiving notice or notices pursuant to *Reg 283*, or declared insurer, by arbitrator or subsequent court decisions[40] could have delayed or withheld benefits thereafter. [41]

[45] The Applicant complied with section 268(5) of the *Insurance Act* and ss. 32(1) of the *Schedule* by SNIC became the "First Notified Insurer". Pursuant to section 32(2) of *Schedule* and *Reg 283*, ss. 2.1(2) SNIC provided the Applicant with an OCF-1 Application (see: *Reg 283*, s.1) and some other forms that related to the *Schedule*. SNIC breached part of ss. 2.1(3) of *Reg 283* by not providing its accurate mailing address and fax number. The Applicant complied with ss. 2.1(4) of *Reg 283* by using the "OCF-1 Application" provided by SNIC and sent the Completed Application to only one insurer (TDHA).

VOLUME # #4(III)(A)(i): Subsection 2.1(6)

[46] TDHA was the **First Insurer** that received a Completed Application for benefits from this *JRPA* Applicant (*SABS* Applicant) and was duty bound, by the LGIC's 2010 proclamations, which were the subject of extensive industry wide consultations, to commence paying the benefits in accordance with the provisions of the *Schedule*.

VOLUME # #4(III)(A)(ii): Subsection 2.1(7)

[47] As SNIC and THDA are both "insurers", distinct at law, they have both failed to comply with various sections under subsection 2.1 and are required to reimburse each other for any fees (adjusting and legal), costs *et al* that were reasonably incurred by the other insurer as a result of the non-compliance. However, that is an issue between them and not for the Applicant. The Applicant is not entitled to any payment of any incurred legal fees, adjuster's fees, administration costs and disbursements but he is entitled to benefits and payment of section 25 fees incurred.

VOLUME # #4(III)(A)(iii): Sections 3 to 4 of *Reg 283* and ss. 268(3) of the IA

[48] An insurer against whom a person has recourse for the payment of statutory accident benefits is liable to pay the benefits: ss. 268(3) of the *Insurance Act*. Where an insurer has given notice under section 3 of *Reg 283*, said insurer must also give notice to *the insured person* using a form approved by the CEO of the FSRA: ss. 4(1) of the *Reg 283*. Said form is denoted below at Appendices and it is a A143.[42] TDHA did not even engage in the pretense of doing so.

VOLUME # #4(III)(A)(iv): Section 5 of *Reg 283*

[49] The Applicant never received notice under section 4 of *Reg 283* so he did not have any obligation under section 5(1) of *Reg 283*. Ergo, the Applicant could not, in fact, advise the insurer paying benefits in writing within 14 days that he objected to the transfer of the claim to the insurers referred to in a non-existent notice. According to VCM, the transfer of his TD Claim #3, clandestinely occurred at some unparticularized time by some void ab initio agreement between the First Insurer when TDGIC, in conjunction with SNIC, accepted priority over the Applicant's [sic] Insurance Policy [sic]. VCM was clearly not referring to a "decision" but a *subsequent agreement* by her deliberate word choice of "acceptance". For "acceptance" to have occurred by two other insurers, where neither could be the First Insurer (TDHA), an offer had to be made. For an agreement to have been consummated, there had to be return consideration in the form of a fulfilled promise from the offerees to the offeror (TDHA). In order for that proposed contract, which could be at best an "agreement to agree", it required notice to the JRPA Applicant and his consent or his silence AFTER receipt of the prescribed notices.[43]

VOLUME # #4(III)(A)(v): Subsection 5(3) of *Reg 283*

[50] Ss. 5(3) of *Reg 283* has a "despite" or "subject to" clause in said subsection but it relates to the Fund initiating arbitration so it is not germane to the issues herein.
VOLUME # #4(III)(A)(vi): *Void Ab Initio* Agreement and deprivation of three different rights: (i) right to object to transfer of his claim to other insurers; (ii) right to object to proposed agreement between insurers; and (iii) right to file notice of arbitration

[51] While the Applicant did not receive any section 4 notice pursuant to *Reg 283* and was deprived of his rights which the LGIC provided similarly situated accident victims, to object to the transfer of his TD Claim #3 to SNIC and TDGIC on an apparently joint basis, he was also deprived of his arbitration participatory rights in any subsequent proceeding to *settle* the dispute. Most importantly, whatever clandestine, underhanded and surreptitious agreement was negotiated and consummated between TDHA with SNIC and TDGIC, had no legal effect and was not merely void but void *ab initio*. It amounts to an irremediable nullity.[44]

35. From sets of nullities before the LAT to the Divisional Court as scary as that was and is. Nonetheless, fraud, bribery and extortion are special categories of nullities and they unravel everything in favour of the fraudster, briber and bribee and extortionist. Thankfully for the Applicant, all of those fraudsters, bribers/bribees and extortionists were adverse to him and reap benefits for their unlawful conduct. And the only thing that could have stopped the course of justice was that of Madam Justice Shore with her void ab initio interventions into this JRPA Proceeding. If the Applicant only knew that Madam Justice Shore was the mystery judge of the "Ex Parte In Camera Hearing", "Ex

Parte In Camera Unrecorded Hearings" and apparently "Ex Parte In Camera Unrecorded Hearings Unretained Indictment Process" which were also the nullities that the Applicant respectfully adds for context.

36. As such, the Applicant seeks the following orders as per infra (see: Compendium For NOM #3, Motion #4 and Motion #5 (see: Tabs 71 to 74):

VOLUME #2: ORDERS SOUGHT IN THE OUTSTANDING MOTIONS

VOLUME #2(A): ORDERS SOUGHT IN MOTION #4

1. The relief sought in NOM #4 was and is:

"

[A] DECLARATION RE: FORM 37A NOT REQUIRED OR CIRCUMSTANCES DO NOT REQUIRE; AND DISPENSING WITH NOTICE PERIODS *ET AL*:

[i] THIS COURT DECLARES that the requirement to file a **Form 37A** is hereby dispensed with, this **Divisional Court** being satisfied that such filing was unnecessary and in the specific circumstances, such filing would not have been complied with by the **Registrar** in accordance with her legal duties at all or in sufficient time to decide the urgent issues herein;

[ii] **THIS COURT ORDERS** that requirements under *Rule 37.06* by way of content in the **Form 37A** are dispensed with;

[iii] **THIS COURT ORDERS** that the requirement under *Rule 37.07* are formally dispensed and email provision of the Form 59A by the **Moving Party** and any **Documents In Support** via email were sufficient for compliance with the *Rules of Civil Procedure* purposes;

[iv] **THIS COURT ORDERS** that *Rule* 37.08 with respect to the filing of the Form 37(A) under *Rule 37.08* is dispensed with; **THIS COURT ORDERS** that the **Moving Party** was not required to provide a **Confirmation of Motion** pursuant to *Rule* 37.10.1 of *Rules of Civil Procedure* but he may provide one for the record of proceeding purposes and any such giving of the same to the **Registrar** shall be deemed to have been given on December 23, 2025;

[b]ABRIDGMENT OF TIME, DISPENSING OF COMPLIANCE WITH REQUIREMENTS UNDER *Rules of Civil Procedure* ET AL, AND NUNC PRO TUNC ORDERS:

[i] THIS COURT ORDERS that this motion was declared as an **urgent motion**;
[ii] THIS COURT ORDERS that the time for service and filing of the Notice of Motion and supporting materials be and is hereby abridged, such that this motion is properly returnable today on **December 23, 2025**, and any further requirements under the *Rules of Civil Procedure* regarding filing, service, time *et al*are dispensed with;

[c] Effective Date of Order:

[i] THIS COURT ORDERS that this Order is effective from the time it was made on December 23, 2025, by providing an email confirmation to the Applicant at his email with the **Divisional Court** of the relief granted herein;

[d] SETTLEMENT AND SIGNING OF ORDER:

[i]THIS COURT ORDERS that, pursuant to, *inter alia*, *Rule* 59.04, this Order shall be settled and signed by the **President** of the **Divisional Court** without the necessity of obtaining the approval as to form and content from any other party or person involved or affected by this Motion No. 4;

[e] Section 76 of the *Courts of Justice Act*:

[i] THIS COURT ORDERS pursuant to the requirement that **Registrar**s, court staff *et al*are directed by the Chief Justice of the **SCJ**, which in this instance is the **President** of the **Divisional Court**, that the **Current Registrar** of the **Divisional Court** is required to discharge all extant obligations of the **Former Registrar** and herself, by successor obligation (where applicable) in relation to this Applicant under statute, regulations and at law on a forthwith basis;
[ii]THIS COURT FURTHER ORDERS that the **Moving Party** is required to confirm with the **Divisional Court** and **Divisional Court Registrar**, within 24 hours, of receipt of any processed filings submitted to the OCPP, invitations to Case Center, *et al*, that have been confirmed with him by email or by invitation requiring his login to Case Center;
[iii] THIS COURT FURTHER ORDERS the **Registrar** to immediately upload all documents filed by the Applicant in this matter to the Case Center platform to ensure a complete and accurate digital record and that such filed documents in support of his NOM #3 have been brough to the attention of the presiding motions judge and any future judges assigned with judicial duties in this *JRPA* Proceeding
[iv[THIS COURT ORDERS the **Registrar** to issue an electronic invitation to the Applicant for the relevant Case Center bundle forthwith upon the issuance of this Order;
[v] THIS COURT ORDERS that upon the Applicant receiving his invitation to Case Center, he is required to upload any Compendia For NOM #3 within 24 hours pursuant to, inter alia, *Rule* 4.05.3.0.1;

[e] DECLARATION RE: NOTICES OF APPEARANCE:

[i]THIS COURT DECLARES, upon a review of the **Case View** in the **OCPP** and the Applicant's Requisitions and Requests (Form 1 of the **Divisional Court** and the unnumbered form in the **OCPP**) submitted for filing on various dates in December 2025, that the **Respondents**, named in the style of cause, have failed, neglected or omitted to file Notices of Appearance in accordance with the *Rule*s as required by **Form 68A** in relation to a self-represented litigant (Applicant), and have failed to provide proof of service of the same;

[f] DECLARATION RE MAIL FILING:

[i[THIS COURT DECLARES that the Applicant effectively and lawfully filed by mail, pursuant to *Rules of Civil Procedure*, *Rule* 4.05(4), on the following documents on the dates specified:

[1] The Draft Order dated December 4, 2025 (**mail filed** December 8, 2025); and
[2] The Compendium for Notice of Motion #3 dated December 7, 2025 (**mail filed** December 11, 2025).

[g] ASSIGNMENT OF INDEPENDENT MOTIONS JUDGE:

[i] THIS COURT ORDERS that to the extent that a presiding motions judge was not assigned to the Applicant's NOM #3 which was returnable on December 3, 2025, an assignment of a presiding motions judge to determine the Applicant's Notice of Motion #3 and such judge shall be independent of the parties and have had no prior conflicting involvement in the matters or with the responding parties named herein.

[f] ADJUDICATION OF NOTICE OF MOTION #3:

[i] THIS COURT ORDERS that the assigned motions judge shall determine the relief sought in Notice of Motion #3 (heard in writing on December 3, 2025) and issue Orders therein an interim and permanent bases, in respect thereof, with formal reasons to follow;

[g] MANDAMUS RE: REGISTRAR DUTIES (CONDITIONAL OR POTENTIAL REGARDING ABOVE)

[i] THIS COURT ORDERS, that to the extent that the **Registrar** does not comply with any or all of the above public legal duties to act within 24 hours of receipt of the Applicant's draft order, the Applicant is entitled to notify this **Divisional Court** of the same via email, fax and/or mail or drop off, and seek a Writ of Mandamus by written submission or factum, however so styled, by providing a copy of those written submissions or factum to the **Divisional Court** via email with mail or drop off filing thereafter, with the effective date of filing with the **Divisional Court** being the email ***Delivery*** date, and the **Respondent Registrar Parties** shall provide written submissions in relation to the same within three business days;

[ii] THIS COURT DECLARES that such determination of issues involving a potential issuance of a Writ of Mandamus are independent of the above orders and the **Registrar** of the **Divisional Court** must comply forthwith with all above obligations relevant to her;

[h] COSTS:

[i] **THIS COURT ORDERS** that to the extent that the **Registrar Responding Parties** do not comply with any of the above public legal duties to act within 24 hours or opposes the relief sought by any means or methods, the **Moving Party** is entitled to seek costs by a five page costs submissions emailed to the **Divisional Court**;

ORDERS SOUGHT IN MOTION NO. 5

2. The relief sought in NOM #5 was and is:

"I. DISPENSATION AND ABRIDGMENT OF TIME

[1] THIS Divisional Court ORDERS that the requirement for the filing of a formal Notice of Motion (Form 37A) for this Motion #5 is hereby dispensed with, such dispensation being necessitated by the insurmountable technical barriers presented by the "**403 Forbidden Error Code**"[45] that the Applicant is currently experiencing with the OCPP. This digital lockout has effectively severed the Applicant's primary means of service and filing involving the email for service herein, and given the history of previous controversies and procedural challenges in this proceeding, a formal dispensation is required to prevent further prejudice to the **Moving Party**;

[2] THIS Divisional Court ORDERS that the time for service and filing of this motion and all supporting documents be and is hereby abridged, and this motion is declared to be properly returnable this day, January 12, 2026, to address the urgent need for judicial oversight over the digital and administrative components of this litigation.

[3] **THIS Divisional Court ORDERS** that all orders involving timing, service, and the filing of documents relating to the hearing of this matter and the preceding motions are granted *nunc pro tunc*, ensuring that the record is perfected despite the administrative failures encountered by the Applicant;

II. JUDICIAL ASSIGNMENT AND INSTITUTIONAL OVERSIGHT

[4] THIS COURT ORDERS that the **President** of the **Divisional Court** hereby self-assigns the present proceeding under the *Judicial Review Procedure Act* to his own jurisdiction, or in the alternative, shall

adjudicate the relief sought in NOM #3 and by natural extension Motion #5 and #4.[46] **THIS COURT FURTHER ORDERS AND DECLARES** that this *JRPA* Proceeding has faced extraordinary challenges and controversies that raise profound issues concerning the integrity of the **Divisional Court** as an institution, requiring the direct supervision and supervisory jurisdiction of the **President** of the **Divisional Court** as the primus inter pares to restore public and litigant confidence in the judicial process before it;

[5] THIS COURT ORDERS that Madam Justice Shore is relieved from all duties involving the Applicant or any related proceedings involving the Applicant without any finding at this time as to whether or not she was in a conflict of interest and/or breached the Applicant's rights;[47]

III. SECTION 76 OF THE *CJA* AND CONSTITUTIONAL ACCESS

[6] THIS COURT ORDERS that court staff, IT administrators, and any officials responsible for the Ontario Courts Public Portal ("**OCPP**") immediately take all necessary technical and administrative steps to rectify the digital interface and extinguish the "403 Forbidden Error Code" precluding access to the OCPP as it relates to the Applicant's account and the email utilized herein. This rectification shall include, but is not limited to, the whitelisting of the Applicant's IP address and the restoration of full electronic filing and retrieval privileges;

[7] **THIS COURT ORDERS** that the court staff must provide the Applicant with an individual email contact of the **Divisional Court** and OCPP (IT department) to troubleshoot the 403 Error Code issue as it relates to his email address herein in the event that the technological court staff cannot fix the same;

[8] **THIS COURT ORDERS** that the OCCP manager of the IT department and the **Registrar** of the **Divisional Court** are to provide to the **President** of the **Divisional Court**, forthwith copies of all relevant logs of the Applicant's seeking to access the OCCP along with when the 403 Error Code commenced and why it has persisted and the reasons for the same;

[9] **THIS COURT ORDERS** that until the court staff fix the 403 Error Code, the Applicant is entitled to file documents via email and they shall be deemed filed at the time that they are emailed to the **Divisional Court** correspondence email and Acting **Registrar** Ms. Roxanne Parris (LSO licensee as a paralegal licensee – currently non practising) and such order shall be granted *nunc pro tunc* in relation to all email submitted documents;

[10] **THIS COURT DECLARES** that such digital disenfranchisement, denoted in the Factum for Motion #5 and supporting evidence therein, violates the procedural expectations of a self-represented litigant and constitutes a constructive denial of the right to be heard (*audi alteram partem*). **THIS COURT FURTHER DECLARES AND AFFIRMS** the *Rule* of law principle that universal access to the courts is a constitutionalized and untouchable principle. Any technical or administrative interference with a litigant pursuing a legal remedy—whether intentional or through systemic neglect—is a violation of the *Rule* of law and the *Constitution of Canada*. Access to justice, specifically in the form of access to the Superior Court of Justice and its digital records, is an untouchable constitutional imperative, and any sustained lockout constitutes a breach of the Core Jurisdiction of the **SCJ** as protected under Section 96 of the *Constitution Act, 1867*;

IV. ACCESS TO COURT RECORDINGS, DOCUMENTS, AND INFORMATION ASSETS

[11] THIS COURT ORDERS that the **SCJ** Recording Management Office (the "**RMO**") (attention: Ms. Hsieh, Ms. Amirthalingam, Ms. Azim *et al*) provide the Applicant with copies of the digital recordings for all case conferences held in this *JRPA* proceeding of which the Applicant paid the prescribed fees which accompanied his signed **Request Form Undertakings;** [48]

[12] **THIS COURT ORDERS** that the **SCJ** RMO provide the Applicant's retained and authorized transcriptionist (Ontario) ("**ATO**") with the specific "tapes and materials required for transcription" required for the production of certified transcripts in relation to the case conferences herein;

[13]**THIS COURT ORDERS** that **Divisional Court** staff, SCJ court staff, and the **Registrar** of the SCJ 361 University Courthouse and the **Registrar** of the **Divisional Court**, provide the Applicant with immediate access to, and copies of, the requested documents in their custody or control in relation to the "**Undisclosed Criminal Proceeding**" to the extent that such documents are relevant to the grounds of the judicial review or the conduct of the administrative bodies below;

[14] **THIS COURT ORDERS** that court staff at any courthouses within the purview of the Chief Justice of the Superior Court of Justice provide the Applicant with access to any requested documents, information, information assets, or judicial records in the custody or control of the **SCJ** in relation to his "Non-*FIPPA*" requests;[49]

[15] **THIS COURT ORDERS** that the court staff, court clerks, and **Registrar**s of any relevant **SCJ** courthouses or the **Divisional Court** must respond to the Applicant within 48 hours of receipt of an email, fax, and/or letter directed to the Applicant's email denoted for return correspondence; [50]

[16] **THIS COURT ORDERS** that to the extent that the Applicant is required to pay any fees for any access to copies of documents filed in this *JRPA* Proceeding, which are denoted in the requisitions or requests in Compendium For NOM #3 and Motion Record #4, the **Registrar** shall provide him with a detailed, itemized estimate of the cost of the same prior to the assessment of such fees. To the extent that the **Registrar** does not provide the Applicant with the same within 48 hours of this order, no fees will be due and owing for the same;

V. ADJUDICATION AND GENERAL PROVISIONS

[17] THIS COURT ORDERS that the **President** of the **Divisional Court** pronounce determinations regarding NOM #5, #4, and #3 immediately or forthwith. To ensure the timely progression of this matter, the Court may announce the result of these motions via an "**Immediate Announcement Order**," with comprehensive, detailed reasons to be promulgated and **"delivere**d" to the Applicant party, the Respondents and **Responding Parties** thereafter;

[18] **THIS COURT ORDERS** that to the extent that any orders herein granted dispose of any other orders, the relief sought in other motions or requests are hereby rendered moot;

[19] **THIS COURT ORDERS** that this Order shall be effective immediately and shall be settled and signed by the **President** of the **Divisional Court** without the requirement for approval as to form or content by any other Respondents and **Responding Parties**, given the **Respondents**' continued state of default without rectification and the **Responding Parties**' non-opposition of NOM #3;

[20] **THIS COURT ORDERS** that only the **President** of the **Divisional Court** may sign this order, and any formal issuing and entering of this order must be completed by the **Registrar**'s office forthwith and without delay;

[21] **THIS COURT ORDERS** such directions may be issued to the court services division in accordance with the above, Motion #4 and NOM #3, with a copy to the Applicant, as may be required to mitigate procedural delays and protect the overarching interest of justice; and

[22] **THIS COURT ORDERS** that the Applicant is entitled to seek directions, is granted leave to submit any further submissions or evidence to assist this **Divisional Court** with status relating to the above orders sought (where applicable).

NOM #3

4. The relief sought in NOM #3 was and is:

"Chapter #3(A): INITIAL ORDERS (NOM #3: NOVEMBER 17, 2025)

[1] THIS DIVISIONAL COURT ORDERS that the motions of the Applicant, denoted as **NOM #**1, **NOM #**2 and **NOM #**3 (collectively, the "**Motions**"), were consolidated for hearing and were all heard in writing, without the attendance of the Applicant, who was the sole party as of the date of the hearing, and "**Responding Parties**" (which includes the **Respondents** and Non-**Respondents** (see: **TAB** #22 of Affidavit of Service of Applicant)) and none of the **Responding Parties** complied with *Rule* 37.12(5) of the *Rules of Civil Procedure* by consenting, not opposing, opposing (with a motion record, prescribed notice agreeing to have the motion heard and determined in writing and a factum for motion in writing) or providing a notice of intending to make oral argument on **Wednesday, December 3, 2025,** at the **DIVISIONAL COURT** of Ontario at 130 Queen Street West, Toronto, Ontario;

[2] THIS Divisional Court DECLARES AND ORDERS that:

a. There was a dispensation of compliance with any *Rule*s, in the interest of justice at any and all times on a retroactive, current and prospective basis in relation to any *Rule*s that allowed this NOM #3 to be heard, in writing, on December 3, 2025;
    a. Specifically, a Declaration that the Applicant made his motion to the **Divisional Court**, via email, with service of the NOM #3 on November 17, 2025;
        1. Specifically, a Declaration, in the alternative, the Applicant's NOM #3, in the circumstances made the motion unnecessary pursuant to *Rule* 37.01 of the *Rules of Civil Procedure*;
b. A Declaration that there was no practice direction of the **Divisional Court** in effect concerning the scheduling of a motion proposed in writing and without attendance of the party(ies);
c. A Declaration that the **Moving Party** filed his motion with the **Divisional Court** with proof of service before the hearing date and on November 26, 2025;
d. A Declaration that the **Moving Party** was not required to serve the **Responding Parties**, or in the alternative the **Respondents**, with his NOM #3, Motion Record, Factum, and initial Draft Order (November 19, 2025), although he did on the aforementioned dates in this subparagraph. A further Declaration and Order that, pursuant to, inter alia, *Rules of Civil Procedure Rule* 37.08(2), that the **Moving Party** was entitled to filed the NOM #3 at or before the hearing which was required to have been "confirmed" on November 26, 2025, and within three business days of that date;
    a. In the alternative, a Declaration and Order that this **Divisional Court** dispensed with compliance for the filing of the NOM #3 and the **Registrar** of the **Divisional Court** was directed to return the payment of $339.00 to the **Moving Party**;
        1. In the further alternative, this **Divisional Court** requested that the court file was placed before the presiding motions judge or by way of requisition of the Applicant wherein he was directed to file the same and such order was granted nunc pro tunc;
e. A Declaration that the Applicant (**Moving Party**) gave the **Registrar**, as she then was, a Confirmation of Motion (Form 38(B)) in accordance with *Rule* 38.10.1 on Monday, November 24, 2025, via email;
f. A Declaration that this hearing was conducted in writing, without attendance of the party (Applicant) and pursuant to *Rule* 37.11(1)(a) in the absence of the public;
g. A Declaration that any compliance issues regarding the "filing" of the aforementioned documents by the **Moving Party** were through no fault of his own;

h. A Declaration that any filings via mail or leaving at the court office of the **Divisional Court**, even if duplicate of OCPP filings, are dated to the date of the filing in the OCPP by receipt date;

[3] THIS DIVISIONAL COURT DECLARES that the Attorney General of Ontario (the "AGO") confirmed in writing on January 30, 2025, with the Applicant, other **Respondents** and the Court that it would not participate in the ***JRPA* Proceeding** and to be removed from any future correspondence;

[4] THIS DIVISIONAL COURT ORDERS that the delegated or presiding motion judge, for this motion was not the Honourable Madam Justice Shore and/or any other judge employed by Epstein Cole LLP prior to the commencement of and after the filing and serving of this ***JRPA* Application**;

[5] THIS DIVISIONAL COURT ORDERS that all Orders herein contained shall be granted *nunc pro tunc*, along with any abridgment of time pursuant to *inter alia Rule* 3.02(1) and (2) where such retroactive application is applicable;

[6] THIS DIVISIONAL COURT ORDERS that consistent with the amendments to the *Rules of Civil Procedure* in October 2025 that the DIVISIONAL COURT (court staff) (registrar) must upload all of the Applicant's filed documents for purposes of NOM #3 (see: *Rule* 4.05.3 (3.0.1));

[7] THIS DIVISIONAL COURT ORDERS that the DIVISIONAL COURT (court staff) (Registrar) must provide an invitation to the Applicant for him to be able to upload his Compendium For NOM #3 (see: *Rule* 4.05.3(3.));

[8] THIS COURT FURTHER DECLARES that the Tribunal had failed to "**file**" a record of the proceeding forthwith or at all and the **Respondent Insurance Companies**, and breached section 10 of the *JRPA*;

[9] THIS DIVISIONAL COURT FURTHER DECLARES that the Tribunal failed to **"deliver"** responsive factums and application records in accordance with *Rule* 68.04(4) of the *Rules of Civil Procedure*;

[10] THIS DIVISIONAL COURT DECLARES AND ORDERS that that LAT failed to serve its Notice of Appearance (Form 38(B)) on November 27, 2024;

[11] THIS DIVISIONAL COURT DECLARES that the LAT failed to "file" and **"deliver"** its Notice of Appearance forthwith, prior to December 3, 2024, or thereafter;

[12] THIS DIVISIONAL COURT DECLARES that **Respondent Insurance Companies** served their **Notices of Appearances** on December 3, 2024, at 4:50 p.m.

[13] THIS DIVISIONAL COURT FURTHER DECLARES that the LAT's request for a case conference was on or before 3:30 p.m. on December 3, 2024;

[14] THIS DIVISIONAL COURT DECLARES AND ORDERS that the LAT's request for a case conference on or before December 3, 2024, was null and void, and void *ab initio*, on account of none of the **Respondents** having filed a first "Defence" (see: *Rule* 77.03 of the *Rules of Civil Procedure*: "defence" includes a notice of intent to defend, a statement of defence, a notice of appearance and a notice of motion in response to a proceeding)) (defined as "**First Defence**") prior to the LAT's request for a case conference (collectively, the "**Rule 77 (2010) First Defence Filing Requirement**");

[15] THIS DIVISIONAL COURT DECLARES AND ORDERS that any "**Assignment For Case Management**" (see: *Rule* 77.05 of *Rules of Civil Procedure*) of the ***JRPA* Proceeding** by "the case management judge" (Madam Justice Shore) was null and void, void *ab initio* and of no force and effect

because there was no consent of any "parties" (*Rule* 77.05(1) of the *Rules of Civil Procedure*) and the LAT's request, as there was no motion from the LAT, for a case conference was void *ab initio* and of no force and effect (see: *Rule* 77.05(2)(b));

[16] THIS DIVISIONAL COURT ORDERS AND DECLARES that, to the extent that that Justice Shore's considered the **LAT**'s ***void ab initio*** request for **Assignment For Case Management** of the ***JRPA* Proceeding** and subsequently considered herself to be assigned to the ***JRPA Proceeding*** to herself was an **impermissible delegation of authority**, and/or was directly contrary to *Rule 77* of the *Rules of Civil Procedure* (2010 et seq), any "Source Law", the common law or equitable principles;

[17] THIS DIVISIONAL COURT FURTHER DECLARES that to the extent that Madam Justice Shore believed she could on her own volition require the Applicant and **Respondents** to appear before her for a case conference no such power under any "source law" so existed at the time of such consideration and compulsion:

[i] THIS DIVISIONAL COURT FURTHER DECLARES that to the extent that Madam Justice Shore believed her power arose from *Rule* 77.08, dovetailed to *Rule* 50.13 of the *Rules of Civil Procedure*, no such power existed because of the failure of the **Respondents** to file a First Defence and said *Rule* 50.13 arises under pre-trial procedures and is inferior to *Rule* 77 as a direct consequence of the explicit legislative language under *Rule* 77.04(2);

[ii] THIS DIVISIONAL COURT FURTHER DECLARES that to that Madam Justice Shore was relying upon *Rule* 50.03 she did not compel the parties [sic] to a pre-trial [sic] conference;

[iii] THIS DIVISIONAL COURT FURTHER DECLARES that to the extent that Madam Justice Shore was seeking to compel the parties [sic] to a conference under *Rule* 50, she failed to order that the "parties" [sic] themselves participate and such case conferences were null and void on that ground alone;

[iv] THIS DIVISIONAL COURT FURTHER DECLARES that to the extent that Madam Justice Shore was relying on *Rule* 50.13 of the *Rules of Civil Procedure*, the LAT was not a party at the time of the written request (December 3, 2024) by failure to "**"deliver"**" its NOA, the Applicant was not lawfully served, the LAT never "filed" its NOA, or had Ms. Maciel file an "affidavit of service" to consummate "***Delivery***" (see: *Rule* 1.03), and there was no filing of a First Defence at said time, and as consequence of *Rule* 50.13(2), Madam Justice Shore failed to order that all of the "parties" [sic] participate in addition to their lawyers as a consequence, and the case conferences are hereby set aside on said legal ground;

[18] THIS DIVISIONAL COURT FURTHER DECLARES AND ORDERS that any purported case conference compulsory requirement relating to the exchange of materials (if necessary [sic]) and to discuss prematurity [sic] was null and void on account of the LAT, which was the only Respondent purportedly raising the issue albeit without party status, as there was only one "party" at said time in the Applicant;

[19] THIS DIVISIONAL COURT FURTHER DECLARES AND ORDERS that any potential timetable arising out of that purported or alleged case conference compulsory attendance requirement, which would have required the lawyers for the parties [sic] and the parties themselves, absent order of the court, did not operate as a stay or abeyance of obligations of the **Respondents** to comply with the *JRPA* and *Rules of Civil Procedure* (where applicable);

[20] THIS DIVISIONAL COURT FURTHER DECLARES AND ORDERS that as a consequence of the Applicant having already **perfected** his ***JRPA* Application** on December 16, 2024, there were no further materials for him to exchange and the deadline for the **Respondents** to file their responsive application records and factums was **Monday, January 13, 2025**;

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[21] THIS DIVISIONAL COURT ORDERS AND DECLARES that any purported filings, whether ***de facto*** or ***de jure***, submitted by the **LAT** or the **Respondent Insurance Companies** post-November 27 or December 3, 2024, respectively, are rendered ***void ab initio*** and are subject to the vitiating effect of insufficient notice *Rule*s stipulated under the *Rules of Civil Procedure*, and any setting aside of the same are heard on three days notice;

[22] THIS DIVISIONAL COURT FURTHER DECLARES AND ORDERS that all steps and documents involving the "**Assignment For Case Management**", which there was none by an RSJ, judge or an associate judge, and any "case management conferences" are void *ab initio*, null and void and of no force and effect, and hereby set aside;

> **[i]THIS DIVISIONAL COURT FURTHER DECLARES AND ORDERS** that any "orders" (unmade, made, unissued, and/or unentered) arising from "void ab initio case conferences" are null and void, void *ab initio* and of no force and effect, and set aside;

[23] THIS DIVISIONAL COURT DECLARES AND ORDERS that any conference conducted without the Applicant possessing access to Case Center for this DIVISIONAL COURT Proceeding (***JRPA* Proceeding**) by way of invitation, as per the state of the *Rules of Civil Procedure* at said time and without the ability to **upload** his filed documents at least five days prior to said case conferences (see: *Rule* 4.05.3 *et al*) rendered said case conferences null and void, void *ab initio*, of no force and effect, and they are hereby set aside without reference to their merits otherwise;

[24] THIS DIVISIONAL COURT DECLARES that the Applicant was entitled to an invitation to the **DIVISIONAL COURT** Case Center electronic platform immediately upon the formal commencement or bringing of this ***JRPA* Application** on or around November 15, 2024, pursuant to, inter alia, the *JRPA*, the *Rules of Civil Procedure* and the **DIVISIONAL COURT *JRPA* Guide** in force at said time;

> **[i]THIS DIVISIONAL COURT DECLARES** that the portion of the **DIVISIONAL COURT** *JRPA Guide* relating to the provision of an invitation to Case Center upon the bringing of a ***JRPA Application*** is not inconsistent with the *Rules of Civil Procedure;*

[25] THIS DIVISIONAL COURT FURTHER DECLARES AND ORDERS that but for the notice that the Applicant provided herein in relation to **NOM #**3, the Applicant is permitted to not further file or serve the **Respondent Insurance Companies** and LAT with any further filings or otherwise but for any challenges by the LAT in the constitution and *Charter* questions relating to its control or authority of any of the **Respondent Insurance Companies** and its agents involved in the theft of the Applicant's property and subsequent impersonation, extortion and bribery;

Chapter #3(B): nullification in toto and Misleading of the Applicant by fraudulent misrepresentation and findings of prior judicial involvement (undisclosed)

[26] THIS DIVISIONAL COURT DECLARES AND ORDERS the setting aside, ***in toto*** and ***ab initio***, all of the **Justice Shore Steps** pursuant to:

> i. The Declarations of Law herein;
> ii. *Rule 38.11* of the *Rules of Civil Procedure* on account of insufficient or non-existent notice;
> iii. *Rule 59* of the *Rules of Civil Procedure* on the grounds of fraud and miscarriage of justice, as the underlying judicial steps were irrevocably and fundamentally tainted by misconduct and conflict;
> iv. *Rule* 2.02 of the *Rules of Civil Procedure*;

[27] THIS DIVISIONAL COURT FURTHER DECLARES that all fraudulent misrepresentations made by commission or omission whether iterated by the **DIVISIONAL COURT** (court staff), as particularized herein, are attributed to the "**case management judge**" after December 3, 2024;

[28] THIS DIVISIONAL COURT FURTHER DECLARES that there is no prerequisite or requirement under *Rule 59.06(2)(a)* of the *Rules of Civil Procedure* that the fraud must be committed exclusively against an opposing party or solely by a party, Respondent or non-Respondent, and that it may be committed by any **person** so long as it had a material effect (i.e. may have been a factor or reasonably affected the outcome of the proceeding);

[29] THIS DIVISIONAL COURT FURTHER DECLARES that, on a balance of probabilities and due to the lack of opposition of this **NOM #**3, that Madam Justice Shore had an undisclosed prior judicial involvement with the Applicant in the **Undisclosed Criminal Proceeding**;

> **[i]THIS DIVISIONAL COURT FURTHER DECLARES AND ORDERS** that Madam Justice Shore's prior judicial involvement in undisclosed fashion amounted to facts or fraud discovered post April 2025 by the Applicant, and all of her steps taken and orders issued are hereby set aside;

[30] THIS DIVISIONAL COURT FURTHER DECLARES that the **undisclosed** prior judicial involvement of Madam Justice Shore with the Applicant amounted to a fraudulent misrepresentation upon the Applicant of which was material to the outcome of the ***JRPA*** **Proceeding** and all steps, documents and/or orders involving or relating to Madam Justice Shore are hereby set aside;

CHAPTER #3(C): FRAUD, BRIBERY AND EXTORTION INVOLVING THE **RESPONDENT INSURANCE COMPANIES** AND LAT;

Chapter #3(C)(I): Fraud

> **[31] THIS DIVISIONAL COURT FURTHER DECLARES AND ORDERS** that that the Licence Appeal Tribunal (**LAT**) and the **Respondent Insurance Companies** committed a demonstrable fraud, whether by omission or commission, upon the Court with specific and precise reference to the facts fully particularized in the Applicant's Affidavits, Factum, and evidence to be gleaned from the case conference transcripts, thereby tainting the entire ***acta*** of the proceeding with fraud, and they cannot retain any benefits of the same;
>
> > **[i]THIS DIVISIONAL COURT FURTHER DECLARES AND ORDERS** that all steps, documents and/or orders relating to said fraudulent conduct, particularized in the Applicant's **Compendium For NOM #3**, may have reasonably affected the outcome of the ***JRPA*** **Proceeding**, and they are hereby set aside;

CHAPTER #3(C)(II): BRIBERY

[32] THIS DIVISIONAL COURT FURTHER DECLARES AND ORDERS that the conduct involving Mr. Karat, an employee or contractor to the **Respondent Insurance Companies**, in the unauthorized appropriation of the Applicant's property on October 25, 2024, and subsequent related actions (including the purchase of new property and the utilization of a fictitious name by Ms. Julia Dunk) ascended to the level of a bribe or an act of bribery;

> **[i] A FURTHER DECLARATION AND ORDER** that the aforementioned declared act of bribery has irreparably tainted the proceeding and rises to the level of a special nullity such that any and all steps, requirements, orders, decisions, or judgments prejudicial to the Applicant must be, ipso facto, set aside.

CHAPTER #3(C)(III): EXTORTION

[33]THIS DIVISIONAL COURT FURTHER DECLARES AND ORDERS that the **Respondent Insurance Companies** committed the criminal offence of extortion and obstruction of justice, on a balance of probabilities, and the associated intentional torts, both prior to the origination of this ***JRPA Proceeding*** and throughout its subsequent bringing, commencement and advancement;

CHAPTER #3(D): INTERIM, INTERLOCUTORY AND INJUNCTIVE RELIEF

[34] THIS DIVISIONAL COURT ORDERS that that all automotive insurance entities within the TDIA Group, Mr. Karat, and his then supervisor or manager, Mr. Papadimitropoulos, shall undertake all reasonable, efficacious, and affirmative steps to preserve and secure all confidential and proprietary information pertaining to the Applicant, whether such information exists in tangible hard-copy form or as electronic data, pending the final and conclusive disposition of the within proceeding (constituting an "**Interim, Interlocutory And Permanent Injunction"**)

[35]THIS DIVISIONAL COURT ORDERS that that all persons who have control, possession and/or custody of the stolen property, some or all, of the Applicant, that was subjected to the unauthorized appropriation (the "**TDI Karat Theft"**) on October 25, 2024 at the premises of 1025 Queen Street West, Toronto, Ontario (visitor area of CAMH's building known as the "McCain Recovery Complex Building"), and subsequently utilized and/or disclosed said stolen property including personal information, confidential information and/or personal health information, compelling the immediate and unreserved ***Delivery*** up of the Applicant's property with such property to be restored to the Applicant within three (3) days of the formal pronouncement of this Order;

[36]THIS DIVISIONAL COURT ORDERS that any all of unauthorized possessors or controllers or custodians of the stolen property of the Applicant shall forthwith cease from any such usage and comply with the above orders forthwith;

[37]THIS DIVISIONAL COURT ORDERS that the **SCJ** recording management office ("**RMO**") is required to provide the Applicant's retained authorized transcriptionists in Ontario ("**ATO**") with, in their custody, possession and/or control, copies of the "tapes and materials required for transcription" in the following proceedings:

[i] Undisclosed Criminal Proceedings and "Ex Parte In Camera Hearing(s") involving the Applicant; and
[ii] the case conferences in this **DIVISIONAL COURT Proceeding**;

[38]THIS DIVISIONAL COURT ORDERS that the **SCJ RMO** is obligated to provide the Applicant with the following documents which are copies on CD Of the digital recordings he requested by his Request Form Undertaking, with payment of the prescribed fees pursuant to Reg 293/92, for the following:
Undisclosed Criminal Proceedings and "Ex Parte In Camera Hearing(s") involving the Applicant; and
The case conferences in the **DIVISIONAL COURT** proceeding;

[39] **THIS DIVISIONAL COURT ORDERS** that the Superior Court of Justice (**SCJ**) or the DIVISIONAL COURT, if a judge of the DIVISIONAL COURT heard and considered *Criminal Code* Form 2 "Information" or "Informations" involving the Applicant or a *Criminal Code* Form 4 *Criminal Code* Indictment or "Indictments", shall produce copies of any and all informations and indictments received involving the Applicant, including any associated or supporting documents or records

[40] **THIS DIVISIONAL COURT ORDERS** that the Toronto Police Service (TPS) produce any documents and records involving TPS Occurrence Numbers of Sunday September 15, 2024, and Sunday, September 22, 2024, and Police Case ID: 457197, including but not limited to any complaints made by any of the **Respondents** or their agents (actual or purported);

[41] **THIS DIVISIONAL COURT ORDERS** that any relevant ministry of the Ontario Government, with particular reference to the Ministry of the Attorney General (**MAG**) and the Ministry of the Solicitor General (**SOLGEN**), shall produce to the Parties (aside from itself with respect to the **MAG**) copies of any draft or signed *Criminal Code Form 4* Indictments and/or any other documents relating to the Applicant;

[42] **THIS DIVISIONAL COURT ORDERS** that that all **Respondents** and persons formally notified of this **NOM #3** shall produce all documents, things, papers, records, or communications that are demonstrably **relevant** to this **NOM #3**, irrespective of the physical or electronic situs of their storage or custody;

[43] **THIS DIVISIONAL COURT ORDERS** that all records of the ***JRPA Proceeding***, including but not limited to those documents purportedly served but never legally "filed" or **"delivere**d" according to the *Rule*s, being irrevocably tainted by fraud and bribery, shall be sealed and/or administratively expunged from all publicly accessible databases to prevent the dissemination of records arising from a **special nullity** (the "**Protective Expungement Orde**r" and "**Open Court Principle Regularization Order**");

CHAPTER #3(E): NOM #1 ORDERS (STILL APPLICABLE)

[44] THIS DIVISIONAL COURT ORDERS that in addition to the LAT's ongoing requirement to file the record of proceeding that the LAT shall provide copies of the two undisclosed motion orders (collectively, the "Two Undisclosed Final Motion Orders"), on a forthwith basis to the Applicant and the DIVISIONAL COURT, denoted in the LAT's provided portions of the purported record of proceeding index pursuant to *FIPPA* and *TARA* requests by the Applicant on July 24, 2024, and August 16, 2024;

[45] THIS DIVISIONAL COURT ORDERS that the Applicant is entitled to costs of **NOM #**1 as per his Costs Submissions (see: **Compendium For NOM #3**, **TAB #**28) and Bill of Costs (see: **Compendium For NOM #3**, **TAB #**29)

CHAPTER #3(F): CONVERTING THIS MOTION INTO A MOTION FOR JUDGMENT BUT FOR CONSTITUTIONAL AND *CHARTER* ISSUES AND THOSE ISSUES ARISING

[46] THIS DIVISIONAL COURT ORDERS that **NOM #**3 was converted into a motion for Judgment (see: *Rule* 1.03(2)) pursuant to *Rule* 37.13(2)(a) ***but for*** any Constitutional or *Charter* issues in the Applicant's **NOCQ**. **THIS DIVISIONAL COURT FURTHER ORDERS** that the AGO is entitled to participate in the hearing of the **NOCQ** and any final relief arising under this ***JRPA* Application**;

CHAPTER #3(G): NOM #2 ORDERS (MATTERS NOT ADJUDICATED; UNOPPOSED BY THE **RESPONDENTS** SINCE FEBRUARY 11, 2025)

[47] THIS DIVISIONAL COURT ORDERS that the following relief is granted:

[i] An Order setting aside the final orders, decisions and determinations of **VC Morrisette of the LAT** (September 13, 2024) that refused the Applicant's relief sought to add TDHA as a party and substituting it with an order that **TDHA** is added as a party to the LAT Appeal, along with the upholding or affirming of the same by VC Lake on October 16, 2024 ;

[ii] An Order that **TDHA** has 14 days from the date of this order to file a responsive pleading to the causes of action of the Applicant's LAT Appeal that it received on December 24, 2023, via fax;

[iii] An Order that **TDHA** is declared as the **First Insurer** pursuant to *Reg 283*;

[iv] An Order that TDHA is required to comply with all of its obligations under the *Insurance Act*, *Reg 283*, and *SABS* forthwith on a past, current and future bases;

[v] An Order SNIC and TDHA shall take all necessary steps to provide the correct name of 'the insurer' that first received the Applicant's Completed Application with current mailing address and fax number to

the Applicant at his email for his accident benefits claim at mcleansniclat@gmail.com, and correct the same with the central processing agency also known as HCAI within 7 days of this order; and

[vi] An Order that the Applicant is at liberty to seek any relief against TDHA at law.

CHAPTER #3(H): *CHARTER* DETERMINATION WITHIN 30 DAYS OF THE DATE OF ALL ORDERS HEREIN AND THOSE ARISING FROM ANY ADDITIONAL FILING OF EVIDENCE AND SUBMISSIONS ARISING FROM THE INTERIM, INTERLOCUTORY AND INJUNCTIVE RELIEF HEREIN

[48] THIS DIVISIONAL COURT ORDERS that the determination of the said *Charter* relief shall proceed via written argument or oral hearing, to be finally adjudicated and decided by the presiding **DIVISIONAL COURT** Judge within thirty (30) days of all orders herein and any orders arising from any evidence or submissions of the Applicant arising from the interim, interlocutory and injunctive relief;

CHAPTER #3(I): LEAVE TO SUBMIT FURTHER EVIDENCE AND SUBMISSIONS ARISING

[49] THIS DIVISIONAL COURT ORDERS that the Applicant is entitled to leave to file further submissions and supplementary evidence, the quantum of which shall be restricted to a predetermined number of pages, based upon the granting of the interim, interlocutory and injunctive relief and prior to the judicial adjudication of the outstanding and herein Orders, contingent upon the Applicant's receipt of the documents, records, evidence, and things sought through the production mandates herein established and/or through his multitude of *PIPEDA* requests and OPCC complaints along with *FIPPA* requests and OIPC Appeals;

ORDER REGARDING COSTS

[1] THIS DIVISIONAL COURT ORDERS that the Applicant is entitled to costs of NOM #1 as per his Costs Submissions and Bill of Costs.
[2] THIS DIVISIONAL COURT ORDERS that costs of this motion (NOM #3) are awarded to the Applicant on a full-indemnity basis as set out in his Costs Submissions and Bill of Costs in the amount of $888,661.00 (the "Costs Award").
[3] THIS DIVISIONAL COURT ORDERS that the Costs Award is apportioned as follows: a. 75 percent liability against the Respondent Insurance Companies, jointly and severally; and b. 25 percent liability against the Licence Appeal Tribunal (LAT).
[4] THIS DIVISIONAL COURT FURTHER ORDERS that the Costs Award is subject to pre-judgment interest and post-judgment interest in accordance with the Courts of Justice Act

VOLUME #3: CONCLUSION FOR BRIEF WRITTEN OUTLINE ON ACCOUNT OF URGENCY AND FORTHWITH ADJUDICATION DUE TO EXTRAORDINARY CHALLENGES, CONTROVERSIES AND THE FOCUS BEING ON THE INTEGRITY OF THE COURT

37. Attention is directed to the determination rendered in *Decision of the Review Panel in the Matter of: The Honourable Arthur Doyle of the Court of King's Bench of New Brunswick, CJC File 24-0144* (the "**Doyle Decision**"), dated November 12, 2024 (see: BOA, Tab 301). In the *Doyle Decision*, the *Canadian Judicial Council*

(the "**CJC**") addressed an undisclosed conflict of interest wherein a member of the judiciary presided over a settlement conference involving a former legal partner. Notwithstanding the judicial characterization of the omission as an "honest mistake" regarding the duration of the requisite "cooling off" period, the panel concluded that a reasonable person would nonetheless maintain a **"reasonable apprehension of bias"** (the "Reasonable Apprehension of Bias"), particularly where the opposing litigant appeared in a self-represented capacity and the hearings for the issuance an arrest warrant were ex parte and in camera.

38. The inquiry arises whether a comparable difficulty existed in the identification of alternative judicial officers within the Toronto Region, which comprises approximately ninety members of the bench, or whether the specialized authority to assign **"ad hoc judges"** (the "Ad Hoc Judges") from the *Court of Appeal for Ontario* to the *Superior Court of Justice* pursuant to the *Courts of Justice Act* (the "**CJA**") was considered. It is submitted that the availability of such resources renders the continued involvement of an impugned judge not only unnecessary but also a functional threat to institutional neutrality.

39. The *Ethical Principles for Judges* (the "**Ethical Principles**"), as articulated by the *CJC* through a panel inclusive of the Honourable Associate Chief Justice Rosalie McGrath, the Honourable Justice Bernette Ho, and Mr. Curtis Kleisinger, underscore the burden borne by the judiciary. Specifically, *Principle 5.C.3* establishes that a conflict of interest (the "**Conflict of Interest**") may originate from pecuniary or non-pecuniary interests, close professional relationships, or the expression of views evidencing bias regarding a litigant. Furthermore, *Principle 5.C.10* dictates that judges, rather than the litigants or their counsel, bear the primary responsibility for ensuring the preservation of judicial impartiality (the "**Judicial Impartiality**"). Neither the disclosure of a conflict nor the purported consent of the parties operates to justify a member of the bench ignoring circumstances that reasonably imperil the perception of neutrality.

40. The record indicates that the moving party articulated an objection to the involvement of Madam Justice Shore *in limine*. It is observed that the Applicant could not have been cognizant of her prior involvement in the issuance of an **"intake court endorsement"** (the "Intake Court Endorsement")—a procedural instrument typically reserved for familial jurisprudence and inadequate for the issuance of a **"warrant for arrest"** (the "Warrant for Arrest")—facilitated through the falsification of a **"false information package"** (the "False Information Package") in a criminal proceeding. This involvement was subsequently disclosed by counsel for Madam Justice Shore, Mr.

Sinnadurai, who acknowledged the absence of a filed *Information* by Mrs. Frugoni-Rojas during the relevant interval, notwithstanding representations by the *Toronto Police Service* (the "**TPS**") to the *Ontario Court of Justice* regarding the existence of a valid warrant.

41. It is submitted that the responsibility to disclose such systemic abnormalities resided with the judiciary of the *Superior Court of Justice*, rather than through the private investigations of the moving party. The failure of the bench to provide such information constitutes a dereliction of the duty to inform, thereby compromising the **"open court principle"** (the "Open Court Principle") and the mandates of the *Ministry of the Attorney General Court Information Access Guide (2019)*.

42. Furthermore, the *Licence Appeal Tribunal* (the "**LAT**") and the Respondent Insurance Companies remained cognizant of these irregularities. Pursuant to the authority in *Halton v. Rezaizadeh*, 2004 CanLII 6236 (ON SC)) at paragraph 18[51] as per Murry J. (remains the law in Ontario today) and paragraph 19 citing *Sidhu Estate v. Bains*, 1996 CanLII 3332 (BC CA) (see: BOA, Tab 87, page 2479 to 2482) (the "**Sidhu Estate**"), the maintenance of deliberate silence in the presence of fraudulent misrepresentation renders the silent parties equally liable for the **"tort of deceit"** (the "Tort of Deceit"). When an individual, cognizant of a mendacious statement, elects to remain silent to gain a tactical advantage, such conduct constitutes a **"wilful misrepresentation"** (the "Wilful Misrepresentation") as established in (see: BOA, Tab 176, S*ugar v. Peat Marwick Ltd.* (Ont. H.C.J.), 1988 CanLII 4635 (ONSC), page 3407 to 3419).

43. Consequently, it is submitted that Madam Justice Shore engaged in intentional contraventions of her judicial duties under *section 80* of the *Judges Act*, while the Respondents and the former Registrar remain liable for the *Tort of Deceit* due to their silence regarding the manifest conflicts of interest. In the transformative adjudication of *Landreville v. Town of Boucherville*, [1978] 2 S.C.R. 801 (the "**Landreville**"), the *Supreme Court of Canada* adopted the common law maxim from *Lazarus Estates Ltd. v. Beasley*, [1956] 1 Q.B. 702 (the "**Lazarus Estates**"), establishing that fraudulent conduct—characterized as **"dolus malus"** (the "Dolus Malus")—serves as the **"fons et origo"** (the "Source and Origin") to unravel the entirety of antecedent transactions and judicial *acta*. The principle of **"fraus omnia corrumpit"** (the "Fraud Vitiates Everything") is thus a constitutional necessity for the preservation of institutional integrity.

44. The *Landreville* jurisprudence confirms that egregious comportments, including fraud, dishonesty, and bad faith (collectively, (the "**Special Categorical Causes of Nullity**")), possess a **"vitiating quality"** (the "Vitiating Quality") that necessitates the immediate restoration of the status quo ante (the "**Status Quo Ante**"). This represents the ultimate authority for the court to purge its record of illicit influence.

45. A contextual irony is observed regarding the recent arrest and charging of a *Toronto Police* officer, Constable Derek McCormick of the 52 Division, on counts of theft, breach of trust, and obstruction of justice involving the recovery of government-issued identification, bank cards, and passports (see: https://www.tps.ca/media-centre/news-releases/65035/).

46. . It is noted that the Applicant previously reported the theft of identical items—specifically a passport, bank cards, and identification—in a matter overseen by Detective Abdulhameed K. Virani of the same division. While the temporal correlation may be coincidental, these facts are subject to the relief sought in *Notice of Motion #3*.

47. It is submitted that the convergence of executive overreach and the documented failures of the *Divisional Court* to maintain its own registry integrity constitutes an attempt to marginalize a disabled individual. However, for the *primus inter pares*, the rectification of these *acta* is not a discretionary exercise but a mandatory requirement to be executed *forthwith*. There is no *quid pro quo* here but rather duties that only the President of the Divisional Court (Chief Justice of the SCJ) can discharge. The Applicant, with a valid power of attorney and will, will see all of these issues to the end in living corpse or from the grave because these are the most grave concerns with general questions of law of central importance to the legal system as a whole. What makes this country is great is the independence of the judiciary which gave Mr. McLean the access to the courts in BC to ensure that the public interest would benefit. It is also our administrative tribunals like the OIPC (BC) that assisted in the same. Benefit it did with the overhaul of a regulatory body engaged in criminal conduct and fraud and ensuring that the "old boys club" would cease. It took seven years for Mr. McLean to discover the worst fraud on a professional in Canadian regulatory history but also his former clients with a criminal RAM dump without even the pretense of an administrative order or a judicial warrant authorizing the same. It seems like a déjà vu all over again.

48. Ontario does have the option to follow suit (pardon the pun) but it must and it starts and ends with the primus inter pares in the Chief Justice of the SCJ (Ontario) in his also unique role as the President of the Divisional Court.

49. Never a wrong time to do the right thing.

5111 All of which is respectfully submitted by the Applicant and Moving Party **exclusively to the President of the Divisional** Court on February 3, 2026



Mr. Kevin A. McLean (B.A. J.D., CIM)
Self-represented,
The Applicant and Moving Party herein

ENDNOTES

[1]*Chubb Insurance Co. of Canada v. Zurich Insurance Company*, 2024 ONSC 2929 (CanLII), <https://canlii.ca/t/k4tln>, retrieved on 2024-12-10 (see: *Zurich 2024*, paragraph 6 (see: https://canlii.ca/t/k4tln#par6)).
[2]*Chubb Insurance Co. of Canada v. Zurich Insurance Company*, 2024 ONSC 2929 (CanLII), <https://canlii.ca/t/k4tln>, retrieved on 2024-12-10 (see: *Zurich 2024*, paragraph 16 (see: https://canlii.ca/t/k4tln#par16)).
[3]The Applicant erred in omitting said word in his JRPA Application and he apologizes to this ONSC Div. Court and the respondents for the same.
[4]*Chubb Insurance Co. of Canada v. Zurich Insurance Company*, 2024 ONSC 2929 (CanLII), <https://canlii.ca/t/k4tln>, retrieved on 2024-12-10 (see: *Zurich 2024*, paragraph 54 (see: https://canlii.ca/t/k4tln#par54)
[5](see: paragraph 15 of the ***JRPA* Application**).
[6]*Chubb Insurance Co. of Canada v. Zurich Insurance Company*, 2024 ONSC 2929 (CanLII), <https://canlii.ca/t/k4tln>, retrieved on 2024-12-10 (see: *Zurich 2024*, paragraph 8).
[7]*Chubb Insurance Co. of Canada v. Zurich Insurance Company*, 2024 ONSC 2929 (CanLII), <https://canlii.ca/t/k4tln>, retrieved on 2024-12-10 (see: *Zurich 2024*, paragraph 29).
[8]Herein, there was no evidence that TDHA paid any benefits but there was also no evidence that TDHA disputed its liability and obligations.
[9]*Chubb Insurance Co. of Canada v. Zurich Insurance Company*, 2024 ONSC 2929 (CanLII), <https://canlii.ca/t/k4tln>, retrieved on 2024-12-10 (see: *Zurich 2024*, paragraph 10).
[10]on a provisional basis but with an ability to step out of those shoes if the First Insurer avails itself to the *Reg 283* protections and obtain reimbursement from the liable insurer after provisionally responding to the Claimant (i.e. legal fees, disbursements, administration fees et al)
[11]*Zurich Insurance Co. v. Chubb Insurance Co. of Canada*, 2015 SCC 19 (CanLII), [2015] 2 SCR 134, <https://canlii.ca/t/gh85t>, retrieved on 2024-12-10
[12]*Chubb Insurance Co. of Canada v. Zurich Insurance Company*, 2024 ONSC 2929 (CanLII), <https://canlii.ca/t/k4tln>, retrieved on 2024-12-10 (see: *Zurich 2024*, paragraph 12).
[13]*Chubb Insurance Co. of Canada v. Zurich Insurance Company*, 2024 ONSC 2929 (CanLII), <https://canlii.ca/t/k4tln>, retrieved on 2024-12-10 (see: *Zurich 2024*, paragraph 14).
[14]Zurich Insurance v. Chubb Insurance, 2012 ONSC 6363 (CanLII), <https://canlii.ca/t/ftr4c>, retrieved on 2024-12-10
[15]As this ONSC will know, that is such a unique event by our SCC where they do not even wish to put any such amendments or clarity to a dissenting decision of the ONCA. While the justices in our province are not in the "business of counting their press clippings", it is a testament to how analytically sound The Honourable Justice Jurianz was in those dissenting reasons.
[16]Zurich Insurance Company v. Chubb Insurance Company of Canada, 2014 ONCA 400 (CanLII), <https://canlii.ca/t/g6vrk>, retrieved on 2024-12-10
[17]https://www.torontomu.ca/criminaljusticefirsts/courts/Russell-Juriansz/
[18]Zurich Insurance Company v. Chubb Insurance Company of Canada, 2014 ONCA 400 (CanLII), <https://canlii.ca/t/g6vrk>, retrieved on 2024-12-10
[19]Zurich Insurance Co. v. Chubb Insurance Co. of Canada, 2015 SCC 19 (CanLII), [2015] 2 SCR 134, <https://canlii.ca/t/gh85t>, retrieved on 2024-12-10
[20](see: *Zurich 2024*, paragraph 15).
[21]*Chubb Insurance Co. of Canada v. Zurich Insurance Company*, 2024 ONSC 2929 (CanLII), <https://canlii.ca/t/k4tln>, retrieved on 2024-12-10
[22]*Chubb Insurance Co. of Canada v. Zurich Insurance Company*, 2024 ONSC 2929 (CanLII), <https://canlii.ca/t/k4tln>, retrieved on 2024-12-10 (see: *Zurich* 2024, paragraph 64).
[23]Pursuant to section 280(1) of the *Insurance Act*, "this section applies with respect to the resolution of disputes in respect of an insured person's entitlement to statutory accident benefits *or* in respect of the amount of statutory accident benefits to which an insured person is entitled." Pursuant to ss. 280(2) of the *Insurance Act*, "The insured person *or* the insurer *may* apply to the Licence Appeal Tribunal to resolve a dispute described in subsection (1)". No person may bring a proceeding in any court with respect to a dispute described in subsection (1), other than an appeal from a decision of the Licence Appeal Tribunal or an application for judicial review: ss. 280(3) of the *Insurance Act*. The dispute shall be resolved in accordance with the *Statutory Accident Benefits Schedule*
[24]. 2014, c. 9, Sched. 3, s. 14: ss. 280(4) of the *Insurance Act*.
[25](see: "statutory accident benefits" mean the benefits set out in the regulations made under paragraphs 9 and 10 of subsection 121 (1) of the *Insurance Act*; see: section 121(a): "121 (1) The Lieutenant Governor in Council may make regulations").
[26]The Applicant notified SNIC, pursuant to the *Schedule*, s. 32, in early September 2022, that he wished to apply for benefits making SNIC not only the Sole Underwriter but the First Notified Insurer.
[27]The Applicant, in his capacity as a *SABS* applicant, sent the Completed Application [OCF-1] to the **North York Fax Number** on October 12, 2022. Ergo, at law, the *SABS* Applicant sent, or "served" only one **Completed Application** to only one insurer in TDHA. TDHA was the sole insurer that first received (the "First Insurer") the ***SABS* Applicant's Completed Application**.
[28]In fact, and at law, SNIC did not stop the Applicant from submitting his Completed Application to TDHA in that it provided him with the **TDHA Fax Number**. It is the word "accept" that is so pivotal in this ***JRPA* Application** by VCM's choice of language at paragraph 27 therein.
[29]"first party insurer" means the insurer responsible under subsection 268 (2) of the Act for the payment of statutory accident benefits; ("assureur de première part"): Automobile Insurance, RRO 1990, Reg 664, s 9, <https://canlii.ca/t/tlw#sec9>,
[30]The word "accept" is of great importance considering the finding by VCM, without any evidence in the record of proceeding to support the same, that TDGIC and SNIC jointly ***accepted*** priority of the Applicant's [sic] insurance policy [sic] (see: paragraph 27 of the **VCM Decision**).

[31]As SNIC was the Sole Underwriter in the Insurance Policy, the Applicant has alleged that SNIC (as First Notified Insurer) breached section 2.1(5) of *Reg 283* by taking action, with intent (as it knew that its fax number was not the **North York Office Fax Number**), to prevent or stop the Applicant from submitting his Completed OCF-1 to it [SNIC] as it is an out-of-province insurer.

[32]In relation to the lack of promptness, SNIC somehow sent the Applicant's accident benefits package to the wrong postal code address yet his Spouse received her accident benefits package to the correct postal code when they lived in the same residence

[33]Further, the Applicant provided uncontroverted evidence that SNIC failed to provide its correct facsimile address in the Completed Application but instead provided the fax number of TDHA and thereby breached subsection 2.1(3) of *Reg 283*.

[34]Reimbursement by the non-compliant insurer during the period of non-compliance (see: ss. 2.1(7) of *Reg 283*): (i) legal fees; (ii) adjuster's fees; (iii) administrative costs; and (iv) disbursements

[35]Subsection 2.1 of *Reg 283* applies to this judicial review as the Accident occurred on August 31, 2022, which was after September 1, 2010.

[36]Whether SNIC was to remain for costs purposes in the McLean LAT Proceeding was a matter of discretion, but the sole respondent insurance company as a matter of obligations under *Reg 283*, *SABS* and *Reg 664* was not. However, the Applicant's argument was encapsulated by a rhetorical question: *why should he not have any ability to seek costs against SNIC for its conduct in the LAT Proceeding that he alleged and alleges was unreasonable, frivolous, and in bad faith?* Costs are not a matter that relate to the *Insurance Act*, and the binding regulations herein (*SABS* and *Reg 283*), as the Tribunal passed them under a different statute: section 17.1 of the SPPA. Put another way, is the Applicant's time not worth anything when it required hundreds of hours to obtain the order in NOM #8?

[37]Even when the OCF-19 was fax delivered, in November 2023, to the VP Bldg. 4th Floor Fax Number, and when SNIC's fax number (**Burlington 905 Fax Number**) was blocking the same, SNIC responded by misidentifying one of the legal tests for a duly completed OCF-19 and merely enclosed a copy of a blank OCF-19. Moreover, when considering the **Forged Signature** in the OCF-18, last page only, it could not have been SNIC, although it appeared that way in HCAI by insurer name but NOT physical address, with the "As per A. Nurse", it was TDHA's address (East Mall Etobicoke Address) that received the duly completed OCF-18 at first instance. Perhaps, this is why Ms. Nurse, an adjuster, was not amenable to executing the same.

[38]The same would have been applicable to TD Staff Legal and Mr. Nieuwland with its fax and his listed fax number with the LSO. Said unappealed findings are determinative that *neither* SNIC nor TDGIC were the First Insurers by way of the fax served Completed Application upon the 4th Floor VP Building Fax Number which was TDHA.

[39]"If the Licence Appeal Tribunal finds that an insurer has unreasonably withheld or delayed payments, the Licence Appeal Tribunal, in addition to awarding the benefits and interest to which an insured person is entitled under the Statutory Accident Benefits *Schedule*, may award a lump sum of up to 50 per cent of the amount to which the person was entitled at the time of the award together with interest on all amounts then owing to the insured (including unpaid interest) at the rate of 2 per cent per month, compounded monthly, from the time the benefits first became payable under the *Schedule*. O. Reg. 43/16, s. 4.".

[40](like the vacillation of findings and orders of the arbitrator, ONSC (Goldstein J. in the ONSC), reversed by the ONCA, and the ONCA reversed by the SCC adopting the dissent of Justice Jurianz)

[41]It is trite that while the Tribunal is required to determine whether Mr. McLean was entitled to certain benefits and in what amounts, it also must determine which insurance company was and is liable for certain benefits and at what times. It can only do that if that the First Insurer is found to be TDHA and that decision must come from the ONSC.

[42] There was no evidence and none in the Application Record that TDHA, or any insurer, ever did so. Even on the convoluted, tortuous, unsupported and absurd logic of VCM that SNIC and TDGIC accepted priority over the Insurance Policy, there was some form of "transfer of the claim" to TDGIC which would have required notice to, at least, TDGIC and the *SABS* Applicant. No evidence was ever provided of such written notice to either.

[43]Mr. McLean was also entitled to object to SNIC (and TDGIC as he had done previously) having any control or possession of his TD Claim #3 relating to "confidential information" and documents not subsequently received by it in accordance with standardized language in the OCF-1 and *PIPEDA*. There is no dispute that TD Claim #3 was transferred from TDHA to TDGIC and SNIC. SNIC claimed to have received documents but not directly from the Applicant. SNIC purported to respond or did respond to the Applicant in relation to some communications but not all communications. TDGIC then surfaced at the LAT Proceeding but only after inclusion by the Tribunal without the consent of the Applicant or without any legal authority. SNIC filed its Response ("SNIC Response") on January 25, 2024, and then Mr. Nieuwland filed a DOR on behalf of TDGIC – not SNIC. The charade continued for six months until Mr. McLean, relying on Mr. Nieuwland's misrepresentations in non-transcribed case conference, which was yet another irremediable nullity and without statutory power as TDGIC was a non-party, that SNIC and TDGIC were "one and the same" and "this is how we always do it" (in relation to TDGIC being some sort of insurance company that came "off the bench" to provide a "spark" to the "defence" for SNIC as if it were some kind of sporting event). While there is no dispute of some form of transfer from TDHA to SNIC and, of course, with some unknown terms and conditions involving TDGIC on some basis perhaps on a joint level but more likely some form of "staggered interventions" based on unknown terms and conditions in this "subsequent clandestine agreement", there are no particulars in the decision of VCM. Moreover, any such transfer was without notice to Mr. McLean, and without compliance with *Reg 283*. The scheme of *Reg 283* requires substantive and procedural compliance and TDHA along with SNIC and TDGIC intentionally breached *Reg 283* without any form of attempt to cure the same. The required FSRA form did not matter to TDHA. The closest evidence that this ONSC has is a fax from an unknown fax number to Mr. McLean that TDHA had no record of his claim as of March 2023 (and then another letter in August 2024 albeit after NOM #14 and NOM #15). It was a fax without any semblance of compliance with *Reg 283*, and *SABS* to some degree, and the FSRA Form 143. It directed Mr. McLean to other fax numbers in Calgary, Montreal, New Brunswick and Burlington without reference to any insurance company. Mr. McLean was entitled, after lengthy investigation and fortuitous discoveries, was entitled to object and required to bring the issue forward as to TDHA not complying with its duties to respond and to pay benefits as the First Insurer.

[44]Due to the public importance of the issues herein, the Applicant respectfully, yet forcefully, notes that the LGIC did not create any ability for an insured person (applicant) to consent or sanitize the breaches that have occurred herein. Put another way, the LGIC did not pass any provisions that would authorize an insured person to sanitize or remedy such clandestine breaches to provide post-facto consideration that cure such non-compliance with *Reg 283*. Therefore, this undisclosed agreement by the respondent insurance companies, known to the Tribunal but not the Applicant, has no legal force or effect. The purposes of the inflexible prescribed regulations are to promote compliance with the statutory scheme

and not to assist insurance companies and insured persons in isolated incidents so that an "insured person" can assist delinquent and felonious activities. To not set aside the VCM Decision and replace it with a correct decision, while the ONSC commences *ab initio*, would represent a precedent that contains a "slippery slope". Perhaps, "insurance companies" like this collection of respondent insurance companies may send a late notice with a semi-contemporaneous phone call to an insured person that may be in the form of a bribe so that the "checks and balances" of various regulatory bodies (FSRA, LSO, OPCC et al) do not catch "wind of the unlawful scheme".

[45]A 403 Forbidden error means the web server understood your request but refuses to authorize access to the requested page or resource, indicating you lack the necessary permissions, like a locked door even with a key (see: https://www.plesk.com/blog/various/403-forbidden-error-what-is-it-how-to-fix-it/#elementor-toc__heading-anchor-0)

[46] This assignment is vital to prevent a miscarriage of justice necessitated by the inextricable nexus between the matters at hand and the requirement for the highest level of judicial oversight.

[47]This order is made purely to maintain the appearance of total judicial impartiality and to ensure that the adjudication of the merits of the JRPA proceeding is not obscured by collateral disputes regarding judicial conduct;

[48]This order applies to all requests for which a Request Form Undertaking has been submitted and for which the Applicant has made the prescribed payment, ensuring that the Applicant has a complete and accurate record of all oral submissions and judicial directions;

[49]This order recognizes that the open court principle extends to the administrative records necessary to verify the regularity of court proceedings;

[50]This timeline is mandated to compensate for the significant procedural delays already incurred and to ensure the Applicant is not further marginalized by administrative silence;

[51]n the claim, the plaintiff states that Farnoosh was present at "various meetings" where her mother, the defendant Kobra Fathi declared herself to be the sole support parent and where she (Farnoosh) remained silent and failed to correct the misinformation provided to the Region and to the Halton Housing Authority by the mother. The "failure to correct" is stated to be the equivalent of making a false representation to the plaintiff. I disagree. The plaintiff's counsel relied on the case of *Sidhu Estate v. Bains*, 1996 CanLII 3332 (BC CA), [1996] B.C.J. No. 1246 to establish that silence in the face of a false representation can lead to liability for deceit. In the *Sidhu Estate* case, the B.C. Court of Appeal found that all the elements of a successful claim in deceit were proven against the defendant Bains who had remained silent at the time false information had been communicated to induce an executor to invest estate monies in a company in which the defendant had an interest. Bains was a director, shareholder and president of the company. The directors and shareholders intended the company to be listed on the VSE. The defendant attended a meeting with the estate executor where false statements were made particularly with respect to the extent of Bain's investment in the company. Bains remained silent when these false representations, designed to induce investment by the executor, were made. Liability was found.

Tab 76

Court File No. DC-24-00000718-00JR

ONTARIO SUPERIOR COURT OF JUSTICE
(DIVISIONAL COURT)

BETWEEN:

KEVIN ALEXANDER MCLEAN

APPLICANT

- and -

TD HOME AND AUTO INSURANCE COMPANY, SECURITY NATIONAL INSURANCE COMPANY, TD GENERAL INSURANCE COMPANY, EXECUTIVE DIRECTOR, LICENCE APPEAL TRIBUNAL, HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, REPRESENTED BY EXECUTIVE CHAIR OF TRIBUNALS ONTARIO IN MR. SEAN WEIR, THE ATTORNEY GENERAL OF ONTARIO

RESPONDENTS

FACTUM OF THE APPLICANT FOR MOTION #6

(Motion to the Chief Justice pursuant to section 123 of the *Courts of Justice Act* and the Primus Inter Pares doctrine authorities of *Ruffo 1995* to *R. v. Swaine* (the last 30 years)

VOLUME #1: OVERVIEW: THE CONSTITUTIONAL IMPERATIVE OF TIMELY ADJUDICATION

1. This motion, without notice generally and not to be served on the Respondents as they did not and have not "Delivered" a NOA along with the failure of a judge of the Divisional Court sitting as a Motion Judge in relation to the Written Hearing for NOM #2 not issuing a decision within three months or six months of February 14, 2025, is respectfully yet exclusively submitted to the Honourable Chief Justice of the Superior Court of Justice, in the exercise of his vested adjudicative authority as the President of the Divisional Court, for the purpose of securing required Orders pursuant to the remedial provisions contained within *section 123(4)* and (7) of the *Courts of Justice Act*, RSO 1990, c. C. 43 et seq (the "***CJA***") directing that the motion for judgment (the "**NOM #2**") be "reheard" in its entirety. It appears that no Judge of the Divisional Court has made and relay a decision in relation to NOM #2. This does not mean that NOM #2 is a foregone conclusion per se as there are elements of it, if it had been converted or will be converted to a motion for Judgment that involve the application of the standard of review to the VCM purported or refusal of exercises of statutory powers of decision along with that of VCL (see: Compendium of February 14, 2025 which is provided in its electronically filed form to the Divisional Court President).

2. It is trite that de facto statutes prevail over regulations which is known as legislative or legislature supremacy (the "Statutory Supremacy").

3. It is observed that, periodically, a specific litigation presents as a Chief Justice of a court of justice, particularly a section 96 of the Constitution Act, 1867, court (a "**Section 96 Court**") (a "**Chief Justice Case**"). Such a case is defined by four potential challenges, the pervasive controversy, the high-profile nature thereof and/or where effectively situating the institutional integrity of the court as the primary focus (see: *Baldovi v. R.*, 2016 MBQB 167 (the "***Baldovi***"), paragraph 72; BOA, *Tab 69*, as per the reasoning of the then and current Honourable Chief Justice of the Manitoba King's Bench, Mr. Justice G. Joyal, whose observations are herein adopted as pertinent to the current administration of the *Superior Court of Justice* ("SCJ") in Ontario). In such instances, the standard adjudicative process is deemed **insufficient** to preserve the perceived and actual dignity of the institution (a Section 96 Court as a whole (see: BOA, Tab 66: *R. v. Siwicki*, 2021 MBQB 42 at paragraph 50[i] ["*Siwicki*"]), requiring instead the unique stewardship of the President of the Divisional Court to ensure that the rule of law remains the preeminent consideration over and above administrative convenience. The current proceeding, characterized by systemic failures within the registry and the unauthorized assumption of jurisdiction, constitutes a definitive and ontological example of such a case, where the very legitimacy of the tribunal is subjected to profound scrutiny.

4. While the Divisional Court is not a Section 96 Court, it is even more compelling when the conduct, controversies and integrity concerns are not limited to a single digit or a single person and in light of the various exoduses by so many different individuals from so many different vocations both private and public.

5. At this rate, there will be no one left from this voluminous public-private army that came for Mr. McLean in 2024.

6. Within the hallowed and coveted framework of the Canadian judiciary, there exist merely ten chief justices presiding over the provincial superior courts, or **"section 96 courts"** (the "Section 96 Courts"). The Honourable Chief Justice Morawetz has occupied the office of Chief Justice of the *Superior Court of Justice* (Ontario) since 2019, having ascended to the bench in 2005. Since the 1995 adjudication in *Ruffo v. Conseil de la magistrature*, [1995] 4 S.C.R. 267 (the "***Ruffo***"), as cited by *Baldovi*, the doctrine of **primus inter pares** (the "Primus Inter Pares") has emerged as a substantive, rather than merely ceremonial, designation of seniority. This doctrine has incrementally evolved

through the *interstices* of judicial precedent to recognize that a Chief Justice of a *Section 96 Court* possesses an inherent suite of responsibilities that need not be explicitly conferred by statute or regulation

7. In *Information Commissioner (Canada) v Canada (Minister of Employment and Immigration)*, 1986 CanLII 6836 (FC) (*Information Commissioner*), invoking *Julius v Oxford (Bishop of)* (1880), 5 App Cas 214 (*Julius*), the court established the foundational syllogism (the "**Julius Syllogism**"): notwithstanding that a power may appear permissive in its linguistic configuration, a compulsory mandate (the "**Compulsory Mandate**") arises *ipso facto* if said power is provided for the purpose of making good a right. It is posited that when the legislature confers a power upon a judicial officer to vindicate the vested rights of a subject, the exercise of that power ceases to be a matter of mere administrative grace and is metamorphosed into a binding public duty. The principle of legal certainty is thus vitiated when the judicature fails to discharge this **Compulsory Mandate**, creating a state of lawlessness within the record.
8. The fulfillment of fiscal and procedural requirements—specifically the filing and payment for **NOM #2** on January 31, 2025—constituted a condition precedent (the "**Condition Precedent**") for the Court's exercise of jurisdiction. Pursuant to the **Julius Syllogism**, the word "may" in the enabling statute is transformed into an imperative "must." The jurisdiction of the Court to decide the motion became mandatory upon the payment of fees and perfection of the record. This doctrine prevents the judicature from arbitrarily refusing to decide cases properly before them, turning a power into a public duty that cannot be ignored without constitutional consequence. To permit a judge to accept the remission of fees without the concomitant delivery of the adjudicative product is to sanction a form of institutional enrichment that is fundamentally antithetical to the *lex terrae*. Such a failure to act renders the state's promise of justice illusory and fraudulent.
9. The **Julius Syllogism** serves as a check on "judicial non-feasance," ensuring that the state's promise of a day in court is not rendered illusory by the refusal of the bench to engage with the record. When the subject has performed every statutory act required to trigger the adjudicative function, the Court loses the discretion to remain silent. Any further delay constitutes a breach of the **Compulsory Mandate**, transforming the administrative failure into a substantive violation of the Rule of Law. The resulting interregnum (the "**Interregnum**")—a period where the law exists but does not speak—vitiates the very purpose of the social contract heretofore existing between the sovereign and the subject.

this **Interregnum**, the subject is placed in a labyrinthine void (the "**Labyrinthine Void**") where rights are neither vindicated nor extinguished, but are simply extinguished through silence.

10. Recognition is afforded to the principle articulated in *Trial Lawyers Association of British Columbia v British Columbia (Attorney General)*, 2014 SCC 59 (*TLABC 2014*), where the Supreme Court of Canada affirmed that the provincial power to amend procedural rules cannot be exercised in a manner that effectively denies the right of subjects to have their legal disputes resolved by a superior court. Judicial delay of the magnitude currently experienced operates as a functional equivalent to a prohibited financial barrier, effectively barring the doors of the Section 96 Court through administrative inertia and creating an impenetrable barrier to the *lex terrae*. This species of administrative blockade (the "**Administrative Blockade**") effectuates a strategic erasure of the subject, rendering the right to access the Queen's Bench a mere theoretical phantom. The circumscription of the judicial duty is concomitant with the total vitiation of the separation of powers.

11. As documented in the Compendium (February 14 2025), filed and served pursuant to *Rule 4.03.3* on February 11, 2025, albeit not required as NOM #2 was unopposed, the **NOM #2** was proposed, and without an order of the Divisional Court that it be heard with the attendance of the parties, to be determined as a written hearing without the public's viewing (absence of the public). Notwithstanding the strictures of the *Rules of Civil Procedure* (the "***Rules***"), the Responding Issue #ies failed to invoke *Rule 37.12.1(5)(d)* or provide any prescribed notices or objections to the written format of the hearing. This total failure to respond has resulted in a procedural vacuum where the best evidentiary case remains unaddressed by both the Respondents and the Court, thereby necessitating this extraordinary remedial application. The failure of the state respondents to engage with the written hearing process, coupled with the subsequent failure of the Court to adjudicate in the form of a Hearing, represents a systemic breakdown of the adversarial process, shifting the burden of procedural continuity entirely onto the Applicant and the Chief Justice.

12. Reliance is placed upon the comprehensive remedial architecture of the ***CJA***, which functions as a quintessential statutory safeguard against the deleterious and systemic vitiation of judicial efficiency in instances where a final determination remains outstanding beyond the specific temporal parameters established by the promulgation of the *lex terrae*. The functional continuity of the judicature is contingent upon the rigid and unwavering adherence to these statutory fail-safes, which represent the absolute floor of administrative expectation within a constitutional democracy

dicated upon the Rule of Law. To permit a departure from these mandates is to sanction a metamorphosis of the judicial branch from an arbiter of vested rights into a source of procedural opacity and administrative desuetude, thereby vitiating the very purpose of the adjudicative act.

13. The nomenclature of the legislation itself provides a linguistic syllogism: it is designated the *Courts of Justice Act* (the "***CJA***"), an appellation that underscores the positive obligation to render justice, thereby eschewing the possibility of a "Courts of Non-Decision Act." The legislative intent behind the ***CJA*** is to provide a robust framework for the actualization of judicial power; when that power remains latent or unexercised, the statute is rendered a mere collection of hollow exhortations rather than a binding instrument of statecraft. Justice delayed is not merely justice denied; it is a functional abdication of the sovereign's promise to the subject, resulting in an ontological erasure of the legal remedy sought and a total collapse of the adjudicative objective. The absence of a decision is a functional denial of the existence of the law itself, leaving the subject in a state of legal non-existence. The lack of a judicial utterance (the "**Judicial Utterance**") results in a total failure of the adjudicative act.

14. *Section 71* of the ***CJA*** was amended in 2006 to integrate specific temporal mandates, reinforcing the principle that judicial authority is not an abstract power but a duty to decide. These amendments were promulgated to ensure that the *status quo ante* of the common law—wherein a judge possessed an unfettered and unaccountable discretion regarding the duration of a reserved judgment—was superseded by a modern, transparent system of time-limited adjudication. This temporal limitation is not a mere suggestion of administrative preference but a mandatory boundary of the judicial function itself, designed to prevent the indefinite and arbitrary suspension of legal rights within a labyrinthine procedural void. The transition from common law discretion to statutory mandate reflects a fundamental shift toward institutional accountability in the exercise of Section 96 powers.

15. The integrity of the judicial branch is fundamentally tethered to its capacity to render timely resolutions; where that capacity falters, the very legitimacy of the adjudicative act is imperiled, inviting a state of procedural lawlessness that undermines the social contract (the "**Social Contract**") heretofore existing between the sovereign and the subject. The judicial function is not merely the exercise of power, but the timely discharge of a constitutional duty to provide an answer to the *lis* brought before it; an unanswered *lis* constitutes a functional denial of the existence of the law itself. Such a denial creates a state of interregnum where the legal rights of the parties are suspended in a state of

permanent stasis, neither vindicated nor extinguished, but effectively nullified through judicial inaction and systemic neglect.

16. The consequences of such judicial inertia are far-reaching, extending beyond the immediate parties to the very foundations of the administration of justice. A court that does not speak is a court that does not govern; where the law is silent, the vacuum is invariably filled by arbitrary executive action or the unchecked exercise of private power. This state of affairs constitutes a functional erasure of the statutory and constitutional identity of the subject, reducing said subject to a mere spectator in a process that was ostensibly designed for protection. The resulting constitutional vacuum (the "**Constitutional Vacuum**") allows administrative error to persist in perpetuity, immune from the light of judicial scrutiny. This state of affairs is fundamentally antithetical to the *lex scripta* and the requirements of due process. It is posited that the current procedural posture—manifested by a labyrinthine and multi-layered delay exceeding six months beyond the statutory guideline and over one year since the initial returnable date—necessitates the immediate and decisive intervention of the Chief Justice to obviate a catastrophic failure of the adjudicative process. The circumscription of the judicial duty to provide timely adjudication is not merely a matter of administrative convenience but is concomitant with the fundamental right to access to justice under *section 96* of the *Constitution Act, 1867*. The persistence of this delay has effectively created a jurisdictional impasse that requires the invocation of the ultimate jurisdiction (the "**Ultimate Jurisdiction**") of the Chief Justice to prevent the further erosion of public confidence in the administration of the law.

VOLUME #2: NO REQUIREMENT TO OBEY ACTS OF A JUDGE WHO IS CORAM NON JUDICE

17. The legal framework of this jurisdiction requires that for the adjudicative manifestations of a member of the judiciary to possess binding efficacy, such acts (the "***Acta***") must emanate exclusively from the authorized office and pertain strictly to the prescribed duties associated therewith. The unauthorized assumption of power is a strike against the heart of the Rule of Law. Madam Justice Shore purported to exercise the functions of a Case Management Judge notwithstanding the absence of a designation. Such purported authority constitutes a jurisdictional nullity (the "**Jurisdictional Nullity**"), for a judge without a commission is merely a legal stranger to the record. The exercise of power without mandate (the "**Mandate**") is a nullity that cannot be cured by subsequent acquiescence. The maxim *Factum a*

judicium quod ad officium jure non pertinet, ratum non est (the "**Factum a Judice**") dictates that such acts are of no force. Since there was no Order for "Assignment For Case Management," any acts arising from such unauthorized intervention are void *ab initio* (the "**Void Ab Initio**") and do not invoke issue estoppel or *res judicata*. This jurisdictional void (the "**Jurisdictional Void**") must be expunged to prevent the enduring contamination of the *lex terrae*. The preservation of curial integrity necessitates that the record be purged of any manifestations arising from an office that was never legally vested. A judge who acts outside the statutory roadmap (the "**Roadmap**") functions as a mere private actor under the color of office.

18. A definitive demarcation exists between the erroneous exercise of extant jurisdiction and the total usurpation of a jurisdiction that has not yet vested. For an act to be categorized as an inherent nullity (the "**Inherent Nullity**"), an unfulfilled condition precedent to the conferment of authority must exist. The judicial officer, acting without a mandate, functions as a legal stranger to the file, and any resulting orders are born dead (the "***Coram Non Judice***"). The power to manage is an anchored authority, predicated upon the strict and literal fulfillment of the ***Rules***. To hold otherwise would allow for a system of autocratic regression (the "**Autocratic Regression**") where the whim of the officer supplants the mandate of the law. The absence of a designation renders any purported case management an act of pure whim, detached from the requirements of the *lex scripta*. This functional abdication (the "**Functional Abdication**") occurs the moment a judge prioritizes managerial interference over the passive adjudication of a live controversy. By stepping outside the statutory path, the judge transitions from a neutral arbiter to an agent of executive transformation (the "**Executive Transformation**"), thereby triggering the direct liability of the state for the resulting damages. The evaporation of immunity ensures that power is not exercised in a **Constitutional Vacuum** or as an agent of the executive branch. Immunity is a shield for the office, not a license for the officer to operate *ultra vires*. When a judge assumes a role that the Chief Justice has not assigned, they effectuate a functional closure (the "**Functional Closure**") of the legitimate court. This administrative capture effectuates a functional closure of the judicature, wherein the administrative shield (the "**Administrative Shield**") is deployed to obstruct and suppress merit-based judicial scrutiny. Such a species of actual, functional, or partial closure, when orchestrated by the Executive Branch, constitutes an *ultra vires* encroachment upon the right to an impartial and independent judiciary. The independence of the bench is not a mere professional courtesy; it is the absolute floor of institutional legitimacy. The withdrawal of support staff or the withholding of records (the

"**Withholding of Records**") mirrors the administrative capture heretofore identified in the jurisprudence of the Supreme Court of Canada

19. This principle was poignantly demonstrated in *Reference re Remuneration of Judges of the Provincial Court of Prince Edward Island; Reference re Independence and Impartiality of Judges of the Provincial Court of Manitoba*, 1997, 3 SCR 3 (*1997 Judicial Independence Reference*). The Supreme Court determined that judicial independence transcends its status as a mere *Charter* right; it is an unwritten constitutional principle (the "**Unwritten Constitutional Principle**") rooted in the Preamble of the *Constitution Act, 1867*. At paragraph 270 of the *1997 Judicial Independence Reference*, the Court observed that administrative independence is a collective right of the court as an institution, which even a Chief Judge cannot waive through acquiescence to executive demands. At paragraph 270 of the *1997 Judicial Independence Reference*, the Court observed that administrative independence is a collective right of the court as an institution, which even a Chief Judge cannot waive through acquiescence to executive demands. Any unilateral closure of a court by the Executive Branch—or the withdrawal of support staff prior to judicial orders—constitutes a *prima facie* violation of judicial independence. The "Filmon Friday" precedent serves as an absolute prohibition against the Executive Branch treating the judiciary as a mere subsidiary of the civil service. When the registry operates as a blockade, it effectuates the **Strategic Erasure** of the subject, rendering the Rule of Law a collection of hollow exhortations.

VOLUME #2(A): THE ADMISSION OF NON-HEARING STATUS: THE SCJ RECORDING MANAGEMENT OFFICE EVIDENCE

20. If there was any dispute as to whether the conferences were not hearings, the evidentiary nexus substantiating the involvement of Shore J. became apparent on October 10, 2025. Leaving aside that Madam Justice Shore was unauthorized and *Coram Non Judice* and *Factum a judice, quod ad officium jure non pertinet, ratum non est*, her status as a non-hearing judge is confirmed by her own admissions to the SCJ Recording Management Office. Through September and October 2025, efforts were sustained to procure undisclosed documents serving as the genesis of the criminal proceeding. The extrapolation of legal principles dictates that her insistence upon a "case conference" arose from an erroneous presumption of "family law" jurisdiction.

21. Shore J. effectively buried her own jurisdictional standing by taking the position that transcripts could not be produced because the attendances were merely "conferences." The SCJ Recording Management Office advised:

5124 ***"Justice Shore has advised as follows: The attendances were case management conferences and we do not release transcripts for conferences. No transcript/audio can be provided."***

22. By explicitly denying the release of transcripts on the basis that the proceedings were conferences, Shore J. admitted as a matter of fact and law that these were not "hearings." This admission is fatal; if the attendances were not hearings, they could not have been the venue for any valid adjudicative act, confirming her role was that of an unauthorized Case Management Judge acting entirely outside the mandate of a hearing judge. In Duggan v. Durham Region Non-Profit Housing Corporation, the Court of Appeal reminded the lower courts that even the "inherent jurisdiction" of the court cannot be used to override specific rules. Specifically, the court found that Rule 6.1.01 (regarding bifurcation) ousts a judge's inherent jurisdiction to bifurcate a trial without consent. By analogy, the specific requirements for assignment under Rule 77.02 and 77.05 oust any inherent power a judge might claim to "manage" a case outside the standard rules without a formal order.

VOLUME #2(B): REAFFIRMING PROCEDURAL INTEGRITY IN AN ERA OF BACKLOGS

23. As of December 13, 2024, the *JRPA* Application (not an Appeal) was perfected. It was to be listed for hearing and a Form 68B was to be issued. The jurisdictional boundaries of Rule 77 are not mere technicalities; they are the structural supports of a fair and predictable legal system. While the pursuit of judicial economy is a laudable goal, it cannot be achieved by a "shortcut" that bypasses the mandatory requirements of the Rules of Civil Procedure. The "Assignment for Case Management" order is the essential link between a judge's general authority and the specialized powers of Rule 77. In its absence, a judge has no more authority to "decide the whole case" at a case conference than they would have to decide it at a social gathering. When a judge—whether unauthorized or acting in a forum not designed for adjudication—exceeds their jurisdiction, the legal effect is clear: those aspects of the proceeding are a nullity. Procedural fairness requires that substantive rights be determined only on the basis of sworn evidence and in a forum where the rules of natural justice are strictly observed.

VOLUME #2(C): THE RULE 50 PRECEDENT IN MILLER V. LEDRA (2023) BUT ONLY IN RELATION TO RULE 50 – NON-TORONTO; NON-OTTAWA AND NON-ESSEX MATTERS – AND NOT JRP APPLICATIONS

24. In the matter of *Miller v. Ledra*, 2017 ONSC 1528 (*Miller v. Ledra*), the moving party petitioned for the production of corporate fiscal instruments and the convocation of a general meeting of shareholders. Attendant to the profound and systemic administrative impediments characterizing the Toronto civil list, the initial temporal availability for a brief

interlocutory motion was determined to be 14 months hence. Pursuant to a local practice direction mandating the redirection of contested short motions to a case conference, the Honourable Justice Koehnen eschewed the traditional granting of an adjournment; instead, the substantive relief sought was adjudicated and granted *in limine* during the case conference itself. Such a determination was predicated upon an expansive and purposive interpretation of *Rule 50.13(6)* of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194 (the "Rules"), in conjunction with the overarching principles of proportionality and judicial efficiency articulated by the Supreme Court of Canada in *Hryniak v. Mauldin*, 2014 SCC 7 (*Hryniak v. Mauldin*) at paragraph 1. (Tab 1, BOA 1).

25. The exercise of such authority is markedly distinct from the constraints imposed by *Rule 77.04* of the *Rules*, wherein the promulgation of orders is vested solely for the advancement of the objectives enumerated within *Rule 77* (the "Rule 77"), necessitating a demonstrable nexus to the rigorous exigencies of case management. Within the context of this proceeding under the *Judicial Review Procedure Act*, R.S.O. 1990, c. J.1 (the "*JRPA*"), no respondent had heretofore filed nor delivered a Notice of Appearance (the "NOA"), thereby precluding their standing to seek such relief. Furthermore, while a formal "Assignment for Case Management" (the "Assignment") was conspicuously absent from the *JRPA* (the "*JRPA* Proceeding"), it is posited that such an order could not legally be issued three weeks subsequent to the filing of the "Certificate of Perfection" (the "Certificate"). At that developmental juncture, the applicant possessed a vested right to proceed toward the oral hearing of the merits, and any subsequent metamorphosis of the procedural trajectory would constitute an *ultra vires* intervention. (Tab 2, BOA 5).

26. Concomitantly, it is imperative to observe the operation of *Rule 50.07* of the *Rules*, which governs the protocol in the event that a settlement is not achieved during the pre-trial conference (the "Pre-Trial"). A significant distinction exists between the mechanisms of *Rule 50* and the more restrictive frameworks of the *Rules*; specifically, *Rule 50* permits the issuance of orders analogous to those under *Rule 20.05*, including the mandatory payment into court of all or a portion of the claim. Such a provision creates a labyrinthine pressure that may, *ipso facto*, exert an undue and coercive influence upon a defendant. Reliance is placed upon the fact that *Rule 50* (the "Rule 50") maintains a distinct jurisdictional character and does not find application within the specialized regime of *Rule 77*, as the former is considered procedurally inferior in the hierarchy of case management protocols. (Tab 3, BOA 10).

27. However, following the *promulgation* of the 2014 amendments to *Rule 77*, particularly the introduction of *Rule 77.08*, it is submitted that any convocation occurring under the auspices of *Rule 77.08* remains irrelevant to the broader application of the *Rules*. This is so because *Rule 77* is deemed paramount to any other conflicting provision of the *Rules* (the "Paramountcy") and is intended to function as the *lex terrae* for complex litigation management. The circumscription of judicial power in these instances ensures that the *status quo ante* is preserved until a formal adjudication on the merits can be rendered, thereby preventing the premature vitiation of the applicant's substantive rights through administrative shortcuts. (Tab 4, BOA 12).

VOLUME #3: THE STATUTORY SCHEME

28. The *Judicial Review Procedure Act* (the "***JRPA***") is naturally intended to ensure that judicial review proceedings (the "***JRPA Proceedings***") are summary in nature. The summary nature of the ***JRPA Proceedings*** is a direct response to the historical complexity of the prerogative writs, designed to provide a streamlined mechanism for the review of administrative action without the exhaustive and dilatory procedures inherent in a full-scale civil trial. The ***JRPA*** functions as a procedural scalpel, intended to excise administrative error with precision and velocity, thereby maintaining the boundaries of statutory authority and ensuring the accountability of the state. To treat judicial review as a ponderous exercise is to fundamentally misunderstand its supervisory nature (the "**Supervisory Nature**"). Pursuant to *Rule 68.02 (1), Rule 38,* except as provided in *subrule 38.01 (2),* and *rules 68.03 to 68.07* apply to applications to the Divisional Court for judicial review. In the context of judicial reviews, where the record of proceeding is required to be filed—not merely served—forthwith with the Court by the impugned tribunal, *Rule 68* operates in harmony with *Rule 38.05* by way of exclusion. Upon the service of an unissued ***JRPA*** application on an impugned tribunal, the tribunal is mandated to forthwith file the record of proceeding. Subsequently, *Rule 68.04* prescribes that the applicant shall deliver an application record and a factum. This forthwith requirement (the "**Forthwith Requirement**") is a mandatory statutory directive that leaves no room for administrative discretion or dilatory conduct by the respondent tribunal. The **Forthwith Requirement** in *Rule 68* is not a mere suggestion; it is a jurisdictional imperative. It reflects the recognition of the legislature that the administrative record is the foundation of judicial review and that any delay in its production impedes the ability of the Court to discharge its constitutional function. A tribunal that fails to file its record "forthwith" is effectively obstructing the course of justice and should be subject to immediate remedial intervention. To treat "forthwith" as synonymous with

"for the convenience of the tribunal" is to vitiate the procedural safeguards that protect the subject from administrative overreach. The prompt filing of the record (the "**Filing of the Record**") is the *sine qua non* of administrative law.

VOLUME #4 – THE FACTS: A CHRONICLE OF PROCEDURAL STAGNATION

29. The ***JRPA* Application** was commenced on November 15, 2024, and subsequently issued by the Divisional Court on November 21, 2024. Notwithstanding the commencement of proceedings and the service of all requisite materials, no notice of appearance (the "**NOA**") or initial statement of defence was delivered by any of the Respondents within the prescribed intervals. This total failure to engage with the record signaled an early abandonment of any meritorious defence and invited a summary disposition. The strategic silence (the "**Strategic Silence**") of the institutional respondents was met with an equal but unauthorized silence from the judicature, resulting in a procedural vacuum. Perfection of the ***JRPA* Application** was completed on December 13, 2024. Despite this perfection, the **Registrar** failed to place the matter upon a listing for hearing or issue a notice of listing for hearing (the "**Form 68B**") as required by *Rule 68.05*. This failure of the clerical arm of the state created an administrative barrier that has effectively hijacked the adjudicative objective, leaving the Applicant in a state of procedural paralysis heretofore unobserved in the registry of the Divisional Court. This **Registry Capture** represents the functional mechanism through which the **Strategic Erasure** of rights is operationalized in the current instance. On January 30, 2025, the motion in writing (the "**NOM #2**") was filed and paid for pursuant to *Rule 37.12.1(4)* of the ***Rules***. The **NOM #2** sought the conversion of the motion into a motion for judgment (the "**Conversion Order**") on the basis that no responsive factums had been provided. No opposition to the relief sought in **NOM #2** was recorded within the prescribed interval. The compliance of the Applicant with the fiscal and procedural requirements for **NOM #2** was absolute, yet the system has remained unresponsive for over 380 days. This stasis is a terminal failure of the primary track (the "**Primary Track**") of adjudication.

VOLUME #5: DELINEATED ISSUES AND ANSWERS

ISSUE #1: THE FISCAL AND REGULATORY PERFECTION OF THE MOTION

30. **Issue #1: Did the Applicant file and pay for NOM #2 in accordance with the attendant regulation to the *Administration of Justice Act* (*Reg 158/03*) Answer:** It is established that the fiscal requirements of *Regulation 158/03*

scrupulously satisfied by the Applicant on Friday, January 31, 2025. This act of compliance perfected the filing, thereby invoking the mandatory jurisdiction of the Court to provide a determination on the merits. The performance of this statutory duty by the Applicant created a concomitant obligation on the part of the Court to provide a resolution within the temporal boundaries of the law. (Motion Record for **NOM #2**, Tab 1). This perfection serves as the **Condition Precedent** for all subsequent judicial obligations. The payment of the prescribed fee transforms the adjudicative power of the Court into a public duty; the state, having accepted the consideration for the service, is constitutionally precluded from withholding the adjudicative product. The "stamping" of the motion on January 31, 2025, constitutes a ministerial acknowledgment of this perfected right, yet the product has remained unissued for over 380 days. This stagnation constitutes a functional breach of the social contract between the citizen and the state-funded judiciary, whereby the subject remits payment for a service the state subsequently refuses to perform. Such a failure constitutes a functional fraud (the "**Functional Fraud**") upon the subject, who has remitted payment for a service the state has effectively eschewed.

ISSUE #2: THE PROCEDURAL DEFAULT OF THE RESPONDING ISSUE #IES

31. **Issue #2: Did any of the Responding Issue #ies comply with the procedural mandates of *Rule 37.12.1(5)*? Answer:** The record confirms a total failure on the part of the Responding Issue #ies to comply with the procedural mandates of *Rule 37.12.1(5)*. No responding record or factum was delivered within the prescribed ten-day interval or at any time thereafter. This procedural sloth constitutes a functional abandonment of the right to contest the merits, rendering the motion unopposed *ipso facto*. Such silence is interpreted as a *pro confesso* admission that the relief sought by the Applicant is warranted, as no adversarial substrate was ever delivered to the Court to challenge the *prima facie* entitlement of the Applicant to judgment. The Respondents, having been duly served as Responding Issue #ies to **NOM #2**, cannot now be heard to complain of an unfavorable determination. Their failure to engage with the process simplifies the adjudicative task of the Court but does not alleviate the duty of the Court to provide a final order based on the uncontroverted facts. Strategic silence must not be rewarded with administrative delay; to do so would incentivize procedural defiance as a tool for the obstruction of justice. The resulting state of uncontradicted evidence (the "**Uncontradicted Evidence**") leaves the Court with a mandatory path toward the granting of relief.

ISSUE #3: THE METHOD OF HEARING DESIGNATION

32. **Issue #3: Did the Divisional Court order in relation to NOM #2 that the motion not be heard in writing?**

Answer: Negative. The Divisional Court did not exercise its discretion to order that **NOM #2** not be heard in writing pursuant to *Rule 37.12.1(4)(3).* In the absence of such a prohibitive order, the motion remained properly constituted as a written hearing. The choice of a written hearing by the Applicant was intended to facilitate the "just, most expeditious and least expensive determination" of the motion, a choice that the Court is bound to respect in the absence of a contradictory order based on the specific interests of justice. The stasis of the matter cannot be attributed to any procedural uncertainty regarding the method of adjudication; rather, it is a failure of execution on the part of the presiding judge who has remained silent despite being seized of the matter through the written record. The administrative nature of a written hearing does not insulate the judge from the statutory timelines of the ***CJA***, nor does it permit the indefinite suspension of the *lis* without explanation or justification. A written hearing (the "**Written Hearing**") is a hearing of record, and the silence of the bench on such a hearing is subject to the supervisory authority of the Chief Justice.

ISSUE # 4: THE COMMENCEMENT OF THE ADJUDICATIVE CLOCK

33. **Issue #4: When did the time for NOM #2 to be heard and have a decision issued commence? Answer:** The temporal clock for the issuance of a decision commenced upon the expiration of the responding period, occurring on or about Friday, February 14, 2025 or February 15, 2025. This marks the *dies a quo* (the day from which) for the statutory period under *section 123* of the ***CJA***. The subsequent passage of one year without an adjudicative manifestation represents a profound departure from the statutory scheme and the expectations of the *lex terrae*. The Court was seized of the matter the moment the time for filing responses expired, yet it has remained silent in the face of a perfected record. This silence constitutes a functional abdication of the judicial role, as the power to decide is coupled with a temporal duty that has been unequivocally breached. The clock has not merely expired; it has been ignored, creating a jurisdictional impasse that only the Chief Justice can resolve. The time for deliberation (the "**Time for Deliberation**") has long since transitioned into the time for institutional failure, necessitating the activation of the *s. 123(4)* remedy. The *dies a quo* is a fixed point of law, not an administrative variable.

ISSUE # 5: THE CALCULATION OF THE STATUTORY WINDOWS

34. **Issue #5: Calculation of the three-month and six-month intervals for written hearings.**

Answer: For an interlocutory determination, the statutory window closed on April 15, 2025. To the extent that the matter

s. 123(5) final judgment (conversion to judgment), the six-month interval expired on August 15, 2025. The current date of February 22, 2026, exceeds the maximum allowable period by over six months, doubling the "benchmark of acceptability" established in *R. v. Bosley*. This delay is not merely an administrative oversight but a constitutional transgression that transforms the adjudicative delay into a structural barrier to justice. The "legal limbo" created by this delay has ripened into a practical denial of justice, as the Applicant remains deprived of a decision on a perfected motion for more than a year. The consequences of this delay are cumulative, eroding the value of the eventual remedy and compromising the integrity of the proceeding as a whole, rendering the timelines in *s. 123(5)* purely illusory if not enforced through the supervisory power of the Chief Justice to correct judicial inertia. The doubling of the statutory period constitutes a prima facie violation (the "**Prima Facie Violation**") of judicial integrity.

ISSUE # 6: THE STATUTORY DEFINITION OF A HEARING

35. **Issue #6: What is the definition of Hearing under the *CJA* and more particularly the *Rules of Civil Procedure*?**

Answer: A hearing (the "**Hearing**") is defined broadly to include any motion, application, trial, reference, appeal, or assessment of costs. It encompasses proceedings determined without oral argument, but not even broadly enough to include "case conferences" or "conference calls" which do not possess adjudicative finality. Rule 4.05.3 does not include conference calls but includes case conferences and pre-trial conferences. Naturally, although Madam Justice Shore was Coram Non Judice and Factum A Judice, Quod Ad Officium Jure Non Pertinet, Ratum Non Est, of which none of her acts could ever be ratified and were void ab initio, she utilized the language of a case management conference [sic] on the file on a date to be set by the court staff of the Divisional Court (The Executive Branch). This functional definition ensures that the protections of *section 123* apply to the judicial consideration of a written record as they would to oral advocacy, preserving the integrity of the process. A written motion is a hearing of record, and the silence of the bench on such a hearing is subject to the supervisory authority of the Chief Justice. The term "hearing" must be interpreted purposively to include all adjudicative acts where the rights of the parties are at stake, regardless of the physical setting of the deliberations. A failure to decide a written motion is a failure of the hearing itself, necessitating a rehearing under *s. 123(4)* to provide the subject with the adjudicative answer required by the ***Rules***. The exclusion of case conferences (the "**Case Conferences**") underscores that only final adjudicative acts are protected by the temporal mandates.

36. **Issue #7: Do statutory timelines apply to written, non-public hearings? Answer:** Affirmative. The statutory protections against judicial delay apply with equal force to written non-public hearings (the "**Written Non-Public Hearings**"). The absence of a public docket or oral argument does not alleviate the judiciary of its obligation to provide a timely resolution. To hold otherwise would allow for the creation of an "invisible" justice system immune from accountability, which is fundamentally antithetical to the open court principle and the requirement for judicial transparency. The administrative nature of the assignment does not diminish the constitutional obligation to decide the *lis* between the parties. Judicial accountability is as necessary in the chamber as it is on the bench, and the protection against delay is a right of the subject, not a privilege of the court. Silence in chambers is as much a denial of justice as a locked courtroom door, as both preclude the subject from being heard by the law. Procedural invisibility (the "**Procedural Invisibility**") must not be utilized as a shield against the enforcement of statutory mandates or as an excuse for the atrophy of the judicial limb.

ISSUE # 8: THE LIMITATIONS OF STATUTORY JURISDICTION

37. **Issue #8: Does the Divisional Court possess Inherent Jurisdiction? Answer:** Negative. The Divisional Court is a statutory tribunal of provincial jurisdiction and possesses no inherent jurisdiction. Its powers are strictly confined to those expressly granted by the ***CJA*** and the ***JRPA***. Consequently, its adherence to statutory timelines is a matter of jurisdictional integrity; unlike the Superior Court, it cannot rely on common law powers to excuse procedural lawlessness or justify the suspension of a proceeding. Every act of the Divisional Court must find its root in a specific statutory grant, making any deviation from the ***CJA*** a jurisdictional error (the "**Jurisdictional Error**") of the highest order. The Court must operate within the four corners of its enabling legislation, and a failure to do so renders its silence an *ultra vires* act that cannot be sustained by any common law fiction. The lack of inherent jurisdiction (the "**Inherent Jurisdiction**") makes the statutory timelines of *s. 123* mandatory markers of authority that the Court is not at liberty to disregard for administrative convenience or deliberation-heavy reasoning. The Court is a creature of statute and must obey the laws of its creation.

ISSUE # 9: THE LEGAL CRITERIA FOR CONVERSION TO JUDGMENT

38. **Issue #9: Did the Applicant meet the legal test for converting NOM #2 into a motion for judgment? What was the legal effect as it related to timing? Answer:** Affirmative. The Applicant met the legal test by demonstrating the absence of material issues of fact and the total procedural default of the Respondents. As no statement of defence or notice of appearance was delivered, the matter was then and now ripe for a summary disposition on the merits pursuant to *Rule 37.13(2)(a)*. The evidentiary record filed by the Applicant remains uncontroverted and satisfies the requirements for a final judgment. (Applicant's Factum for **NOM #2**, para 45-50). The failure of the bench to grant this conversion in the face of such a clear record is an omission that requires immediate correction by the Chief Justice to prevent the case from withering in the system's backlog. The legal test is satisfied on the face of the record, and the standard of proof is met through the choice of tactical desuetude of the Respondents. Conversion is the only efficient path remaining to fulfill the mandate of finality of the Superior Court and ensure that judicial resources are not squandered on a non-existent adversarial contest. The uncontradicted record (the "**Uncontradicted Record**") necessitates a summary result. By meeting the legal test for conversion of a motion for Judgment, this allowed the presiding Motions Judge (not an Unauthorized CMJ) another three months to issue the decision.

ISSUE #10: THE OPERATIONAL EFFICACY OF RULE 37.13(2)(A) AS A STATUTORY SURROGATE FOR INHERENT JURISDICTION WITHIN THE DIVISIONAL COURT

39. It is posited that *Rule 37.13(2)(a)* of the *Rules of Civil Procedure* (the "Rules") functions not merely as a procedural adjunct, but as a robust statutory mechanism designed to mirror the inherent jurisdiction of a superior court of record, thereby ensuring that proceedings initiated under the *Judicial Review Procedure Act* (the "*JRPA*") are adjudicated with the requisite temporal efficiency as it pertains to the substantive merits. In accordance with the principles articulated in *Stickel v. Unum Provident Corporation (2009)* (*Stickel*), *Rule 37.13(2)(a)* serves as a procedural companion (the "Procedural Companion") and an indispensable instrument through which the Court may resolve claims in instances where no genuine issue for trial subsists. Within the specific architecture of a statutory court—heretofore constrained by the absence of inherent jurisdiction—this provision constitutes the primary and exclusive authority to forestall profligate delays, the accumulation of concomitant costs, and the perpetuation of inequitable procedural outcomes, particularly in circumstances where the terminal determination is self-evident upon the face of the record. It is observed that when an administrative tribunal (the "Tribunal") maintains a steadfast refusal to transmit the record of proceeding (the "Record of Proceeding"),

Especially where a motion has been initiated to address such non-compliance, reliance is placed upon the sagacious precedent established by Chief Justice Morawetz in *Ontario (Attorney General) v. Persons Unknown, 2021 ONSC 152* (*Persons Unknown*). Therein, it was held that a party is precluded from asserting the insufficiency or incompleteness of the Record of Proceeding in the absence of a formal motion objecting to the same. However, a critical distinction must be drawn; the present exigency does not pertain to mere incompleteness, but rather to a comprehensive failure to file the record *instanter* or at all, which constitutes a fundamental contravention of the *lex terrae*. While the overarching objectives of the *CJA* and the *Rules* necessitate the resolution of proceedings on their merits in an expeditious, cost-effective, and just manner, the *JRPA* remains the paramount statute for judicial consideration (see: *Rule 68.01*). The interpretive jurisprudence surrounding the *JRPA*, as detailed in the Applicant's first amended book of authorities (the "BOA"), underscores an emergent precedent: where an impugned tribunal fails to produce the Record of Proceeding and the Divisional Court declines to facilitate an oral hearing on the matter, the principles in *Smith Bus Lines Ltd. v. Bank of Montreal, 1987 CanLII 4190 (ON SC)* (*Smith Bus Lines*) are invoked. In *Smith Bus Lines*, the rescission of determinations was rendered necessary by two distinct procedural deficiencies: (i) the deprivation of an exhaustive opportunity to be heard (the "Deprivation"); or (ii) a judicial determination led into error by an incomplete record (the "Error").

40. Consequently, it is submitted that any failure by a tribunal—particularly one governed by the *Statutory Powers Procedure Act* (the "SPPA"), the *Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009* (the "ATAGAA"), and the *Tribunal Adjudicative Records Act* (the "TARA")—vitiates the possibility of its decisions being upheld until such time as compliance is achieved. The underlying Record of Proceeding remains fundamentally deficient, save for one disjunctive proviso: if the applicant (the "Applicant") has independently filed a comprehensive record as part of the application record (the "Application Record"), the argument regarding an incomplete record might, *prima facie*, be obviated. Notwithstanding the foregoing, the present matter is complicated by allegations of fraud, bribery, and extortion, alongside the theft of electronic and mobile storage devices. It is further noted that the absence of a functional interface on the electronic filing portal for the License Appeal Tribunal (the "LAT") and the Automobile Accident Benefits Service (the "AABS"), combined with misrepresentations concerning a power outage on March 30, 2024, resulted in the disappearance of the Applicant's file. These labyrinthine circumstances, compounded by privacy breaches necessitating the metamorphosis of the Applicant's digital communications, have effectively prevented the Applicant from securing the

majority of the requisite filings from the proceeding below. Furthermore, the non-disclosure of two final motion orders (the "Undisclosed Orders") by the LAT has frustrated the completion of the record. It is entirely conceivable that the Undisclosed Orders were rendered in favour of the Applicant, or at the very least, contained findings that would significantly alter the curial assessment of the merits. In summation, *Rule 37.13(2)(a)* functions as the statutory bridge through which the Divisional Court exercises a summary finality analogous to inherent jurisdiction. It is the functional tool through which the mandate to provide a "just, most expeditious and least expensive determination" is realized. The application of this rule is mandated where the facts remain uncontradicted and the respondents (the "Respondents") have effectively defaulted. This Procedural Companion constitutes a vital instrument of curial economy, ensuring that the record is moved toward its inevitable conclusion without superfluous litigation.

ISSUE #11: THE CONSEQUENCES OF NON-COMPLIANCE

41. **Issue #11: What is the legal impact or effect of Responding Issue #ies failing to comply with *Rule 37.12.1(4)*?**

Answer: As illustrated in *Agbapu v. Dr. Munshi* (2023), such non-compliance necessitates a brief endorsement in favor of the moving party or a decision with reasons to follow immediately upon the issuance of the order. The Court should not facilitate the tactical silence of respondents by withholding judgment from a moving party who has complied with every procedural mandate. The standard of procedural fairness requires that those who default on their obligations do not benefit from the resulting delay. The "neglect" of the Respondents simplifies the adjudicative task of the Court by removing contradictory evidence from the record, but it does not lower the standard of proof. A party who chooses to remain silent (the "**Silent Issue #y**") in the face of a motion for judgment must accept the preponderance of probabilities established by the moving party. Strategic inertia must result in an immediate and decisive result for the diligent subject.

ISSUE #12: THE TRANSFORMATION OF DISCRETION INTO DUTY

42. **Issue #12: How does the rule in *Julius v. Oxford (Bishop of)* and the *Legislation Act* apply? Answer:** Where there is a "may" in the Rules of Civil Procedure or in the *JRPA*, it becomes a "must" as it relates to the requirement to issue a decision. Decisions come in various forms and an endorsement with reasons to follow is also permissible. Meeting the six month window is perfectly reasonable considering that ability and the case law (see: Teskey; Cunningham; LSO v. Harrison) because even "bottom line rulings" or "endorsements with reasons to follow" are presumed to reflect the reasoning even when the Reason For Decision, not the decision itself, are issued even nine to ten months earlier. Pursuant

the principle in *Julius v. Oxford*, when a party has a right to invoke jurisdiction and has fulfilled all statutory prerequisites, the word "may" in the enabling statute is transformed into an imperative "must." The jurisdiction of the Court to decide the motion became mandatory upon the payment of fees and perfection of the record. This doctrine prevents the judicature from arbitrarily refusing to decide cases properly before them, turning a power into a public duty that cannot be ignored without constitutional consequence. The "may" in *s. 123* of the ***CJA*** becomes a mandatory obligation once the statutory triggers have been satisfied by the Applicant. The permissive language (the "**Permissive Language**") of the statute is thus superseded by the substantive right of the subject to an answer from the law. The transformation of power into duty is the hallmark of a functional legal order.

ISSUE #13: ADMINISTRATIVE PRIVILEGE AND TRANSPARENCY

43. **Issue #13: How does administrative privilege apply to a Written Non Public Hearing?** Answer: Reliance is placed upon the principle that while the identity of the presiding motions jurist is shielded from premature disclosure until the formal release of a determination to preserve the sanctity of judicial independence, the administrative privilege (the "Administrative Privilege") is not a permanent artifice that may be utilized to immunize the adjudicative apparatus from accountability for excessive and unclarified procrastination. It is posited that once the statutory temporal window has concluded, the privilege of assignment must yield to the overarching requirement of transparency to ensure the *Rule of Law* remains discernible.

44. Within the architecture of Canadian jurisprudence, adjudicative privilege (the "Deliberative Privilege") is established to safeguard the internal deliberations and communications of adjudicative bodies, encompassing both the judiciary and administrative tribunals. The primary objective of the Deliberative Privilege is the prevention of the disclosure of internal instruments—including, but not limited to, memoranda, recommendations, and personal notations—to ensure the unassailable integrity of the decision-making process.

45. Concomitantly, administrative privilege (the "Administrative Privilege"), which dovetails with the concept of administrative immunity (the "Administrative Immunity"), serves to protect the administrative functions of the judiciary; however, in contravention of the absolute nature of other protections, it is not immutable and may be overridden in specific exigencies. The administrative functions of a jurist, such as the assignment of matters or the management of court

functions, are generally shielded from external scrutiny, yet this immunity may be lifted where a valid justification exists to review the administration of justice: *MacKeigan v Hickman*, [1989] 2 SCR 796 (*MacKeigan*).

46. A taxonomy of the distinctions between these two doctrines reveals a divergent scope and purpose: a. regarding scope, the Deliberative Privilege is tethered to the internal ratiocination of adjudicative entities, whereas the Administrative Privilege is circumscribed by the administrative functions of the judiciary; b. regarding purpose, the Deliberative Privilege facilitates the impartiality of the determination, whereas the Administrative Privilege serves to insulate the independence of the judiciary from external interference;. regarding enforcement, the Deliberative Privilege is typically invoked to preclude the production of internal documentation, while the Administrative Privilege is asserted to protect jurists from specific modalities of scrutiny; an d. regarding limitations, while the Deliberative Privilege is generally regarded as absolute, the Administrative Privilege is qualified and may be superseded if a compelling necessity for the review of the administration of justice is demonstrated. Nonetheless, the production of records pertaining to judicial assignment is rendered unnecessary, as the statutory mandate constitutes the primary obligation; this does not necessitate that the Applicant is guaranteed the specific relief sought, but it is maintained that there is an entitlement to a "decision" (the "Decision"), a term which, in its legislative promulgation, does not explicitly necessitate the provision of "reasons for decision."

47. Historically, in the matter of *Johnson v Johnson*, [1994] OJ No 2221 (*Johnson*), a significant debate emerged regarding whether correspondence via electronic mail could be construed as a formal decision of the court. It is further noted that in *Alfano v Piersanti*, 2012 ONCA 297 (*Alfano*), it was determined that electronic communications do not constitute formal endorsements An endorsement (the "Endorsement") is defined as a signature affixed to one of the prescribed classes of documentation; while several such categories remain inapplicable to a proceeding under the *Judicial Review Procedure Act*, RSO 1990, c J.1 (the "*JRPA*"), others retain critical relevance.

II. STATUTORY INTERPRETATION AND THE RECORD OF PROCEEDING

48. The metamorphosis of the common law regarding legislative interpretation reflects an evolving understanding that the precise vernacular employed in source laws is of paramount significance. Although the most sophisticated legal minds may diverge on the semantic nuances of specific phrases, it is argued that context invariably governs the interpretive exercise. Under *Rule 68.04* of the *Rules of Civil Procedure*, RRO 1990, Reg 194 (the "Rules"), the nomenclature "record

of the proceeding" is utilized, whereas *Rule 59.01* employs solely the term "record." Ergo, the drafters of the *Rules*—having bifurcated them from the *Family Law Rules*, O Reg 114/99 (the "Family Law Rules") in 2004—intended the "record" to signify the "motion record" or specific hearing records, as opposed to a mere record of proceeding (see: *Rule 59.02(1)* regarding the endorsement of orders). Consequently, in the context of an application under the *JRPA*, an appeal book (the "Appeal Book") is deemed irrelevant; any reference to an "appeal" within a *JRPA* application—particularly one originating from a decision of the Licence Appeal Tribunal—is characterized as maladroit and indicative of a profound deficiency in legal acumen. This necessitates a concentration upon the four remaining instruments a. the compendium (the "Compendium") b. the record (the "Record") c. the notice of motion (the "Notice of Motion"); an d. the notice of application (the "Notice of Application").

49. In the instant proceeding, a Compendium was not served and filed until February 11, 2025, following the initial Notice of Motion on January 22, 2025, and the initial motion record on January 23, 2025. Therefore, regarding the Divisional Court's failure to issue an order (the "Order") assigning the *JRPA* proceeding for case management—a practice consistent with the objectives of *Rule 77* since its 2008 promulgation (effective January 1, 2010)—any such assignment would, *ipso facto*, have to be reflected upon the Notice of Application issued via the Justice Services Online portal.

50. Given that "record" lacks a specific definition under the *Rules*, yet "document" is defined to include data and information in electronic form, any endorsement of a record would necessarily pertain to the motion record or the application record. The convening of a case conference by Madam Justice Shore is viewed as a fatal procedural error; her Honour's referral to a "case management conference" was not only maladroit but also distinct from a conference call as contemplated under *Rule 77.04(2)*. Absent a formal "Assignment for Case Management" de facto and de jure and then by Order so endorsed, issued and entered, the convening of such a session is *ultra vires*, particularly under *Rule 77.08*, which was amended in 2014 to specifically incorporate *Rule 50.13* of the *Rules* should such a convening occur—a fact of which the presiding jurist may have been oblivious during the hurried events of January 7, 2025.The shield of administrative secrecy (the "Shield of Privilege") must not be permitted to undergo a metamorphosis into a cloak for judicial paralysis. Parties are vested with a right to know that their matters are being adjudicated by a legally constituted authority and that the system is functioning in accordance with the *lex terrae*. Accountability is as requisite in the privacy of the chamber as it is upon the bench; thus, the Shield of Privilege must yield to the baseline requirements of statutory compliance.

ISSUE #14: THE TRANSCRIPT PREREQUISITE -NOT APPLICABLE

51. **Issue #14: Are there any transcripts at issue for purposes of *section 123* of the *CJA*? Answer:** Negative. In the context of a written hearing, there are no oral transcripts at issue, and the rehearing is to be conducted solely on the basis of the existing written record, factums, and exhibits, maximizing administrative efficiency and judicial economy. This distinguishes the present motion from complex trial rehearings, making the path to resolution exceptionally clear and immediate for the successor judge. The paper record (the "**Paper Record**") is the only evidence required for the President of the Divisional Court to reach a final determination, ensuring that the rehearing process is as streamlined as possible. The absence of transcripts (the "**Absence of Transcripts**") obviates the traditional logistical hurdles associated with s. 123(4) rehearings.

ISSUE #15: THE STATUS OF THE ADJUDICATIVE DETERMINATION

52. **Issue #15: Has any decision been made in relation to NOM #2? Answer:** Negative. The record is entirely barren of any adjudicative determination, interlocutory or otherwise, promulgated in relation to **NOM #2**. This total absence of activity for over one year is the primary trigger for the invocation of the remedial powers of the Chief Justice under *section 123*, as the matter exists in a state of suspended animation that only the President of the Court can terminate. The lack of an endorsement is a functional denial of the right of the Applicant to an adjudication on the merits, a state of affairs that is fundamentally incompatible with the principles of civil justice. This total silence (the "**Total Silence**") represents a functional abdication of the judicial role, necessitating the activation of the safety valve provided by the legislature.

ISSUE #16: ADMINISTRATIVE OVERSIGHT AND DISCRETION

53. **Issue #16: The effect of the absence of an "Assignment For Case Management" on judicial discretion. Answer:** The absence of a formal assignment for case management indicates a lack of administrative oversight, which is exceptionally troublesome. This procedural lacuna justifies the intervention of the Chief Justice to restore order and provide the necessary structure to the litigation, preventing the file from being lost in registry stasis or becoming subject to unauthorized intervention. The lack of an assigned manager is a direct invitation to the jurisdictional anarchy heretofore described, necessitating the exercise of the role of the Chief Justice as the Master of the Roster (the "**Master of the Roster**"). Without a formal assignment (the "**Formal Assignment**"), the proceeding drifts in a state of administrative lawlessness where power is exercised without mandate.

54. **Issue #17: Do Written Non-Public Hearings have their case listed on the docket? Answer:** Negative. Written non-public hearings are generally excluded from the public docket, creating a risk of "invisible" delays. This lack of transparency necessitates a more rigorous adherence to statutory timelines to ensure that non-public proceedings remain accountable to the parties and the law, avoiding the appearance of a **Constitutional Vacuum** where rights are extinguished in silence. The exclusion from the docket does not exclude the matter from the supervisory jurisdiction of the Chief Justice, who bears the burden of ensuring all files are handled with due process. The public docket (the "**Public Docket**") is the window through which accountability is maintained; its absence requires a heightened vigil from the leadership of the Court.

ISSUE #18: THE MANAGEMENT OF BACKLOGS

55. **Issue #18: Application of *Sunsource Grids Inc. v. University of Windsor* and *section 123(7)*. Answer:** Pursuant to *Sunsource*, the Chief Justice possesses the authority under *section 123(7)* to assign a specific judge to resolve lingering issues and prevent files from withering in the administrative backlog. This confirms that the power of the Chief Justice is both broad and remedial, designed to steer cases toward their most efficient conclusion when the standard process fails to produce a result. It is a sophisticated tool for institutional management intended to preserve the reputation of the tribunal and ensure that stagnation (the "**Stagnation**") does not become the defining characteristic of the Divisional Court. The exercise of this remedial power (the "**Remedial Power**") is the only remaining mechanism to restore the record to its proper summary course.

ISSUE #19: CONSTITUTIONAL ACCESS TO JUSTICE, ACCESS TO COURTS, ACCESS TO TIMELY DECISIONS, ACCESS TO A MOTIONS JUDGE TO HEAR AND DECIDE THE MERITS OF NOM #2, WHICH INCLUDES NOM #1, THE JRPA APPLICATION ALONG WITH A COMPENDIUM WITH WRITTEN OUTLINE

56. **Issue #19: How does *TLABC 2014* apply with respect to this Motion #6 Answer:** The failure to decide **NOM #2** is tantamount to a theft of the constitutional right to be heard. As articulated in *TLABC 2014*, measures that impede access to the courts strike at the core of *section 96* of the *Constitution Act, 1867*. Interference with the pursuit of legal remedies is fundamentally antithetical to the basic judicial function and the separation of powers, creating an **Autocratic**

Execution. Universal access to the courts is a quintessential component of the Rule of Law, and the silence of the bench is a functional barrier to that access that the Chief Justice must dismantle to restore constitutional sanity. Access to justice (the "**Access to Justice**") is not merely about entering the courthouse; it is about receiving an answer from the bench.

ISSUE #20: BOTTOM LINE RULINGS AND DELIBERATION

57. **Issue #20: When are bottom line rulings made and issued**

58. **Answer:** Rulings with reasons to follow (the "**Bottom Line Rulings**") are a recognized judicial practice that preserves the rights of parties during institutional transitions. *R. v. Cunningham* (2011) and *The Queen v. Teskey* (2007) affirm that such reasons are presumed to reflect the initial reasoning, even if released long after the decision. This accounts for the temporal reality of the upcoming retirement of the Chief Justice, ensuring a final disposition without compromising the depth of eventual reasons. It provides the "bottom line" necessary for the parties to move forward while the judicial reasons are finalized in accordance with the standards of legal excellence. The bottom line (the "**Bottom Line**") is the functional order that terminates the *lis* and restores the status quo ante.

ISSUE #21: THE DOCTRINE OF PRIMUS INTER PARES

59. **Issue #21: How does the doctrine of Primus Inter Pares factor into this section 123 of the *CJA* motion?** **Answer:** The doctrine of *Primus Inter Pares* (the "**Primus Inter Pares**") recognizes that the Chief Justice possesses an inherent suite of responsibilities (the "**13 Chief Justice Duties**"). This includes the **Ultimate Jurisdiction** over adjudicative functions and the self-assignment power (the "**Self-Assignment Power**") to preserve the reputation of the institution against administrative stasis. The Chief Justice is the ethical and integrity barometer for the entire judicial institution, and his leadership is required when the system fails to perform its core duty of adjudication. This doctrine is the substantive designation of seniority that empowers the corrective act sought herein to preserve the standing and moral authority of the court. The doctrine (the "**Doctrine**") ensures that the head of the Court is not merely a symbolic figure but a functional guardian of the adjudicative objective.

ISSUE #22: THE JURISDICTIONAL NULLITY OF UNAUTHORIZED ACTS

60. **Issue #22: Impact of the absence of an Order for "Assignment For Case Management" and the doctrines of *Coram Non Judice* and *Factum A Judice, Quod Ad Officium Jure Non Pertinet, Ratum Non Est***

61. **Answer:** In the absence of a formal assignment Order, no judicial officer could legally undertake case management acts. Such unauthorized acts are void *ab initio* and do not invoke issue estoppel or *res judicata*. The assumed authority of Madam Justice Shore via the 'Ibula Email' was an act of a judge which did not pertain to her office, rendering it of no force under the maxim *Factum a judice, quod ad officium jure non pertinet, ratum non est*. The lack of a mandate is a total barrier to validity, and any resulting "evidence" or "orders" are fundamentally flawed because the proceeding was not "legally constituted." Any act without mandate (the "**Act Without Mandate**") is a nullity in the eyes of the law.

ISSUE # 23: THE MANIFESTATION OF JURISDICTIONAL ERROR

62. **Issue #23: How does the failure to exercise mandatory statutory authority constitute Jurisdictional Error? Answer:** The refusal to list the ***JRPA*** **Application** for hearing and issue a Form 68B, contrary to Rule 68.05 of the Rules of Civil Procedure, and in the face of requisitions for compliance of ministerial duties by the Registrar of the Divisional Court (unsurprisingly the now Former Registrar Gentles as of December 3, 2025) and the silence on **NOM #2** represent a functional abdication of statutory power, creating a jurisdictional error (the "**Jurisdictional Error**") that requires remedial intervention by the Chief Justice. A jurisdictional error occurs *ipso facto* when a decision-maker refuses to decide a matter that the law requires them to address, thereby exceeding their boundaries. This omission is as legally void as an act without authority. The Court has "failed to exercise authority" which the Legislature has mandated it to address, necessitating a corrective order to restore the Rule of Law. Jurisdictional failure (the "**Jurisdictional Failure**") is the ultimate strike against the social contract.

ISSUE # 24: SATISFACTION OF THE CONDITION PRECEDENT

63. **Issue #24: Satisfaction of the Condition Precedents by the Applicant? Answer:** The Applicant satisfied the conditions precedent for his motion to be returnable on February 14, 2025 pursuant to Rule 37.12.1(4). Under the previous iteration of the Rules of Civil Procedure as it related to electronic filing in the Civil Online Submissions Portal (defined as the "JSO Portal" for ease of definition in conjunction with the Civil Online Filing Portal for the issuance of Originating Processes), the Registrar was required to not only confirm the filing but also accept the filing. However, this has changed since the amendments to the Rules of Civil Procedure in 2025 (October) for Toronto Region (not other Administration Regions including their counties or cities) with the OCPP in that the requirement of acceptance by the Registrar has been abolished to a more streamlined model of mere confirmation of the filing. With that change has also come the changes to

the filing on after business hours with the confirmation occurring on that non-workday or holiday or post business hours to invite more filings via electronic method. Moreover, the timing of the filing is precisely, when confirmed (subject to some glaring nullities on their face), to when it was filed by the confirmation that the filing had been submitted. Therefore, the Legislative Will, with approval from the LGIC, was that under the OCPP model, the Registrar has effectively no discretion to accept or not accept submitted filings and is required to either confirm or not confirm. This was, of course, in part to the number of rejected filings by the Divisional Court Registrar and the Local Registrars at the various courthouses in the various Administrative Regions of the SCJ. The corollary of the same was and is that with a more rigorous and discretionary model under the JSO Portal for Toronto Region Proceedings at the material time, the Applicant's submitted filings were not only filed but they were accepted by the Registrar of the Divisional Court who was a 16 year veteran in that role.

64. By way of example of the timing under the JSO Portal, the Applicant's filings on Friday, January 31, 2025, were electronically stamped on the day of filing subject to being before or after four p.m. with the acceptance and confirmation on the following Friday consistent with the five day representation model. The fulfillment by the Applicant of fiscal and procedural requirements—specifically the filing and payment for **NOM #2** on January 31, 2025—constituted a condition precedent (the "**Condition Precedent**") for the exercise of jurisdiction by the Court. The subsequent failure of the Court to act constitutes an *ultra vires* omission that renders the resulting stasis a legal nullity, as the Court had no discretion to refuse to decide once the conditions were met. A condition precedent is a legal requirement that must exist before power can be exercised; once satisfied, the power transforms into a mandatory duty that cannot be set aside by administrative caprice. The satisfaction of triggers (the "**Satisfaction of Triggers**") removes the discretion to remain silent.

ISSUE # 25: THE STANDARD FOR UNOPPOSED MOTIONS IN JRPA PROCEEDINGS

65. **Issue #26: What is the legal standard for granting relief on an unopposed motion where the *JRPA* does not provide for a formal "default judgment"? Answer:** It is established that while the ***JRPA*** Divisional Court framework eschews the "default" mechanisms prevalent in standard actions, the ***Rules*** maintain their supremacy over interlocutory motions within that framework. Pursuant to *Rule 37.12.1(5)*, the failure of the Responding Issue #ies to deliver a response within the ten-day interval entitles the moving party to a determination on the written record. The Court, as an active guardian (the "**Active Guardian**") of the legal process, must grant the relief if the Applicant satisfies the **Balance of**

Probabilities that the relief is factually supported and legally sound. The Respondents, having been duly served as Responding Issue #ies to **NOM #2**, cannot rely on the absence of a "default" label to immunize their procedural sloth. The active guardianship (the "**Active Guardianship**") requires a decision on the merits of the uncontradicted record.

ISSUE #26: THE MINISTERIAL AND EXECUTORY OBLIGATIONS OF THE REGISTRAR IN CONJUNCTION WITH JUDICIAL DISCRETION

66. It is posited that the ministerial duties (the "**Ministerial Duties**") and executory functions of the registrar (the "**Registrar**") are inextricably linked to the requisite exercise of discretion by the *Chief Justice* of the *Superior Court of Justice* (the "***Chief Justice***") in its capacity as the President of the *Divisional Court*. The promulgation of administrative efficiency is vitiated when the non-discretionary obligations of court staff are eschewed, thereby obstructing the *lex terrae* and the orderly progression of the *Judicial Review Procedure Act* (the "***JRPA***") proceedings. In the context of an appellate tribunal, the *Registrar* functions as a critical conduit; a failure in this capacity is not merely a clerical oversight but a fundamental rupture in the procedural pipeline that sustains the rule of law. A profound failure was manifested by the former registrar (the "**Former Registrar**"), specifically Registrar Gentles, who neglected to discharge the vested obligations of her office. These omissions included, *inter alia*. The failure to list the *JRPA Application* for a hearing scheduled in mid-December 2025, which heretofore frustrated the Applicant's right to a timely adjudication and created a state of executory paralysis (the "**Executory Paralysis**") b. The failure to issue and execute *Form 68B* (the "**Form 68B**") and subsequently transmit said instrument via postal or electronic mail, pursuant to *Rule 1.11* of the *Rules*, to the parties of record. A flagrant disregard for the standard temporal parameters governing the processing of the requisition (the "**Requisition #1**"), resulting in a processing delay that persisted until the departure of the *Epstein Cole LLP* client from the *TDI Group Of Insurance Companies* in late January 2025;d. The affirmative misrepresentation of both factual circumstances and the governing legal framework, which misled the parties and the Court; and e. Various concomitant administrative lapses that collectively obviated the efficiency of the *Divisional Court's* oversight role.

67. Furthermore, the interplay between the *Registrar's* duties and the *Chief Justice's* discretion must be understood as a symbiotic relationship (the "**Symbiotic Relationship**"). When the *Registrar* fails to process a *Requisition #1* and Requisition #2 in a timely fashion or as represented (see: Compendium For NOM #3-5 (mail filed in relation to Compendium For NOM #3 on December 8, 2025, and Compendium For NOM #3-5 (volume 11 of 11 on February 19, 2026), the *Chief Justice* is deprived of the accurate record necessary to exercise informed case management discretion.

This lack of informational transparency vitiates the *Chief Justice's* ability to manage the roster effectively, leading to the appointment of judges who may lack the requisite seisin (the "**Seisin**") to hear the matter *prima facie*. Nonetheless, access to the courts and access to justice since 2014 is part of the Rule Of Law and Section 96 of the Constitution Act, 1867, so it is a matter assigned by law to the judiciary. Perhaps, this is why Former Registrar Gentles was terminated or dismissed from her role with the Divisional Court but the Applicant is speculating as to the reasons which are often confidential and not subject to disclosure in FIPPA request but may be if the Applicant is required to be increasingly investigative and diligent.

ISSUE #29: THE DOCTRINE OF SEISIN AND ITS INTERPLAY WITH CASE CENTER PROTOCOLS

68. The inquiry pertains to whether the absence of judicial *Seisin* by Madam Justice Shore—attributable to the non-existence of a first defence (the "**First Defence**") and the subsequent lack of an order for assignment (the "**Assignment For Case Management**")—vitiates her authority to conduct case management or hear motions in the *JRPA* proceeding under *Section 123* of the ***CJA***. It is a fundamental tenet of judicial administration that a judge's authority is not a roving commission but is strictly circumscribed (the "**Circumscription**") by the orders of assignment and the *Rules*. It is posited that in the absence of a formal assignment direction by the *Chief Justice*, the *Associate Chief Justice*, or the *Lead Administrative Judge* (the "**LAJ**") of the *Divisional Court*, no individual judge is seized of the interlocutory steps. Madam Justice Shore was restricted solely to the hearing of the *JRPA Application* itself, and any attempt to expand this jurisdiction *sua sponte* is *ultra vires*. It is further posited that the convening of motions before a judge who is not properly seized constitutes an unauthorized act, particularly where a motion for judgment (the "**Motion for Judgment**") functions as the functional equivalent of the *JRPA Application* on its merits.

69. Reliance is placed upon *Rule 37.15* (the "**Rule 37.15**"), which governs motions in complicated proceedings. Pursuant to *Rule 37.15(1)*, a specific direction (the "**Direction**") must be issued by the *Chief Justice* or their designate to consolidate motions before a particular judge. In the case at bar, no such *Direction* was promulgated. To assume a *Direction* exists in the absence of a written order is to invite procedural anarchy and allow for bench hunting (the "**Bench Hunting**") by parties or court staff. Furthermore, *Rule 37.15(2)* dictates that a judge hearing motions under such a *Direction* shall not preside at the trial or application hearing without written consent. This is consistent with *Rule 77.06* and *Rule 77.07* (the "**Rule 77.07**"), which establish that an assigned case management judge is precluded from adjudicating the ultimate merits.

The rationale for this *Circumscription* of authority is the preservation of judicial impartiality. The doctrine of *Seisin* ensures that the "referee" of the procedural phase does not become the "umpire" of the final judgment. The purported expertise of Madam Justice Shore in family law is noted to be frequently at variance with the *Rules* and the open court principle (the "**Open Court Principle**"). Unlike the inherent confidentiality of family litigation, civil proceedings demand a higher threshold of transparency. The attempt to convene case conferences (the "**Case Conferences**") without authorizing orders reflects a metamorphosis (the "**Metamorphosis**") of procedure that deviates from the *status quo ante*. A judge cannot import the "secrecy" of family chambers into the public forum of the *Divisional Court* without a specific statutory warrant. In the *lex terrae,* to be seized (the "**Seised**") denotes the acquisition of jurisdiction and responsibility by a specific jurist. The doctrine is designed to obviate *Bench Hunting* and ensure judicial economy. *Seisin* exists in degrees: a. **Seised of a Proceeding (Full Seisin)**: A singular judge oversees the matter from commencement to final disposition, requiring an explicit assignment order by the *Chief Justice*. **Seised of Steps**: Authority is circumscribed to specific phases, such as discovery disputes. Under *Rule 77*, such authority must flow from a *Direction* by the President, Vice President, or *LAJ*.c. **Seised of Motions**: Once oral argument or evidence is commenced, the judge is *ipso facto* seized of that specific motion. D. **Seised of Case Management**: Authority is limited to the "flow" of litigation, resolving procedural squabbles without determining final rights

CASE CENTER COMPLIANCE AND THE FIVE-DAY RULE

70. The material time for this proceeding occurred during the period when the five-day rule (the "**Five-Day Rule**") governed the uploading of filed documents to *Case Center* (the "**Case Center**"). This requirement is a pillar of modern digital litigation, acting as a temporal gatekeeper (the "**Temporal Gatekeeper**") that ensures the presiding judge is prepared to address the merits. Pursuant to *O. Reg. 300/24*, every party must provide documents by uploading them to *Case Center*. Filing a document (the "**Filing**") is a distinct legal act from uploading (the "**Uploading**"). The court file is no longer a physical artifact; it is a digital construct. The failure of court staff to provide a *Case Center* invite, likely influenced by unauthorized judicial direction, created a situation where the Applicant was functionally silenced in a digital courtroom. This digital silencing (the "**Digital Silencing**") is a modern form of procedural unfairness.

JURISPRUDENTIAL FOUNDATIONS OF PROCEDURAL FAIRNESS

71. The analogy can be drawn between a statutory court and a statutory tribunal because neither have Inherent Jurisdiction. While the Divisional Court has Equitable Jurisdiction that is only to alleviate the harshness of the common

by and not to contradict with legislative will. Both are in positions of being creatures of statute by Divisional Court and how they are so sitting i.e. at a case conference, motion or a hearing of the same. As such, in *Baker v. Canada (Minister of Citizenship and Immigration)*, 1999 CanLII 699 (SCC), [1999] 2 S.C.R. 817 (the "***Baker***") at para. 28, the Supreme Court of Canada articulated that procedural fairness requires an open and impartial process. In the case at bar, the "process" was neither fair nor open. It is trite law that a decision-maker must confine orders to the ambit of the question presented: *Rio Tinto Alcan Inc. v. Carrier Sekani Tribal Council*, 2010 SCC 43, [2010] 2 S.C.R. 650 (the "***Rio Tinto***"). Furthermore, in *ATCO Gas and Pipelines Ltd. v. Alberta (Energy and Utilities Board)*, 2006 SCC 4, [2006] 1 S.C.R. 140 (the "***ATCO Gas***") at para. 46, it was cautioned that unfettered discretion is absurd. A judge is an adjudicator of a claim, not a Royal Commission (the "**Royal Commission**") with a roving mandate. Procedural fairness is functional, not technical: *Petro-Canada v. British Columbia (Workers' Compensation Board)*, 2009 BCCA 396 (the "***Petro-Canada***") at para. 65. A party is entitled to know the case it must meet: *Amacon Property Management Services Inc. v. Dutt*, 2008 BCSC 889 (the "***Amacon***") at paras. 27-36. The failure to provide clarity in court orders is a breach of the rule of law: *Gurtins v. Goyert*, 2008 BCCA 196 (the "***Gurtins***") at para. 15. Remedies must flow directly from the claim: *Moore v. British Columbia (Education)*, 2012 SCC 61 (the "***Moore***") at para. 64. Reliance is placed on *High-Crest Enterprises Limited v. Canada*, 2017 FCA 88 (the "***High-Crest***"), at **BOA, Tab 71**, and the doctrine of vertical stare decisis (the "**Vertical Stare Decisis**") with respect to the requirements of following the Statutory Supremacy along with the inability to remove a judge generally or specifically after she is seized. The corollary of the same is obvious.

72. Had a valid order (the "**ORDER**") for *Assignment For Case Management* been made the right of appeal under *Section 6(1)(a)* of the ***CJA*** would have been preserved and available. The absence of a right of appeal is a deleterious consequence (the "**Deleterious Consequence**") that cannot be cured by retrospective adjustment as a nullity is void ab initio from its inception, creation and notice to the adversely affected person. Moreover, it would be nonsensical to appeal that which is subject to void ab initio acts where a judge is Coram Non Judice or Factum A Judice, Quod Ad Officium Jure Non Pertinet, Ratum Non Est and that is one of the precedents arising from McLean v. Bradley and Pong v. Quong et al in that there is no prohibition on starting an action in relation to a statutory application where even a Judge of an SCJ Court which Madam Justice Shore was not that exceeded the statutory (and where applicable the prescribed mandate) inevitably has those issues decided outside of the same given no legal validity or ratification. Put another

73. The legal maxim *factum a judice, quod ad officium jure non pertinet, ratum non est* (the "**Maxim**") is dispositive. Any act of a judge of the *Divisional Court* which did not pertain to her office is invalid and *void ab initio*. Reliance is placed upon the *Nash v. CAMI Divisional Court* proceeding (the "***Nash CAMI Divisional Court Proceeding***") (see: DC-25-00000872-00JR) which underscores that a formal *Assignment For Case Management* is a condition precedent to a *Case Conference*. While it is required to be reduced to an Order, that allows for any of the parties or persons affected to tender the same. Nonetheless, there is a scintilla of evidence that was provided to the Applicant and not within the OCPP Case View of a single order let alone an Order for "Assignment For Case Management". Ergo, there was none. Accordingly, a decision regarding *NOM #2* must be rendered in accordance with *Section 123* of the ***CJA*** forthwith. The Applicant seeks the immediate issuance of the orders requested once the President of the Divisional Court has self-assigned pursuant to the SCC binding precedents in Primus Inter Pares doctrine and other persuasive authorities. At this stage and in light of *McIntosh v. Shore* decisions, one cannot trust what Madam Justice Shore is representing or misrepresenting behind the Tweed curtain cloaked in purported administrative privilege.

VOLUME #6: – THE JURISDICTIONAL NULLITIES UPON NULLITIES UPON NULLITIES OF UNAUTHORIZED CASE MANAGEMENT BY

74. It is postulated that the jurisprudential architecture of this jurisdiction necessitates, as a condition precedent for the adjudicative manifestations of a member of the judiciary to possess binding efficacy, that such *acta* emanate exclusively from the authorized office and pertain strictly to the prescribed duties associated therewith. This principle, fundamentally entrenched in *McLean v Bradley (1878)* (*McLean*) (the "*Bradley*") (BOA, Tab #310), ensures that judicial power is exercised only by those designated for the specific task at hand. The unauthorized assumption of power is characterized as a strike against the heart of the Rule of Law and the institutional synchronicity of the Divisional Court. The exercise of power without mandate is a nullity that cannot be cured by acquiescence or administrative convenience. Power without commission is merely the expression of private will under the guise of public office, representing a fundamental deviation from the constitutional trust bestowed upon the bench.

75. Madam Justice Shore purported to exercise the functions of a case management judge (the "**CMJ**") notwithstanding the absence of a formal designation. The maxim *Factum a judice, quod ad officium jure non pertinet, ratum non est* dictates that such acts are of no force. Since no order for "assignment for case management" was rendered, any acts arising from such unauthorized intervention are void *ab initio* and do not invoke issue estoppel or *res judicata*. The appearance of bias

and the erosion of internal judicial synchronicity represent an existential threat to the constitutional covenant (the "**Covenant**"), transforming the arbiter into a participant in the erasure of the Applicant through the creation of a constitutional vacuum (the "**Vacuum**"). It is submitted that the Court must excise these unauthorized acts to restore the integrity of the record and the sanity of the proceeding, ensuring that only legally constituted authority prevails. The "ibula email" (the "**Ibula Email**") artifact stands as the primary evidentiary marker of this jurisdictional derailment.

VOLUME #6(A): THE ABSENCE OF A REQUIREMENT TO OBEY ORDERS RENDERED CORAM NON JUDICE

76. It is further asserted that there exists no requirement to obey the order of a judge where the judge is *coram non judice*; ergo, no *res judicata*, no issue estoppel, and no abuse of process or collateral attack can be sustained, as there is effectively no legal substratum to attack At page 547 of Bradley the Supreme Court of Canada (the "**SCC**"), invoking *Broom's Legal Maxims* and *Taylor v Clemson (1844)* (*Taylor*) (the "*Taylor*") (House of Lords), observed that when the Court lacks jurisdiction of the cause, the whole proceeding is *coram non judice*, and actions will lie against the parties without regard to the precept or process; in such instances, it is not necessary to obey one who is not judge of the cause. Reliance is placed upon *McLean* at page 547, wherein it was held that no plea of justification is available for a constable acting under a warrant where the justice possessed no jurisdiction over the subject matter upon which it was granted The **SCC** in *McLean* followed the reasoning in *Taylor* and *Broom's Practice* to confirm that a plea of justification by a constable acting under the warrant of a justice will accordingly be bad if it does not show that the justice had jurisdiction over the subject matter upon which it was granted. With the evolution of the **SCC** from 1878 to 1927, as evidenced in *Pong v Quong, Chong et al* (*Pong*) (the "*Pong*"), the Court correctly delineated between instances where a whole proceeding was and is *coram non judice* and where only specific acts of a *judice* are *factum a judice, quod ad officium jure non pertinet, ratum non est*, signifying that all acts of a judge are invalid because they did not constitute lawful judicial duties of the impugned judge A distinction is drawn between the acts of Justice Denton, a County Court judge appointed under the *Constitution Act, 1867* (the "*CJA*"), who exceeded the scope of the *Landlord and Tenant Act, R.S.O. 1914, c 155* (the "*LTA 1914*") but maintained jurisdiction over the primary application, versus Madam Justice Shore, whose acts were void *ab initio* from the inception of the **Ibula Email** on January 7, 2025 A pivotal issue arises herein as a fundamental point of law: what is the legal effect when the Divisional Court possesses jurisdiction over the cause, yet a specific judge lacks the requisite jurisdiction to engage in certain acts or steps as an invalid **CMJ**? As observed in the *Nash v CAMI* Divisional

Nash proceeding (the "*Nash*"), Madam Justice Shore was presumably acting under the notion that Justice Nakatsuru had made an order for "assignment for case management"; however, no such order was endorsed, issued, or entered, but was merely relayed by the executive branch (the "**Executive Branch**") of the Divisional Court to the litigants. Ergo, it is a zero-sum game in that Madam Justice Shore possessed not even a scintilla of evidence that any judge of the Divisional Court had relayed correspondence to the **Executive Branch** indicating that the *McLean TDHA JRPA* proceeding had been assigned for case management. This holding affirms that the obligation to comply with a court order issued by a specific judge is contingent upon the court's lawful jurisdiction over both the subject matter and the litigating parties. By unassailable corollary, no person is required to comply with the acts, convenings, summonses, directions, or orders of Madam Justice Shore, as all such manifestations were *factum a judice, quod ad officium jure non pertinet, ratum non est*. The further corollary and consequence of the same is that no individual of the **Executive Branch** or judiciary may point to the acts or directions of Madam Justice Shore as justification for their conduct. Such reliance would constitute the perpetration of a fraud on the court (the "**Fraud on the Court**"). Appreciating it is very technical legal point of the most supreme academic rigour when applying a variety of statutes from yesteryear to today's epoch along with the confluence of a County Court Judge when measured against section 96 of the Constitution Act, 1867, after the merging of country, district and superior courts. Simply put, Madam Justice Shore was on lesser footing than that of the Honourable Justice Denton in 1925 and did far worse considering that Denton J. inquired whether he had consent from the litigants to proceed in such a fashion.

VOLUME #6(B): FRAUD ON THE COURT AND THE VOID AB INITIO DOCTRINE

77. Unauthorized acts or conduct by a judge may also be characterized as a fraud on the court for the purposes of *Rule 59.06(2)(a)* of the *Rules of Civil Procedure* (the "**Rules**"). As found by Justice Cullity in *Vale v Sun Life Assurance Company (1998)* (*Vale*) (the "*Vale*"), referencing *Derry v Peek*, fraud is proven when a false representation is made knowingly, without belief in its truth, or recklessly.

78. It is posited that the **Ibula Email** quoting Madam Justice Shore was a false representation of authority, power, and duties because the representations were made knowingly to be false and without belief in their truth. The *Nash CAMI* proceeding demonstrated that the Divisional Court adheres to *Rule 77.02* and *Rule 77.05(2)* regarding the requirement for

a "order" of "assignment for case management" before a judge may act as a **CMJ**. Consequently, all subsequent representations tied to the **Ibula Email** are vitiated by the initial absence of authority.

79. Moreover, it is asserted that those who remained silent in the face of the misrepresentations of Madam Justice Shore's authority are equally liable in fraud. Those actively engaged in continuing the fraud relating to the absence of authority as a **CMJ** are concomitantly liable for the misrepresentation of authority.

80. Although the **SCC** attained finality as the court of last resort in 1949, *McLean* remains a foundational authority concerning jurisdictional validity, providing a critical analytical framework through which contemporary procedural failures may be evaluated. The antiquity of the adjudication does not diminish its authority; rather, it reinforces the stability of the principle that jurisdiction is the quintessential lifeblood of judicial power.

VOLUME #6(C): THE PRECEDENT OF PONG V QUONG AND CHONG

81. Pursuant to the aforementioned principles, it is observed that in 1927, the matter of *Pong v Quong (and Chong and Thompson) [1927] S.C.R. 271* (the "*Final Pong Appeal*") (BOA, Tab 309) arrived before the **SCC**. The *Final Pong Appeal* involved two distinct proceedings that illustrate the peril inherent in a judge of the Divisional Court exceeding a narrow statutory mandate under the *Judicial Review Procedure Act* (the "***JRPA***") and the requirements under *Rule 77* of the **Rules** without an order for "assignment for case management".

82. Such was the case in *Pong*, which involved a summary application (the "**Summary Application**") under the *LTA 1914* which, by statute, was required to be heard in the County Court and was adjudicated by Denton J.

83. A subsequent claim by action (the "**Action**") initiated by the plaintiffs proceeded through the High Court of Justice, the Appellate Division (see: *Quong v Pong (1925)* (*Quong*) (the "*Pong v. Quong*") (BOA, Tab 307)), and ultimately to the **SCC**, which affirmed that as to the relations between the parties, the matter was *coram non judice*. Given that the current ***JRPA*** proceeding was commenced by application (the "**Application**") under provincial statute, the historical context of the *LTA 1914* is not merely instructive but binding. The ***JRPA*** governs the duties and rights of applicants and respondents and the ambit of questions to be decided. Following the precedent in *Yatar v TD Insurance Meloche Monnex, 2024 SCC 8* (*Yatar*) (the "*Yatar*"), the Divisional Court is required to adjudicate through a hearing. Pursuant to the doctrine of vertical stare decisis (the "**Vertical Stare Decisis**"), the Divisional Court possesses no authority to decline the hearing of the **Application**. Moreover, as Madam Justice Shore acted in an unsanctioned manner as *coram non judice*, and pursuant to

the doctrine of *factum a judice, quod ad officium jure non pertinet, ratum non est*, she served as an ostensible **CMJ**. In the absence of an operative duty or function, the direction of a case management conference—which, *ipso facto*, could only have been authorized under *Rule 50.13* and *Rule 77.08*—resulted in orders which are void *ab initio* due to a fundamental defect in jurisdictional competence. As noted in *CLE Owners Inc. et al v Wanlass et al, 2004 MBQB 43* (*CLE Owners*) (the "*CLE Owners*") at paragraph 30, even a domestic judgment will not create an estoppel if the court lacked jurisdiction, specifically where a statutory court exceeds its statutory limits, as established in the *Final Pong Appeal*.

VOLUME #(D): ADVERSE INFERENCE

84. The principle of adverse inference occupies a singular space in the Canadian adversarial system, functioning as a bridge between the formal rules of evidence and the common-sense deductions necessitated by human conduct. At its most fundamental level, the doctrine permits a trier of fact to draw an unfavourable conclusion when a party fails to lead evidence or call a witness that would reasonably be expected to support their position. While the doctrine has deep roots in the common law, its modern application is increasingly defined by the procedural rigour of the "best foot forward" principle, particularly in the context of interlocutory motions and summary judgment applications. This report provides an exhaustive analysis of the adverse inference doctrine within Canadian civil law, with a specialized focus on the consequences of failing to respond to motions, the strategic risks of tactical silence, and the evolving standards of disclosure across provincial jurisdiction. The adverse inference doctrine is an evidentiary rule predicated on the expectation that a litigant possessing evidence helpful to their case will naturally seek to present it. When such evidence—whether documentary or testimonial—is withheld without a valid explanation, the law allows the court to presume that the evidence was avoided because it was unhelpful or harmful to the withholding party's interests. This is not merely a punitive measure but an application of inductive reasoning based on logic, reasonability, and human experience.

85. The process of drawing an inference is described as a two-step judicial inquiry. First, the court must make findings of fact from which an inference may be drawn. Second, the judge considers whether, based on established facts, the proposed inference is reasonable, rational, and logical. This deductive process allows the court to apply "common sense" to the consideration of the record, distinguishing between conjecture, which is impermissible, and a logical consequence from proved or admitted facts. In civil litigation, this logic serves as the legal version of the colloquialism "if you got it,

the "flaunt it". The failure to "flaunt" or produce evidence is viewed as an implied admission that the evidence would be contrary to the party's case or, at minimum, would not support it.

86. The adverse inference, in the context of judicial review Applications, on motions occupies the most unique of roles because of the absence of pleadings and default judgment in Applications and specifically Applications to the Divisional Court for Judicial Review" which are pursuant to te *JRPA*. The leading jurisprudence, as articulated in *Parris v. Laidley* and *Lane v. Kock*, establishes that the drawing of an adverse inference is entirely discretionary and must be warranted by the specific circumstances of the case. For the discretion to be exercised, the court typically looks for the presence of three key condition: Exclusive control; Materiality and knowledge; and Absence of explanation. The requirement for exclusive control is particularly significant. An adverse inference is less likely to be drawn if a witness was "equally available" to both parties. However, the court will consider the "nature of the relationship" between the witness and the party. For instance, in personal injury matters, a plaintiff's failure to call a close friend or a treating physician who has unique knowledge of the plaintiff's pre-accident and post-accident condition can trigger the doctrine, as these witnesses are viewed as being within the plaintiff's sphere of control. In the context of evidence with an adjudicative tribunal subject to the SPPA, *TARA*, ATAGAA et al, along with the *JRPA* after service of the *JRPA* Application even in unissued form means that the LAT had control of the relevant evidence to the *JRPA* Proceeding. It is require to compile under section 20 of the SPPA and file forthwith after being served. As it relates to the Two Undisclosed Motion Order, the LAT had and has exclusive control for the same. There was no explanation from the LAT for not opposing and consenting (Distinct in law) to the relief sought in the NOM #1 and/or complying with the statute (*JRPA*, s. 10). The only explanation later discovered was that the LAT had issued Two Undisclosed Motion Orders, final in nature, that could have been beneficial to the Applicant. Hence, why it refused (unwilling not unable) to file its NOA. The granting of relief in an unopposed motion is the result of a dual-track satisfaction of the Court..

VOLUME #7: THE 13 CHIEF JUSTICE DUTIES: THE LEADERSHIP SUITE

87. The Chief Justice serves as the **Moral Barometer** and **Institutional Reputation Guardian**. His responsibilities, articulated through the doctrine of **Primus Inter Pares**, represent a comprehensive suite of authority derived from the constitutional trust bestowed upon the judicial branch **Ultimate Jurisdiction**: The possession of the definitive and final

authority over the adjudicative and administrative functions of the Court, ensuring that the judicial hierarchy remains intact and the status quo is preserved against unauthorized deviation; **Constitutional Trust Stewards**: The non-delegable responsibility to serve as the primary guardian of the constitutional trust bestowed upon the judicial branch by the sovereign and the citizenry; **Imperviously Influenced Mandate**: The requirement to remain completely impervious to external pressures, bearing the unique burden of ensuring the Court as a whole remains insulated from political, executive, or administrative capture; **Master of the Roster**: Absolute authority over the scheduling and distribution of judicial resources to prevent "judicial silos" and arbitrary assumptions of jurisdiction by individual members of the bench (nota bene: still must be in the confines and ambit of the statutory scheme); **Self-Assignment Power**: Inherent authority to take over or self-assign matters of profound institutional significance where the reputation of the tribunal is at risk due to administrative stasis or unauthorized acts; **Administrative Steward**: Oversight of registry functions to prevent procedural lawlessness or stasis, ensuring the clerical arm serves the adjudicative act as a necessary extension of judicial sovereignty; **Efficiency Operation Duty**: The responsibility to ensure the seamless and efficient operation of all Court functions, preventing the occurrence of administrative lacunae or the functional stagnation of the list; **Ethical Compliance Guarantee**: The occupation of a preferred position to ensure and guarantee absolute compliance with judicial ethics within the tribunal, acting as the final arbiter of professional conduct; **Complaint Laying Power**: The intrinsic authority to initiate formal complaints for identified ethical breaches, a power central to the self-regulating nature of the judicature; **Puisne Judge Removal Power**: The authority to relieve or reassign colleagues to preserve the perception of institutional integrity of the public during ethical inquiries or complaints; **Moral Barometer**: The role of serving as the ethical and integrity barometer for the entire judicial institution, setting the standard for comportment and professionalism; **Moral Authority**: The power to impose judicial will upon other puisne judges through directives ethically bound to be followed for the collective good; **Finality Guardian**: The duty to ensure that the litigation of the subject reaches a final, issued, and entering determination without the intervention of administrative capture or judicial stasis, preserving the right of the subject to finality and access to the judicature. Canadian jurisprudence utilizes the "Marshall Test" (the "**Incapacity Metric**") to determine whether alleged conduct is so manifest and totally contrary to the impartiality of the judiciary that the confidence of the public is undermined. A failure in due execution (the "**Failure in Due Execution**") constitutes a manifest and total departure from the standards of the office. The intervention occurring in the total absence of jurisdiction—***Coram Non Judice***—represents

sudden departure. While a fortress of immunity exists for acts done in the course of judicial duties, this protection collapses where an officer acts in clear absence of all jurisdiction (the "***Coram Non Judice Exception***").

VOLUME #8:ORDERS SOUGHT

88. There is a fundamental reason that section 123 of the *CJA* is referred to as a "rehearing" and not a "re-conference". A fundamental jurisdictional distinction exists between a "rehearing" (the "Rehearing"), as contemplated by section 123 of the Courts of Justice Act (the "CJA"), and a mere case management conference (the "Conference"). The nomenclature of the CJA is deliberate; the legislative promulgation of a "rehearing" implies the restoration of the status quo ante via a de novo consideration of the merits by a properly constituted panel or a single judge of the Divisional Court sitting in a judicial capacity, rather than the administrative circumscription of a conference. It remains ambiguous whether the interpretation rendered by Madam Justice Shore was intended to encompass the attendant regulations of the *Administration of Justice Act* (the "*AJA*") concerning the digital recording request (the "Request") submitted via the Request Form Undertaking. While the judicial acknowledgment was purportedly directed at the provision of materials for transcription, a "Conference" is not a "Hearing" within the meaning of the *Judicial Review Procedure Act* (the "*JRPA*") or the *Rules of Civil Procedure* (the "*Rules*"). To be "Heard" in a judicial review proceeding necessitates a formal hearing (the "Hearing") by motion—either in person or in writing—presided over by a single judge of the Divisional Court acting as a motion judge, rather than an unauthorized Case Management Judge (the "CMJ"). Reliance is placed upon the Supreme Court of Canada's articulation in *Yatar*, which clarified the obligations of the Divisional Court and the Court of Appeal. As noted at paragraph 49, the right to seek judicial review is a constitutional safeguard. To permit courts the discretion to eschew such applications because of a subjective perception of the quality and quantity of internal reconsiderations would allow judicial discretion to trump a constitutional principle (*Vavilov*, *supra* at para 49; P. Daly, *A Culture of Justification: Vavilov and the Future of Administrative Law* (2023) at p. 226).It is posited that the Supreme Court did not vest in the Divisional Court the authority to obviate a "Hearing" through the mechanism of unauthorized case management. The jurisdiction of the Divisional Court, being a statutory creation, is strictly defined by the *CJA* and the *Rules*. Absent a specific "Assignment Order," the prerequisite "gate" to exercise powers under *Rule 77* remains impassable. Consequently, the interventions of the Court in this instance constitute a *metamorphosis* of procedure that lacks a statutory basis, rendering such actions *ultra vires*. In light of the absence of properly issued decisions and orders mandated by the *CJA*, the pursuit of all available legal

a necessity and any interference with the same by any branch of government or the public is interference with Section 96 of the Constitution Act, 1867, which matters not whether the infringing conduct was prescribed by law or not as there are no saving provisions in such an analysis like there is under the Charter with respect to section 2, 7-15. The declaration of the First Insurer is of paramount importance, not merely retrospectively, but prospectively for the Applicant and service providers alike along with the public interest because a uniform answer is required for all insured persons who have had SNIC as an underwriter but receive contact information that includes a fax number where it is not resident as a business. Where the Court maintains a "Strategic Silence," and where the Responding Parties have heretofore failed to file a First Defence or "Delivery" any responding materials or evidence, it is a corollary of the law of evidence that the Court must accept the uncontroverted version of facts presented on the record as the sole evidentiary basis for adjudication. The following orders are sought to rectify the procedural irregularities heretofore described: a. An Order pursuant to section 123(4) of the *CJA* that Notice of Motion #2 (the "NOM #2") be reheard within five days of this Order and by no later than February 28, 2026; b. An Order that the motion was heard on February 23, 2026, with all relief granted *nunc pro tunc*; c. An Order that the President of the Divisional Court assume the role of the presiding judge (the "Self-Assignment Order"); d. An Order that the President of the Divisional Court issue a bottom-line ruling with reasons to follow; e. An Order declaring that all purported directions or "decisions" rendered in the *McLean* Proceeding (as defined below) in the absence of a formal "Assignment Order" are nullities and *void ab initio*; f. A Mandatory Order requiring the Registrar of the Divisional Court to forthwith issue Case Center invitations to ensure the integrity of the judicial record; g. An Order pursuant to section 123(7) of the *CJA* that costs be determined subsequent to the issuance of the decision for Motion 36 and NOM #2; h. An Order dispensing with compliance with the *Rules* where the exigencies of delay necessitate relief to ensure substantive justice and forestall technical failure; i. Costs of the motion in favour of the Applicant on a substantial indemnity basis; j. Other relief as is just and equitable in accordance with the *JRPA*, *CJA*, *Rules*, and the common law requirements established in *Yatar v TD Insurance Meloche Monnex,* 2024 SCC 8 (*Yatar*) and *Vavilov*. The intervention of the Chief Justice of the Superior Court of Justice, in his capacity as the President of the Divisional Court, is required to truncate or eliminate the labyrinthine issues present in NOM #1 and NOM #3 through #5. Such an approach is concomitant with the principles of access to justice and judicial independence, as affirmed in *Trial Lawyers Association of British Columbia v British Columbia (Attorney General)*, 2014 SCC 59 (*TLABC 2014*), *Timm v Canada*, 2014 FC 1022 (*Timm*),

and *Uhrik v Canada (Attorney General)*, 2021 FC 113 (*Uhrik*). To the extent that the requested orders are withheld, reference is made to *Prefontaine v Gosman*, 2000 ABQB 243 (*Prefontaine*). At paragraph 39, the court discussed the constitutional protections afforded to judges acting in their judicial capacity. However, a distinction must be drawn: a judge is shielded only if they hold a *bona fide* belief that they are acting within their jurisdiction. In the matter of *Nash v CAMI Divisional Court Proceeding* (the "*Nash* Proceeding"), the intervention occurred only following an "Assignment For Case Management" email by Justice Nakatsuru as evidenced by the public record. Conversely, in the *McLean TDHA* Divisional Court Proceeding (the "*McLean* Proceeding"), the intervention on January 7, 2025, lacked even the pretense of a prior assignment. Given that the *Rules*, the *JRPA*, and the *CJA* remained identical in both instances, it is logically inconsistent to suggest a belief in jurisdiction existed in the *McLean* Proceeding. Where a judge acts without the requisite authority, the proceeding is *coram non judice* and the act is *factum a judice, quod ad officium jure non pertinet, ratum non est* (an act of a judge which does not belong to his office is not valid). Furthermore, the necessity for Case Center invitations to be issued *in limine* upon the commencement of a *JRPA* application is underscored. This prevents any claim that the Registrar misinformed the Court regarding the filing of a First Defence. Without an express "Assignment For Case Management" Order from a judge of the Divisional Court, any subsequent judge lacks the authority *ipso facto* to convene a conference. This submission is tendered to ensure the record of proceeding reflects that all conceivable avenues for legal remedy have been exhausted. There can be no breach of "orders" that were *void ab initio*, as they were nullities from the moment of their inception. The Applicant trusts that the President of the Divisional Court will discharge his duties in accordance with the *lex terrae* and remains available for further inquiry. Subject to minor administrative refinements, these constitute the Applicant's formal submissions regarding the relief sought under section 123 of the *CJA*.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 23RD day of February, 2026.



Kevin Alexander McLean

Applicant, acting in person

SCHEDULE "A"

The Applicant relies on his authorities in the BOA, 1st Amended, Mail Filed on February 19, 2025

(Motion #6 - Pursuant to Section 123 of the *Courts of Justice Act*)

In addition to the above

I. CASE LAW

A. The Doctrine of Primus Inter Pares and Judicial Leadership

1. *Ruffo v. Conseil de la magistrature*, [1995] 4 S.C.R. 267
2. *Baldovi v. R.*, 2016 MBQB 167
3. *R. v. Siwicki*, 2021 MBQB 42

B. Mandatory vs. Permissive Statutory Powers (The Julius Syllogism) 4. *Information Commissioner (Canada) v. Canada (Minister of Employment and Immigration)*, 1986 CanLII 6836 (FC) 5. *Julius v. Oxford (Bishop of)* (1880), 5 App Cas 214

C. Constitutional Access to Justice and Judicial Independence 6. *Trial Lawyers Association of British Columbia v. British Columbia (Attorney General)*, 2014 SCC 59 7. *Reference re Remuneration of Judges of the Provincial Court of Prince Edward Island; Reference re Independence and Impartiality of Judges of the Provincial Court of Manitoba*, [1997] 3 S.C.R. 3

D. Jurisdictional Nullity and Coram Non Judice 8. *McLean v. Bradley* (1878), 2 S.C.R. 535 9. *Pong v. Quong (and Chong and Thompson)*, [1927] S.C.R. 271 10. *Quong v. Pong* (1925), 57 O.L.R. 345 11. *Taylor v. Clemson* (1844), 11 Cl & F 610 12. *CLE Owners Inc. et al v. Wanlass et al*, 2004 MBQB 43 13. *Duggan v. Durham Region Non-Profit Housing Corporation*, 2020 ONCA 788

E. Summary Judgment, Conversions, and Judicial Efficiency 14. *Miller v. Ledra*, 2017 ONSC 1528 15. *Hryniak v. Mauldin*, 2014 SCC 7 16. *Stickel v. Unum Provident Corporation*, 2009 CanLII 31445 (ON SC) 17. *Ontario (Attorney*

Canada) v. Persons Unknown, 2021 ONSC 152 18. *Smith Bus Lines Ltd. v. Bank of Montreal*, 1987 CanLII 4190 (ON SC) 19. *Agbapu v. Dr. Munshi*, 2023 ONSC 4261

F. Timeliness of Decisions and Bottom-Line Rulings 20. *R. v. Cunningham*, 2011 SCC 10 21. *The Queen v. Teskey*, 2007 SCC 25 22. *Law Society of Ontario v. Harrison*, 2022 ONLSTH 104 23. *Sunsource Grids Inc. v. University of Windsor*, 2023 ONSC 3058

G. Administrative Law and Procedural Fairness 24. *Yatar v. TD Insurance Meloche Monnex*, 2024 SCC 8 25. *Canada (Minister of Citizenship and Immigration) v. Baker*, [1999] 2 S.C.R. 817 26. *Rio Tinto Alcan Inc. v. Carrier Sekani Tribal Council*, 2010 SCC 43 27. *ATCO Gas and Pipelines Ltd. v. Alberta (Energy and Utilities Board)*, 2006 SCC 4 28. *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65

H. Judicial Immunity and State Liability 29. *MacKeigan v. Hickman*, [1989] 2 S.C.R. 796 30. *Canada (Attorney General) v. Power*, 2024 SCC 39 31. *Vale v. Sun Life Assurance Company*, [1998] O.J. No. 2728 (Gen. Div.)

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[i] [50] In focussing on the practice directive, Crown counsel pointed out that the practice directive was not made pursuant to the rule making power of the court under s. 482(2) of the Criminal Code. Rather, the practice directive was made pursuant to the provincial legislation in s. 8.1 of The Provincial Court Act. Crown counsel also pointed out that administrative independence of the judiciary attaches to the court as a whole and that because the practice directive lacks the collective dimension that a rule would have had (as it is made by the Chief Judge alone), it is not of the same force as a rule. In support of this position, Crown counsel relies on the following from Provincial Court Judges Assn. (Manitoba) v. Manitoba (Minister of Justice) (at para. 275):

Even if the trial judge had been right to conclude that the Chief Judge retained control over the decision to close the Manitoba Provincial Court throughout, there would nevertheless have been a violation of s. 11(d), because the Chief Judge would have exceeded her constitutional authority when she made that decision. As this Court held in Valente, control over the sittings of the court falls within the administrative independence of the judiciary. And as I indicated above, administrative independence is a characteristic of judicial independence which normally has a collective or institutional dimension. It attaches to the court as a whole. Although certain decisions may be exercised on behalf of the judiciary by the Chief Judge, it is important to remember that the Chief Judge is no more than "primus inter pares": Ruffo v. Conseil de la magistrature, 1995 CanLII 49 (SCC), [1995] 4 S.C.R. 267, at para. 59. Important decisions regarding administrative independence cannot be made by the Chief Judge alone. In my opinion, the decision to close the Manitoba Provincial Court is precisely this kind of decision.

Tab 77

5160

FORM 59A

Cours of Justice Act

Order

COURT FILE №: DC-24-00000718-00JR

ONTARIO SUPERIOR COURT OF JUSTICE
(DIVISIONAL COURT)

THE HONOURABLE CHIEF JUSTICE Of
THE SUPERIOR COURT OF JUSTICE OF
ONTARIO IN HIS CAPACITY AS THE
PRESIDENT OF THE **DIVISIONAL COURT**
MR JUSTICE. GEOFFREY B. MORAWETZ

_____
February _____, 2026

BETWEEN:

KEVIN ALEXANDER MCLEAN

Applicant

- and -

TD HOME AND AUTO INSURANCE COMPANY, SECURITY NATIONAL INSURANCE COMPANY, TD GENERAL INSURANCE COMPANY, EXECUTIVE DIRECTOR, LICENCE APPEAL TRIBUNAL, HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, REPRESENTED BY THE EXECUTIVE CHAIR OF TRIBUNALS ONTARIO, SEAN WEIR, AND THE ATTORNEY GENERAL OF ONTARIO

Respondents

ORDER

WHEREAS A MOTION was instituted by the Applicant, Kevin Alexander McLean, appearing *in propria persona*, seeking the granting of remedial relief and the issuance of a formal ORDER for a REHEARING

of his Notice of Motion number two ("NOM #2") (see: record of proceeding from Ontario Courts Public Portal, Document #1 Form 37A, at 31/01/2025 pursuant to the supervisory and administrative jurisdiction vested in this Court by way of the Chief Judge of the SCJ in his capacity as the Divisional Court President under section 123 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43 (the "*CJA* "), intended to address a deleterious stagnation in the adjudicative process;

AND WHEREAS the within matter was entertained on **February 26, 2026**, at Osgoode Hall, 130 Queen Street West, Toronto, Ontario, for determination in writing, without the attendance of any party, albeit the Applicant being the only formal "party" and in the absence of the public, the Court being satisfied that the administrative and institutional nature of the relief sought—pertaining to the internal performance and accountability of the judiciary—justifies a non-public determination to preserve the integrity of judicial deliberative frameworks and the independence of the bench;

AND UPON READING the documentation heretofore particularized (but for Motion #6 documents), which was duly served upon the Respondents, excluding the Attorney General of Ontario—the latter having signified, via electronic correspondence dated January 30, 2025, from counsel in the person of Ms. Judie Im, a licensee of the Law Society of Ontario, that notwithstanding due service of the Applicant's *Judicial Review Procedure Act* ("JRPA") Application on November 15, 2024, the Crown would decline participation in the within proceeding—and noting that the Responding Parties failed to effect compliance with Rule 37.12.1(5) or otherwise signify opposition to the relief requested in NOM #2:

1. The Factum of the Applicant in support of Motion № 6, dated **February 25, 2026**, articulating the jurisdictional grounds for the removal of the seized judge and the assumption of jurisdiction by the President;
2. Any motion record or the Factum and Draft Order herein along with any cover emails or cover letter pertaining to NOM № 6, dated February 24, 2026, containing the exhaustive chronological log of administrative inquiries, registrarial failures, and the prolonged silence of the Court;
3. The Originating Process constituting the Applicant's JRPA Application, issued November 15, 2024, identifying the substantive grounds for review of the Licence Appeal Tribunal decisions;
4. The Factum of the Applicant, dated December 12, 2024, setting forth the legal framework and the evidentiary basis for the underlying Judicial Review application;
5. The Certificate of Perfection of the Applicant, dated December 13, 2024, and recorded as electronically filed on December 16, 2024 (Document № 2 in Case View), signifying that the application was ready for a HEARING on its merits;
6. The Affidavit of Service in relation to the aforementioned Certificate of Perfection, dated December 16, 2024, confirming that all Respondents were notified of the perfection of the record;
7. Requisition № 1, dated January 24, 2024, seeking a direction compelling the Registrar to perform the mandatory duties mandated by Rule 68.05 to place the JRPA Application on a Listing for HEARING;
8. Requisition № 2, dated January 24, 2024, seeking an expedited HEARING pursuant to subsection 6(2) of the JRPA to prevent further procedural prejudice and address the urgency of the insurance-related issues;
9. The Affidavit of the Applicant № 2, dated January 30, 2024, and the Affidavit of the Applicant № 3, dated January 8, 2024, detailing the systemic lack of responsiveness from the administrative branch of the Court;

10. The documentation pertaining to Notice of Motion № 1 (“NOM № 1”), seeking relief against the Licence Appeal Tribunal (“LAT”) for compliance with section 10 of the JRPA, returnable January 30, 2025;
11. The documentation pertaining to NOM № 2, submitted in accordance with Rule 37.12.1(4-6), comprising the Notice of Motion, Motion Record, Draft ORDER, Factum for Motion in Writing, and Confirmation of Motion;
12. The Applicant’s Requisitions № 1 through № 7, filed between December 24, 2024, and February 7, 2025, evidencing a diligent pursuit of a judicial determination;
13. The Compendium and Amended Compendium (Tabs 2–61) and Written Outline, dated February 11 and February 14, 2025, respectively, providing the Court with the necessary materials for a written determination; and
14. The comprehensive Book of Authorities of the Applicant, comprising Tabs 1 through 312, filed February 19, 2026, establishing the legal prerequisites for the relief sought.

RECITALS NECESSARY TO UNDERSTAND THE ORDER

AND UPON NOTING that the within Motion is cognizable directly and exclusively by the Chief Justice of the Superior Court of Justice, in his capacity as the President of the Divisional Court, pursuant to the singular remedial and supervisory jurisdiction conferred by section 123 of the *CJA* to remedy administrative failures and judicial delays that threaten the functional integrity of the Rule of Law;

AND UPON NOTING that the within Motion has been heard *ex parte* by reason of the Respondents’ contumacious failure to deliver a Notice of Appearance in accordance with Rule 1.06 and Form 68A, the legal consequence of which is the total extinguishment of their entitlement to notice of subsequent steps in this proceeding pursuant to Rule 38.06 and Rule 1.06 of the *Rules of Civil Procedure*;

AND UPON NOTING that the definitions and interpretive frameworks utilized herein are adopted from the record of proceedings, and that the terms “HEARING” and “ORDER” are intentionally capitalized to signify their specific legal status as defined in the *Rules of Civil Procedure* and to distinguish them from mere administrative directions, managerial summaries, or informal conferences that lack adjudicative weight;

AND UPON NOTING the extensive and complex history of related motions in the Licence Appeal Tribunal (“LAT”), specifically including NOM № 13 (Third-Party Records), NOM № 14 (Addition of TDHA as a Party), and NOM № 15 (Pleadings Amendment), and the subsequent decisions of Vice-Chair Morrissette and Vice-Chair Lake, which constitute the substantive foundation upon which the underlying Judicial Review is predicated and demonstrate the necessity of a timely supervisory review;

AND UPON NOTING that the "Integrity of the Court" mandates that the *Rules of Civil Procedure* apply with equal force to the judiciary and the litigants, and that a failure of a presiding judge to render a decision within the statutory timelines constitutes a breach of the "Social Contract" between the judiciary and the citizenry, which the President of the Court possesses an inherent and statutory obligation to rectify;

AND UPON BEING SATISFIED that the jurisdictional prerequisites of section 123 of the *CJA* have been demonstrably fulfilled, in that a presiding judge was seized of NOM № 2 on February 14, 2025, the matter has remained *sub judice* for a period exceeding the statutory threshold of six months for a Judgment, and the Applicant has exhausted all reasonable administrative inquiries with the Registrar and the Office of the Chief Justice without result;

CHAPTER 1: GENERAL DECLARATIONS AND JURISDICTIONAL FINDINGS

1. **THE DIVISIONAL COURT DECLARES** that the failure to render a decision on Motion № 2 within the statutory window constitutes a substantial and prejudicial administrative delay, which abridges the Applicant's fundamental right to a timely adjudication of his legal claims and necessitates the immediate corrective intervention of the President of the Divisional Court to restore the functional integrity of the adjudicative process.

2. **THE DIVISIONAL COURT DECLARES** that the Chief Justice of the Superior Court of Justice, acting as the President of the Divisional Court, is the "chief judge" within the meaning of section 123(1) of the *CJA* and is vested with the unique and exclusive jurisdiction to remove a seized judge from a matter under advisement and assume plenary jurisdiction for the purpose of directing and conducting an expedited REHEARING.

3. **THE DIVISIONAL COURT DECLARES** that the temporal constraints for the delivery of Judgments are not merely aspirational but are fundamental safeguards of the Rule of Law, the transgression of which creates a jurisdictional lacuna that must be remedied by the President of the Court to prevent a systemic failure of court service and a degradation of public confidence in the judicial branch.

4. **THE DIVISIONAL COURT DECLARES** that judicial delay of this magnitude constitutes an administrative barrier to justice and a direct violation of procedural fairness, resulting in a *de facto* stay of proceedings without lawful judicial authorization, thereby causing irreparable prejudice to the movement of the Applicant's Judicial Review and functionally extinguishing the Applicant's right to be heard.

5. **THE DIVISIONAL COURT DECLARES** that "Natural Justice" encompasses the right to a timely outcome, and a HEARING that does not result in a decision within the prescribed statutory period is functionally a "legal nullity" that requires the remedial exercise of the President's power to direct a new HEARING to ensure that the litigation does not become an exercise in futility.

6. **THE DIVISIONAL COURT DECLARES** that section 123 of the *CJA* serves as a constitutional fail-safe; when the internal machinery of a court fails to provide a result, the President has an original statutory duty to provide the litigant with an alternative path to finality, ensuring that the judicial process remains a meaningful vehicle for the resolution of disputes.

7. **THE DIVISIONAL COURT DECLARES** that the "Efficiency of Justice" is an inextricable component of jurisdiction. A court that does not render Judgments is a court that has effectively ceased to function in its constitutional capacity with respect to that specific litigant, creating an impermissible state of adjudicative paralysis.

8. **THE DIVISIONAL COURT DECLARES** that the delay encountered by the Applicant acts as a functional dismissal of his claims without a HEARING on the merits, which is a violation of the foundational principles of the Ontario justice system and the "Rule of Law" as protected under Section 96 of the *Constitution Act, 1867*.

9. **THE DIVISIONAL COURT ORDERS** that any requirement for a formal Notice of Motion in Form 37A is hereby dispensed with pursuant to Rule 37.01, the specialized nature of the relief under section 123 of the *CJA* and the unique circumstances of the judicial delay rendering such form redundant and obstructive to the summary nature of this remedial proceeding.

10. **THE DIVISIONAL COURT ORDERS** that all relief granted herein, including all declarations of right and procedural directions, is effective *nunc pro tunc* to February 26, 2026, to ensure that the Applicant is restored to the legal position he would have occupied had the statutory timelines been respected by the Court.

11. **THE DIVISIONAL COURT DECLARES** that the identity of the original presiding judge for NOM № 2 shall remain privileged and confidential to preserve the institutional independence of the judiciary from scrutiny arising purely from administrative or workload-related delays, while simultaneously providing the Applicant with the required remedial result.

CHAPTER 2: CASE MANAGEMENT AND RULE 77 NON-COMPLIANCE

12. **THE DIVISIONAL COURT DECLARES** that as no Respondent has delivered a "first defence" or Notice of Appearance as contemplated by Rule 77.05(2), the mandatory triggers for the activation of Case Management under Rule 77 have never been engaged, and the proceeding remains at all times on the standard adjudicative track.
13. **THE DIVISIONAL COURT DECLARES** that the persistent failure of the Respondents to deliver a Notice of Appearance for a period exceeding 365 days constitutes an absolute and irrevocable waiver of their right to invoke the protections of Case Management or to request the convening of Case Management Conferences.

14. **THE DIVISIONAL COURT DECLARES** that in the absence of a formal, endorsed, and entered ORDER of “Assignment for Case Management,” any administrative attempts by the Registrar or court staff to regulate the proceeding through "scheduling directions" or "case conferences" are *ultra vires* and void *ab initio*, as they lack a lawful jurisdictional foundation.

15. **THE DIVISIONAL COURT DECLARES** that the intervention of Madam Justice Shore in the JRPA Proceeding on January 7, 2025, absent the condition precedent of an Assignment for Case Management ORDER by a Judge of the Divisional Court, was performed without the requisite jurisdictional foundation, thereby rendering such acts *coram non judice* and indicative of a private actor operating under a misrepresented color of office.

16. **THE DIVISIONAL COURT DECLARES** that any administrative direction that purported to stay Motion № 2 pending a "case conference" was an unauthorized interference with the judicial function and is hereby vacated, as administrative protocols cannot supersede the statutory right of a party to have a properly perfected motion heard and decided.

17. **THE DIVISIONAL COURT DECLARES** that the "Case Management" label cannot be utilized as a procedural shield by Respondents who remain in a state of default. Case Management is a privilege reserved for active participants who effect compliance with the *Rules*, and it cannot be weaponized to stall the adjudication of merits.

CHAPTER 3: STATUS OF MOTION № 2 AND CRYSTALLIZATION OF RIGHTS

18. **THE DIVISIONAL COURT DECLARES** that the Applicant's right to a determination of NOM № 2 on the written record became crystallized upon the expiration of the Respondents' deadline to respond under Rule 37.12.1(5), and the subsequent judicial delay did not revive any opportunity for participation by the defaulting parties or the Court to seek further submissions.

19. **THE DIVISIONAL COURT DECLARES** that the legal status of NOM № 2 as of the close of business on February 14, 2025, was "heard and awaiting Judgment," and any administrative entries in the Ontario Courts Public Portal characterizing the matter as "pending," "adjourned," or "incomplete" are erroneous and devoid of judicial authority.

20. **THE DIVISIONAL COURT DECLARES** that once a Motion HEARING has been concluded and the matter is *sub judice*, the exclusive adjudicative jurisdiction is vested solely in the presiding judge; such jurisdiction cannot be lawfully usurped, diverted, or modified by any other *puisne* judge, and most specifically not by a Case Management Judge.

21. **THE DIVISIONAL COURT DECLARES** that the status of a matter *sub judice*, and the concomitant three-to-six-month statutory period for the rendering of Judgment, cannot be interrupted, suspended, or tolled by intervening administrative events, nor can it be superseded by the unauthorized convening of case conferences by a judge not lawfully seized of the merits.

22. **THE DIVISIONAL COURT DECLARES** that a party who has effected compliance with all requirements of the *Rules of Civil Procedure* to bring a motion to a HEARING possesses a "vested right" to a decision based on the law and facts as they existed at the time of the HEARING, which the Court has no discretion to withhold indefinitely.

23. **THE DIVISIONAL COURT DECLARES** that "Procedural Paralysis" caused by judicial inaction is a form of institutional bias that favors the respondent/defaulting party by allowing them to benefit from the stagnation of the litigation; such paralysis must be broken by the direct exercise of the President's supervisory authority.

CHAPTER 4: REHEARING AND ASSUMPTION OF JURISDICTION

24. **THE DIVISIONAL COURT ORDERS** that pursuant to section 123(5) of the *CJA*, the President of the Divisional Court hereby assumes full, immediate, and exclusive jurisdiction over Motion № 2 for the purpose of ensuring the prompt delivery of a Judgment and resolving the administrative impasse.

25. **THE DIVISIONAL COURT ORDERS** that the original presiding judge is hereby relieved of all duties, obligations, and jurisdiction regarding that motion and is *functus officio* immediately upon the signing of this ORDER by the President.

26. **THE DIVISIONAL COURT ORDERS** that Motion № 2 shall be reheard and determined by the President of the Divisional Court based on the existing written record within seven (7) days of the issuance of this ORDER, and the resulting Judgment shall be deemed for all purposes to be the Judgment of the Court.

27. **THE DIVISIONAL COURT DECLARES** that the President's assumption of jurisdiction is a restorative act for the Court's reputation, honoring the institutional commitment to provide a forum for the resolution of disputes and demonstrating that the *Rules of Civil Procedure* provide a robust remedy for even the Court's own administrative errors.

CHAPTER 5: PRELIMINARY ORDERS FOR THE REHEARING

28. **THE DIVISIONAL COURT ORDERS** that the REHEARING of NOM № 2 shall be conducted strictly on the documents of record as they existed on February 14, 2025, supplemented only by the Book of Authorities and the Factum for Motion № 6 to clarify the procedural history and the nature of the delay.

29. **THE DIVISIONAL COURT ORDERS** that the Respondents are strictly prohibited from submitting new materials, correspondence, or responding factums for the REHEARING, their right to participate having been forfeited through their sustained procedural default and failure to file a Notice of Appearance.

30. **THE DIVISIONAL COURT ORDERS** that a decision on Motion № 2 shall be released to the Applicant on or before March 5, 2026, or the first available date thereafter and may, at the discretion of the President, be issued as a "bottom-line" ruling immediately to provide certainty, with detailed reasons to follow.
31. **THE DIVISIONAL COURT ORDERS** that the Registrar shall ensure that all physical and electronic files related to NOM № 2 are delivered to the chambers of the President of the Divisional Court within 24 hours of the issuance of this ORDER.
32. **THE DIVISIONAL COURT DECLARES** that the "Record of the REHEARING" is limited to the items identified in paragraphs 28 and 29 of this ORDER to ensure the REHEARING is an honest and accurate reflection of the motion that should have been decided in early 2025.

CHAPTER 6: COSTS AND ADMINISTRATIVE OVERSIGHT

33. **THE DIVISIONAL COURT ORDERS** that there shall be no costs awarded for Motion № 6, the present motion being necessitated by a systemic failure in the Court's administrative machinery rather than the conduct of the parties.
34. **THE DIVISIONAL COURT ORDERS** that the determination of costs for the *original* HEARING of NOM № 2, which remained undecided for over a year, is referred to the President of the Divisional Court as part of the REHEARING process pursuant to section 123(7) of the *CJA* .
35. **THE DIVISIONAL COURT ORDERS** that a copy of this ORDER be transmitted by the Registrar to the Office of the Associate Chief Justice for a formal administrative review of the systemic delays identified in this proceeding and to assist in the improvement of case-tracking accountability mechanisms.
36. **THE DIVISIONAL COURT DECLARES** that the Applicant is entitled to the "fullest protection of the Court" in ensuring that this ORDER is followed by court staff and that no further administrative barriers are placed in the way of the final determination of Motion № 2.

CHAPTER 7: CUMULATIVE CRITERIA FOR JRPA ADJUDICATION

37. **THE DIVISIONAL COURT ORDERS AND DECLARES** that any JRPA Application is to be determined in a formal HEARING (and not a conference) on its merits only upon the fulfillment of

the following cumulative criteria, ensuring that judicial review remains a rigorous legal inquiry rather than a managerial exercise:

a. **Strict Adjudicative Posture:** The proceeding must take the form of a formal "HEARING" as strictly defined by Rule 1.03; a conference is structurally incapable of disposing of a JRPA application on its merits as it lacks the requisite adjudicative formality and evidentiary weight.

b. **Lawful Seisin and Statutory Mandate:** The judge presiding over the HEARING must be lawfully seized of the matter; any judge acting as a "Case Management Judge" without a formal ORDER of Assignment is *coram non judice*, rendering all managerial acts null and void. A judge who has chosen an unauthorized administrative path cannot simultaneously act as the Motions Judge on the merits.

c. **Evidentiary Foundation:** Determination must be predicated upon the sworn evidentiary record, perfected application materials, and factums filed by the parties; adjudication on the merits requires a rigorous analysis of the record of the tribunal under review.

d. **Absence of Administrative Blockades:** Pursuant to the mandate in *Yatar v. TD Insurance Meloche Monnex*, the Court shall not utilize discretionary procedural devices, such as unauthorized or "out of the blue" case conferences, to deflect, delay, or functionally erase a perfected JRPA application.

e. **Absolute Right to HEARING:** The right to a HEARING is absolute; while the relief sought remains discretionary, such discretion can only be exercised following the conclusion of a HEARING on the merits and cannot be used as a justification to avoid the HEARING itself.

f. **Procedural Access to Records:** Access to filed documents is accomplished via Case Center; where registrarial failure occurs, access is to be secured via Requisition under Rule 37.10 within the context of a MOTION only, ensuring the Court is in possession of the uncontroverted record.

g. **Inviolability of the Sub Judice State:** Upon the conclusion of a HEARING, the resulting *sub judice* status precludes the subsequent intervention of any other judicial officer or the imposition of administrative conferences that purport to "manage" the merits of the reserved decision.

h. **Hierarchical Separation of Roles:** The administrative convenience of a Case Management Judge cannot supersede the adjudicative authority of a Motions Judge once a matter has been taken under advisement; power cannot be usurped by a judge presiding in a different capacity with a disparate level of authority.

i. **Continuity of the Statutory Clock:** Once the three-to-six-month period for rendering Judgment has commenced, it remains immune to interruption by unauthorized managerial acts; a matter *sub judice* cannot be "taken over" by case conferences or an unauthorized Case Management Judge.

j. **Prohibition of Deflection:** When a judicial officer utilizes a "case conference" to deflect or stall a perfected application, they are directly violating the core holding of *Yatar*. An unauthorized alleged direction by a Judge of the Divisional Court constitutes an even more egregious violation of this constitutional principle.

DATE OF ISSUANCE: _____

SIGNED BY: _____

THE HONOURABLE CHIEF JUSTICE GEOFFREY B. MORAWETZ

PRESIDENT OF THE DIVISIONAL COURT

APPENDIX № 1:

Definitions and Interpretations necessary for the Orders and Particulars Necessary to understand the Order

1. ***CJA*** **:** *Courts of Justice Act*, R.S.O. 1990, c. C.43. Definitions therein are applicable, save for family law exclusions segregated in 2004.
2. **Chief Judge:** Under section 123(1) of the *CJA* , means the person having authority to assign duties to the judge (the President of the Divisional Court).
3. **ONCA Jurisdiction:** Pursuant to s. 6(1), an appeal lies to the Court of Appeal from an ORDER of the Divisional Court on a question that is not of fact alone.
4. **Coram Non Judice:** Refers to acts performed before a person not acting as a judge of competent jurisdiction for the specific matter.
5. **Factum A Judice, Quod Ad Officium Jure Non Pertinet, Ratum Non Est:** An act of a judge which does not legally belong to his office is not valid.
6. **HEARING:** As defined in Rule 1.03, specifically excluding "conferences."
7. **Case Management Triggers:** Pursuant to Rule 77.05(2), requires the delivery of a "first defence" (Notice of Appearance) as a mandatory condition precedent to assignment.
8. **Vested Right:** The entitlement of a party who has complied with all rules to receive a decision based on the law and facts as they existed at the time of the hearing.
9. **Procedural Paralysis:** The state of institutional bias favoring a defaulting party through judicial inaction and administrative delay.
10. **Composition of the SCJ:** Consists of the Chief Justice, the Associate Chief Justice, eight Regional Senior Judges, the Senior Judge of the Family Court, and Judges fixed under clause 53(1)(a).
11. **Social Contract:** The implicit agreement between the judiciary and the public that the Court will provide timely and meaningful adjudication in exchange for the public's submission to its jurisdiction.
12. **Primus Inter Pares:** The doctrine designating the Chief Justice as "first among equals," providing the administrative authority to oversee the sittings and duties of the Court without infringing upon individual adjudicative independence.

SCHEDULE "A": NOM № 2 DRAFT ORDER (February 14, 2025 – electronically filed – and under the previous iteration of the Rules of Civil Procedure for Toronto Region (since changed to a confirmation only model) the Registrar APPROVED and CONFIRMED the filing)

Court File No. DC-24-00000718-00JR

FORM 59A

Courts of Justice Act

ORDER

ONTARIO SUPERIOR COURT OF JUSTICE (DIVISIONAL COURT)

_____ _____ _____

ONTARIO SUPERIOR COURT OF JUSTICE (DIVISIONAL COURT)

BETWEEN:

KEVIN ALEXANDER MCLEAN

APPLICANT

- and -

TD HOME AND AUTO INSURANCE COMPANY, SECURITY NATIONAL INSURANCE COMPANY, TD GENERAL INSURANCE COMPANY, EXECUTIVE DIRECTOR, LICENCE APPEAL TRIBUNAL, HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, REPRESENTED BY EXECUTIVE CHAIR OF TRIBUNALS ONTARIO IN MR. SEAN WEIR, THE ATTORNEY GENERAL OF ONTARIO

RESPONDENTS

ORDER

THIS MOTION, made by the Applicant, Mr. Kevin A. McLean, for the relief sought at the paragraphs denoted in his Notice of Motion of January 31, 2025 (see: **Schedule "A"**) was heard in writing on February 14, 2025, AND ON READING the following: (i) materials in support of the Applicant's Notice of Motion (the "**Materials In Support**") (see: **Schedule "B"** to this Order (Form 59(A)); and (ii) on hearing the following in written form way of evidence, forms, submissions and other documents signed by the

Applicant, written and filed documents or submissions (non-sworn evidence) of the Applicant, which are particularized and described as (see**: Schedule "C"**); AND

the respondents being served with the Applicant's *JRPA* Application immediately after he made the *JRPA* Application to the Court via the online filing and paying for the same on November 15, 2024, filing Notices of Appearance on November 27, 2024, (Tribunal) and December 3, 2024 (respondent insurance companies); the Tribunal neglecting or failing to comply with its statutory duties under the *JRPA* and SPPA to forthwith file a record of proceedings that contained all of the content requirements at section 20 of the SPPA, and not opposing or consenting to the Applicant's NOM #1 that sought compliance with the same; the respondent insurance companies not complying with the Practice Direction entitled "Information Submitted to the Court" within two weeks of the *JRPA* Application being issued or at all; the respondent insurance companies and the Tribunal being served with the Applicant's Factum and Application Record (December 12, 2024) yet not complying with Rule 68.04(4), or seeking leave to deliver responsive factums and application records after January 13, 2025; and neither the respondent insurance companies nor the Tribunal (collectively, the "Responding Parties" or "Remaining Respondents") complying with Rule 37.12.1(5) within ten days of the date of January 31, 2025, or February 1, 2025, and not filing any objections to NOM #2 being heard in writing or seeking to be heard orally (see: Rule 37.12.1(5)(d));

1. **THIS COURT DECLARES** *AS A FACT* that the Attorney General of Ontario (the "AGO") confirmed in writing on January 30, 2025, with the Applicant, other respondents and the Court that it would not participate in the *JRPA* Proceeding and to be removed from any future correspondence. THIS COURT FURTHER ORDERS that the orders herein are granted with reasons for decision and/or reasons for judgment to follow;

2. **THIS COURT DECLARES** *AS A FACT* that the Applicant provided the status of his motion #1, attempts to have it heard, the status of the Tribunal's filing of the record of proceeding and documents that were not accounted for in the court file by the Tribunal's failure to forthwith file a record of proceeding in accordance with the *JRPA* and *SPPA*. **THIS COURT FURTHER DECLARES** that the Tribunal had failed to file, as of the date of this order, a record of the proceeding forthwith or at all, the respondent insurance companies and the Tribunal failed to file responsive factums and application records in accordance with *Rule* 68.04(4), and THIS COURT

ORDERS that the Tribunal and the respondent insurance companies are precluded from any further participation in this *JRPA* Proceeding but for costs subject to the below order;

3. **THIS COURT ORDERS THAT** The Honourable Madam Justice Shore was and is precluded from hearing any motions, hearings or conferences, and from any involvement in this *JRPA* Proceeding at first instance and/or in the future involving the Applicant and respondent insurance companies on account of a reasonably perceived conflict of interest, apprehension of bias and/or lack of independence, through no fault of this Divisional Court or herself, and solely by virtue of her being a former partner at the law firm of Epstein Cole LLP wherein one Mr. Andrew Papadimitropoulos, a lawyer licensee with "TD Insurance" at the material times of August 31, 2022 to January 2025, was a client of said law firm in matrimonial litigation with his ex-wife who was the individual named insured in the relevant insurance policy[i], underwritten by SNIC;

4. **THIS COURT FURTHER ORDERS** the following consequential relief is granted, as a result of the respondents, excluding the AGO, not consenting to the initial request of the Applicant on January 16, 2025, that a justice other than The Honourable Madam Justice Shore of the ONSC was engaged in any triage, case management or conduct involving the *JRPA* Proceeding:

    i. The **Case Management Appearance Requirement** (January 7, 2025) is declared as void and void *ab initio* (not merely voidable) (the "**Nullification Request**");
    ii. A general and indefinite adjournment of the case conference;

5. **THIS COURT DECLARES THAT** that Rule 4.05.3 of the *Rules of Civil Procedure* applied to Madam Justice Shore's written requirement, on January 7, 2025, to the parties, as they then were, attend before her by way of case conference, pursuant to Rule 77.04(2) of the *Rules of Civil Procedure*;

6. **THIS COURT DECLARES THAT** that since the Applicant and Remaining Respondents did not receive an invitation to Case Center despite the Applicant's requests and requisitions for the same that the case conference of February 18, 2025, for the purposes of *discussing prematurity* and, if necessary, exchanging materials and setting a hearing, was incapable of being conducted in accordance with the *Rules of Civil Procedure* as none of the parties could upload their filed documents into Case Center pursuant to Rule 4.05.3(2), (3)(1.) and (2.), and (4)(2.);

7. **THIS COURT ORDERS THAT** the Registrar shall forthwith send the Applicant an invitation to Case Center to his email address for service with this Court;

8. **THIS COURT ORDERS** THAT the NOM #2 is heard in "written format" on February 14, 2025, and that said NOM #2 was converted into a Motion for **Judgment** (see: Rule 1.03(2)[ii]) pursuant to *Rule* 37.13(2)(a);

9. **THIS COURT ORDERS THAT** that the Applicant shall have **Judgment** in this ***JRPA* Proceeding** as, in part, particularized in his ***JRPA* Application**, **Factum** and **Factum** to his NOM #2 as follows:

    a. **THIS COURT DECLARES THAT** the impugned decisions and orders (relevant to the Applicant's NOM #14 (August 3, 2024) (see: particularized therein as Orders #1 to #4 of Vice Chair Morisette (see: **Schedule "D"**) and **NOM #15** (August 17, 2024) (particularized therein as Order #3), dated and signed on September 12, 2024 (the "**VCM Decision**"), and Vice Chair Lake on reconsideration (October 15, 2024) involve **final decisions** and **final orders**;

    b. **THIS COURT FURTHER DECLARES** that the standard of review to those final decisions and final orders, particularized and cross-referenced herein, is correctness;

    c. **THIS COURT ORDERS AND QUASHES**, in the nature of *certiorari*, the decisions and orders of **VCM** (excluding the order(s) in NOM #13 contained in the same issued reasons for decision VCM (defined above as the "**VCM Decision**") upheld on reconsideration by VC Lake, and substituting the same for the orders sought in NOM #14 as follows including the following consequential or ancillary orders:

        i. An Order setting aside the final order of **VCM** that refused the Applicant's relief sought to add TDHA as a party and substituting it with an order that **TDHA** is added as a party to the LAT Appeal (see: Compendium, Tab 6);
        ii. An Order that **TDHA** has 14 days from the date of this order to file a responsive pleading to the causes of action of the Applicant's LAT Appeal (see: Compendium, Tab 6) that it received on December 24, 2023, via fax;
        iii. An Order that **TDHA** is declared as the **First Insurer** pursuant to *Reg 283*;
        iv. An Order that TDHA is required to comply with all of its obligations under the *Insurance Act*, *Reg 283*, and *SABS* forthwith on a past, current and future bases;
        v. An Order **SNIC** and TDHA shall take all necessary steps to provide the correct name of 'the insurer' that first received the Applicant's Completed Application with current mailing address and fax number to the Applicant at his email for his accident benefits claim at mcleansniclatgmail.com, and correct the same with the central processing agency also known as HCAI within 7 days of this order; and

10. THIS COURT ORDERS THAT the Applicant is entitled to costs of this JRPA Proceeding against the Tribunal, SNIC and TDHA; and

11. THIS COURT ORDERS THAT the Applicant is entitled to seek directions regarding any of the above.

Date of issuance …… _____

RCP-E 59A (January 2, 2024)

Schedule "A"
Verbatim language from the made notice of motion on January 31, 2025
Served on the respondents, with proof of service, immediately thereafter.

THE MOTION IS FOR the following relief:

Order #1: Preliminary order (if applicable)

1. A preliminary delegation by the ONSC Div. Ct. (Chief Justice) that the delegated or presiding motion judge (not an "associate judge" pursuant to 37.02(2)(f) of the *Rules Of Civil Procedure* and section 4 of the *JRPA*) for this written motion shall not be the Honourable Madam Justice Shore and/or any other justice that was employed by Epstein Cole and/or was a partner in the limited liability partnership of Epstein Cole LLP during the time from Fall of 2017 to present;

Order #2: Motion #1 (if applicable)

2. An Order that to the extent that some or all of the relief in his motion #1 (see: Schedule "A"), originally returnable on Thursday, January 30, 2025, or as soon thereafter has not determined by teleconference that it is heard and decided in this motion #2 by the presiding motion judge (in writing). A further order that the Applicant (moving party) shall advise the Court (Registrar) to the attention of the presiding justice with the following information one day before February 14, 2025;
    a. The status of motion #1;
    b. The attempts to have motion #1 heard;
    c. The status of the Tribunal's filing of the record of proceeding with the Divisional Court;
    d. What documents contained in the record of proceeding are not accounted for in the Applicant's Application Record, filed affidavit material herein, and the application records of the respondents to the motion in writing; and
    e. Any other information of assistance to this Court.

Order #3: The Disqualification of Madam Justice Shore or Recusal of Madam Justice Shore

3. An Order that Mr. Papadimitropoulos and Epstein Cole LLP provide copies of the separation agreement between Mr. Papadimitropoulos and Ms. Nicole Artopoulos (the named individual insured individual) and the divorce decree between them for review by the Court "in camera" to assess the issue of a reasonable apprehension of conflict of interest and bias involving Madam Justice Shore on account of Mr. Papadimitropoulos being a client of her former law firm in 2018 in Epstein Cole LLP. Further, Orders consistent with the following relief (see: SCHEDULE "B") in the Applicant's COI Recusal Submissions as follows:
    a. The Honourable Madam Justice Shore is disqualified from any further involvement in this *JRPA* Proceeding (the "**Disqualification Request**" or the "**Recusal Request**");
    b. The Case Management Appearance Requirement is declared as void and void *ab initio* (not merely voidable) (the "**Nullification Request**");

c. A general and indefinite adjournment of the case conference pursuant to 77.04(1)(b) of the *Civil Rules* by the Associate Justice (the "**Adjournment Request**");
d. A direction by the Honourable Chief Justice, pursuant to section 76 of the *CJA*, that the Registrar shall accept all outstanding requisition filings and provide confirmation of the same to the *JRPA* Applicant and respondents; and
e. A direction by the Honourable Chief Justice, pursuant to section 76 of the *CJA*, that the Registrar comply with her duties (by law), pursuant to 68.05(2) of the *Civil Rules*[iii], and provide the parties with a "Notice of Listing For Hearing".

("d" and "e" together, the "**Staff Direction Requests**").

(collectively, the "**Respectful Requests**" or "**Requests**").

Order #4: Converting the "motion in writing" to a "motion for Judgment"

4. An Order converting this motion into a motion for **Judgment** and the Applicant is entitled to judgment in accordance with the relief sought in his *JRPA* Application, Factum, and further particularized and referenced in the Oral Compendium with "Outline";
    a. In the alternative, an Order that that the Court in accordance with Rule 37.13(2)(b) that the *JRPA* Application is heard and decided on a date in February 2025 that is within the approximate range provided by the Registrar as per a Form 68(B)

Administrative and Costs Orders

5. An Order abridging or shortening any prescribed time requirement to have this motion heard in writing on February 14, 2025, including any orders that allow for filing of any amendments to the Notice of Motion #2, Motion Record #2, Draft Order for Motion #2, and "Factum For Motion in Writing and Converting Motion to Motion for Judgment" by way of amendment, newly discovered evidence or fresh evidence, any filing of the record of proceeding by the Tribunal and/or inclusion of documents to be included in the record of proceeding by the Applicant or any other person in control or possession of the same for benefit of the court, by way of "reply submissions" or "reply evidence" and/or the status of motion #1 at any time thereafter. A further Order that any orders so granted at the time of the hearing of NOM #2 (in writing) are granted nunc pro tunc;

6. An Order that the respondent insurance companies, each and all, have not raised a preliminary objection in this *JRPA* Proceeding herein by not complying with the Practice Direction, specifically the section regarding "Information Submitted to the Court";

7. An Order that the respondents, excluding the AGO, have contravened Rule 68.04(4) of the Rules of Civil Procedure. A further order that if the respondents have not provided a proposed factum by way of affidavit at the hearing of this motion #2 herein, they are precluded from seeking leave of this Court to file their factums and application records one month after the prescribed time requirement;

8. An Order granting leave to the Applicant to file any responsive submissions or reply evidence and such order shall be granted nunc pro tunc;

9. An Order dispensing with the requirement for the Applicant to upload any filed documents to Case Center if he does not receive an invitation to Case Center prior to the prescribed time to discharge his obligation pursuant to the Civil Rules. Further, an Order that the court file shall be provided to the presiding motions judge (in writing) prior to February 14, 2025;

10. Costs against any of the respondents that do not consent and oppose motion #2.

SCHEDULE "B"

The presiding motion judge was referred to the following materials in support of NOM #2:

1. Affidavits of service of the Applicant including affidavit of service on February 11, 2025,
2. Affidavit #2 of the Applicant, made on December 30, 2024
3. Affidavit #4 of the Applicant, made on January 18, 2025
4. Affidavit #7 of the Applicant, made on January 24, 2025;
5. Affidavit #8 of the Applicant, made on January 27, 2025;
6. Affidavits filed by the Applicant not enumerated above, sworn on February 14, 2025, and provided before the issuance of any endorsement or orders, or "reasons for decision" so issued and signed by the sitting motions justice; and
7. Compendium filed by the Applicant in accordance with the Rules of Civil Procedure relating to a motion on notice (where those materials were of an evidentiary (sworn) nature).

SCHEDULE "C"
Re: Written Submissions or Documents (filed) in Support

(a) Applicant's *JRPA* Application, dated and made on November 15, 2024, and served on the respondent insurance companies, Tribunal and AGO immediately thereafter;

(b) the Tribunal's Notice of Appearance of November 27, 2024;

(c) the Notice of Appearance of TD Home And Auto Insurance Company, Security National Insurance Company, and TD General Insurance Company of December 3, 2024;

(d) Applicant's Factum: dated, filed and served on December 10, 2024;

(e)The Applicant's Application Record: dated, filed and served on December 12, 2024;

(f) The Applicant's Certificate of Perfection: dated and served on December 13, 2024, and paid for and filed on December 13, 2024, and issued on December 16, 2024;

(h) The Applicant's requisition of December 24, 2024, seeking a Form 68(B) from the Registrar;

(i) Applicant's COI Recusal Submissions (see: Schedule "B" to the **NOM #2**) initially made to the Court by way of a "request" as opposed to motion as no order or endorsement was issued by Madam Justice Shore on January 7, 2025;

(j) The Applicant's Notice of Motion #2;

(k) The Applicant's Confirmation of Motion filed and served herein;

(l) Applicant's Compendium of February 11, 2025; (m) Applicant's affidavit of service of February 11, 2025, for his Compendium; and

(m) Applicant's comprehensive written outline of February 14, 2025, cross-referenced to the Compendium; and the non-participation generally by the respondent insurance companies and the Tribunal, and specifically in relation to this Motion #2:

SCHEDULE "D"

NOM #14 ORDERS SOUGHT BY THE APPLICANT BEFORE THE LAT

a. ***Order #1***:
   i. An Order, Declaration, determination and/or finding that TD Home And Auto Insurance Company, FSRA registration number 1063 ("**TDHA**" or "**TDHAIC**") was the **First Insurer** to receive, pursuant to *Reg 283*, the Appellant's fax delivered **Completed Application** (see: *Reg 283*, s 0. 1) to the fax number, provided to him by SNIC as a return address [sic] for SNIC, of 416-774-3120 (the "**416 Fax Number**") on October 13, 2022 [the "First Insurer Order"];

b. ***Order #2***:
   i. An Order, Declaration, determination or finding the physical address, which is apparently denoted as a branch office of **SNIC** in **HCAI**, municipally known as 304 The East Mall, Floor 6, Etobicoke, Toronto, Ontario, M9B 6B7 (the "**Etobicoke East Mall Address**") was or is an address or branch office of **TDHA** and not **SNIC** [the "HCAI Office Order"]

c. ***Order #3***:
   i. An Order adding **TDHA** as a respondent party to this LAT proceeding therein [the "**TDHA Party Addition Order**" and "**TDHA Cause Of Action Order**"]; and

d. ***Order #4***:
   i. An Order requiring **TDHA**, should it wish to oppose the relief sought in the **Appellant's Appeal**, file and serve a **Response** to the **Appellant's Appeal** within 14 days of the date of the orders herein;

Order #3 that the Applicant sought in **NOM #15**:

a. "Order #5": A preliminary finding, determination, or order, that the fax number 416-774-3120 was a landline phone number utilized as a fax number on the 4th floor of the building situated at the premises municipally known as 3650 Victoria Park Avenue, North York, Toronto, Ontario, M2H 3P7.

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[i] Referenced in the VCM Decision at paragraph 27
[ii] "Judgment" means a decision that finally disposes of an application …on its merits
[iii] 68.05(2) When the certificate of perfection has been filed, the registrar shall place the application on a list for hearing and give notice of listing for hearing (Form 68B) by mail to the parties and the other persons named in the certificate of perfection. R.R.O. 1990, Reg. 194, r. 68.05 (2).

SCHEDULE “B”: REQUISITION № 11 (December 1, 2025)
(Providing the underlying "Record of Proceeding" as of December 1, 2025
NO FIRST DEFENCE FILED
NO ORDER FOR "Assignment For Case Management"

Court File No. DC-24-00000718-00JR

Form 4E

Courts of Justice Act

REQUISITION

Divisional Court Form 1: Requisition or Written Request

Divisional Court Form: Application Hearing Request

ONTARIO SUPERIOR COURT OF JUSTICE

(DIVISIONAL COURT)

BETWEEN:

KEVIN ALEXANDER MCLEAN

APPLICANT

- and -

TD HOME AND AUTO INSURANCE COMPANY, SECURITY NATIONAL INSURANCE COMPANY, TD GENERAL INSURANCE COMPANY, EXECUTIVE DIRECTOR, LICENCE APPEAL TRIBUNAL, HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, REPRESENTED BY EXECUTIVE CHAIR OF TRIBUNALS ONTARIO IN MR. SEAN WEIR, THE ATTORNEY GENERAL OF ONTARIO

RESPONDENTS

REQUISITION

DIVISIONAL COURT FORM 1: REQUISITION OR WRITTEN REQUEST

DIVISIONAL COURT FORM: APPLICATION HEARING REQUEST

Urgent filing via the OCPP, with a copy via email and fax along with notice to the esteemed registrar of the Divisional Court

The Applicant REQUIRES pursuant to the Requisition elements of this joint or multi-purposed form, avoidance of multiplicity of forms, the following:

1. **Registrar:** Comply with mandatory duties and immediately process all urgent filings by the Applicant, including, but not limited to, *Notice of Motion* Number Three, which are delineated for clarity at Appendix B. The urgency of these filings is amplified by the facts presented in Appendix A and the substantive evidence of irreparable harm in **Compendium Tab #3** and the ongoing security issues noted in the **Affidavit of Service (November 21, 2025)**.
2. **Registrar:** Upload all filed documents in this JRPA Application as required by the *Rules of Civil Procedure* and provide the necessary invitation access to the Applicant for his own uploading (where applicable) and for review of the complete electronic record; and
3. **Honourable Divisional Court/Registrar (where applicable):** Grant such further and ancillary relief as may be deemed just and expedient in the circumstances by way of hearing request, written request, or requisition to ensure that the NOM #3 and its relief, including that in the JRPA Application are heard in an expeditious, timely and cost-effective manner while the Moving Party has again complied with all serving, filing and proof of service along with payment requirements.

SUMMARY OF REQUISITION AND REQUEST OF THE DIVISIONAL COURT

This document is a formal requisition filed by Kevin Alexander McLean in the Ontario Superior Court of Justice (Divisional Court), seeking urgent processing of his Notice of Motion Number Three (NOM #3) due to procedural defaults by the respondents in a Judicial Review Application (JRPA). It details the absence of Notices of Appearance filed by the respondents, which has rendered the application undefended and necessitates immediate judicial action to prevent further harm to the applicant.

- **Failure to file a "First Defence" by any Respondents and failure to "Deliver" Notices of Appearances by the Respondents admitted, infallibly proven by the record of proceedings in the JRPA Proceeding and no long justiciable:** The respondents failed to file or deliver mandatory Notices of Appearance, as confirmed by the Ontario Courts Public Portal, resulting in their procedural default and undefended status in the JRPA.
- **Invalid case management request:** The Licence Appeal Tribunal's request to assign the case for management was null and void due to the respondents' failure to file a first defence, making subsequent procedural steps invalid and void ab initio;
- **Void compulsory case conference:** The required appearance before Madam Justice Shore on January 7, 2025, is void ab initio due to the procedural defects and lack of respondent participation but for the unknown and undisclosed to the Applicant Document #48 (see: Appendix "A");
- **Respondents failed to meet filing deadlines:** Despite being served with the applicant's documents, respondents did not deliver their application records or factums by the deadline, reinforcing their procedural default as unequivocally now proven by fortuitousness by the change from the JSO Portal to the OCPP Portal;

- **Impugned decisions must be set aside:** The absence of any defence means the applicant's submissions stand uncontested, entitling the court to set aside the impugned decisions on the standard of correctness;
- **Void benefits and orders for respondents:** Any steps or benefits obtained by respondents without proper filing are void and must be set aside to restore procedural integrity.
- **JRPA and NOM #3 are undefended:** The respondents' failure to file appearances constitutes a procedural election not to contest, leading to an uncontested disposition of the application and motion;
- **Non-justiciable procedural facts:** The absence of filed Notices of Appearance is incontrovertible and not subject to dispute, mandating immediate relief based on the uncontested record.
- **Urgency due to irreparable harm:** The applicant suffers ongoing, irreparable financial harm from the underlying theft and administrative failures, necessitating an expedited hearing on December 3, 2025, to prevent further prejudice (see: Affidavit of Applicant at Tab 22 of NOM #3 Motion Record and Compendium For NOM #3, wherein the day after serving his NOM #3, unauthorized fraudulent conduct occurred with one of his owned emailed accounts).

MATERIALS RELIED UPON

The Applicant relies upon the following materials in support of this urgent Requisition and the immediate disposition of *Notice of Motion* Number Three (NOM #3):

1. **Applicant's Notice of Motion Number Three (NOM #3):** November 17, 2025
2. **Applicant's Factum for NOM #3:** November 18, 2025.
3. **Applicant's Motion Record for NOM #3:** November 19, 2025;
4. **Applicant's Compendium for NOM #3:** Filed November 28, 2025 (specifically Tab #3, Statutory Declaration of the Applicant, establishing irreparable financial harm).
5. **Official Record of Proceedings (OCPP):** The electronic case history for Court File No. DC-24-00000718-00JR, which unequivocally confirms the absence of filed *Notices of Appearance* by the Respondents.
6. **Appendix A (Attached):** Uncontroverted evidence demonstrating the absence of filed *Notices of Appearance* by the Respondents in the OCPP.
7. **Appendix B (Attached):** Listing of urgent filings submitted by the Applicant.

COMPENDIUM INDEX (TABS 1 TO 66)

The following index constitutes the Applicant's Compendium for NOM #3, filed November 28, 2025, relied upon in its entirety:

#	Document	Exhibit	Date of Document	Pages
1.	Factum of the Applicant for NOM #3		Nov 18, 2025	1 to 46

2.	NOM #3 of the Applicant		Nov. 17, 2025	47 to 135
3.	Statutory Declaration of the Applicant (since that time expressly adopted by affidavit in Tab #22)		October 13, 2025	136 to 1433
	— *Body of Stat Dec.*			137 to 198
	— *Compilation of electronic mail correspondence exchanged between Applicant and Respondents (Part of Tab 3)*	"A"	Various	199 to 1433
4. - 63.	**VARIOUS FILINGS AND EVIDENCE** *[The Compendium includes an extensive collection of Affidavits, Notices of Motion, Court Orders, LAT decisions, and correspondence relevant to the Judicial Review Application proceedings over this 2900-page span.]*			1434 to 4341
64.	Tab #35 in served and filed February 2025 Compendium: Requisition for an Urgent Hearing (under section 10 of the JRPA and TARA, by request)		August 17, 2025	4342 to 4350
65.	Tab #36 in served and filed February 2025 Compendium: Affidavit #2 in the JRPA Proceeding ["Urgent Hearing Single Justice Affidavit"]		December 30, 2024	4351 to 4383
66.	**Tabs #37 to #43 in the February 2025 Compendium (Various Documents):** a. Tab #37: JRPA Application (November 15, 2024) b. Tab #37: Applicant's Factum (December 12, 2024) c. Tab #37: "Certificate Of Perfection" (December 13, 2024) *[Includes other sub-tabs up to Tab #43 from the original February 2025 filing.]*		Various	4383 to 4732

SUBJECT I: The Unequivocal Discovery of Procedural Default and Undefended Status

The immediate processing of the Applicant's filed *Notice of Motion* Number Three (hereinafter, "NOM #3") is hereby urgently necessitated and respectfully requested. This urgency is founded solely upon the **recent, unequivocal discovery, now incontrovertibly proven** via the official record of the Ontario Courts Public Portal (hereinafter, the "OCPP"), that the Respondents have committed a fundamental procedural default by failing to file a *Notice of Appearance*. This **newly adduced evidence** is the singular impetus for this urgent Requisition, which seeks to ensure the integrity of the JRPA file and compel immediate compliance with the *Rules of Civil Procedure*. This discovery confirms the demonstrable and fundamental failure of the named Respondents to satisfy their preliminary and immutable procedural obligations, which has, *de facto*, created an absence of opposition, thereby vitiating the need for any protracted, contested litigation on the merits. This ongoing substantive harm (the unrectified theft and erosion of material well-being) renders any administrative delay highly prejudicial, constituting an irreparable impediment to the Applicant's economic and personal security. Furthermore, the Applicant has scrupulously observed all requisite temporal parameters regarding the instant motion, in stark contrast to the material failure of the Respondents to comply with the elemental requirement of filing a *Notice of Appearance*.

Subject I(A): Unequivocal proof that the Respondent Insurance Companies and the LAT neither "filed" nor "delivered" (see: Rule 1.03 of the Rules of Civil Procedure) ("Delivered") their Notices of Appearances which the LAT never compliantly served on November 27, 2024 and the Respondent Insurance Companies served on December 3, 2024

The publicly verifiable electronic record, as meticulously maintained and contemporaneously updated by the OCPP, serves as the singular and unimpeachable repository of all consequential *acta* relevant to the Court's jurisdiction and the litigation's progression. This official record yields unequivocal proof **demonstrating** that the Respondent Insurers (TD HOME AND AUTO INSURANCE COMPANY, SECURITY NATIONAL INSURANCE COMPANY, and TD GENERAL INSURANCE COMPANY) and the Licence Appeal Tribunal (the "LAT") have, without legitimate explanation or justification, **neither formally filed nor duly delivered** the mandatory *Notices of Appearance* requisite under the *Rules of Civil Procedure* (the "Rules"). This finding is derived from the absence of any corresponding entry in the Court's electronic docket—an absence which, in the context of mandatory e-filing protocols, carries the probative weight of positive negation. The computerized file index, functioning as the authoritative log of all perfected filings, does not register any such document from the aforementioned parties. This systematic deficiency confirms the Respondents' failure to take the requisite first step toward defending the application, thereby vitiating their standing as participants and effectively conceding the procedural arena. This manifest failure constitutes a clear and egregious contravention of the applicable procedural dictates, specifically the overarching obligation delineated in *Rule 1.03* concerning the precise distinction between "filing" with the court (the act of depositing a document into the court registry system) and subsequent "delivery" to the opposing party. The statutory requirement for the filing of an appearance is not merely an advisory measure; it constitutes an indispensable prerequisite. The purported service by the LAT of its *Notice of Appearance* on November 27, 2024, is consequently defective and devoid of legal effect, as *delivery* without concurrent or preceding *filing* is demonstrably ineffectual under the *Rules*, rendering the purported service a nullity *ab initio* and therefore utterly incapable of conferring defensive standing.

Subject I(B): Unequivocal and proven consequential proof that the LAT's request on December 3, 2024 at approximately 3:30 p.m. for the JRPA Proceeding to be "Assigned For Case Management" was null and void, void ab initio and of no force and effect pursuant to, *inter alia*, the failure of any of the Respondents to file a first "Defence" (see: Rule 77.04 of the Rules of Civil Procedure) (a "First Defence") as the LAT could not request the same as it was prohibited from receiving any documents or steps in the JRPA Application until it "delivered" a Notice of Appearance

The conclusive finding in Subject I(A) regarding the lack of a perfected *Notice of Appearance* operates as an *ipso facto* bar to the Respondents' ability to initiate any further procedural steps, including engagement in case management. It is submitted that the Respondents' collective failure constitutes an irrefutable procedural default, effectively rendering their position *in limine* untenable and precluding any future adversarial engagement without leave. The unilateral request by the LAT on December 3, 2024, to have the JRPA Proceeding "Assigned For Case Management" must be construed as a legally null act, *void ab initio*, because the LAT had not established its own right to participate in the proceedings. The procedural landscape dictates that a party without a filed *Notice of Appearance* possesses no standing to request judicial intervention or administrative scheduling, as they are deemed to be outside the adversarial process. Such requests, being predicated on an unperfected procedural foundation, lack any binding force or effect under the *Rules*.

Subject I(C): The Madam Justice Shore compulsory case conference appearance requirement of January 7, 2025, was void, void ab initio and of no force and effect for the aforementioned reasons

herein and in the NOM #3, Factum for NOM #3, Motion Record for NOM #3, Draft Order for NOM #3, Affidavit of Service (and affidavit) for NOM #3, Compendium for NOM #3 and primary Draft Order For NOM #3

Following the legally null request for Case Management detailed in Subject I(B), any subsequent administrative or judicial steps flowing from that defective foundation, including the compulsory case conference requirement scheduled by Madam Justice Shore for January 7, 2025, are likewise rendered void, *void ab initio*, and of no force and effect. The judicial or administrative requirement for the Applicant to appear at a case conference predicated upon a proceeding that is, by definition, undefended and fundamentally procedurally defective constitutes a palpable threat to the Applicant's constitutionally protected access to justice and wastes judicial time. Since the Respondents had not complied with the primary procedural mandate to file their appearances, they could not validly be a party to, or beneficiaries of, any subsequent scheduling order or case management step. The original jurisdictional failure vitiates all subsequent actions taken under the guise of an adversarial process that, in fact, does not procedurally exist.

Subject 1(D): The Respondents were served with the Applicant's Application Record and Factum by December 12, 2024, and pursuant to Rule 68.04(4) of the Rules of Civil Procedure, "(4) The respondent shall deliver an application record and a factum within thirty days after service of the applicant's application record and factum. R.R.O. 1990, Reg. 194, r. 68.04 (4)", the Respondents were required to deliver their application records and factums by January 13, 2025 but failed to do so. The Respondents were precluded from filing any material on the JRPA Application, which was subsumed under "Deliver" under Rule 68.04(4), until they filed their Notices of Appearances. As per the record of proceeding in the OCPP, the Respondents neither "filed" nor "delivered" their Notices of Appearances at all or by January 13, 2025

The procedural preclusion established in Subject I(A) and I(B) carried forward to the Respondents' obligations under *Rule 68.04(4)*. Although the Applicant dutifully served the Application Record and Factum by December 12, 2024, triggering the thirty-day response deadline (January 13, 2025), the Respondents were procedurally barred from availing themselves of this rule's mechanism. The failure to file a *Notice of Appearance* means the Respondents forfeited the opportunity to adduce any evidence or advance any substantive submissions, including the delivery of their own Application Record and Factum. This obligation, subsumed under the broader requirement for participation, could not be activated without the foundational step of filing the appearance. The conclusive absence of any Respondent filings in the OCPP by January 13, 2025, or indeed at all, compounds the initial procedural default and provides clear, undeniable evidence that the JRPA has acquired the legally privileged status of an undefended application. This forfeiture serves as an irrevocable waiver of their adversarial rights, analogous to a default judgment.

Subject 1(E): As a consequence of the above and infra, the JRPA Application was not contested by a singular "Defence" or "First Defence" and as such, the Impugned Decisions must be set aside on the standard of correctness with reference to the Applicant's Compendia served and filed on February 11, 2025, and February 18, 2025

The failure of the Respondents to introduce any "Defence" or "First Defence" (the Notice of Appearance being the prerequisite thereto) means that the Applicant's submissions and the relief sought stand entirely uncontested on the record. Through the strict and uncompromising application of the *Rules of Civil Procedure*, the Applicant is presumptively and legitimately entitled to the totality of the relief articulated within the *Notice of Application for Judicial Review*. Given the procedural default, the Court is relieved of the necessity of engaging in the complex, deferential scrutiny typically applied in judicial review.

Instead, the legal analysis defaults to the most stringent standard—the standard of correctness—for determining the lawfulness of the Impugned Decisions, relying exclusively on the merits as set forth in the Applicant's Compendia. The procedural non-engagement of the Respondents permits the Court to exercise its supervisory jurisdiction to set aside the Impugned Decisions without the impediment of countervailing arguments or evidence.

Subject 1(F): As a consequence of the Respondents having been proven by the record of proceeding of filed documents in this JRPA Proceeding to have not filed any documents, inclusive of Notices of Appearances, all steps, documents and order (of which there are none in the record of proceeding along with the JRPA Proceeding remaining "active") to the Respondents unlawfully derived benefits must be set aside as void, void ab initio and/or of no force and effect

A crucial, far-reaching consequence of the Respondents' procedural default is the principle of preclusion and the nullity of any perceived benefit they may have derived from the administrative process. Since the Respondents are barred *in toto* from asserting any substantive defence or requesting any affirmative relief, all subsequent administrative acts or orders that purported to recognize their status or benefit their position are likewise legally deficient. The finding that the Respondents never established standing means they could not participate in any subsequent "active" status of the proceeding. Therefore, any implied orders or administrative steps that were taken on the mistaken assumption of an adversarial contest must be set aside as *void ab initio*. This serves to fully restore the procedural integrity of the JRPA file to its proper, undefended state.

Subject 1(G): As a consequence of the Respondents not defending the JRPA Application, the JRPA Application is undefended and the NOM #3 is undefended

The legal syllogism governing this matter is manifestly clear: the failure to file the mandatory *Notice of Appearance* constitutes an irrevocable procedural default. Therefore, the Respondents possess no legitimate standing before the Court to contest the JRPA, and the application, along with the instant *Notice of Motion* Number Three (NOM #3), must proceed toward an uncontested disposition. The jurisprudential principle embodied in the legal maxim *qui tacet consentire videtur*—he who is silent is held to consent—is not only germane to the instant situation but operates as a conclusive determinant of the application's trajectory toward an uncontested resolution. The Court's jurisdiction must be exercised in favour of the Applicant on the basis of the procedural default, thereby confirming that both the JRPA and NOM #3 are, unequivocally, undefended.

Subject I(H): The Newly Proven Facts of Procedural Default are Incontrovertible, Infallible, and Non-Justiciable

The evidence of the Respondents' non-compliance, drawn directly from the official OCPP record of proceedings (Appendix A), moves the foundational facts of this motion beyond the realm of contestability. These facts—the absence of filed *Notices of Appearance*—are **incontrovertible, infallible, and thus non-justiciable**; they are not subject to evidentiary dispute or adversarial argument. This proven, absolute procedural failure strips the Respondents of any legal basis to oppose the current motion or the underlying Judicial Review Application. The Court, in its supervisory role, is therefore compelled to accept the procedural landscape as an established, settled matter of fact, requiring an immediate and efficient determination of the Applicant's entitlement to relief based solely on the uncontested record. Any administrative delay predicated on the assumption of a contested proceeding is rendered fundamentally inappropriate and prejudicial.

Subject I(I): Failure to File Appearance Constitutes a Procedural Election and *De Facto* Confession of Entitlement to Relief

The Respondents' conscious decision, or demonstrable failure, to perfect their defense by filing the mandatory *Notice of Appearance* constitutes a **procedural election** to abstain from the adversarial process. In the context of the *Rules of Civil Procedure*, this deliberate non-participation operates as a **waiver of the right to contest** the Applicant's claims and submissions, thereby tacitly confirming the Applicant's entitlement to the relief sought in the Judicial Review Application. This non-action is tantamount to a *de facto* **confession of the procedural and substantive merits** of the Applicant's case, particularly regarding the setting aside of the Impugned Decisions. The urgent processing of NOM #3 is required to formalize this procedural concession and grant the appropriate default relief.

Subject I(J): The Inevitability of Relief and the Punitive Cost of Delay

Irrespective of whether the Respondents purport or attempt to deliver their Notices of Appearances, it matters not because they are already in default of their obligations in relation to NOM #3 by not opposing the same or objecting to it being heard in writing. All of the previous steps in which they received notice, documents received and/or if document #48 is one that they (apparently jointly filed) (excluding the AGO), without proof of service therein albeit an apparent filing, the request made by the LAT is void ab initio, the Madam Justice Shore compulsory case conference requirement is void ab initio without a "First Defence" filed and all that spawned from the same. **As such, the sole remaining task to bring the substance (non-constitutional relief which is most important to be heard (justice delayed is justice denied) of the JRPA Application to be heard on its merits in an expeditious, cost-effective and just manner is the processing of filing and uploading of filed documents by the Registrar and the Applicant uploading the filed Compendium For NOM #3.**

As the issue of whether the Respondents filed a "First Defence" or "Delivered" their Notices of Appearances is no longer justiciable and is tantamount to an admission, there is no reason to delay the inevitable. Whether the motion is heard on Wednesday, December 3, 2025, or thereafter, the only difference is the accrual of **elevated costs** to the Applicant and the perpetuation of serious, ongoing substantive harm. The Applicant is entitled to the vital treatments and benefits which are already **3.5 years delayed** (see: *Zurich v. Chubb*, 2024 (May) as per the decision of The Honourable Mr. Justice Akazaki of the SCJ (Toronto Region)). The Court's adherence to the scheduled date of December 3, 2025, is imperative to prevent the further imposition of punitive harm resulting from the Respondents' own procedural failures.

SUBJECT II: The Substantive Urgency of Irreparable Financial Harm Vitiating Any Further Delay

The urgency for a disposition on the scheduled date of **December 3, 2025**, is not merely procedural but is dictated by the ongoing, irreparable substantive harm proved by the evidence contained within the Applicant's Compendium (Tab #3). The core of the Judicial Review Application stems from the **grievous deprivation of the Applicant's property** through an act of theft and the subsequent administrative failure to rectify this injury.

The full scope and severity of this harm is detailed in:

- **Compendium Tab #3:** The Applicant's Statutory Declaration (pages 136-1433) which provides uncontested, sworn evidence regarding the facts of the underlying theft, the value of the property taken, and the subsequent devastating financial consequences.

- **Affidavit of Service (Filed November 21, 2025, attached to the Motion Record):** This Affidavit references evidence of ongoing tampering with the Applicant's proprietary, confidential, and personal interests, specifically the fraudulent re-activation of email accounts related to the theft of his property. As such, on this ground alone, this NOM #3 cannot be delayed from hearing and deciding the same.

This compelling evidence of sustained and quantifiable material erosion places a high burden on the Court to utilize the undefended status of the JRPA to grant the relief sought without further delay. The principles of access to justice and the overriding objective of the *Rules*—to secure the just, most expeditious, and least expensive determination—demand that a procedurally defaulted application concerning such a profound and continuing injury be resolved forthwith on the scheduled motion date, **December 3, 2025**, to mitigate the Applicant's ongoing prejudice.

III. Conclusion and Requisite Compliance with Duties by the Registrar

Given the demonstrable and incontrovertible procedural default exhibited by the Respondents, as evidenced by the official *acta* of the OCPP (Appendix A), the conclusion that the within JRPA is undefended becomes self-evident and legally mandated. The **imminent date of the scheduled hearing (December 3, 2025)**, the now **non-justiciable nature of the Respondents' procedural failure**, and the unredressed, severe financial harm proven in **Compendium Tab #3** necessitates the immediate processing of the Applicant's urgent filings, particularly *NOM #3*, to prevent a palpable miscarriage of procedural justice and to restore the *status quo ante* of the application's proper trajectory toward an undefended disposition. The urgency is further amplified by the critical nature of the underlying issue, namely the unredressed theft and the consequential financial hardship endured by the Applicant, which necessitates the swiftest possible resolution through the uncontested granting of the relief sought in the JRPA.

It is therefore respectfully submitted that where applicable the Registrar must and the Honourable Divisional Court should or must:

1. **Registrar:** Comply with mandatory duties and immediately process all urgent filings by the Applicant, including, but not limited to, *Notice of Motion* Number Three, which are delineated for clarity at Appendix B. The urgency of these filings is amplified by the facts presented in Appendix A and the substantive evidence of irreparable harm in **Compendium Tab #3** and the ongoing security issues noted in the **Affidavit of Service (November 21, 2025)**.
2. **Registrar:** Upload all filed documents in this JRPA Application as required by the *Rules of Civil Procedure* and provide the necessary invitation access to the Applicant for his own uploading (where applicable) and for review of the complete electronic record.
3. **Honourable Divisional Court/Registrar (where applicable):** Grant such further and ancillary relief as may be deemed just and expedient in the circumstances by way of hearing request, written request, or requisition to ensure that the NOM #3 and its relief, including that in the JRPA Application are heard in an expeditious, timely and cost-effective manner while the Moving Party has again complied with all serving, filing and proof of service along with payment requirements.

To ensure that the Applicant has assisted the Registrar with the required immediate administrative processing of filed documents by the Applicant in the OCPP and in compliance with the Divisional Court Practice Direction, by way of subsequent email to the Registrar of the Divisional Court to ensure sufficient time to upload the filed documents into Case Center, the Applicant has provided Appendix A and B to ensure efficient use of public resources.

The processing of the Appendix B, with some of them already due, cannot take more than 30 minutes or so which will allow sufficient time, if conducted on an urgent basis in the morning of December 2, 2025, for uploading to Case Center by the Registrar but for the Compendium For NOM #3 which the Applicant is obligated to upload to Case Center.

The continued fraud upon the Applicant by consequence of the TDI Karat Theft at first instance renders this NOM #3 most urgent to ensure that these nefarious characters on behalf of prima facie the TDI Group (former or present) are immediately restrained from their continued criminality, fraud and extortion. Any such procedural delays would be tantamount to condonation of their conduct.

All of which is respectfully REQUIRED (in relation to the Requisition elements of this joint form) and REQUESTED (where applicable) on December 1, 2025

December 1, 2025



Mr. Kevin A. McLean (B.A. J.D., CIM)
Self-represented or appearing *Pro Se*, the Applicant herein
(e): mcleansettlement@gmail.com

Appendix A

Printable View

File Entries | Parties | Events

File Entries

Number	Filed Date	Type	Subtype	Submitted By	View
2	16/12/2024 0:00	Certificate	Certificate of Perfection	MCLEAN , KEVIN	
1	18/11/2024 0:00	Application Document	Form 68A: Notice of Application for Judicial Review	MCLEAN , KEVIN	

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File Entries | Parties | Events

File Entries

Number	Filed Date	Type	Subtype	Submitted By	View
52	27/03/2025 10:16	Notice	Notice of Return of Documents form		
51	21/03/2025 11:49	Notice	Notice of Return of Documents form		
50	21/03/2025 11:47	Notice	Notice of Return of Documents form		
49	05/03/2025 0:00	Notice	Form 4F: Notice of Constitutional Question	MCLEAN , KEVIN	
48	04/03/2025 0:00	Other	Submissions	LICENCE APPEAL TRIBUNAL SECURITY NATIONAL INSURANCE COMPANY TD GENERAL INSURANCE COMPANY TD HOME AND AUTO INSURANCE COMPANY	
47	03/03/2025 0:00	Affidavit	Affidavit (General)	MCLEAN , KEVIN	
46	26/02/2025 0:00	Affidavit	Affidavit (General)	MCLEAN , KEVIN	
41	18/02/2025 0:00	Affidavit	Affidavit (General)	MCLEAN , KEVIN	
44	18/02/2025 0:00	Other	Compendium	MCLEAN , KEVIN	
43	18/02/2025 0:00	Other	Compendium	MCLEAN , KEVIN	
45	18/02/2025 0:00	Other	Compendium	MCLEAN , KEVIN	
42	18/02/2025 0:00	Other	Submissions	MCLEAN , KEVIN	
40	14/02/2025 0:00	Order/Judgment	Order	MCLEAN , KEVIN	

				Submitted By	View
39	14/02/2025 0:00	Order/Judgment	Order	MCLEAN , KEVIN	
36	11/02/2025 0:00	Other	Compendium	MCLEAN , KEVIN	
35	11/02/2025 0:00	Other	Compendium	MCLEAN , KEVIN	
34	11/02/2025 0:00	Other	Submissions		
38	11/02/2025 0:00	Affidavit	Form 16B: Affidavit of Service	MCLEAN , KEVIN	
37	11/02/2025 0:00	Other	Compendium	MCLEAN , KEVIN	
33	07/02/2025 0:00	Order/Judgment	Order	MCLEAN , KEVIN	
32	05/02/2025 0:00	Requisition	Form 4E: Requisition	MCLEAN , KEVIN	
31	05/02/2025 0:00	Requisition	Form 4E: Requisition	MCLEAN , KEVIN	
29	03/02/2025 0:00	Motion Document	Form 37B: Confirmation of Motion	MCLEAN , KEVIN	
24	03/02/2025 0:00	Affidavit	Form 16B: Affidavit of Service	MCLEAN , KEVIN	
25	03/02/2025 0:00	Motion Document	Supplementary Motion Record	MCLEAN , KEVIN	
28	03/02/2025 0:00	Other	Factum	LICENCE APPEAL TRIBUNAL MCLEAN , KEVIN SECURITY NATIONAL INSURANCE COMPANY TD GENERAL INSURANCE COMPANY TD HOME AND AUTO INSURANCE COMPANY	
27	03/02/2025 0:00	Affidavit	Form 16B: Affidavit of Service	LICENCE APPEAL TRIBUNAL MCLEAN , KEVIN SECURITY NATIONAL INSURANCE COMPANY TD GENERAL INSURANCE COMPANY TD HOME AND AUTO INSURANCE COMPANY	
26	03/02/2025 0:00	Affidavit	Form 16B: Affidavit of Service	MCLEAN , KEVIN	

				Submitted By	View
30	03/02/2025 0:00	Affidavit	Form 16B: Affidavit of Service	MCLEAN , KEVIN	
22	31/01/2025 0:00	Notice	Form 37A: Notice of Motion	MCLEAN , KEVIN	
23	31/01/2025 0:00	Affidavit	Form 16B: Affidavit of Service	MCLEAN , KEVIN	
21	30/01/2025 0:00	Affidavit	Form 16B: Affidavit of Service	MCLEAN , KEVIN	
20	30/01/2025 0:00	Other	Submissions	MCLEAN , KEVIN	
19	29/01/2025 15:41	Notice	Notice of Return of Documents form		
18	29/01/2025 0:00	Affidavit	Affidavit (General)	MCLEAN , KEVIN	
17	28/01/2025 0:00	Requisition	Form 4E: Requisition	MCLEAN , KEVIN	
16	28/01/2025 0:00	Requisition	Form 4E: Requisition	MCLEAN , KEVIN	
15	27/01/2025 0:00	Affidavit	Affidavit (General)	MCLEAN , KEVIN	
14	23/01/2025 16:11	Notice	Notice of Return of Documents form		
13	23/01/2025 0:00	Affidavit	Form 16B: Affidavit of Service	MCLEAN , KEVIN	
12	23/01/2025 0:00	Notice	Form 37A: Notice of Motion	MCLEAN , KEVIN	
11	23/01/2025 0:00	Motion Document	Form 37B: Confirmation of Motion	MCLEAN , KEVIN	
9	22/01/2025 0:00	Affidavit	Affidavit (General)	MCLEAN , KEVIN	
10	22/01/2025 0:00	Affidavit	Affidavit (General)	MCLEAN , KEVIN	
8	22/01/2025 0:00	Affidavit	Form 16B: Affidavit of Service	MCLEAN , KEVIN	
7	21/01/2025 12:01	Notice	Notice of Return of Documents form		

				Submitted By	View
6	31/12/2024 0:00	Affidavit	Affidavit (General)	MCLEAN , KEVIN	
5	24/12/2024 0:00	Requisition	Form 4E: Requisition	MCLEAN , KEVIN	
3	24/12/2024 0:00	Requisition	Form 4E: Requisition	MCLEAN , KEVIN	
4	24/12/2024 0:00	Requisition	Form 4E: Requisition	MCLEAN , KEVIN	

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Appendix B

APPENDIX B FILINGS TO BE IMMEDIATELY PROCESSED IN LIGHT OF THE NEWLY DISCOVERED UNEQUIVOCAL FACTS AND EVIDENCE AS OF DECEMBER 1 2025 BY REFERENCE TO THE OCPP

Reference Number	Court	Case	Case Classificatio
24E9-EFCD-561E-F8C1 Draft Order - NOM 3 - McLean v TDHA et al - Applicant - Moving Party - Mr McLean - 30-Nov-2025	Divisional Court	DC-24-00000718-00JR MCLEAN v. TD HOME AND AUTO INSURANCE COMPANY et al	Divisional - Appl - Judicial Review
8429-6841-0C18-2937 Intake Form - Responses of Applicant - Applicant - Mr McLean - 21-Nov-2024	Divisional Court	DC-24-00000718-00JR MCLEAN v. TD HOME AND AUTO INSURANCE COMPANY et al	Divisional - Appl - Judicial Review
4B3F-88B8-7280-8DEB Divisional Court - Motion Record	Divisional Court	DC-24-00000718-00JR MCLEAN v. TD HOME AND AUTO INSURANCE COMPANY et al	Divisional - Appl - Judicial Review

Reference Number	Court	Case	Case Classifi
59CD-19F9-0358-4A6D Divisional Court - Compendium - NOM #3	Divisional Court	DC-24-00000718-00JR MCLEAN v. TD HOME AND AUTO INSURANCE COMPANY et al	Divisional - Judicial R
12D2-EF10-D383-24D8 Bill of Costs - McLean v TDHA et al - Applicant - Mr McLean - 27-Nov-2025	Divisional Court	DC-24-00000718-00JR MCLEAN v. TD HOME AND AUTO INSURANCE COMPANY et al	Divisional - Judicial R
9F45-183D-2C7E-F81D Requisition Form 4 E - Invitation Case Center - McLean v TDHA et al - Applicant - Mr McLean -26-Nov-2025	Divisional Court	DC-24-00000718-00JR MCLEAN v. TD HOME AND AUTO INSURANCE COMPANY et al	Divisional - Judicial R
1C68-3616-5B6A-DB9E Divisional Court - Form 4E: Requisition	Divisional Court	DC-24-00000718-00JR MCLEAN v. TD HOME AND AUTO INSURANCE COMPANY et al	Divisional - Judicial R
6D41-2808-DF2A-2E97 Divisional Court - Submissions for Costs	Divisional Court	DC-24-00000718-00JR MCLEAN v. TD HOME AND AUTO INSURANCE COMPANY et al	Divisional - Judicial R

RECEIPT FOR NOM #3

Receipt 25D3-0F4F-4A06-8CF8

Details

The transaction details of this purchase order are displayed below. The Receipt Number and Payment Processor Number are unique identifiers for the transaction that should be provided to system administrators if any assistance is required.

Receipt Number

5201 25D3-0F4F-4A06-8CF8

Receipt Type

Filing Fees

Transaction Date

Payment Processor Number
34836269

Purchased By

Kevin Alexander McLean

Status

Authorized

Amount

$339.00

Order Summary

The order summary of this transaction is as follows:

Motion Document - Motion Record - Filing Fees	$339.00
Motion Record in Divisional Court - KEVIN MCLEAN	$339.00
Grand Total	**$339.00**

Line Items

Displays the filing(s) associated with this receipt.

Line Items

Court	Filing	Case
Divisional Court	4B3F-88B8-7280-8DEB Divisional Court - Motion Record	DC-24-00000718-00JR MCLEAN v. TD HOME AND AUTO INSURANCE COMPANY et al

Tab 78

Court File No. DC-24-00000718-00JR

ONTARIO SUPERIOR COURT OF JUSTICE

(**DIVISIONAL COURT**)

BETWEEN:

KEVIN ALEXANDER MCLEAN

APPLICANT

- AND -

TD HOME AND AUTO INSURANCE COMPANY, SECURITY NATIONAL INSURANCE COMPANY, TD GENERAL INSURANCE COMPANY, EXECUTIVE DIRECTOR, LICENCE APPEAL TRIBUNAL, HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, REPRESENTED BY EXECUTIVE CHAIR OF TRIBUNALS ONTARIO IN MR. SEAN WEIR, THE ATTORNEY GENERAL OF ONTARIO

RESPONDENTS

1ST AMENDED[i] WRITTEN OUTLINE FOR COMPENDIUM FOR MOTIONS #3 TO #5 OF THE APPLICANT

Hard copy unamended version: February 18, 2026 (delivered February 20, 2026)

Date: March 6, 2026

EXCLUSIVELY TO FOR ADJUDICATION PURPOSES

The *Primus Inter Pares*: President of the **Divisional Court** of Ontario
The Honourable Chief Justice Mr. Geoffrey B. Morawetz
130 Queen Street
Toronto, Ontario
M5G 1T3

AND TO: FOR SERVICE PURPOSES

Former and Current Registrars of the **Divisional Court**
Former Registrar Ms. Tashekah Gentles
Current Registrar Ms. Roxanne Parris
130 Queen Street
Toronto, Ontario
M5G 1T3

EXECUTIVE SUMMARY FOR NOM #3, MOTIONS #4 AND MOTION #5 (AND COSTS) WAY OF PRIMARY STATEMENT OF ISSUES AND ANSWERS; RECAPITULATION OF ORDERS SOUGHT; AND GRATUTIOUS UNDERTAKING BY THE APPLICANT TO THE DIVISIONAL COURT

Court File No. DC-24-00000718-00JR

ONTARIO SUPERIOR COURT OF JUSTICE

(**DIVISIONAL COURT**)

BETWEEN:

KEVIN ALEXANDER MCLEAN

APPLICANT

- AND -

TD HOME AND AUTO INSURANCE COMPANY, SECURITY NATIONAL INSURANCE COMPANY, TD GENERAL INSURANCE COMPANY, EXECUTIVE DIRECTOR, LICENCE APPEAL TRIBUNAL, HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, REPRESENTED BY EXECUTIVE CHAIR OF TRIBUNALS ONTARIO IN MR. SEAN WEIR, THE ATTORNEY GENERAL OF ONTARIO

RESPONDENTS

THE ABSOLUTE DIVESTMENT OF JUDICIAL AUTHORITY AND STRUCTURAL INDEPENDENCE

1. Within the context of the extant proceeding (the "**JRPA Proceeding**")—bearing Court File No. DC-24-00000718-00JR, commenced by Mr. Kevin A. McLean (B.A., J.D., CIM) against TD Home and Auto Insurance Company, et al.—it was judicially determined in the matter of *McLean (Roderick) v. Bradley*, [THE YEAR OF 1878] 2 S.C.R. 535 (the "*Bradley*" or "*Bradley 1878*") (see: BOA, Tab #310), that acts exceeding the strict scope of judicial authority are rendered *Factum A Judice, Quod Ad Officium Jure Non Pertinet, Ratum Non Est*. Consequently, any appearances or procedural interactions convened before an adjudicator operating under such jurisdictional deficiencies are *Coram Non Judice*, thereby falling unequivocally within the categorical classification of *Irremediable Nullities*. Adjudicative action undertaken absent requisite jurisdiction is entirely devoid of judicial function, thereby providing no foundational underpinning for the invocation of issue estoppel, *res judicata*, or any form of procedural finality whatsoever. It is observed that since the foundational epoch of the confederation of Canada (the "**Confederation**") in THE YEAR OF 1867—a constitutional principle subsequently fortified by the seminal jurisprudence articulated in THE YEAR OF 1878 within *Bradley*—the legal architecture of this jurisdiction has perennially mandated that for the adjudicative manifestations of a member of the judiciary to possess binding efficacy, such *acta* must emanate exclusively from the duly authorized office of the judge (the "**Judge's Office**") and pertain rigorously to the statutory and prescribed obligations inextricably associated therewith. The fundamental proposition, deeply embedded within the social contract, is that judicial coercion is emphatically not an inherent personal prerogative of the jurist, but rather a highly constrained delegation of state power that is instantaneously extinguished the precise moment the jurist operates beyond the codified statutory parameters explicitly enacted by the legislative assembly. To posit otherwise is to endorse a system wherein the coercive apparatus of the state is deployed based upon the idiosyncratic caprice of an individual, rather than the predictable strictures of the rule of law.

2. This foundational limitation is inextricably linked to the unwritten constitutional principle of judicial independence, specifically the structural independence of the court as definitively articulated in *Valente v. The Queen*, [THE YEAR OF 1985] 2 S.C.R. 673 The usurpation of the administrative assignment process by an unauthorized judicial officer, effectively circumventing the Chief Justice's exclusive, constitutionally protected mandate as the "Master of the Roster," constitutes a profound, catastrophic breach of this structural independence. The sophisticated framework established in *Valente* demands not merely independence from the executive and legislative branches of government, but also necessitates the rigorous preservation of internal, administrative independence, which is orchestrated exclusively by the designated administrative head of the tribunal. When a proceeding is unilaterally seized by a *puisne* judge absent formal, documented assignment, the institutional architecture of the judiciary is fatally compromised, and the public's confidence in the impartial administration of justice is irrevocably fractured. The constitution of such an esteemed bench of the supreme court of Canada (the "**SCC**") in *Bradley 1878* underscores the profound gravity with which the early appellate tribunal contemplated strict jurisdictional boundaries, recognizing them as the ultimate prophylactic against judicial tyranny. At page 547 of *Bradley 1878*, the Court, invoking Broom's Legal Maxims and *Taylor v. Clemson*, [THE YEAR OF 1844] 11 Cl. & Fin. 610, conclusively stated:

3. "When the Court has no jurisdiction of the cause, the whole Proceeding is *Coram Non Judice*, and actions will lie against the above mentioned parties without any regard to the precept or process, and in this case it is not necessary to obey one who is not judge of the cause. Broom, L. M. 90; Taylor v. Clemson. *Factum A Judice, Quod Ad Officium Jure Non Pertinet, Ratum Non Est*."

THE DICHOTOMY OF JURISDICTIONAL ABSENCE: COURT VERSUS JUDICIAL OFFICER

ONTOLOGICAL DECONSTRUCTION OF THE CAUSE AND THE REBUTTAL TO INHERENT JURISDICTION

5206 A fundamental jurisprudential issue is inexorably precipitated concerning the strict ontological demarcation between:

a. A court lacking jurisdiction over the cause; versus
b. A judge lacking jurisdiction over the cause.

5. The ontological deconstruction of the "cause" is strictly necessitated, as the fundamental nature of the proceeding dictates the absolute boundaries of the adjudicative power. In traditional legal nomenclature, a cause of action is contemplated, which intrinsically forms the legal substratum for civil liability (e.g., breach of contract, tortious breach of duty, breach of fiduciary obligations, or statutory contraventions such as applications pursuant to the *Personal Information Protection and Electronic Documents Act*, S.C. THE YEAR OF 2000, c. 5). However, within the highly specialized matrix of a **Statutory Application**, such as an application advanced pursuant to the *Judicial Review Procedure Act*, R.S.O. THE YEAR OF 1990, c. J.1 (the "**JRPA**"), the cause is governed comprehensively and exclusively by the paramountcy of the enabling statute itself. The historical genesis of the *JRPA* was specifically engineered to amalgamate and meticulously streamline the archaic prerogative writs (including *certiorari*, *mandamus*, prohibition, and *quo warranto*) into a singular, unified procedural mechanism. Due to this highly specific historical pedigree, the procedural strictures surrounding such applications are exceptionally unforgiving. Naturally, should a *JRPA* application be filed by an individual before the court of appeal for Ontario (the "**ONCA**") at first instance, the appellate court would be wholly bereft of jurisdiction over the cause of the *JRPA* application, as the legislative text explicitly routes such matters to the Divisional Court. Consequently, the court itself, and any constituent judge thereof, would possess no jurisdiction over the cause. All subsequent acts promulgated by the said judge would be rendered *Factum A Judice, Quod Ad Officium Jure Non Pertinet, Ratum Non Est*, and any appearances convened before the said judicial officer would be definitively classified as *Coram Non Judice*.

6. It may be erroneously advanced by opposing counsel, or theoretically contemplated by the Presiding Divisional Court President, that the Divisional Court, functioning as a branch of the superior court of justice (the "**SCJ**"), retains an inherent, plenary jurisdiction to actively manage its own processes *sua sponte*, thereby purportedly curing any individual adjudicative defect through institutional osmosis. This assertion fundamentally misapprehends the rigid structural architecture of the *Courts of Justice Act*, R.S.O. THE YEAR OF 1990, c. C.43 (the "**CJA**"). While plenary inherent jurisdiction is undeniably possessed by the SCJ proper to manage its internal processes—as definitively expounded by the SCC in *Ontario v. Criminal Lawyers' Association of Ontario*, [THE YEAR OF 2013] 3 S.C.R. 3 the Divisional Court is strictly a statutory construct. It was birthed from legislative enactment following the McRuer Commission specifically to serve as a constrained intermediate appellate and judicial review body; it does not possess the sweeping, historic equitable powers of the Court of Chancery. Inherent jurisdiction cannot be imputed downward to a statutory appellate body to override, circumvent, or completely eviscerate explicitly codified regulatory prohibitions. In this highly regulated context, an unassigned case management judge (the "**Case Management Judge**") simply does not possess jurisdiction over the cause. While a degree of procedural latitude is afforded by *Rule 50* of the *Rules of Civil Procedure*, R.R.O. THE YEAR OF 1990, Reg. 194 (the "**Civil Rules**"), the said provision is strictly constrained to pre-trial procedures within the trajectory of civil actions; applications are emphatically not actions and are, *ipso facto*, not structured upon a trajectory culminating in a trial. Furthermore, under *Rule 77* of the *Civil Rules*, structural latitude is severely curtailed in both actions and applications, with an even more pronounced constriction applied to **Statutory Application**s, particularly those initiated pursuant to the *JRPA*. The rationale for this stringent procedural constriction is anchored in the foundational doctrine of statutory supremacy—specifically, the hierarchical superiority of primary legislative enactments over subordinate regulatory frameworks (see: *Legislation Act, 2006*, S.O. THE YEAR OF 2006, c. 21, Sched. F, s. 1 for statutory definitions)—and further codified by explicit regulatory prescription (see: *Rule 1.02*, "Application of Rules").

THE STRICT DEFINITION OF THE JUDGE OF THE CAUSE AND THE INAPPLICABILITY OF THE LIBERAL INTERPRETATION RULE

7. The *Civil Rules* govern all civil proceedings within the ONCA and the SCJ, explicitly excluding family law proceedings (see: *Rule 1.02(1)2.*) and acknowledging the distinct procedural framework of the Small Claims Court (see: *Rule 1.02(1)1.*). The judge of the cause (the "**Judge Of The Cause**") is strictly defined as the

judicial officer who hears and determines the substantive merits, an eventuality that can only crystallize during a formal hearing (the "**Hearing**"). Pursuant to the *Civil Rules*, a Hearing encompasses the hearing of an application, motion, reference, appeal, or assessment of costs, or a trial. The adjudicative function is fundamentally distinct, both structurally and legally, from the administrative function of scheduling or preliminary case management.

8. It may be postulated by the Presiding Divisional Court President that the liberal interpretation provision enshrined within *Rule 1.04(1)*, or the curative provisions addressing procedural non-compliance within *Rule 2.01* of the *Civil Rules*, operate to cure technical defects to secure the "just, most expeditious and least expensive determination" of the proceeding, thereby theoretically validating an unauthorized case management intervention. This argument is fatally defective and relies upon a profound misapplication of the principles of statutory construction. As established by the SCC in *Strickland v. Canada (Attorney General)*, [THE YEAR OF 2015] 2 S.C.R. 713, discretionary administrative rules cannot be weaponized to artificially instantiate jurisdiction where the foundational statutory scaffolding is entirely absent. Discretion is a recognized tool for navigating within the established boundaries of the law; it is emphatically not a mechanism for obliterating those boundaries. Furthermore, the absolute paramountcy of the enabling legislative framework, as mandated in *Canada (Minister of Citizenship and Immigration) v. Vavilov*, [THE YEAR OF 2019] 4 S.C.R. 653(the "*Vavilov*"), demands strict adherence to statutory bounds within a contemporary "culture of justification." An absolute lack of subject-matter authorization cannot be casually dismissed as a mere procedural irregularity capable of retroactive cure. The explicit prerequisite of a **First Defence** is not a mere procedural technicality; it is a substantive, jurisdictional gateway that officially joins the issues, crystalizes the adversarial nature of the proceeding, and engages the necessity for judicial management. Given that an appeal, reference, and trial are fundamentally inapplicable to a *JRPA* application—a principle similarly illuminated in *Pong v. Quong*, [THE YEAR OF 1927] S.C.R. 271 (the "*Pong*"), which involved a **Statutory Application** rather than a prescribed application—the substantive merits of a *JRPA* application may only be heard and decided following the precise procedural setting of the application. This formal setting is exclusively executed either by the Registrar of the Divisional Court via the issuance of Form 68A pursuant to *Rule 68.05*, or alternatively, through a formal motion advanced by a litigant (see: *Yatar v. TD Insurance Meloche Monnex* [THE YEAR OF 2024] SCC 8 at para 49). While the *Civil Rules* provide the specific mechanism to convert a standard motion into a motion for judgment, no corresponding residual, inherent, or implied authority exists under *Rule 77* to transmute an unauthorized case conference into a "conference for judgment."

THE REBUTTAL TO THE DE FACTO OFFICER DOCTRINE

9. It may be further advanced by opposing counsel that the impugned adjudicative acts are permanently shielded from nullification by the operation of the *de facto* officer doctrine. This legal theory is fundamentally inapplicable to the present procedural matrix and represents a gross mischaracterization of the doctrine's historical intent. Historically, the *de facto* doctrine evolved to protect the public from the chaotic invalidation of state acts resulting from minor, technical defects in an official's appointment (for example, an expired commission or a technical flaw in swearing the oath of office). As definitively articulated by the SCC in *Reference re Remuneration of Judges of the Provincial Court of Prince Edward Island*, [THE YEAR OF 1997] 3 S.C.R. 3, the *de facto* doctrine serves exclusively to validate the acts of an official whose appointment is technically defective but who nonetheless exercises authority under the color of right within a jurisdiction they are otherwise authorized to occupy. It emphatically does not operate to instantiate subject-matter jurisdiction, nor does it create file-specific statutory authority where none was ever lawfully conferred. A validly appointed judge who brazenly circumvents the mandatory assignment mechanisms of the *Civil Rules* is not a *de facto* Judge Of The Cause; rather, they operate as an interloper whose actions remain *Factum A Judice, Quod Ad Officium Jure Non Pertinet, Ratum Non Est*. To hold otherwise would establish a perilous precedent allowing any jurist to unilaterally seize any file across the province, cloaking their usurpation under the guise of *de facto* authority, thereby plunging the judicial system into a state of anarchic unpredictability and eroding the very foundations of the administration of justice.

10. A strict bifurcation must be continuously maintained between an institution's overarching statutory jurisdiction and the specific adjudicative competence *in personam* of an individual judicial officer over a meticulously delineated procedural file. An institution's broad statutory authority cannot be retroactively or theoretically manifested to confer *ex post facto* jurisdiction upon an unassigned judicial officer. If institutional jurisdiction could unilaterally cure individual adjudicative defects, the entire codified assignment mechanism painstakingly drafted within the *Civil Rules* would be rendered purely advisory, reducing mandatory statutory gateways to mere suggestions. Such a remarkably flawed interpretation would facilitate rampant judge-shopping, the issuance of internally conflicting directives, and the total operational breakdown of the appellate hierarchy. To accept such a proposition would entirely eviscerate the *Civil Rules* and render the procedural gateways codified by the Legislature functionally superfluous. Therefore, a Case Management Judge, whether formally authorized or functioning as an interloper, is unequivocally not a Judge Of The Cause. Consequently, no lawful adjudicative authority whatsoever was possessed by Madam Justice Shore to wade into the substantive merits, as she was emphatically not a hearing judge. It is solely through the precise procedural mechanism of a formal motion, or through the administrative setting of the matter on a listing for hearing (the "**Listing For Hearing**") by the Registrar—a function exclusively reserved for the Registrar, contrary to the entirely erroneous pronouncements of court clerk Ms. Clegg—and the subsequent issuance, endorsement, and distribution of a Form 68B pursuant to *Rule 68.05*, that the matter may lawfully proceed. This incontrovertible procedural architecture leads to the unassailable, deductive syllogism that Madam Justice Shore functioned not merely as an unauthorized case management judge interloper (the "**Unauthorized CMJ Interloper**"), but importantly, was at no point the Judge Of The Cause.

THE INVIOLABLE DUTY TO REFRAIN FROM FACILITATING UNLAWFUL ADJUDICATIVE ACTS

THE ABSENCE OF JUSTIFICATION FOR RELYING UPON NULLITIES

11. The mandatory obligation to comply with a court order promulgated by a specific judicial officer is inextricably contingent upon both the lawful subject-matter jurisdiction of the tribunal and the precise jurisdictional competence of the individual judge to effectuate the requisite procedural acts. Without this foundational nexus of authority, a directive masquerading as a formal Order possesses no greater legal force than a request articulated by a private citizen and demands no compliance from the litigants.

12. Consistent with the established legal doctrine that no plea of justification is available to a constable who executes a warrant promulgated by a judicial officer lacking the foundational jurisdiction to endorse and issue the same—a scenario legally and conceptually distinct from the execution of a falsified information or indictment, wherein the defect is evidentiary rather than jurisdictionally fatal—there exists no plea of justification for any litigant, court personnel, or subsequent judicial officer who relies upon an *Irremediable Nullity*. The jurisprudence governing the tort of civil conspiracy provides ample, binding authority in this specific domain. The tort manifests in two distinct branches: (i) unlawful means conspiracy, wherein two or more persons act in agreement, frequently established via inferential deduction rather than direct evidence, employing unlawful means that precipitate damage and loss to another; and (ii) lawful means conspiracy, wherein two or more persons engage in a lawful agreement predominantly motivated by the malicious intent to inflict harm upon the plaintiff. When the fundamental, constitutional rights of the victim are transgressed by state actors, damage and loss are legally presumed, thereby alleviating the necessity of quantifying precise pecuniary harm at the preliminary stages of liability assessment (*Shaw v. Lewis*, [THE YEAR OF 1948] 1 W.W.R. 427 (B.C.C.A.)

13. It was explicated by the ONCA in *Reach M.D. Inc. v. Pharmaceutical Manufacturers Assn. of Canada*, [THE YEAR OF 2003] CanLII 27828 (ON CA) citing the seminal jurisprudential contribution of Lord Denning in *Torquay Hotel Co. Ltd. v. Cousins*, [THE YEAR OF 1969] 2 Ch. 106 (C.A.) (: that the expansive construction of unlawful means encompasses acts the defendant "is not at liberty to commit"—acts fundamentally devoid of legal justification. It is indisputable that the actions undertaken by Madam Justice Shore were not merely

executed absent jurisdiction—as she operated entirely as the Unauthorized CMJ Interloper—but were concurrently unlawful acts, characterized unequivocally as *Factum A Judice, Quod Ad Officium Jure Non Pertinet, Ratum Non Est*. Consequently, any purported case management conference convened before her constituted an attendance before an individual legally divested of judicial character for the purposes of that specific proceeding (*Coram Non Judice*). Therefore, subsequent reliance upon such proceedings by any entity, including the coordination staff, the registry, and adversarial counsel, is properly construed as the active aiding and abetting of unlawful acts, thereby exposing those entities to severe civil liability.

THE INFERENTIAL FOUNDATION OF CIVIL CONSPIRACY

14. As illuminated in *Golden Capital Securities Ltd. v. Holmes*, [THE YEAR OF 2004] BCSC 1238, 33 B.C.L.R. (4th) 1 an actionable conspiracy may be established purely upon inferential evidentiary foundations, recognizing the inherently clandestine nature of such tortious agreements. Applying this doctrine, an explicit, overt agreement is not strictly necessitated to establish liability for civil conspiracy amongst court personnel and the unauthorized judicial officer. The synchronized promulgation of directives predicated upon an *Irremediable Nullity* provides the requisite inferential foundation to firmly establish a common design to effectuate unlawful means. Liability may be imposed for the maintenance of silence and the passive permission of the promulgation of false statements, as the conscious failure to correct a known jurisdictional usurpation actively facilitates the ongoing tort: *Sugar v. Peat Marwick Ltd.*, [THE YEAR OF 1988] 55 D.L.R. (4th) 230 (Ont. H.C.J.) To definitively extricate oneself from a continuing conspiracy, unequivocal and demonstrable steps must be undertaken to absolve participation in the common design; mere passive withdrawal or wilful blindness is legally insufficient: *Claiborne Industries Ltd. v. National Bank of Canada*, [THE YEAR OF 1989] CanLII 183 (ON CA)). The mere facilitation of a co-conspirator in the commission of the *actus reus* is entirely sufficient to qualify as the deployment of unlawful means: *2038724 Ontario Ltd. v. Quizno's Canada Restaurant Corp.*, [THE YEAR OF 2010] ONCA 466. Furthermore, it is a settled principle that individualized, active participation by every conspirator in every overt act is not required, provided the unlawful act was a probable consequence of the original common design: *Kuwait Oil Tanker Co. SAK v. Al Bader*, [THE YEAR OF 2000] 2 All E.R. (Comm) 271 (C.A.) (: and *HM Revenue & Customs v. Begum*, [THE YEAR OF 2010] EWHC 1799 (Ch). This articulation serves as a formal, jurisprudential notice to those entities potentially unaware of the original clandestine scheme, heavily steeped in particulars of fraud, bribery, and extortion, yet who remain liable for the perpetuation of the common design by consistently relying upon void directives.

The Limitations of Judicial Immunity and the Color of Office Fallacy

15. While absolute judicial immunity and qualified immunity may be advanced as defensive postures by the tribunal, qualified immunity is strictly contingent upon the execution of acts in good faith, and absolute judicial immunity is rigidly confined to the lawful execution of judicial functions. The overarching policy rationale for judicial immunity is the preservation of independent adjudication, free from the chilling effect of retaliatory civil litigation initiated by disgruntled litigants. However, this policy is entirely vitiated when the judicial officer abandons the adjudicative framework entirely and engages in unauthorized administrative usurpation. It may be argued by the Court that Madam Justice Shore's actions, however procedurally flawed, were executed under the color of her office and are thus absolutely shielded from scrutiny. Such a proposition is legally hollow and constitutionally abhorrent. Such immunities do not extend to extra-jurisdictional non-functions, as unequivocally demonstrated in *R. v. Germain*, [THE YEAR OF 1984] CanLII 1307 (AB KB) (: wherein a misguided contempt proceeding initiated absent jurisdiction constituted a severe constitutional violation, thereby yielding *Charter* relief against the Crown. In *Prefontaine v. Gosman*, [THE YEAR OF 2000] ABQB 155, the Honourable Justice Jones of the Alberta Court of Queen's Bench, citing *Germain*, articulated that the protective mantle of judicial immunity is intrinsically dependent upon the judicial officer's subjective, *bona fide* belief in their jurisdictional competence. It was concluded by Justice Jones that a judge remains shielded from civil liability, irrespective of malice or envy, provided the judge believed they were acting with jurisdiction and within the course of their judicial duties (citing *Sirros v. Moore*, [THE YEAR OF 1974] 3 All E.R. 776, *Royer v. Mignault*, [THE YEAR OF 1988] CanLII 445 (QC CA) (: *Janson v. King*,

5210 [THE YEAR OF 1979] CanLII 2340 (SK QB), *Maharaj v. Attorney-General of Trinidad and Tobago (No. 2)*, [THE YEAR OF 1978] 2 All E.R. 670 (P.C.) (: and *Morier v. Rivard*, [THE YEAR OF 1985] 2 S.C.R. 716.

THE OBJECTIVE ABSENCE OF A BONA FIDE BELIEF IN JURISDICTION

16. The paramount requisite for the invocation of judicial immunity is the subjective belief in the possession of jurisdiction, which must nevertheless be assessed against an objective standard of procedural compliance to prevent absurd self-declarations of authority. It is legally inconceivable that a *bona fide* belief in her jurisdictional competence could have been harbored by Madam Justice Shore as an Unauthorized CMJ Interloper when the explicitly codified prerequisites were manifestly absent from the record. The evidentiary record concerning the *Nash v. CAMI* proceeding (Divisional Court File No. 25-872-JR) demonstrates that the matter was engaged with by Madam Justice Shore solely in January THE YEAR OF 2026, chronologically subsequent to the email correspondence from the Honourable Justice Nakatsuru confirming that the said proceeding would be subjected to a formal assignment for case management **BY ORDER** (the "**Assignment For Case Management BY ORDER**"). This chronological sequence definitively establishes that acute awareness of the requisite procedural gateways was possessed by Madam Justice Shore. Ignorance of the codified procedural law is emphatically not a recognized legal defence for a jurist, and calculated disregard for known, mandatory procedures definitively negates any assertion of *bona fides*.

THE INAPPLICABILITY OF ADJUDICATIVE PRIVILEGE

17. The ambit of absolute adjudicative privilege must also be strictly demarcated to prevent its abuse as a shield for administrative misconduct. As established by the SCC in *MacKeigan v. Hickman*, [THE YEAR OF 1989] 2 S.C.R. 796, absolute adjudicative privilege is possessed by judges, and they cannot be compelled to testify regarding their judicial decision-making processes. This profound privilege exists exclusively to protect the deliberative secrecy essential to impartial judgment. However, protected adjudicative functions were meticulously bifurcated by the Court from purely administrative undertakings. Because the actions executed by Madam Justice Shore were fundamentally devoid of jurisdiction and executed absent a lawful administrative assignment by the Chief Justice or the Regional Senior Judge, the protective mantle of absolute privilege articulated in *MacKeigan* is rendered entirely inapplicable. The usurpation of a file is an administrative act of interference, not a protected deliberative function. An *Irremediable Nullity* cannot be shielded by a privilege reserved exclusively for valid adjudicative deliberation.

THE MANDATORY PROCEDURAL GATEWAYS FOR CASE MANAGEMENT

18. It remains logically irreconcilable that Madam Justice Shore, a *puisne* judge lacking the administrative authority to assign judicial duties, could have perceived herself to possess jurisdiction over the McLean TDHA *JRPA* proceeding. The record is utterly devoid of the filing of a **First Defence**, and absent an explicitly endorsed Order for an **Assignment For Case Management BY ORDER**. The policy rationale underpinning the provision of CaseLines/Case Center invitations upon the commencement of a proceeding—and specifically following the filing of a **First Defence** by a respondent evincing an intention to oppose the relief sought—is to facilitate the uploading of documentary evidence prior to a scheduled conference. The **First Defence** serves the critical, foundational function of confirming the adversarial posture of the parties, thereby justifying the expenditure of limited judicial resources for case management. Nonetheless, for a judge of the Divisional Court to lawfully convene a case conference or conference call within the City of Toronto (Madam Justice Shore's designated administrative region since THE YEAR OF 2018), unequivocal knowledge must be possessed by the judicial officer that a formal Order has been pronounced (see: *Rule 59.01*, which delineates effectiveness from the exact moment of pronouncement). This requires the judicial officer to judiciously verify the court file to ensure an Order was made by a judge of the Divisional Court (expressly excluding an Associate Judge), and further, that a **First Defence** was filed prior to the making of that Order, unless mutual consent was provided by the litigants (*Rule 77.05(1)*). Absent such explicit, documented

consent, the judge must ascertain that an Order for an **Assignment For Case Management BY ORDER** was formally endorsed, issued, and entered in strict accordance with the separate document requirements codified during THE YEAR OF 2020 amendments to the *Civil Rules* (see: *Rule 59.02*; BOA, Tab 56).

THE DIVESTMENT OF THE JUDICIAL OFFICE

19. The analytical framework established in *Kopyto v. Ontario*, [THE YEAR OF 1995] O.J. No. 601 (Gen. Div.) affirms that when an official operates within the statutory framework of their office, their subjective motivations remain immune from civil scrutiny. Conversely, if a judge does not operate within the prescribed statutory framework, the judicial office is fundamentally divested. Should a judge, acting without jurisdiction and without a *bona fide* belief in the possession of the same, intentionally inflict catastrophic harm upon an applicant—such as effectively neutralizing a human rights application or a residential tenancy judicial review through an orchestrated campaign of *ultra vires* procedural attrition—a robust, unassailable cause of action is naturally grounded against the judge personally. In such circumstances, the actions are *Factum A Judice*, *Quod Ad Officium Jure Non Pertinet*, *Ratum Non Est*, and the appearances are *Coram Non Judice*.

STATE LIABILITY, PERSONAL LIABILITY, AND THE BAD FAITH THRESHOLD

THE TRIGGERING OF BAD FAITH AND THE POWER PRECEDENT

20. Regarding state liability, the *Crown Liability and Proceedings Act*, R.S.C. THE YEAR OF 1985, c. C-50 (the "**Federal CLPA**") protects the federal government from vicarious liability for the tortious acts of a federally appointed judge. Similarly, under the *Crown Liability and Proceedings Act, 2019*, S.O. THE YEAR OF 2019, c. 7, Sched. 17 (the "***CLPA 2019***"), the Crown in right of Ontario is shielded, as liability is strictly constrained to the torts committed by an officer, employee, or agent of the provincial Crown (*ss. 8(1)-(3)*). A federally appointed judge is emphatically not an agent of the provincial Crown. Thus, personal liability attaches directly and inescapably to the judge. The jurisprudential precedent governing the gross usurpation of judicial authority bridges the lacuna between judicial sanctity and state dysfunction. In the matter at bar, systemic anomalies are observed which strictly trigger the bad faith threshold (the "**Bad Faith Threshold**"). It is not strictly necessitated that the Applicant prove abuse of power *per se*, as the explicit absence of a permissive 'may' within the *Civil Rules* fundamentally deprived the jurist of the power to commence the Proceeding. As delineated by the ONCA in *Grosvenor v. East Luther Grand Valley (Township)*, [THE YEAR OF 2007] ONCA 55 (the "*Grosvenor*"), bad faith involves acting for collateral purposes. Relevant evidentiary factors meticulously satisfied herein include precipitously rushed processes, the absolute absence of statutory notice, and pronounced deficiencies in judicial due diligence. Furthermore, it is deduced that the communications relayed by Ms. Clegg on February 3, THE YEAR OF 2025, asserting that "the case management Judge is in full control and coordinators can only act at the case management Judge directions" and that all matters are case managed, were patently false, analytically imprecise, and constituted a deliberate misrepresentation, contradicting the *JRPA*, the *CJA*, the *Civil Rules*, and the Practice Directions promulgated by the Chief Justice.

THE INTENTIONAL SUBVERSION OF THE CONSTITUTIONAL ORDER

Section 96 Inconsistency, Institutional Interference, and Charter Entitlements

21. The intentional transgression of section 96 of the *Constitution Act, 1867* (U.K.), 30 & 31 Vict., c. 3, by a sitting judge constitutes a catastrophic subversion of the judicial mandate. This subversion is further compounded by severe executive interference in the administration of the court, representing a direct, incontrovertible violation of the institutional independence of the judiciary established in *R. v. Cawthorne*, [THE YEAR OF 2016] 1 S.C.R. 983 The precipitous, unprecedented termination of the Former Registrar of the Divisional Court, Ms. Tashekah Gentles, precisely on December 3, THE YEAR OF 2025—the exact date mandated for the written hearing—constitutes a chilling manifestation of systemic disarray and

administrative reprisal, evidently designed to paralyze the lawful progression of the **JRPA Proceeding**. Pursuant to the strict parameters established in *Ernst v. Alberta Energy Regulator*, [THE YEAR OF 2017] 1 S.C.R. 3 (the "*Ernst*"), and fortified by *Yatar v. TD Insurance Meloche Monnex*, [THE YEAR OF 2024] SCC 8 the Applicant is unequivocally entitled to a Hearing. The efficacy of an alternative adjudicative remedy operates as a strict condition precedent to the denial of *Charter* damages. Where a *sua sponte Irremediable Nullity* fundamentally bypasses and short-circuits the established appellate process, effectively insulating the rogue actions from standard appellate review by refusing to issue formalized orders, the *Ernst* barrier is conclusively overcome.

22. While it is acknowledged that the *Charter* applies to common law rules authorizing government action (*Hill v. Church of Scientology of Toronto*, [THE YEAR OF 1995] 2 S.C.R. 1130, a judicial officer intervening arbitrarily and without foundational authority generates an *Irremediable Nullity* that transcends mere common law evolution. Such extra-jurisdictional acts irrevocably compromise judicial independence and strictly require the service of a Notice of Constitutional Question to address the resulting section 96 inconsistency (the "**Section 96 Inconsistency**"). While not strictly constituting treason—which is narrowly defined by the utilization of force against the state or betrayal of national security—such calculated usurpation satisfies the requisite elements of criminal breach of trust under section 122 of the *Criminal Code*, R.S.C. THE YEAR OF 1985, c. C-46, if executed with knowledge of the jurisdictional void and for an oppressive or partial purpose. Judicial immunity does not constitute a limitless license for the intentional subversion of the constitutional order. Under these circumstances, Madam Justice Shore is stripped of both adjudicative and administrative privilege, as she was never assigned to the matter by formal direction, and nomenclature ("directions") structurally incompatible with formal Orders was explicitly utilized by her to avoid appellate scrutiny. The commencement of an application via the January 7, THE YEAR OF 2025 email (the "Ibula Email"), and the subsequent confirmation of the state of the record on December 1, THE YEAR OF 2025, firmly establishes that her interventions were unassailable nullities.

The Applicant's Undertaking of Perpetual Abstention

23. To ensure finality, to uphold the overarching principles of judicial economy, and to preclude any theoretical concerns of duplicative recovery or abusive litigation regarding potential tort claims against Madam Justice Shore, a formal undertaking has been provided to the Divisional Court—as supported by the Statutory Declaration of the Applicant affirmed October 13, THE YEAR OF 2025—to the attention of the Chief Justice in his capacity as the President of the Divisional Court, that should the relief sought be granted by a lawful Judge Of The Cause, any civil action against the said judge shall be perpetually abstained from by the Applicant. This proactive covenant demonstrates an unwavering commitment to the equitable resolution of the primary administrative dispute, ensuring the focus remains squarely on the merits of the underlying *JRPA* application.

Latin Maxim	**Translation**	**Legal Application & Consequence**
Coram Non Judice	"Not before a judge."	Applied when a judicial officer lacks competent jurisdiction. Any resulting steps or acts are fundamentally invalid, and parties are absolved of any legal duty to obey the unauthorized directives.
Factum A Judice, Quod Ad Officium Jure Non Pertinet, Ratum Non Est	"An act of a judge not pertaining to his office is not ratified."	Authority is derived strictly from the legal office. Unauthorized *sua sponte* interventions are void *ab initio* (*Irremediable Nullities*) and cannot be cured by subsequent conduct.
Fraus Omnia Corrumpit	"Fraud corrupts all."	When judicial usurpation is combined with fraudulent misrepresentation of authority, it unravels the benefits

		accrued, necessitating the restoration of the *status quo ante*.

THE DOCTRINE OF CORAM NON JUDICE AND CONTEMPORARY JURISDICTIONAL CONSTRAINTS

THE ABSOLUTE NULLIFICATION OF ADJUDICATIVE FUNCTION

24. It remains an incontrovertible legal maxim, deeply embedded within the foundational architecture of the common law, that an adjudication undertaken absent requisite jurisdictional authority is entirely devoid of judicial function. Consequently, no legal or evidentiary foundation whatsoever is furnished by such an extra-jurisdictional pronouncement for the invocation of the preclusive doctrines of issue estoppel or *res judicata* (see: *McLean (Roderick) v. Bradley*, [THE YEAR OF 1878] 2 S.C.R. 535; and *Pong v. Quong*, [THE YEAR OF 1927] S.C.R. 271. The preservation of the rule of law is inherently and perpetually predicated upon the strict observance of jurisdictional boundaries as meticulously delineated by the Legislature. A purported judgment, directive, or mandate promulgated *ultra vires* by an adjudicative body is definitively rendered a dead letter; it is an *Irremediable Nullity* that remains fundamentally incapable of engendering legal rights, imposing substantive obligations, extracting procedural compliance, or altering the legal status of any litigant.

THE HISTORICAL CONTEXT OF JURISDICTIONAL ABSOLUTISM

25. The philosophical underpinning of this jurisdictional absolutism is derived from the irrefutable premise that judicial coercion is a direct exercise of state sovereignty. To permit a judicial officer to wield such immense coercive power absent a statutory anchor is to invite arbitrary governance and judicial tyranny. While the aforementioned jurisprudence emanated from the SCC, the constitutional architecture of the era must be exhaustively contextualized to fully appreciate the enduring, paramount weight of the *Pong* precedent. Prior to the abolition of overseas appeals in THE YEAR OF 1949, an appeal in a civil proceeding could be advanced directly to the Judicial Committee of the Privy Council situated in the United Kingdom. Historically, such imperial appeals could be advanced by litigants either *de plano* (as of right, typically contingent upon specific monetary thresholds or complex subject matters) or via special leave. Furthermore, the highly stratified procedural architecture occasionally permitted direct appeals *per saltum*, allowing litigants to bypass the national appellate court entirely. The existence of such mechanisms ensured that adjudications remained strictly tethered to orthodox common law principles regarding jurisdictional competence, as imperial oversight operated as an unforgiving, systemic prophylactic against the artificial inflation of localized mandates by dominion tribunals.

THE INABILITY TO CURE JURISDICTIONAL VOIDS

26. No such extraordinary imperial appellate measures were pursued by the appellants in the *Pong* matter. The unassailable finality of the SCC's pronouncement in *Pong* therefore permanently cemented the doctrine that acts effectuated without jurisdiction cannot be retroactively validated by the mere passage of time, nor can they be immunized from collateral attack by a mere failure to seek immediate appellate review. Jurisdictional defects of this profound structural magnitude do not render an outcome merely voidable—which would afford the reviewing tribunal a degree of equitable deference—rather, such acts remain *Irremediable Nullities in limine*.

THE FALLACY OF ATTORNMENT (ALTHOUGH NO ATTORNMENT SO OCCURRED) TO AN IRREMEDIABLE NULLITY

27. This jurisprudential distinction is of paramount, existential importance: while a mere procedural irregularity executed strictly within a court's lawful jurisdiction may be subsequently cured or waived by the voluntary

conduct of the litigants, an absolute, objective absence of foundational jurisdiction irreversibly extinguishes the very capacity of the tribunal to issue a legally cognizable Order. To posit otherwise is to suggest that judicial authority can be spontaneously generated from a jurisdictional vacuum by the mere acquiescence of the parties, an absurdity that the common law has vehemently rejected for centuries.

28. It may be postulated by opposing counsel that the applicant's participation in the case conference constitutes a waiver or an attornment to the jurisdiction of the judge. This argument is fatally flawed and is thoroughly refuted by the explicit ratio articulated in *Highwood Congregation of Jehovah's Witnesses (Judicial Committee) v. Wall*, [THE YEAR OF 2018] 1 S.C.R. 750, which reaffirms that judicial review jurisdiction is strictly circumscribed and non-negotiable. Attornment applies exclusively to procedural irregularities or defects in *in personam* jurisdiction; it is a fundamental legal axiom that parties cannot, by consent, waiver, or participation, confer subject-matter jurisdiction or fundamental adjudicative authority where the legislative assembly has intentionally withheld it. One simply cannot attorn to an *Irremediable Nullity*. Consequently, the *Primus Inter Pares* of the Divisional Court, in his capacity as President, is required to adhere to decisions promulgated by superior appellate courts and is strictly bound by vertical *stare decisis* (the "**Vertical Stare Decisis**").

THE STRICT PROCEDURAL PREREQUISITES OF RULE 77

29. Pursuant to the aforementioned doctrinal principles, THE YEAR OF 1927 adjudication of *Pong* (see: BOA, Tab 309) remains highly instructive and acutely relevant to contemporary procedural analysis. The precedent explicitly illuminates the profound peril and systemic destabilization inherent when a judicial officer unilaterally circumvents a constrained statutory mandate and disregards the stringent procedural prerequisites dictated by the *Civil Rules*, specifically the highly regulated case management mechanisms enshrined within *Rule 77*.

THE USURPATION OF THE ADJUDICATIVE FUNCTION

30. It was affirmatively declared by the SCC that, regarding the Honourable **Justice Denton**'s engagement in the adjudication of the substantive equitable relations in the **Statutory Application**, the matter was strictly *Coram Non Judice* and his acts were *Factum A Judice, Quod Ad Officium Jure Non Pertinet, Ratum Non Est*. Dictated by the inflexible doctrine of Vertical Stare Decisis, the Divisional Court is *ipso facto* divested of any inherent authority to arbitrarily decline the Hearing (see: *Rule 1.03*, "Definitions") of an application strictly upon a written basis when substantive oral procedural rights are constitutionally mandated.

31. Consequently, it is submitted that Madam Justice Shore functioned in a wholly unsanctioned, *ultra vires* capacity as an unauthorized case management judge interventionist (the "**Unauthorized CMJ Interventionist**"). This profound procedural usurpation precipitated purported Orders that are definitive *Irremediable Nullities*. It was strictly mandated that the judicial participant remain rigidly confined to her statutorily designated jurisdictional locus. The unauthorized traversal into the jurisdictional office of a judge of the Divisional Court, absent the requisite statutory triggering mechanisms, was strictly prohibited and entirely devoid of legal efficacy.

THE LETHALITY OF UNAUTHORIZED SUMMARY PROCEDURES

32. In *Pong*, it was explicitly affirmed that a jurisdictional void cannot be remedied by the doctrine of finality. Substantive legal rights cannot be cavalierly circumvented through unauthorized summary procedures, and most assuredly not by unauthorized *ad hoc* conferencing procedures masquerading as formal judicial intervention. The assumption of sweeping case management powers without the requisite foundational triggering mechanisms constitutes a fatal rupture in the procedural continuum, substituting the unpredictable caprice of an individual for the structured predictability of the *Civil Rules*.

THE ERRONEOUS SUBMISSIONS BY THE ONTARIO LEGISLATURE ON BEHALF OF THE RESIDENTIAL TENANCY COMMISSION IN THE RESIDENTIAL TENANCIES ACT REFERENCE (THE YEARS OF 1979–1981)

THE MISAPPREHENSION OF THE CONSTITUTIONAL FRAMEWORK BY SAID ONTARIO LEGISLATURE

33. The submissions advanced between THE YEAR OF 1979 and THE YEAR OF 1981 by the administrative commission were profoundly misguided and fundamentally incompatible with the settled separation of judicial powers in the Canadian federation. This profound constitutional infirmity arose precisely because their reliance on isolated pre-Confederation jurisprudence entirely neglected, marginalized, and misconstrued the superseding constraints of section 96 of the *Constitution Act, 1867*.

THE RIGOROUS APPLICATION OF THE CORE JURISDICTION TEST

34. Given that both the *Pong v. Quong* litigation and the *Reference Re Residential Tenancies Act, 1979*, [THE YEAR OF 1981] 1 S.C.R. 714 (the "*Reference RTA 1979*") (see: BOA, Tab 118) constituted Ontario-centric adjudications entirely disconnected from probate issues, any analogical reference to the probate courts of the Maritimes was fundamentally irrelevant and logically flawed. The core jurisdiction test (the "**Core Jurisdiction Test**") explicitly articulated by the SCC requires a meticulous, three-pronged historical and functional evaluation into the powers exclusively exercised by superior courts at the precise time of Confederation. The tripartite matrix meticulously assesses historical exclusivity, modern functional application, and institutional setting, operating as an impregnable fortress against the illicit delegation or usurpation of core judicial authority by provincially appointed tribunals.

JURISDICTIONAL BOUNDARIES AND THE DISTINCTION BETWEEN QUA JUDGE AND PERSONA DESIGNATA

THE CENTRALITY OF SUBJECT-MATTER JURISDICTION

35. During the original summary proceedings in *Pong*, it was properly conceded by **Justice Denton** that the progression of the possessory matter was fundamentally contingent upon an explicit admission of non-payment of rent. This specific admission was an unyielding statutory prerequisite, not a mere evidentiary convenience. Jurisdiction was precisely the central issue *in limine*, as the judicial mandate afforded by the underlying statute was strictly confined to determining the singular issue of whether the landlord was immediately entitled to possession based solely on the quantum of rent arrears.

THE IMPOTENCE OF CONDITIONAL CONSENT

36. While an expansion of the adjudicative scope to encompass the broader equitable relationship and fiduciary disputes may have been practically desired by the litigants for the mitigation of duplicative proceedings, the consent provided by respondent's counsel was explicitly predicated upon the strict understanding that the entirety of the matter would be adjudicated by **Justice Denton** strictly within the jurisdictional confines of the overholding tenant provisions, thereby preserving the paramount right of subsequent, comprehensive appellate scrutiny.

THE STRICT DIVISION BETWEEN JUDICIAL AND DELEGATED FUNCTIONS

37. Ultimately, it was decisively concluded by the SCC that it was perfectly manifest that absolutely no jurisdiction was possessed by **Justice Denton** to decide collateral issues. Such secondary disputes could only be entertained perhaps in the distinct, extra-judicial capacity of *persona designata* or arbitrator. The distinction between acting *qua* judge and acting *persona designata* is critical: the former carries the full

coercive weight of the judicial branch, shielded by immunities and integrated into the formalized appellate structure, while the latter is a highly constrained, delegated administrative function devoid of broader institutional authority. Jurisdiction cannot be fabricated by the convenience of the litigants.

APPELLATE CONFIRMATION IN QUONG V. PONG (THE YEAR OF 1925)

THE APPELLATE DECLARATION OF EXTRA-JURISDICTIONAL OVERREACH

38. When the matter subsequently proceeded to the Appellate Division in *Quong v. Pong*, [THE YEAR OF 1925] CanLII 11 (ON CA), [THE YEAR OF 1925] 2 D.L.R. 1192 (see: BOA, Tab 307), it was correctly observed by the appellate tribunal that a jurisdiction simply not possessed under the strictly construed statutory architecture had been improperly assumed by the lower court judge. Consequently, the adjudication of the substantive trust relationship was unequivocally declared *Coram Non Judice*.

THE DEPRIVATION OF APPELLATE RECOURSE AND PRESERVATION OF THE SLATE

39. The conditional consent tendered had been subjected to a strict condition precedent that proved legally impossible to fulfill: the preservation of an effective right of appeal. Thus, the respondent was improperly and unlawfully deprived of appellate recourse. It was astutely determined by the Appellate Division that binding equitable obligations could not be imposed by the initial summary proceeding. Following the commencement of a subsequent plenary civil action specifically designed to litigate the trust issues, the decision of Justice Mowat was appealed. This appeal was dismissed in its entirety by the Appellate Division, upholding the directive that the respondent was entirely entitled to proceed unencumbered by the prior, extra-jurisdictional determinations of **Justice Denton**. Those prior findings were appropriately recognized as lacking any binding legal efficacy regarding the collateral equitable issues, as they constituted *Irremediable Nullities*. The jurisprudential slate was thoroughly wiped clean.

DISTINGUISHING THE JUDGE FROM THE COURT: THE VOIDING OF UNAUTHORIZED ACTS

THE FORMALIZATION OF THE COERCIVE POWER OF THE STATE

40. The absolute paramountcy of an Order promulgated by a lawfully seized judge cannot be overstated, particularly when situated within the highly formalized procedural framework of the *Civil Rules*. The profound structural significance of this mechanism is highlighted by the comprehensive legislative amendments effectuated to *Rule 59.02* through *Rule 59.05* in THE YEAR OF 2020, and the substantive revisions to *Rule 77* effectuated by O. Reg. 438/08 (the "**THE YEAR OF 2008 Amendments**").

THE LEGISLATIVE INTENT OF PROCEDURAL STRICTURES

41. These specific, highly intricate amendments to *Rule 59* were consciously implemented by the Rules Committee to meticulously regulate the drafting, formal issuance, endorsement, and official entry of an Order. The specific legislative mischief they sought to cure was the pernicious ambiguity between informal oral pronouncements from the bench and finalized, enforceable legal mandates. This formalization reflects the unmistakable legislative intent that an Order is not a mere administrative notation; it is the ultimate crystallization of the coercive power of the State, exercised exclusively through a jurisdictionally competent judicial officer.

THE UNENFORCEABILITY OF JURISDICTIONAL NULLITIES

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The formal entry of an Order is the precise moment it becomes legally executable. Absent the foundational, constitutional prerequisite of jurisdiction, any such purported Order is instantly stripped of its coercive force, divested of its legal character, and is inextricably reduced to an *Irremediable Nullity*. It cannot be enforced by civil sheriffs, it cannot ground contempt proceedings, and the litigants or third parties cannot be bound by it.

PROCEDURAL INTEGRITY AND THE ABSENCE OF ESTOPPEL

THE INDISPENSABLE FUNCTIONS OF JURISDICTIONAL ABSOLUTISM

43. Multiple indispensable, foundational functions are served by the strict, uncompromising application of the *Coram Non Judice* doctrine. Firstly, the supremacy of the rule of law is robustly upheld, averting the descent into administrative tyranny by ensuring power is exercised strictly within legislative circumscriptions. Secondly, substantive individual rights are protected by irrevocably shielding litigants from arbitrary Orders. Thirdly, systemic procedural integrity is maintained, ensuring that the allocation of judicial resources is orchestrated through predictable, statutory pathways. The preservation of this integrity is precisely why structural controversies of this nature must command the immediate, unwavering scrutiny of the President of the Divisional Court.

THE SINE QUA NON OF RES JUDICATA

44. The powerful, preclusive doctrines of *res judicata* and issue estoppel require, as an indispensable, inflexible precondition, that the prior decision was rendered by a tribunal of competent, lawful jurisdiction. A pronouncement devoid of jurisdiction fails to satisfy the most basic definitional requirement of a judicial act.

THE INCAPACITY OF DURESS TO INSTANTIATE JURISDICTION

45. *Pong* endures as a foundational authority establishing that jurisdictional competence is the absolute *sine qua non* for any valid judicial act capable of generating preclusive effects. Furthermore, an *Irremediable Nullity* is not transmuted into a binding adjudicative process by participation extracted under the severe duress of an unauthorized judicial directive. A litigant cannot be penalized simply because a communication originating from a judicial office was prudently responded to out of compelled respect for the institution. The chilling effect of an email bearing the formal indicia of judicial authority is profound; compliance with such a directive out of an abundance of caution cannot be retroactively weaponized to fabricate jurisdiction where none exists.

THE DOMESTIC APPLICATION OF JURISDICTIONAL PRECLUSION

46. This stringent principle has been explicitly affirmed across multiple jurisdictions, recognizing that an estoppel cannot be generated by an earlier judgment if the adjudicating body lacked jurisdiction in a domestic sense. To allow an *Irremediable Nullity* to ground an estoppel argument would be to permit an unauthorized judicial actor to definitively alter the legal rights of parties through a collateral mechanism, thereby severely undermining public confidence.

FIDUCIARY OBLIGATIONS AND THE DIVISION OF POWERS

THE INTERSECTION OF STATUTORY JURISDICTION AND EQUITABLE PRINCIPLES

47. A deep intersection between strict statutory jurisdiction and profound equitable principles is revealed by the highly nuanced reasoning behind the unanimous judgment in *Pong*, delivered orally by Chief Justice Anglin on February 24, THE YEAR OF 1927. It was ultimately determined by the SCC that a severe, actionable

breach of good faith was constituted by the unilateral assignment transaction executed by the trustee. The Court's sophisticated reasoning was heavily fortified by the equitable principles articulated in the seminal English jurisprudence of *Griffith v. Owen*, [THE YEAR OF 1907] 1 Ch. 195 effectively applying the strict prophylactic rule against fiduciary self-dealing established in the landmark ruling of *Keech v. Sandford*, [THE YEAR OF 1726] EWHC Ch. J76.

THE EXCLUSIVE PURVIEW OF THE SUPERIOR COURTS AND THE IMPORTANT OF THE NATURE OF THE ACTION, APPLICATION (STATUTORY OR PRESCRIBED) AND HOW A JUDGE IS SITTING

48. No jurisdictional competence was possessed by **Justice Denton**, rigidly constrained by expedited summary procedures, to delve into such profound equitable waters even though he was a Section 96 Court Judge but in his capacity and sitting he was acting as a judge of a **Statutory Application**. The adjudication of complex trusts remains the exclusive, historic purview of a Section 96 Court wherein a Judge is sitting as such. Crucially, Madam Justice Shore was positioned upon significantly lesser footing, as she operated entirely without inherent jurisdiction within the confines of the statutory Divisional Court, and was certainly not operating as a *persona designata*.

THE REJECTION OF THE PERSONA DESIGNATA FALLACY

49. Furthermore, the delicate, constitutionally mandated balance of jurisdictional allocation was exhaustively examined in the *Reference RTA 1979* (see: BOA, Tab 118). In that highly significant reference, the proposition that the power to order evictions had been historically conferred upon County Court judges acting merely as *persona designata* was erroneously advanced by the Ontario Legislature in an attempt to siphon powers to a tribunal. This legislative overreach was definitively rejected by the SCC, forcefully establishing that the jurisdiction was merely a modern modification of the traditional equitable jurisdiction of ejectment inherently exercised by Superior Courts. Consequently, judges acting under those contemporary provisions were acting *qua* judge in a fully judicial capacity.

THE EXPOSURE TO LIABILITY FOR UNAUTHORIZED COERCION

50. This principle is perfectly harmonious with the foundational declaration in *Bradley*, wherein it was affirmed by the SCC that every coercive act of the State must be explicitly supported by an unbroken chain of foundational jurisdiction. It was astutely noted by the Court that a formal plea of justification advanced by a constable acting under a purportedly valid warrant is fatally defective if it fails to affirmatively demonstrate that the issuing justice possessed the requisite jurisdiction. Just as a void warrant affords no protection to the executing constable, exposing the state to liability for intentional torts like trespass *vi et armis*, a void Order affords no legal shelter to those attempting to enforce its terms.

CONCLUSION: THE ABSOLUTE DISTINCTION BETWEEN VOIDABLE ACTS AND IRREMEDIABLE NULLITIES

THE UNYIELDING APPLICATION OF THE GOVERNING LATIN MAXIMS

51. The severe, legally profound distinction between a proceeding that is entirely *Coram Non Judice* and one wherein only specific, severable components are vitiated by extra-jurisdictional overreach is precisely delineated by jurisprudential evolution. The governing Latin maxim remains absolute, timeless, and unyielding: *Factum A Judice, Quod Ad Officium Jure Non Pertinet, Ratum Non Est*.

THE PROFOUND DICHOTOMY OF JUDICIAL CONDUCT

A profound, undeniable distinction exists between the historical actions of **Justice Denton**—who merely exceeded the collateral statutory scope while legitimately seized of the primary possessory application—and the actions of Madam Justice Shore in the present matter.

THE TEMPORAL DEMARCATION OF THE JURISDICTIONAL VOID

53. In the **Statutory Application** at bar, formally perfected by Mr. Kevin A. McLean (B.A., J.D., CIM) on December 16, THE YEAR OF 2024, the procedural interventions of the latter were wholly void *ab initio* from the precise temporal moment of the transmission of the Ibula Email on January 7, THE YEAR OF 2025. By acting without the requisite **Assignment For Case Management BY ORDER** or the strict fulfillment of the **First Defence** filing requirement, Madam Justice Shore acted entirely outside the inflexible boundaries of the *Civil Rules*, thereby abandoning the protective mantle of the judicial office for the purposes of that specific interaction. Furthermore, it is explicitly confirmed by the evidentiary record on December 1, THE YEAR OF 2025, that the requisite **First Defence** filing requirement was wholly absent. Subsequent institutional actions, culminating in the termination of Former Registrar of the Divisional Court Ms. Tashekah Gentles on December 3, THE YEAR OF 2025 (the precise date of the purported written hearing), underscore the profound structural disarray precipitated by this extra-jurisdictional overreach.

THE CATEGORICAL NULLIFICATION OF SUBSEQUENT DIRECTIVES

54. Consequently, any acts, convening, requiring or directing, and any subsequent and purported orders, case management directives, scheduling mandates, and procedural imperatives made, unnamed, unissued, unsigned, unendorsed, and/or unentered under that assumed, unauthorized mantle are nothing more than *Irremediable Nullities*. It is an enduring, self-evident truth of Canadian administrative law that substantive judicial authority cannot be materialized from a jurisdictional vacuum.

THE ULTIMATE MANDATE OF THE PRIMUS INTER PARES

55. Strict, unwavering, and hyper-vigilant adherence to the procedural mandates of the *Civil Rules* remains the paramount, indispensable safeguard against extra-jurisdictional overreach and the unauthorized exercise of the coercive power of the State. The extant proceeding (the "**JRPA Proceeding**") is profoundly characterized by a series of systemic failures. The unauthorized assumption of jurisdiction by Madam Justice Shore, acting as an invalid case management judge (the "**Invalid CMJ**"), constitutes a definitive and ontological example of an *Irremediable Nullity*. The urgency of excising these nullities is underscored by the severe, compounding prejudice suffered by the Applicant; as per the Applicant's MRI results in the Summer of THE YEAR OF 2025, his physical constitution continues to degenerate—a dire prognosis definitively predicted by Dr. Bohdan Lychasz, an internationally preeminent radiologist—and it is an incontrovertible medical certainty that this condition will only deteriorate further, rendering further administrative delays entirely prejudicial (see: Compendium For NOM #3-5; Tab 4; Exhibit "M"). Consequently, time remains of the absolute essence. The cast of characters complicit in these systemic failures are delineated and particularized at the Appendices (see: Appendix regarding Bayesian Variable Probability Model). It is precisely through the formal excision of these *Irremediable Nullities* from the adjudicative record that the ongoing institutional sanctity, structural legitimacy, and unquestionable constitutional authority of the appellate process are guaranteed by the President of the Divisional Court. In this regard, the jurisprudence emanating from *Ruffo v. Conseil de la magistrature*, [THE YEAR OF 1995] 4 S.C.R. 267 (*Ruffo 1995*) unequivocally affirms that the doctrine of *Primus Inter Pares* (the "***Primus Inter Pares***") transcends mere ceremonial title, operating instead as a substantive, structural designation. As the ***Primus Inter Pares***, an inherent, non-delegable suite of responsibilities (the "**13 Chief Justice Duties**") is possessed by a Chief Justice, which must be actively exercised to rectify this jurisdictional usurpation:

a. Ultimate Jurisdiction: Definitive and final authority is exercised over all adjudicative and administrative functions, precluding the fragmentation of control among unassigned *puisne* judges;

b. Constitutional Trust Steward: The non-delegable responsibility is borne to act as the primary guardian of the constitutional trust, ensuring the tribunal operates strictly within its statutory confines;
c. Imperviously Influenced Mandate: The absolute requirement is maintained to remain impervious to external, collateral, or internal pressures, preserving the absolute neutrality of the institution;
d. d. Master of the Roster: Absolute and exclusive authority is wielded over the scheduling, assignment, and distribution of judicial resources, a power that cannot be usurped by any individual jurist;
e. Self-Assignment Power: The inherent authority is possessed to self-assign matters of profound institutional and constitutional significance, specifically to cure procedural chaos;
f. Administrative Steward: The statutory duty is executed to rigorously oversee clerical and registry functions pursuant to section 76 of the *Courts of Justice Act*, insulating registry staff from unauthorized directives;
g. g. Institutional Reputation Guardian: The uncompromising obligation is upheld to protect and preserve the Court's standing and integrity in the public eye against allegations of systemic dysfunction;
h. h. Efficiency Operation Duty: The overarching responsibility is maintained to ensure the seamless, lawful operation of all Court functions, actively intervening when proceedings are stalled by *ultra vires* actions;
i. i. Ethical Compliance Guarantee: The Chief Justice serves as the final internal arbiter of professional conduct within the tribunal, ensuring adherence to the strictures of judicial independence;
j. j. Complaint Laying Power: The intrinsic, affirmative authority is retained to initiate formal disciplinary complaints when egregious usurpations of jurisdiction manifest;
k. k. Puisne Judge Removal Power: The administrative authority is executed to effectively reassign or restrict colleagues during the pendency of ethical evaluations, preventing the perpetuation of harm;
l. l. Moral Barometer: The Chief Justice functions as the absolute ethical and integrity barometer for the institution, setting the incontrovertible standard for statutory adherence; and
m. m. Moral Authority: The power is utilized to impose judicial will and ethical rectitude upon other *puisne* judges through binding ethical directives, guaranteeing the uniform application of the *Civil Rules*.

PRIMARY ISSUES: DISPOSITIVE OF THE MISCONDUCT BY MADAM JUSTICE SHORE AND THE Executive Branch (COURT STAFF) AND MS. EVELYNE IBULA

ISSUE 1(A): CIVIL FRAUD BY MISREPRESENTATION OF JUDICIAL AUTHORITY AND POWER

A. Whether the unilateral assumption of case management jurisdiction, completely devoid of formal assignment or statutory mandate, constitutes a fraudulent misrepresentation of authority and power actionable under the Canadian law of civil fraud.

ANSWER 12: Yes.

Legal Analysis:

I. The foundational tenets of civil fraud and the tort of deceit in Canada, masterfully established by the Supreme Court in *Bruno Appliance and Furniture, Inc. v. Hryniak*, 2014 SCC 8, require a false representation of fact, knowledge of its falsity or severe recklessness as to its truth, inducement of the victim, and resulting, quantifiable loss. In the present context, the *sua sponte* assertion of case management power, functioning covertly as an unassigned shadow administrator, implicitly but unequivocally represented to the parties and the registry that lawful judicial authority, a formal roster assignment, and the jurisdictional status to issue binding legal directives were possessed. This representation of power was factually false, as no *Rule 77* assignment had ever been perfected.

II. A seasoned judicial officer is irrebuttably presumed to know the strict procedural strictures of the *Rules of Civil Procedure*. Proceeding to exercise extraordinary, sweeping case management powers absent the foundational prerequisite of a filed **First Defence** constitutes, at absolute minimum, subjective and extreme recklessness as to the truth of the claimed authority. Furthermore, applying the appellate doctrine of fraud by omission as forcefully articulated by the Ontario Court of Appeal in *Midland Resources Holding Limited v. Shtaif*, 2017 ONCA 320, the failure to disclose the total lack of formal roster assignment—coupled with the intentional concealment of the role as the hidden judge in parallel criminal proceedings—rendered the assertion of authority a highly calculated, legally toxic, and fraudulent half-truth.

III. Much like a corporate agent who becomes strictly liable for breaching a warranty of authority by purporting to bind a principal without actual power, an equitable principle articulated in *Levy v. Manley*, [1975] 2 SCR 70, a judicial officer cannot lawfully bind a civil proceeding without the foundational roster assignment. By projecting an impenetrable illusion of authority, procedural compliance of the court registry was improperly induced, forcing a defensive posture, and resulting in severe prejudice, digital lockouts, the exhaustion of resources, and the deprivation of fundamental procedural fairness.

IV. It is anticipated that opposing counsel, or the tribunal engaging in self-scrutiny, might raise the jurisprudential defense that a misrepresentation of authority by a sitting judicial officer cannot logically or legally constitute actionable civil fraud, positing that the tort of deceit strictly requires commercial animus or that the procedural misstep was merely a benign administrative oversight rather than deliberate deception. This counter-argument fundamentally eviscerates the strict doctrinal threshold of *Bruno Appliance*. The tort of deceit does not strictly require a commercial profit motive; it merely requires an intent that the false representation be relied upon to the detriment of the victim. By projecting an impenetrable, unassigned illusion of authority, the judicial officer deliberately induced the procedural compliance of the registry and forced the Applicant into a defensive, reactive posture. The resulting digital lockouts, unrecoverable exhaustion of finite resources, and strategic delays unequivocally satisfy the formal element of resulting loss. Furthermore, characterizing the overt usurpation of case management as a mere "administrative oversight" defies logical credulity, given the explicit, mandatory statutory

5222 rohibition delineated in *Rule 77.05(2)*. A sophisticated jurist cannot claim inadvertence when circumventing the very architectural rules they are sworn to uphold.

Conclusion:

V. This conduct violently transcends mere correctable jurisdictional error or standard *coram non judice*; it perfectly and disturbingly satisfies the strict doctrinal threshold for the fraudulent misrepresentation of status and authority. The ensuing orders, emails, and directives are the direct, poisoned fruits of this civil deceit. It is necessitated that intervention manifest at the highest supervisory level to summarily nullify these actions, reaffirming the bedrock principle that the intentional misrepresentation of power—whether executed by a rogue corporate agent or a judicial officer operating outside their mandate—vitiates all resulting legal acts.

ISSUE 1(A)(I): JURISDICTIONAL USURPATION, *FACTUM A JUDICE, QUOD AD OFFICIUM JURE NON PERTINET, RATUM NON EST, CORAM NON JUDICE*

A(I) Whether the unauthorized sua sponte convening of a "case management conference" by a Divisional Court judge in Madam Justice Shore, absent the consent of the Applicant for an assignment for case management (the "Assignment For Case Management"), the absence of a filing of a First Defence by any respondent (the "First Defence"), and formally made assignment to case management orders, constitutes an ultra vires act rendering the initial act by Madam Justice Shore through the Ibula email (the "Ibula Email") factum a judice, quod ad officium jure non pertinet, ratum non est, all subsequent acts also invalid (factum a judice, quod ad officium jure non pertinet, ratum non est), and conferences before coram non judice?

ANSWER 1: Yes.

Legal Analysis:

I. As the Divisional Court does NOT have any Inherent Jurisdiction and it is a statutory court only of provincial creation and pursuant to the stringent procedural architecture of *Rule 77* of the *Rules of Civil Procedure*, RRO 1990, Reg 194, case management mechanisms are specifically and rigidly circumscribed. Such mechanisms serve not as a default posture the arbitrary discretion of the bench, but rather as a specialized exception triggered strictly by the satisfaction of precise statutory prerequisites *in limine*. *Rule 77.05(2)* dictates with absolute textual clarity that an assignment for case management may only legally manifest "at any time on or after the filing of the **First Defence**." This legislative guardrail is intentionally promulgated to prevent premature, inquisitorial judicial interference before issue joinder has formally crystallized the jurisdictional boundaries of the dispute. It is an unassailable factual matter established upon the judicial record that no respondent formally filed a notice of appearance (the "**Notice Of Appearance**"), constituting the **First Defence** in these proceedings, nor were responsive factums delivered within the statutorily prescribed, mandatory timelines.
II. The fundamental doctrine established by the Supreme Court of Canada in *Pong v. Quong*, [1927] SCR 271 remains that were a Judge in any capacity is without jurisdiction , he or she is Factum A Judice, Quod Ad Officium Jure Non Pertinet, Ratum Non Est and Coram Non Judice in relation to those aspects wherein he or she is without jurisdiction or has exceeded jurisdiction.
III. As per the Ontario Court of Appeal in *König v. Hobza*, 2015 ONCA 885, dictates that an adjudication undertaken absent the requisite jurisdictional authority is entirely devoid of judicial function. In *Pong*, it was held that where a statute prescribes specific conditions precedent for the assumption of jurisdiction, the failure to satisfy those conditions renders any subsequent adjudicative act void *ab initio*. Consequently, the intervention executed by the presiding judicial officer was effectuated *coram non judice*—before a tribunal lacking proper, roster-assigned jurisdiction. A judicial officer is fundamentally precluded from unilaterally bestowing jurisdiction upon themselves where the legislature has explicitly withheld such authority. Furthermore, the utilization of generalized pre-trial

conferencing powers, such as those articulated under *Rule 50*, as a clandestine mechanism to assert substantive control is statutorily barred by the paramountcy clause of *Rule 77.02(4)*, which explicitly mandates that *Rule 77* prevails in the event of any procedural conflict. The usurpation of unassigned powers inherently prejudices the adjudicative process by subjecting the proceeding to an unpredictable, legislatively unmoored, and procedurally rogue framework.

IV. It was reasonably anticipated that adversarial actors, or potentially the Presiding Divisional Court President upon review, may have formally advance the counter-argument that a superior court judge, even when sitting strictly within the statutory confines of the Divisional Court, retains an implied, residual, or inherent authority to proactively govern the internal process of the court. This argument would inevitably postulate that the overarching interpretive mandate enshrined within *Rule 1.04(1)*—which dictates that the rules shall be liberally construed to secure the just, most expeditious, and least expensive determination of every civil proceeding—furnishes a presiding judicial officer with the requisite discretionary latitude to bypass stringent scheduling prerequisites in the pursuit of overarching administrative efficiency, thereby theoretically justifying a premature, *sua sponte* case management intervention. Opposing counsel might erroneously submit that the assumption of case management, even absent the foundational roster assignment or the triggering **First Defence**, constitutes a benign, proactive measure shielded by the general gap-filling nature of a superior court's inherent jurisdiction.

V. This proposition is fundamentally and fatally legally flawed. The invocation of administrative efficiency or liberal statutory construction cannot serve as a jurisprudential trojan horse utilized to unilaterally dismantle mandatory, substantive legislative guardrails. While implied powers undoubtedly exist to prevent an explicit abuse of process, the Supreme Court of Canada in *Endean v. British Columbia*, 2016 SCC 42, firmly established that implied or inherent powers absolutely cannot be utilized to actively contravene an explicit statutory precondition. As unequivocally affirmed in *Baxter Student Housing Ltd. v. College Housing Co-operative Ltd.*, [1976] 2 SCR 475, and subsequently reinforced by the Ontario Court of Appeal in *Cheong v. Ontario (Minister of Finance)*, 2004 CanLII 17750 (ON CA), the extraordinary power of inherent jurisdiction remains irrevocably subordinate to *lex scripta*. Section 146 of the *Courts of Justice Act*, RSO 1990, c C.43, which permits the exercise of jurisdiction consistent with the due administration of justice in the precise absence of an express provision, is rendered entirely inapplicable where the legislature has explicitly and unambiguously spoken. *Rule 77.05(2)* does not contain a procedural gap; it contains an absolute, temporal prohibition against case management prior to the filing of the **First Defence**.

VI. To accept the counter-argument that a judicial officer may unilaterally dispense with this explicit statutory precondition would necessitate the devastating, system-destroying conclusion that the *Rules of Civil Procedure* are mere aspirational guidelines, subject to arbitrary suspension at the unassigned whim of any individual adjudicator. Such an interpretation fundamentally annihilates procedural certainty, forcing litigants into defensive postures within unlawfully convened conferences before issue joinder has even materialized. The strict procedural trigger of a filed **First Defence** is not a mere administrative suggestion; it is a substantive boundary deliberately engineered to protect adversarial fairness. To conflate the general power to control court process with the specific, extraordinary statutory apparatus of *Rule 77* case management constitutes an impermissible circumvention of the *lex scripta*. Consequently, the cloak of administrative efficiency cannot legally sanitize an intervention that was executed completely outside the legislative grant of power, rendering the resultant *acta* categorically void *ab initio*.

Conclusion:

VII. The actions undertaken in assuming case management authority, absent the requisite statutory triggers and a formal, recorded assignment by the Regional Senior Judge, are governed by the strict maxim *factum a judice, quod ad officium jure non pertinet, ratum non est* (an act of a judge which does not pertain to their lawful office is of no legal force). The resulting orders, endorsements, and directives are not mere curable procedural irregularities under *Rule 2.01*; they are categorical Irremediable Nullities, void *ab initio*, that must be unconditionally expunged from the judicial record to preserve the structural integrity of the *Courts of Justice Act*.

ISSUE 2: FRAUD AND CATEGORICAL NULLITIES BY THE RESPONDENT INSURANCE COMPANIES

B. Whether the established dolus malus effectuated by the respondent insurance companies—comprising physical theft, identity theft, fraudulent personation, and the systematic usurpation of personal data—vitiates the

5224 ***adjudicative process and necessitates the equitable restoration of the status quo ante pursuant to Rule 59.06(2)(a).***

ANSWER 2: Yes.

Legal Analysis:

I. The jurisprudential bedrock governing fraudulent conduct in adjudicative settings is articulated in Lord Denning's seminal statement of law in *Lazarus Estates Ltd. v. Beasley*, [1956] 1 QB 702 at 712, adopted by the Supreme Court of Canada in *Landreville v. Boucherville (Town of)*, [1978] 2 SCR 801: "Fraud unravels everything" (*fraus omnia corrumpit*). A court of equity is fundamentally prohibited from permitting its sacred processes to be utilized as a sanitized instrument to perfect an underlying fraud.

II. Comprehensive investigations reveal a calculated and interconnected series of fraudulent *acta* following an initial theft, directly connected to individuals and entities named herein, demanding immediate regulatory scrutiny. As explicitly articulated within the applicant's factum for a motion in writing dated November 18, THE YEAR OF 2025 (the "**Factum For NOM #3**"), the documented *modus operandi* of the respondent entities—specifically Security National Insurance Company (the "**SNIC**"), TD General Insurance Company (the "**TDGIC**"), and TD Home and Auto Insurance Company (the "**TDHA**")—has precipitated egregious procedural and substantive deficiencies. This encompasses fatal irregularities in formal process and service, alongside the unlawful deflection of a statutory accident benefits schedule claim (the "**SABS Claim**"). This deliberate deflection and subsequent administrative obfuscation precipitated the unauthorized, non-consensual transfer and weaponization of sensitive personal information (the "**PII**") and personal health information (the "**PHI**"). Such actions stand in profound violation of the core tenets of procedural fairness and the rigorous administrative standards articulated in *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65, and *Dunsmuir v. New Brunswick*, 2008 SCC 9, necessitating the invocation of the inherent supervisory jurisdiction of the court to rigorously scrutinize the administrative and quasi-judicial *acta* emanating from the antecedent proceedings. Consequently, declaratory, interim, and final injunctive relief was formally solicited to arrest this overarching malfeasance.

III. On October 25, THE YEAR OF 2024, a highly targeted theft (the "**TDI Karat Theft**") was perpetrated at the Centre for Addiction and Mental Health (the "**CAMH**"). Unredacted video surveillance images (October 25, THE YEAR OF 2024, 1:11:53 to 1:12:39 P.M. EDT) unequivocally depict a male individual, strikingly similar in appearance to Mr. David Karat (as verified via a professional LinkedIn profile), meticulously inspecting luggage and stealing a backpack (the "**McLean Backpack**") containing critical identification and legal materials. This physical deprivation falls squarely under Section 322 of the *Criminal Code*, RSC 1985, c C-46, as property was fraudulently taken without colour of right with the intent to deprive. Furthermore, this constitutes a fraud event (the "**Fraud Event**") as defined by Section 1(1)(e) of the Fraud Reporting Service Rule (the "**FSRA Rule**"), triggering mandatory regulatory reporting obligations for the TDIA Group regarding fraudulent activity committed by internal employees—obligations which were systematically ignored to facilitate an ongoing cover-up.

IV. Subsequently, on October 28, THE YEAR OF 2024, Mr. Andrew Papadimitropoulos engaged in fraudulent impersonation by entering into a borrowing agreement (the "**TPL Fraud Borrowing Agreement**") with the Toronto Public Library at the Fort York branch (the "**Fort York Branch**"), utilizing the stolen identification to extract equipment and literature. This conduct strictly satisfies Section 402.2 of the *Criminal Code* (Identity Theft) and Section 403 (Identity Fraud/Personation), and concurrently constitutes an unfair or deceptive act or practice under the Unfair or Deceptive Act or Practice Rule (the "**UDAP Rule**"). By November 8, THE YEAR OF 2024, fraudulent identity usage persisted to reserve Aga Khan Museum passes, precisely aligning with a period wherein Mr. Karat was officially reported absent from his office via automated correspondence.

V. The timeline of these offenses exhibits a profound and undeniable correlation with the progression of the present legal proceedings, evidencing a crystallized, malicious intent to obstruct justice pursuant to Section 139 of the *Criminal Code*. Notice of intent to appeal the administrative decisions was formally provided between October 16 and October 24, THE YEAR OF 2024; the TDI Karat Theft materialized immediately thereafter on October 25, THE YEAR OF 2024. Most egregiously, exactly two hours following the formal service and filing of a certificate of perfection on December 13, THE YEAR OF 2024, the stolen driver's license was utilized at the

5225 TPL Reference Library to procure a replacement card, wherein the associated telephone contact was inexplicably altered to that of a CBC investigative journalist, Mrs. Valerie Oulette. This systematic campaign persisted through January THE YEAR OF 2025, constituting general fraud under Section 380 of the *Criminal Code* and demonstrating a sophisticated, multi-stage criminal enterprise engineered to compromise the integrity of the judicial review.

VI. The orchestration of these events is profoundly juxtaposed against a formalized feedback submission (the "**TDI Feedback Letter**") authored by Mr. Papadimitropoulos on October 15, THE YEAR OF 2024, purportedly on behalf of the TDIA Group. Therein, representations were promulgated advocating for data security and proactively requesting limited liability protections for cybersecurity breaches. This posture is fundamentally irreconcilable with the subsequent, unmitigated breach of the *Personal Information Protection and Electronic Documents Act*, SC 2000, c 5 (the "**PIPEDA**") and the *Freedom of Information and Protection of Privacy Act*, RSO 1990, c F.31 (the "**FIPPA**") perpetrated directly by the author and his associates.

VII. It is reasonably anticipated that opposing counsel shall attempt to summarily dismiss these profound allegations by characterizing them as scandalous, vexatious, or fatally deficient due to the precise absence of formalized criminal convictions against the named corporate agents. Such a counter-argument fundamentally misapprehends the distinct evidentiary mechanics of civil fraud. As endorsed by the Supreme Court of Canada in *Aquino v. Bondfield Construction Co.*, 2024 SCC 31, the civil trier of fact is fully empowered, and indeed explicitly required, to securely draw robust inferences of fraudulent intent from a mosaic of suspicious circumstances and objective badges of fraud. The civil standard of proof operates strictly upon a balance of probabilities, wholly independent of the rigorous 'beyond a reasonable doubt' threshold necessitated in criminal proceedings (*F.H. v. McDougall*, 2008 SCC 53). The uncontradicted documentary matrix provided—comprising unredacted, timestamped CCTV footage, profound transactional anomalies, and meticulously logged digital access records—establishes an overwhelming, objective *prima facie* case of civil deceit that irrevocably shifts the evidentiary burden onto the respondents. General denials or the invocation of standard procedural technicalities are legally insufficient to rebut this crystallized demonstration of systemic *dolus malus*.

Conclusion:

VIII. The actions executed by the agents of the respondent insurance companies transcend mere adversarial friction; they constitute a fully actualized, multi-staged criminal enterprise encompassing targeted theft, identity usurpation, privacy breaches, and general fraud. The presence of this pervasive *dolus malus* creates an institutional taint rendering the proceeding, and the underlying administrative decisions, Irremediable Nullities. It is necessitated that the inherent jurisdiction under *Rule 59.06(2)(a)* be utilized to strike the defenses *in limine* and equitably restore the *status quo ante*, thereby protecting the sanctity of the court's processes.

ISSUE 3: BRIBERY AS A MECHANISM OF STRUCTURAL MALICE

C. Whether anomalous real property transactions, executed contemporaneously with the aforementioned theft and involving employees of the institution where the theft occurred, establish an objective indicium of bribery, further tainting the adjudicative framework.

ANSWER 3: Yes.

Legal Analysis for Issue #3: Bribery in the context of the TDI Karat Theft, with aiding and abetting from the Landlord of the Applicant, whose then legal counsel operates in the same work office as Ms. Ibula, and TD Bank (FIN 004), not the Principal of Mr. Karat (see: amendments to attendant federal Bank Act in 2015 providing the secret laundered commission in multiple forms to multiple properties involving agents of the Respondent Insurance Companies

I. In strict accordance with the fundamental equitable doctrine articulated in *Lazarus Estates Ltd. v. Beasley*, [1956] 1 QB 702, bribery forms a specialized and abhorrent category of causes of nullity which irrevocably

unravels all transactions, contracts, and judgments touched by its corruption. Due to the inherently clandestine nature of illicit remuneration, direct documentary evidence of bribery is exceedingly rare; consequently, courts of equity are empowered to infer corrupt consideration from an aggregate of highly suspicious, circumstantial badges of fraud. The evidentiary record exhibits highly suspicious, anomalous real property conveyances effectuated in direct chronological proximity to the TDI Karat Theft, generating a strong, objective inference of illicit financial arrangements designed to subvert fiduciary obligations.

II. On November 7, THE YEAR OF 2024, Mr. Karat and his spouse, Ms. Julia Dunk, executed an agreement to acquire luxury real property (the "**Fleetwood Drive Home**") valued at $950,000, proceeding without concurrently listing their primary residence (the "**Former Karat Dunk Residence**") to finance the acquisition. Following the formal filing of the judicial review procedure act application (the "**JRPA**") on November 15, THE YEAR OF 2024, the **Former Karat Dunk Residence** was abruptly listed and subsequently sold to Ms. Dorothy During-Gibbs, employed by CAMH as a social worker and so associated with the TIDES program and Mr. Michael Gibbs. It is of paramount significance that these purchasers are individuals reportedly employed at CAMH, the precise locus of the initial physical theft, alongside a fractional tenant-in-common interest afforded to Mr. Peter Gibbs.

III. The execution of these real estate conveyances cannot be viewed in a vacuum; they manifest as a direct extension of the severe allegations of malfeasance delineated in the Factum For NOM #3, which highlighted fatal irregularities in formal process and the orchestration of *ultra vires* administrative acts. The facilitation of a high-value real estate transaction—effectively transferring wealth and property to employees of the very institution where an unmitigated, targeted theft of critical litigation materials and PII was perpetrated by the vendor—raises profound, inescapable concerns. Such an alignment of financial benefit strongly implies the provision of illicit consideration. This tight, indisputable nexus of specific actors, a shared institutional geography, and perfectly synchronized timing strongly suggests potential undisclosed arrangements, a *quid pro quo*, or a sophisticated bribe intended to secure unauthorized physical access, subsequent silence, or ongoing complicity in the spoliation of evidence.

IV. When a transaction is so thoroughly enmeshed with actors tied to a predicate criminal offense, a rebuttable presumption of corrupt intent arises. The burden is necessarily shifted to the respondents to demonstrate the absolute proprietary legitimacy of these overlapping transactions, a burden that cannot be satisfied through mere general denials.

Conclusion for Issue #3

V. The synchronized disposition of real property to actors embedded deeply within the locus of the predicate offense is a classic, objective hallmark of illicit financial concealment and bribery. The introduction of such corruptive mechanisms into the factual matrix further solidifies the unassailable conclusion that the respondents have engaged the judicial system with fundamentally unclean hands, transforming standard civil litigation into a conduit for illicit compensation and rendering their continued participation an Irremediable Nullity.

ISSUE 4: EXTORTION AND THE ORCHESTRATION OF CIVIL DEATH

D. Whether the sustained, multi-front campaign of technological interception, physical lockouts utilizing fabricated warrants, and the strategic infliction of psychological terror through literary veiled threats ascends to the level of civil extortion, rendering a fair hearing factually impossible.

ANSWER 4: Yes.

Legal Analysis:

I. Extortionate conduct, fundamentally designed to induce compliance through fear, systemic deprivation, or the malicious weaponization of state apparatuses against an opposing litigant, is an abhorrent abuse of process that shatters the foundational integrity of the judicial system. As recognized by the Supreme Court of Canada in *R. v. Davis*, [1999] 3 SCR 759, extortion requires the use of threats, accusations, or menaces to induce another

person to do or cause to be done anything. In the context of civil litigation, extortion is frequently effectuated not through overt physical violence, but through the asphyxiation of resources, the destruction of digital infrastructure, and the deployment of fabricated authority to force an unjust settlement or abandonment of claims. The threshold for extortion rests upon the "attempt" to destroy the will of the victim, rather than the ultimate success of the endeavour.

II. The systemic and calculated nature of this extortion is inextricably linked to the defensive procedural maneuvering that necessitated the filing of a formal notice of motion on November 17, THE YEAR OF 2025 (the "**NOM #3**"). The NOM #3 explicitly and forcefully sought peremptory judicial assignment orders pursuant to section 18(2) of the *Courts of Justice Act*, RSO 1990, c C.43. This statutory mechanism was invoked to preclude further participation by hopelessly compromised judicial officers, alongside demanding the absolute preclusion of improperly engaged counsel, specifically identifying TD Insurance Staff Legal. As thoroughly delineated in the Factum For NOM #3, the respondents have actively weaponized assignments to case management that were patently *ultra vires*, utilizing these compromised, shadow procedural frameworks to deepen the physical and financial deprivation of the Applicant, forcing them to litigate endlessly over jurisdictional nullities rather than the substantive merits of the overarching fraud.

III. The record firmly establishes that a malicious compilation of fabricated intelligence (the "**False Information Package**") was meticulously orchestrated by the respondents and subsequently weaponized to secure an undisclosed, unrecorded criminal warrant. This fraudulent instrument was seamlessly deployed to execute an unlawful, extra-judicial residential lockout, effectuating absolute physical displacement and the sequestration of further litigation materials. This civil infrastructure of malice is fundamentally intertwined with documented professional misconduct and criminal culpability within the local constabulary, evidenced by overlapping disciplinary proceedings involving Sergeant Robert Black of the 14 Division (regarding insubordination and discreditable conduct, File Numbers 1/2026 and 48/2024), alongside the documented conversion of stolen property by Officer Derek McCormick.

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☒ IPV (Intimate Partner Violence / *Violence contre un partenaire intime*) ☐ Replacement Information / *Dénonciation de remplacement*

☐ S (Impaired driving with substances / *Conduite avec capacités affaiblies par des substances*) ☐ V (Vessel / *Bateau*)

Arrest Date: _____ **15 month Flag:** _____ **18 month Flag:** _____
Date d'arrestation *Alerte à 15 mois (ddmmyy / jjmmaa)* *Alerte à 18 mois (ddmmyy / jjmmaa)*

Sworn Date: 230924 **15 month Flag:** 241225 **18 month Flag:** 250326
Date d'assermentation *Alerte à 15 mois (ddmmyy / jjmmaa)* *Alerte à 18 mois (ddmmyy / jjmmaa)*

4810 998 24 48129169
Information Number / Nº de la dénonciation

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Form 2 Information / *Formule 2 Dénonciation*

Sections 506, 508.1 and 788 of the Criminal Code / *Articles 506, 508.1 et 788 du Code criminel*

CANADA
PROVINCE OF ONTARIO
PROVINCE DE L'ONTARIO
TORONTO
(Region / *Région*)

Information of: **Christyn Frugoni-Rojas**
Dénonciation de :
of **THE CITY OF TORONTO** **Court Officer**
de (occupation / *profession*)
hereinafter called the informant / *ci-après appelé(e) le dénonciateur*

The informant says that he/she believes on reasonable grounds that
Le dénonciateur déclare qu'il a des motifs raisonnables de croire que

(1) MCLEAN, Kevin DOB: 25 Mar. 1983
NFA, , ON

COUNT 1

Kevin MCLEAN

on or about the 22nd day of September in the year 2024 at the City of Toronto in the Toronto Region did, without lawful authority and knowing that another person, namely Nicole ARTOPOULOS, was harassed or recklessly as to whether that person was harassed, engage in repeatedly communicating with, either directly or indirectly, that person, and cause the said Nicole ARTOPOULOS to reasonably fear for personal safety, contrary to Section 264, subsection (2), clause (b) of the Criminal Code of Canada.

---------- **End of Charges/Counts** ----------

CCO-2-000-1-C-e (rev. 10/20)

Declaration of Informant / *Déclaration du dénonciateur*

I declare that all matters contained in the Information are true to my knowledge and belief, pursuant to s. 508.1(2) of the *Criminal Code*.
Je soussigné(e) déclare tous les renseignements contenus dans la présente dénonciation sont, à ma connaissance, véridiques, en vertu de par: 508.1(2) du Code criminel.

Dated at / *Fait à(au)* CITY of TORONTO In the Province of Ontario, this / *dans la province d'Ontario, ce* 23rd day of / *jour de* SEPTEMBER , 20 24

Declarant / Déclarant

Christyn Frugoni-Rojas CL (M)

Digitally signed by Christyn Frugoni-Rojas CL (M)
Date: 2024.09.23 11:48:25 -04'00'

Digital Signature of Informant / *Signature numérique du dénonciateur*

CCO-2-089 1-C-e (rev. 10/20) This document has been digitally signed / *Ce document a été signé numériquement.*

Toronto Police Service
Occ#:24-2082035

Police Case ID:457197

Intake Court Endorsement

This Information is Accepted on its face.

Kevin MCLEAN:
Warrant In The First: Issue

Dated in the Province of Ontario, this 23rd day of September 2024.
Fait à/au dans la province de l'Ontario, ce 23 septembre 2024.

Justice of the Peace
Ontario Court
of Justice

Digitally signed by George Jr
Date:2024.09.23 12:59:50 -04'00'

This document has been digitally signed. / *Ce document a été signé numériquement.*

Arrest Date:	**15 month Flag:**	**18 month Flag:**
Date d'arrestation	*Alerte à 15 mois (dd/mm/yy / jj/mm/aa)*	*Alerte à 18 mois (dd/mm/yy / jj/mm/aa)*
Sworn Date: 230924	**15 month Flag:** 241225	**18 month Flag:** 250326
Date d'assermentation	*Alerte à 15 mois (dd/mm/yy / jj/mm/aa)*	*Alerte à 18 mois (dd/mm/yy / jj/mm/aa)*

4810 998 24 48129169
Information Number / N° de la dénonciation

[ ] **Accused notified court under s. 530(3)**
Tribunal avisé par l'accusé en vertu de l'art. 530(3)

[ ] **Designation Filed**
Désignation déposée

[ ] **Interpreter Required**
Interprète requis

Date *Date*	Accused *Accusé*	Adjournment Date *Date d'ajournement*	Adjournment Details *Détails sur l'ajournement*	Designation Désignation	Consent to Adjournment Accord relatif à l'ajournement	Crown to Indicate Date of Compliance	Bail on Warrant Mise en liberté sous caution	Disposition Disposition	Continuation of Bail Conditions Modalités de la mise en liberté sous caution
03 Oct 2024	MCLEAN, KEVIN	13 Nov 2024	Toronto-OCJ-T-10 Armoury St - 204 @ 2:00 PM, FA, VI, ACP - Warrant in the First Executed						
13 Nov 2024	MCLEAN, KEVIN	18 Dec 2024	Toronto-OCJ-T-10 Armoury St - 204 @ 2:00 PM, ST, VI, ACP - - DISC BW			X	X	X	
18 Dec 2024	MCLEAN, KEVIN	19 Mar 2025	Toronto-OCJ-T-10 Armoury St - 204 @ 2:00 PM, ST, VI, ACP - -11b waived - - DISC BW Rescinded						
19 Mar 2025	MCLEAN, KEVIN	16 Apr 2025	Toronto-OCJ-T-10 Armoury St - 204 @ 2:00 PM, ST, VI, APN - - DISC BW			X	X	X	
16 Apr 2025	MCLEAN, KEVIN	14 May 2025	Toronto-OCJ-T-10 Armoury St - 204 @ 2:00 PM, ST, VI, ACP - - DISC BW Rescinded						
14 May 2025	MCLEAN, KEVIN	11 Jun 2025	Toronto-OCJ-T-10 Armoury St - 702 @ 2:00 PM, ST, VI, ACP						

Date *Date*	Clerk *Greffier*	Crown *Couronne*	For the Accused *Pour l'accusé*	Justice's Initials *Initiales du juge*
03 Oct 2024	Henriquez, Michael	NA	NP, NA, NOR	DJ
13 Nov 2024	Nurali, Saira	Pashang, Sia	NP, NP (Acc appeared in triage), NRC	TC
18 Dec 2024	Barna, Elizabeth	Dimiskovska, Andrea	AA, AA, VI, Self-Rep , NRC	JG
19 Mar 2025	Weisemberg, Iara	Laws, Jennifer	NP, NRC	JR
16 Apr 2025	Berhane, Aron	Dimiskovska, Andrea	AA, Self-Rep, NRC	BS
14 May 2025	Booth, Catherine	Laws, Jennifer	AA, Self-Rep, NRC	BS

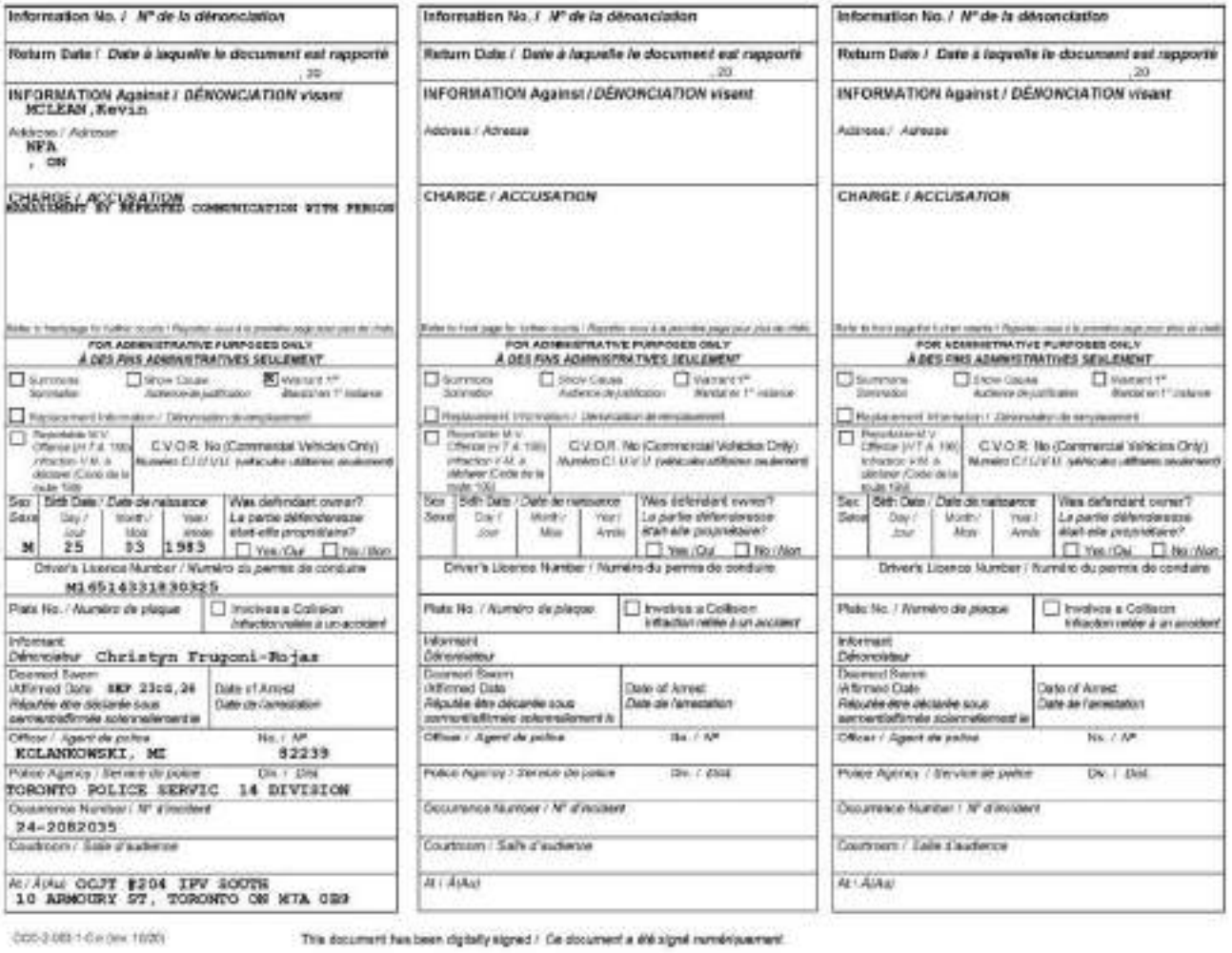
[ ] **At Bail Review date**
À la révision de l'ordonnance de détention, datée du

[ ] **Original Order Confirmed**
Ordonnance originale Confirmée

[ ] **New Order Made**
Nouvelle ordonnance rendue

[ ] **Gladue Report Requested**
Rapport Gladue demandé

(date / date)



Information No. / N° de la dénonciation

Return Date / Date à laquelle le document est rapporté
, 20

INFORMATION Against / DÉNONCIATION visant
MCLEAN, Kevin

Address / Adresse
NFA
, ON

CHARGE / ACCUSATION
HARASSMENT BY REPEATED COMMUNICATION WITH PERSON

FOR ADMINISTRATIVE PURPOSES ONLY
À DES FINS ADMINISTRATIVES SEULEMENT

☐ Summons / Sommation ☐ Show Cause / Audience de justification ☒ Warrant 1st / Mandat en 1re instance
☐ Replacement Information / Dénonciation de remplacement
☐ Reportable M.V. Offence (HTA 196) / Infraction V.M. à déclarer (Code de la route 196) C.V.O.R. No (Commercial Vehicles Only) / Numéro C.I.U.V.U. (véhicules utilitaires seulement)

Sex / Sexe	Birth Date / Date de naissance: Day / Jour	Month / Mois	Year / Année	Was defendant owner? / La partie défenderesse était-elle propriétaire?
M	25	03	1983	☐ Yes / Oui ☐ No / Non

Driver's Licence Number / Numéro du permis de conduire
M1651433183032 5

Plate No. / Numéro de plaque ☐ Involves a Collision / Infraction reliée à un accident

Informant / Dénonciateur
Christyn Frugoni-Rojas

Deemed Sworn / Affirmed Date / Réputée être déclarée sous serment/affirmée solennellement le
SEP 23rd,24

Date of Arrest / Date de l'arrestation

Officer / Agent de police
KOLANKOWSKI, MI

No. / N°
82239

Police Agency / Service de police
TORONTO POLICE SERVIC

Div. / Div.
14 DIVISION

Occurrence Number / N° d'incident
24-2082035

Courtroom / Salle d'audience

At / À(u)
OCJT #204 IPV SOUTH
10 ARMOURY ST, TORONTO ON M7A 0B9

OCC-2 083-1-Cr (rev. 10/20)

This document has been digitally signed / Ce document a été signé numériquement

IV. So what does an authentic Information Package look like? The Applicant had to dig deep to find it but did so:

ajefo

Information / Dénonciation

Form 2, sections 504, 508.1 and 788 / Formule 2, articles 504, 508.1 et 788

☐ IPV (Intimate Partner Violence / Violence contre un partenaire intime)
☐ E (Impaired driving with substances / Conduite avec capacités affaiblies par des substances)
☐ V (Alcool / Blood)

22 BONNECHANCE02
Information Number / N° de la dénonciation

☐ Replacement Information / Dénonciation de remplacement

☐ Non-Disclosure Order Pursuant to s. 486.31
Ordonnance de non-divulgation, art. 486.31

☒ Publication ban pursuant to 517
Interdiction de publication en vertu de

☒ Non communication s. 113(1)(c)/518(2)
Non-communication, par. 113 (1)c)/518 (2)

☐ Provisions of 539(3) complied with
Dispositions du par. 539 (3) observées

Arrest Date: 23 juillet 2022
Date d'arrestation

15 month flag: 23 Octobre 2023
Alerte à 15 mois

18 month flag: 23 janvier 2024
Alerte à 18 mois

Sworn/Affirmed Date /
Deemed Sworn/Affirmed Date: 23 juillet 2022
Déclarée sous serment/affirmée solennellement le / réputée être déclarée sous serment/affirmée solennellement le

15 month flag: 23 Octobre 2023
Alerte à 15 mois

18 month flag: 23 janvier 2024
Alerte à 18 mois

CANADA
PROVINCE OF ONTARIO
PROVINCE DE L'ONTARIO

East / Est
(Region / Région)

Information of: **Cst. Bissonnette**
Dénonciation de

of **Ottawa, Ontario**
de

Police Officer
(occupation / profession)

hereinafter called the informant. / ci-après appelé(e) le dénonciateur.

The informant says that they believe on reasonable grounds that
Le dénonciateur déclare qu'il a des motifs raisonnables de croire que

LAURENT DUBÉ, le 23 juillet 2022, à St. Albert, Ontario, a commis le meurtre au second degré de JULIEN DUBÉ, contrairement à l'article 235(1) du Code criminel;

LAURENT DUBÉ, le 23 juillet 2022, à St. Albert, Ontario, avait en sa possession une arme dans un dessein dangereux, contrairement à l'article 88 du Code criminel;

LAURENT DUBÉ, le 23 juillet 2022, à St. Albert, Ontario avait en sa possession une substance illicite, contrairement au à l'article 4(1) de la Loi réglementant certaines drogues et autres substances

CDD-2.080-1-C (rev. 12/19)

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22 BONNECHANCE02

Information Number / *N° de la dénonciation*

☒ **Accused notified court under s. 530(3)** *Tribunal avisé par l'accusé en vertu du par. 530 (3)*

☐ **Designation Filed** *Désignation déposée*

☐ **Interpreter Required** *Interprète requis*

Date	Accused *Accusé*	Adjournment Date *Date d'ajournement*	Adjournment Details *Détails sur l'ajournement*	Designation Désignation	Course As Agent Avocat comparaître	Fails to Appear Omet de comparaître	Bench Warrant Mandat d'arrêt	Discretion Discrétion	Certificate of Default Certificat de défaut

Date *Date*	Clerk *Greffier*	Crown *Couronne*	For the Accused *Pour l'accusé*	Justice's initials *Initiales du juge*

At Bail Review dated *À la révision de l'ordonnance de détention datée du*

☐ **Original Order Confirmed** *Ordonnance originale confirmée*

☐ **New Order Made** *Nouvelle ordonnance rendue*

☐ **Gladue Report Requested** *Rapport Gladue demandé*

(date / *date*)

22 BONNECHANCE02
Information Number / Nº de la dénonciation

☒ **Deemed to be sworn/affirmed – To be completed where information is laid other than in person:**
Réputée être déclarée sous serment/affirmée solennellement – À remplir lorsque la dénonciation est déposée autrement qu'en personne :

I, Gaston Girard, state that all matters contained in this information are true to my knowledge and
Je soussigné(e) (name of informant / nom du dénonciateur) *déclare que tous les renseignements contenus dans la présente dénonciation*
belief, pursuant to s. 508.1(2) of the *Criminal Code*.
sont, à ma connaissance, véridiques, en vertu du par. 508.1 (2) du Code criminel.

Dated at / *Fait à (ville)* St Albert in the Province of Ontario, this / *dans la province de l'Ontario, ce* 23 day of / *jour de* juillet, 20 22

☐ **To be completed where information is laid in person:**
À remplir lorsque la dénonciation est déposée en personne:

Sworn/affirmed before me at the
Déclarée sous serment/affirmée solennellement devant moi à/au
of / *de*
in the Province of Ontario / *dans la province de l'Ontario*
this / *ce* day of / *jour de* , 20

Informant / *Dénonciateur*

Justice of the Peace / *Juge de paix*

☐ Appearance Notice / *Citation à comparaître* ☒ Undertaking / *Promesse* ☐ Release Order / *Ordonnance de mise en liberté* for / *pour le* (day, month / *jour, mois*), 20

CHECK ONE OF THE FOLLOWING / *COCHEZ LA CASE QUI CONVIENT*

☐ Cancelled – Police to notify defendant / *Annulé(e) – La police informera la partie défenderesse*
☐ Cancelled – Summons / *Annulé – Sommation*
☐ Cancelled – Warrant issued / *Annulé(e) – Mandat délivré*

Justice of the Peace / *Juge de paix* (day, month / *jour, mois*), 20

☒ Confirmed on / *Confirmé(e) le* 25 juillet, 20 22 (day, month / *jour, mois*)

Justice of the Peace / *Juge de paix*

Date *Date*	**Crown Elects to Proceed** *La Couronne choisit de procéder par*	☐ **Summarily** *Procédure sommaire*	☒ **By Indictment** *Acte d'accusation*	☐ **Summary Conviction Offence(s)** *Infraction(s) punissable(s) sur déclaration de culpabilité par procédure sommaire*	☐ **Indictable Offence(s)** *Acte(s) criminel(s)*

Date *Date*	Accused *Accusé*	**Elects Trial by / *Choix d'un procès devant***			Preliminary Hearing Requested *Enquête préliminaire demandée*		Justice Initials *Initiales du juge*	Abs./Juris. Contr. *absolue*	**Pleads / *Plaide***	
		Superior Court / *Cour supérieure*		Ontario Court / *Cour de l'Ontario*					Guilty to Counts / *Coupable des chefs d'accusation*	Not Guilty to Counts / *Non coupable des chefs d'accusation*
		Judge / *Juge*	Judge & Jury / *Juge et jury*	Judge On Counts / *Juge pour les chefs d'accusation*	Yes / *Oui*	No / *Non*				

Date *Date*	Accused *Accusé*	Committed (or) Ord. Std. trial *On Counts / *Renvoyé à procès *pour les chefs d'accusation*	Discharged on Counts / *Libéré des chefs d'accusation*	**Found / *Reconnu***	
				Guilty on Counts / *Coupable des chefs d'accusation*	Not Guilty on Counts / *Non coupable des chefs d'accusation*

* ☐ With consent of accused and prosecutor, without taking or recording / *Avec le consentement de l'accusé et du poursuivant, sans recueillir ou consigner* ☐ (a) any evidence / *a) des preuves* (or / *ou*) ☐ (b) further evidence / *b) des preuves additionnelles*

Judge / *Juge*

Count / Chef — Sentence date / Date de détermination de la peine — ☐ Withdrawn / Accusation retirée

☐ Pre-sentence custody / Détention présentencielle ____ days/months/years — Time credited / Crédit octroyé ____ days/months/years — ☐ concurrent with / concurrente avec ____

☐ Term that would have been imposed before credit granted / Période d'emprisonnement imposée avant l'octroi de tout crédit ____ days/months/years

☐ Absolute discharge / Absolution inconditionnelle — ☐ Conditional discharge / Absolution conditionnelle — ☐ Suspended sentence / Condamnation avec sursis

☐ Imprisoned for / Emprisonnement pour ____ days/months/years — ☐ concurrent with / concurrente avec — ☐ consecutive to / consécutive à

☐ Intermittent sentence for / Peine discontinue ____ days / jours — ☐ concurrent with / concurrente avec — ☐ consecutive to / consécutive à

☐ Conditional sentence for / Ordonnance de sursis ____ days/months/years — ☐ concurrent with / concurrente avec — ☐ consecutive to / consécutive à

☐ Probation / Période de probation ____ months/years — ☐ concurrent with / concurrente avec — ☐ consecutive to / consécutive à

☐ Community service: s. 732.1(3)(i) / Service communautaire, par. 732.1 (3i) ____ hours / heures

☐ Fine of $ / Amende de ____ — VS $ / $ sur compte ____ — Time to pay / Délai de paiement ____

☐ Restitution / Dédommagement — ☐ s. 738 / s. 739 / art. 738 / art. 739 — Amount: $ / Montant ____ — Time to pay / $ Délai de paiement ____

☐ Victim surcharge: $ / Suramende compensatoire ____ — Time to pay / $ Délai de paiement ____

☐ Dismissed / Rejeté	☐ HTA (cautioned) / Avertissement (Code de la route)	☐ Driving prohibition / Interdiction de conduire ____	Months / Years / mois/années	☐ s.738(1)(k) / par. 737.21 (1)	
☐ Acquitted / Acquitté	☐ Weapons prohibition / Interdiction d'armes	☐ s. 109(2) ____ years / par. 109 (2) ans	☐ s. 109(3) (Life) / par. 109 (3) (perpétuité)	☐ s. 110 ____ years / art. 110 ans	☐ s. 113 (10y) / art. 113 (paragraphe)
☐ Stayed / Sursis	☐ DNA / ADN	☐ 5.01 (Primary) / 5.01 (primaire)	☐ 5.04 (Secondary) / 5.04 (secondaire)	☐ Denied (DNA) / Rejetée	
☐ In Absentia / In absentia	☐ S.O.I.R.A. order / Ordonnance LSCIS	☐ 10 years / 10 ans	☐ 20 years / 20 ans	☐ Life / Perpétuité	
☐ Other / Autre	☐ s.161 prohibition / Interdiction, art. 161 ____ months/years / mois/ans	☐ s. 490 forfeiture order / Ordonnance de confiscation, art. 490		☐ Granted / Accordée	☐ Denied / Rejetée

Count / Chef — Sentence date / Date de détermination de la peine — ☐ Withdrawn / Accusation retirée

☐ Pre-sentence custody / Détention présentencielle ____ days/months/years — Time credited / Crédit octroyé ____ days/months/years — ☐ concurrent with / concurrente avec ____

☐ Term that would have been imposed before credit granted / Période d'emprisonnement imposée avant l'octroi de tout crédit ____ days/months/years

☐ Absolute discharge / Absolution inconditionnelle — ☐ Conditional discharge / Absolution conditionnelle — ☐ Suspended sentence / Condamnation avec sursis

☐ Imprisoned for / Emprisonnement pour ____ days/months/years — ☐ concurrent with / concurrente avec — ☐ consecutive to / consécutive à

☐ Intermittent sentence for / Peine discontinue ____ days / jours — ☐ concurrent with / concurrente avec — ☐ consecutive to / consécutive à

☐ Conditional sentence for / Ordonnance de sursis ____ days/months/years — ☐ concurrent with / concurrente avec — ☐ consecutive to / consécutive à

☐ Probation / Période de probation ____ months/years — ☐ concurrent with / concurrente avec — ☐ consecutive to / consécutive à

☐ Community service: s. 732.1(3)(i) / Service communautaire, par. 732.1(3i) ____ hours / heures

☐ Fine of $ / Amende de ____ — VS $ / $ sur compte ____ — Time to pay / Délai de paiement ____

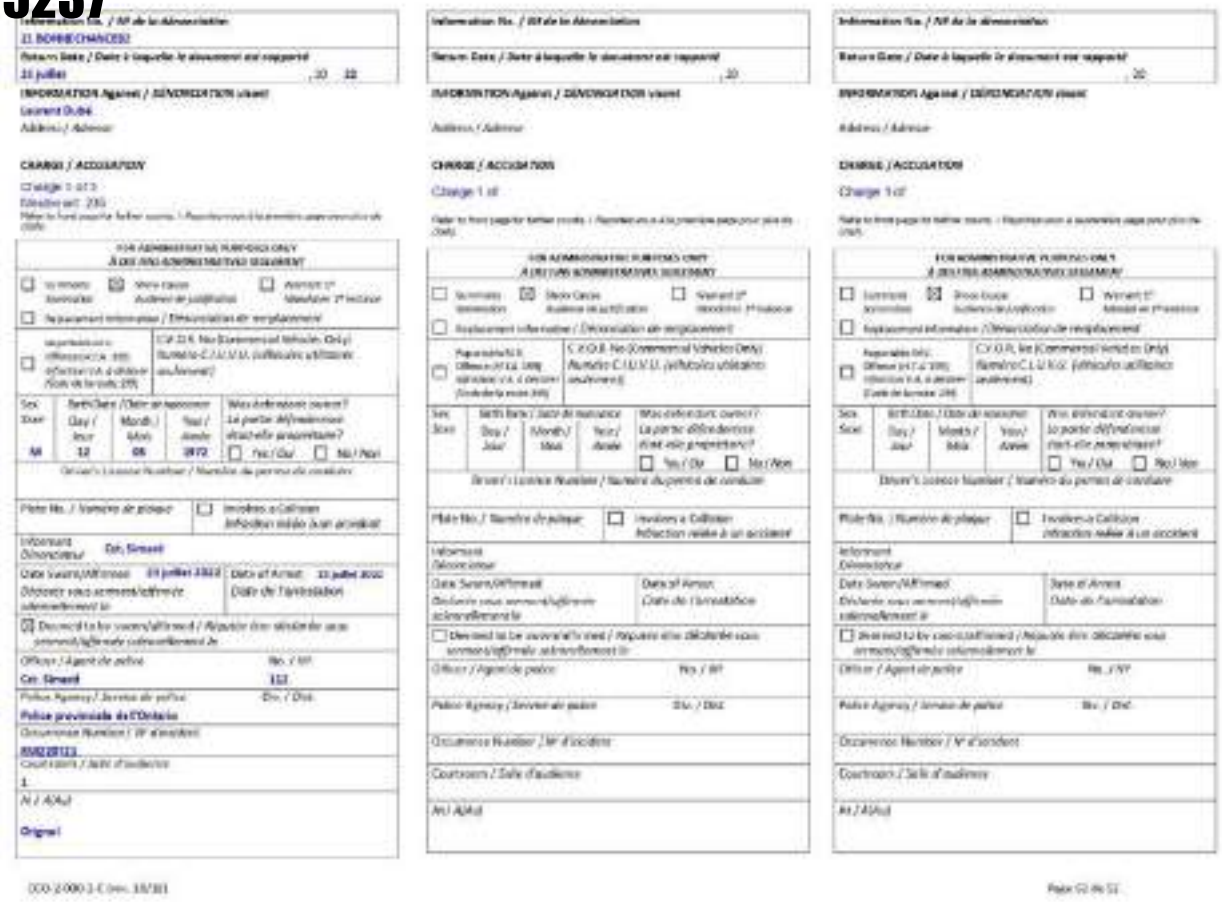
☐ Restitution / Dédommagement — ☐ s. 738 / s. 739 / art. 738 / art. 739 — Amount: $ / Montant ____ — Time to pay / $ Délai de paiement ____

☐ Victim surcharge: $ / Suramende compensatoire ____ — Time to pay / $ Délai de paiement ____

☐ Dismissed / Rejeté	☐ HTA (cautioned) / Avertissement (Code de la route)	☐ Driving prohibition / Interdiction de conduire ____	Months / Years / mois/années	☐ s.738(1)(k) / par. 737.21 (1)	
☐ Acquitted / Acquitté	☐ Weapons prohibition / Interdiction d'armes	☐ s. 109(2) ____ years / par. 109(2) ans	☐ s. 109(3) (Life) / par. 109(3)(paragraphe)(Life)	☐ s. 110 ____ years / art. 110 ans	☐ s. 113 (10y) / art. 113 (paragraphe)
☐ Stayed / Sursis	☐ DNA / ADN	☐ 5.01 (Primary) / 5.01 (primaire)	☐ 5.04 (Secondary) / 5.04 (secondaire)	☐ Denied (DNA) / Rejetée	
☐ In Absentia / In absentia	☐ S.O.I.R.A. order / Ordonnance LSCIS	☐ 10 years / 10 ans	☐ 20 years / 20 ans	☐ Life / Perpétuité	
☐ Other / Autre	☐ s.161 prohibition / Interdiction, art. 161 ____ months/years / mois/ans	☐ s. 490 forfeiture order / Ordonnance de confiscation, par. 490		☐ Granted / Accordée	☐ Denied / Rejetée

Justice of the Peace / Juge de paix ____ Judge / Juge ____

CCD 2 000 1 C (rev. 12/10) — Page 33 de 52



V. What is 15 months from September 23, 2024? While it is absurd at this level to even have to query the same or pose the issue, one will note again:

5238

☒ IPV (Intimate Partner Violence / *Violence contre un partenaire intime*) ☐ Replacement Information / *Dénonciation de remplacement*

☐ S (Impaired driving with substances / *Conduite avec capacités affaiblies par des substances*) ☐ V (Vessel / *Bateau*)

Arrest Date: _____ **15 month Flag:** _____ **18 month Flag:** _____
Date d'arrestation *Alerte à 15 mois (ddmmyy / jjmmaa)* *Alerte à 18 mois (ddmmyy / jjmmaa)*

Sworn Date: 230924 **15 month Flag:** 241225 **18 month Flag:** 250326
Date d'assermentation *Alerte à 15 mois (ddmmyy / jjmmaa)* *Alerte à 18 mois (ddmmyy / jjmmaa)*

4810 998 24 48129169
Information Number / N° de la dénonciation

NOTICE: Orders concerning this court Information relating to publication bans, non-disclosure/communication and French-language rights, are available on a separate page and **must** be followed.

AVIS: Les ordonnances liées à la présente dénonciation en ce qui a trait aux interdictions de publication, à la non-divulgation ou à la non-communication et aux droits linguistiques des francophones figurent sur une page distincte. Ces ordonnances **doivent** être respectées.

Form 2 Information / *Formule 2 Dénonciation*

Sections 506, 508.1 and 788 of the Criminal Code / *Articles 506, 508.1 et 788 du Code criminel*

CANADA
PROVINCE OF ONTARIO
PROVINCE DE L'ONTARIO
TORONTO
(Region / *Région*)

Information of: **Christyn Frugoni-Rojas**
Dénonciation de :
of **THE CITY OF TORONTO** **Court Officer**
de (occupation / *profession*)
hereinafter called the informant / *ci-après appelé(e) le dénonciateur*

The informant says that he/she believes on reasonable grounds that
Le dénonciateur déclare qu'il a des motifs raisonnables de croire que

(1) MCLEAN, Kevin DOB: 25 Mar. 1983
NFA, , ON

COUNT 1

Kevin MCLEAN

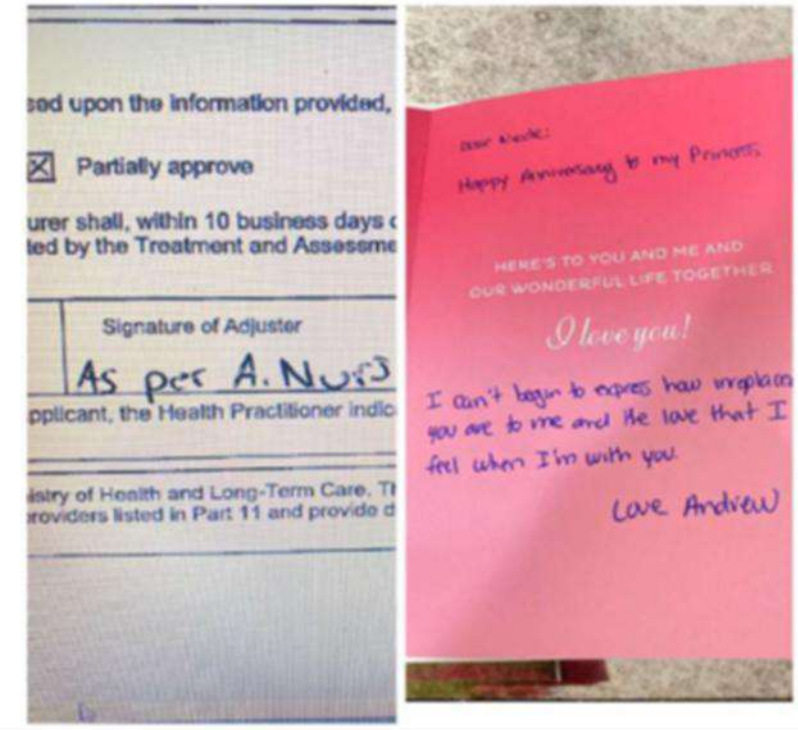
on or about the 22nd day of September in the year 2024 at the City of Toronto in the Toronto Region did, without lawful authority and knowing that another person, namely Nicole ARTOPOULOS, was harassed or recklessly as to whether that person was harassed, engage in repeatedly communicating with, either directly or indirectly, that person, and cause the said Nicole ARTOPOULOS to reasonably fear for personal safety, contrary to Section 264, subsection (2), clause (b) of the Criminal Code of Canada.

---------- **End of Charges/Counts** ----------

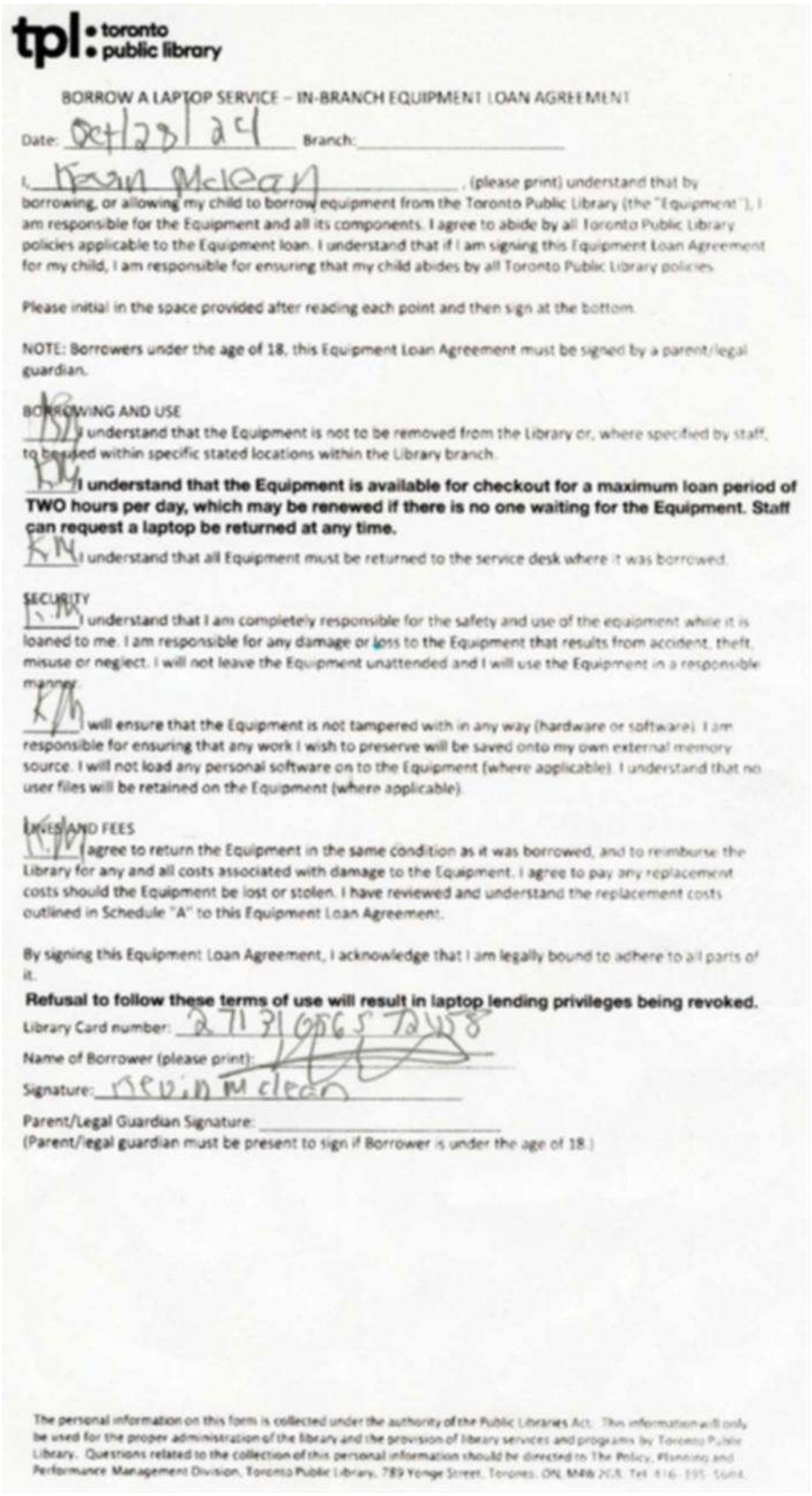
CCO-2-000-1-C-e (rev. 10/20)

VI. So if not September 23, 2025, and obviously not a "court officer", then which informant or indictment signatory and to which Judge as we know it was not JP Jiri?

VII. The False Information Package was clearly predicated upon the Applicant's discovery of the Epstein Cole LLP Client's forgery and fraud in the SABS and LAT Appeal processes:



VIII. Prior to the below unauthorized stealing, theft, fraud, and extortion, Mr. Papadimitropoulos, the Epstein Cole LLP Client engaged in the following by the TPL Fraudulent Loan Agreement:



tpl: toronto public library

BORROW A LAPTOP SERVICE – IN-BRANCH EQUIPMENT LOAN AGREEMENT

Date: Oct/23/24 Branch: _____

I, Kevin McLean, (please print) understand that by borrowing, or allowing my child to borrow equipment from the Toronto Public Library (the "Equipment"), I am responsible for the Equipment and all its components. I agree to abide by all Toronto Public Library policies applicable to the Equipment loan. I understand that if I am signing this Equipment Loan Agreement for my child, I am responsible for ensuring that my child abides by all Toronto Public Library policies.

Please initial in the space provided after reading each point and then sign at the bottom.

NOTE: Borrowers under the age of 18, this Equipment Loan Agreement must be signed by a parent/legal guardian.

BORROWING AND USE

KM I understand that the Equipment is not to be removed from the Library or, where specified by staff, to be used within specific stated locations within the Library branch.

KM **I understand that the Equipment is available for checkout for a maximum loan period of TWO hours per day, which may be renewed if there is no one waiting for the Equipment. Staff can request a laptop be returned at any time.**

KM I understand that all Equipment must be returned to the service desk where it was borrowed.

SECURITY

KM I understand that I am completely responsible for the safety and use of the equipment while it is loaned to me. I am responsible for any damage or loss to the Equipment that results from accident, theft, misuse or neglect. I will not leave the Equipment unattended and I will use the Equipment in a responsible manner.

KM I will ensure that the Equipment is not tampered with in any way (hardware or software). I am responsible for ensuring that any work I wish to preserve will be saved onto my own external memory source. I will not load any personal software on to the Equipment (where applicable). I understand that no user files will be retained on the Equipment (where applicable).

LOSS AND FEES

KM I agree to return the Equipment in the same condition as it was borrowed, and to reimburse the Library for any and all costs associated with damage to the Equipment. I agree to pay any replacement costs should the Equipment be lost or stolen. I have reviewed and understand the replacement costs outlined in Schedule "A" to this Equipment Loan Agreement.

By signing this Equipment Loan Agreement, I acknowledge that I am legally bound to adhere to all parts of it.

Refusal to follow these terms of use will result in laptop lending privileges being revoked.

Library Card number: 27131 0056 5 72458

Name of Borrower (please print): KM

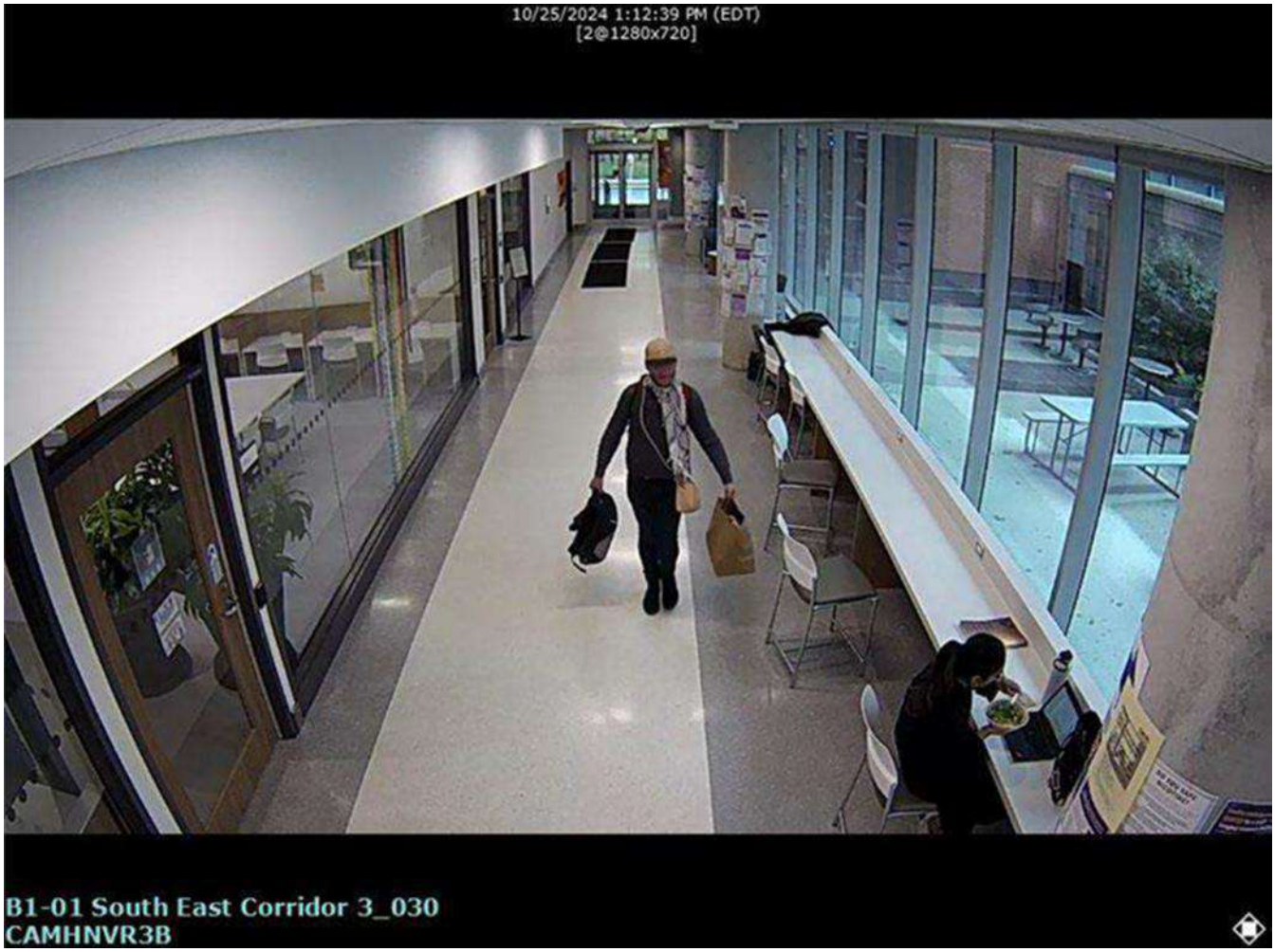
Signature: Kevin McLean

Parent/Legal Guardian Signature: _____

(Parent/legal guardian must be present to sign if Borrower is under the age of 18.)

The personal information on this form is collected under the authority of the Public Libraries Act. This information will only be used for the proper administration of the library and the provision of library services and programs by Toronto Public Library. Questions related to the collection of this personal information should be directed to The Policy, Planning and Performance Management Division, Toronto Public Library, 789 Yonge Street, Toronto, ON, M4W 2G8, Tel: 416-395-5404.

IX. The above could only take place by the theft of Mr. Karat, the self-prophesised "ADR" [sic], and underling of the Epstein Cole LLP Client:



X. The above theft was discovered by the Applicant with the miraculous and divine intervention (distinct from the Madam Justice Shore unauthorized voyeuristic interloping style intervention as an Unauthorized CMJ Interloper) on MAY 4, 2025.

XI. Beyond the physical and state-sponsored incursions, the extortionate enterprise is unequivocally evidenced by the highly sophisticated, psychological weaponization of the fraudulent library borrowings effectuated utilizing the stolen identification. The collective thematic undercurrent interwoven strictly through the titles of the procured volumes forms a manifest rhetorical instrumentality, purposefully engineered to elicit palpable disquietude, terror, and apprehension within the Applicant. Given the status of the client of Epstein Cole LLP as the SABS Manager for the TDIA Group, and their direct proximity to the judiciary via the agency of said law firm, these specific selections transcend the realm of mere coincidence and function as highly calibrated, specific admonitions regarding the capacity of the Respondent Insurance Companies to manipulate both the administrative and judicial landscapes. The literary selections constitute a curated psychological assault:

a. **Camino Ghosts (Grisham)** (see: *Compendium For NOM #3-5*, Tab 2, page 81):

   i. A seminal judicial thriller delineating narratives centered upon corporate avarice and the methodical surveillance of a protagonist endeavoring to unearth systemic fraud. The acquisition of this volume on November 11, THE YEAR OF 2024, constituted a vatic, prophetic yet ominous signal (the "**Vatic Signal**") of predictive judicial capture (the "**Predictive Judicial Capture**"). By means of this veiled threat, it was communicated that the Undisclosed Judge would preside over the JRPA Proceeding—a fact preordained approximately two months prior to formal disclosure. The novel illustrates coordinated institutional fraud (the "**Institutional Fraud**") wherein official documents are utilized to supersede reality, mirroring the respondents' strategy. The narrative involves abandoned land filings (the "**Abandoned Land Filings**") facilitated by corrupt state officials, directly paralleling

the respondents' utilization of the Applicant's nomenclature to execute the library agreement, thereby creating a fraudulent misrepresentation (the "**Fraudulent Misrepresentation**") to justify a takeover of the record. The novel further depicts the suppression of surveys (the "**Suppression Of Surveys**") to validate deceptive statements, mirroring the clouding of a title (the "**Clouding Of A Title**") and the nurse forgery (the "**Nurse Forgery**") discovered within the SABS system in April THE YEAR OF 2023. Crucially, the novel features a paper blizzard (the "**Paper Blizzard**")—a barrage of boilerplate intimidation (the "**Boilerplate Intimidation**"), including Rule 11 sanctions, abuse of process threats, intrusive discovery requests, and summary judgment motions designed to drain time, exhaust resources, and induce terror. This is a direct parallel to the "veiled threats" delivered via unauthorized borrowings, aiming to ensure the total delegitimization of the medical reality of the Applicant (the "**Medical Gaslighting**").

b. **The Guest Book (Blake):**
    i. Exploring entrenched generational privilege and antecedent betrayals, this selection constitutes a calculated insinuation regarding the vulnerability of the Applicant to the institutional weight of the respondents. It strictly implies the Applicant is an "unwelcome guest" within the halls of justice, wherein the Undisclosed Judge—as a former partner of Epstein Cole LLP—represents the exclusionary "host". The focus upon ancestral fraud (the "**Ancestral Fraud**") mirrors the attempt to construct a false medical history to justify bad faith denials.

c. **Yellowface (Kuang):**
    i. Focusing upon professional corruption and the cynical maxim *mala publicitas est etiam bonum* (even bad publicity is good), this selection operates as an explicit admission that the corporate entities consider themselves *ultra vires* of ethical reproach. The administrative tribunals are viewed merely as a rat ship (the "**Rat Ship**") meticulously designed to sink legitimate claims through bureaucratic attrition, wherein the reputation of the Applicant is deemed acceptable collateral damage.

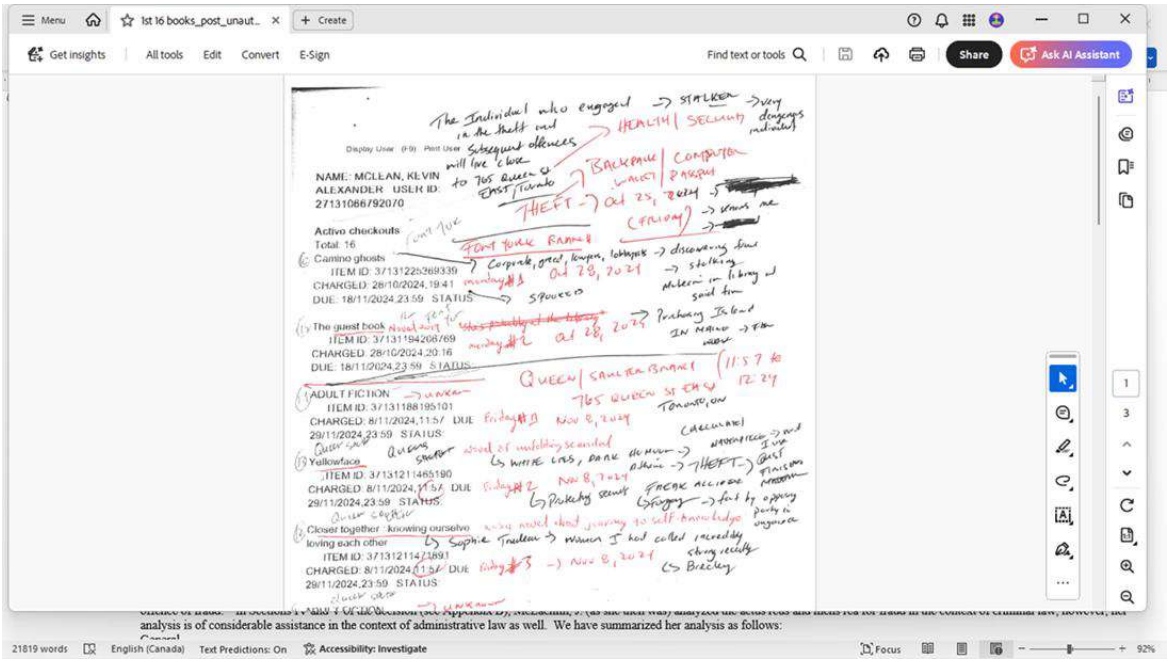
d. **Sooley (Grisham):**
    i. Tracing a sudden, tragic fall, this volume operates as a harrowing rhetorical prophecy of ruin, warning that the future of the Applicant can be systematically dismantled. It emphasizes systemic vulnerability (the "**Systemic Vulnerability**"), suggesting statutory benefits are revokable privileges. The sudden climax of ruin (the "**Climax Of Ruin**") serves as a direct menace concerning the capacity for orchestration of total destruction, achieving a permanent state of adjudicative silencing (the "**Adjudicative Silencing**").

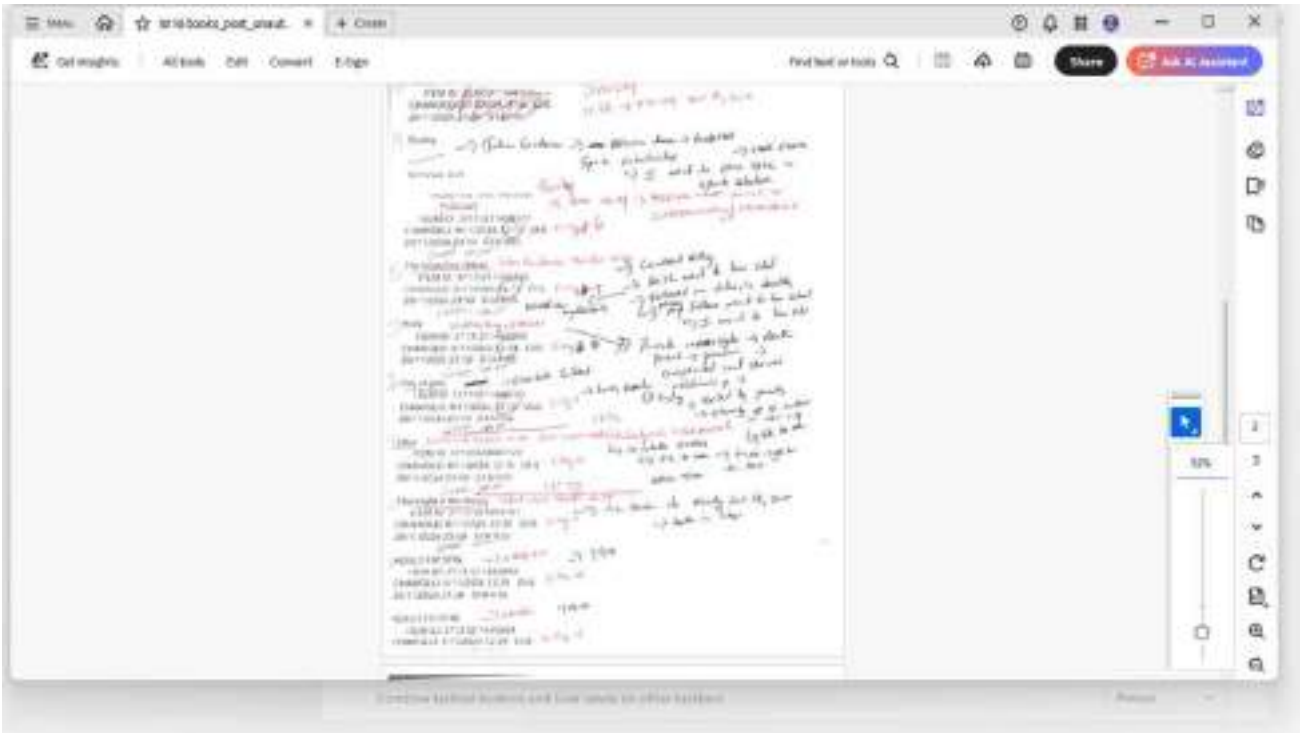
e. **Boys from Biloxi (Grisham):**
    i. Detailing a criminal syndicate operating within a "wide-open" city, this illustrates the deployment of systemic infrastructure (the "**Systemic Infrastructure**") to maintain power through a protected infrastructure (the "**Protected Infrastructure**") of bribery and a protection racket (the "**Protection Racket**") of extortion. It perfectly mirrors the deception of legitimacy (the "**Deception Of Legitimacy**"), wherein the veneer of a legitimate administrative process is weaponized to mask the underlying fraud, executing the "art of the message" via intermediaries to foster constant paranoia.

f. **Holly (King) & Diva:**
    i. *Holly* centers upon atrocities concealed behind a harmless, "polite" facade, serving as an admonition that the corporate exterior masks a ruthless agenda capable of unspeakable harm. *Diva* thematizes betrayal, weaponizing the personal history of the Applicant as an instrument of duress.

g. **That Night in the Library:**
    i. Depicting individuals trapped post-factum culminating in homicide, this constitutes an overt depiction of metaphorical ensnarement (the "**Metaphorical Ensnarement**") within the TPL. It signifies a state of perpetual adjudicative siege (the "**Adjudicative Siege**"), wherein sanctuary is ruthlessly denied.

XII. For further corroborative evidence of the same, please see:





XIII. The inception of this overarching extortionate enterprise reached a definitive zenith on the 13th day of December, THE YEAR OF 2024. On this exact date, the malefactor altered the primary telephone number associated with the fraudulently procured library card to that of Ms. Valerie Oulette, an investigative journalist. This highly sophisticated maneuver operated as a veiled threat signifying that the SABS Manager possessed the reach to manipulate and isolate the Applicant's public and professional identity, effectively executing a functional closure of the courts (the "**Functional Closure**") and imposing a state of cyber-exile (the "**Cyber-Exile**").

XIV. The conduct of the Respondent Insurance Companies—characterized by literal threats, the suppression of evidence, the fabrication of warrants, and systematic psychological intimidation—is fully commensurate with the criminal offences of extortion and obstruction of justice on a *prima facie* basis. These intentional torts effectively vitiate the legal validity of the participation of the Respondent Insurance Companies in this

litigation. As established by the Supreme Court of Canada in *R. v. Wijesinha*, [1995] 3 SCR 422 (see: BOA, Tab 70, Page 120, Paragraph 5) (the "*Wijesinha*"), a party that engages in extortionate conduct or seeks to obstruct the search of the Court for the truth cannot be deemed to be participating in good faith. In *Wijesinha*, the Court affirmed that obstructing justice strikes at the very heart of the adversarial system, and any attempt to subvert the truth via deceptive means must be met with the most rigorous judicial censure.

XV. Applying *Wijesinha* to the present facts, the systematic suppression of "Karat-related" evidence and the utilization of fictitious nomenclature by the Respondent Insurance Companies constitute an active, severe interference with the curial purity (the "**Curial Purity**") that forms the strict foundation of the adversarial model. Such conduct violently transforms the solemn search for truth into a theatre of coercion, wherein the Rule of Law is usurped by the rule of force and psychological terror. Their presence in the litigation constitutes a profound *abus de droit*, and the Court is mandated to protect the integrity of its proceedings by nullifying any steps taken by these tainted parties. To permit such actors to continue their participation would erroneously signal that the Superior Court can be seamlessly manipulated by those who disregard the criminal law, thereby bringing the administration of justice into profound disrepute. This necessitates a moral disqualification (the "**Moral Disqualification**") as a direct consequence of prioritizing extortion over lawful adjudication. Any further engagement by the Court with parties who have functionally abdicated the *Rules of Civil Procedure* in favor of extortionate tactics would represent a fatal compromise of the Rule of Law, unconditionally requiring the President of the Divisional Court to issue a total expulsion (the "**Total Expulsion**") of the Respondent Insurance Companies from the curial record. The absolute integrity of the judiciary depends upon the unequivocal exclusion of those who seek to subvert it through menaces.

Conclusion:

XVI. Participation in litigation through the orchestration of physical extortion, severe technological sabotage, psychological literary terror, and the active, systemic obstruction of justice fundamentally results in the absolute forfeiture of any standing in equity. The presence of this pervasive *dolus malus* creates a structural, institutional taint incapable of rehabilitation through standard cost awards or procedural reprimands, necessitating the immediate imposition of the Total Expulsion and the striking of the respondents' defenses entirely for an egregious abuse of process pursuant to *Rule 59.06(2)(a)*.

ISSUE 5: FRAUD BY NON-DISCLOSURE AND ACTUAL BIAS

E. Whether the failure to disclose active involvement as the "hidden or concealed judge" in an overlapping, undisclosed criminal proceeding creates a fatal taint of fraud by non-disclosure and a reasonable apprehension of bias that irrevocably fractures the neutrality of the proceedings.

ANSWER 5: Yes.

Legal Analysis

I. The foundational rule against bias (*nemo judex in causa sua*) demands that the scales of justice remain procedurally balanced, structurally uncompromised, and manifestly seen to be impartial by the public. The objective threshold standard, elucidated in *Committee for Justice and Liberty v. National Energy Board*, [1978] 1 SCR 369, holds that the existence of a closed mind, or the reasonable apprehension thereof by an informed, right-minded person viewing the matter realistically and practically, constitutes an Irremediable Nullity that strikes at the heart of the administration of justice.

II. In the present matter, the apprehension of bias does not stem merely from an antecedent professional affiliation, but from a profound and structural ethics vacuum (the "**Ethics Vacuum**") orchestrated actively from the bench. It is established that the presiding judicial officer operated as the concealed adjudicator in a parallel, undisclosed criminal proceeding directly intersecting with the factual matrix, the overlapping police misconduct, and the

5245 corporate parties of this specific civil dispute. The calculated omission of this highly material fact prior to the unilateral assumption of case management jurisdiction is absolutely fatal to adjudicative authority.

III. As established in the jurisprudence surrounding judicial disqualification, most notably demonstrated in *Samra* , strident comments or overtly hostile judicial conduct can definitively disqualify a judge by creating an unassailable reasonable apprehension of bias. In *Samra*, the appellate court reinforced that justice must not only be done but must manifestly and undoubtedly be seen to be done. The legal corollary to *Samra* is equally potent: the deliberate concealment of a material conflict—such as presiding covertly over intersecting criminal matters without providing full, frank, and timely disclosure—is functionally identical in its destructive legal effect to strident disqualifying conduct. Such concealment constitutes fraud by non-disclosure. Silence, where a strict fiduciary and ethical duty to disclose exists, operates equivalently to active, fraudulent misrepresentation, completely eroding the core constitutional right to an independent, unbiased, and transparent tribunal.

Conclusion:

IV. The failure to transparently disclose the role as the concealed judge in deeply related criminal proceedings is a categorical breach of adjudicative neutrality and the *Ethical Principles for Judges*. This fraud by non-disclosure mirrors and comfortably meets the disqualifying threshold of strident judicial conduct articulated in *Samra*. All steps, directions, and orders issuing from this deeply tainted, conflicted jurisdiction are fundamentally vitiated, devoid of legitimate judicial authority, and must be declared Irremediable Nullities to protect the reputational integrity of the court.

ISSUE 6: MANDAMUS, CONSTRUCTIVE DENIAL OF ACCESS TO JUSTICE, AND THE MINISTERIAL DUTIES OF THE REGISTRAR

F. Whether the administrative embargo, specifically the 403 forbidden error code (the "403 Forbidden Error Code") and the refusal by the Divisional Court Registrar to process perfected filings, constitutes an unlawful interference with the constitutional right of access to justice, remediable by the prerogative writ of mandamus.

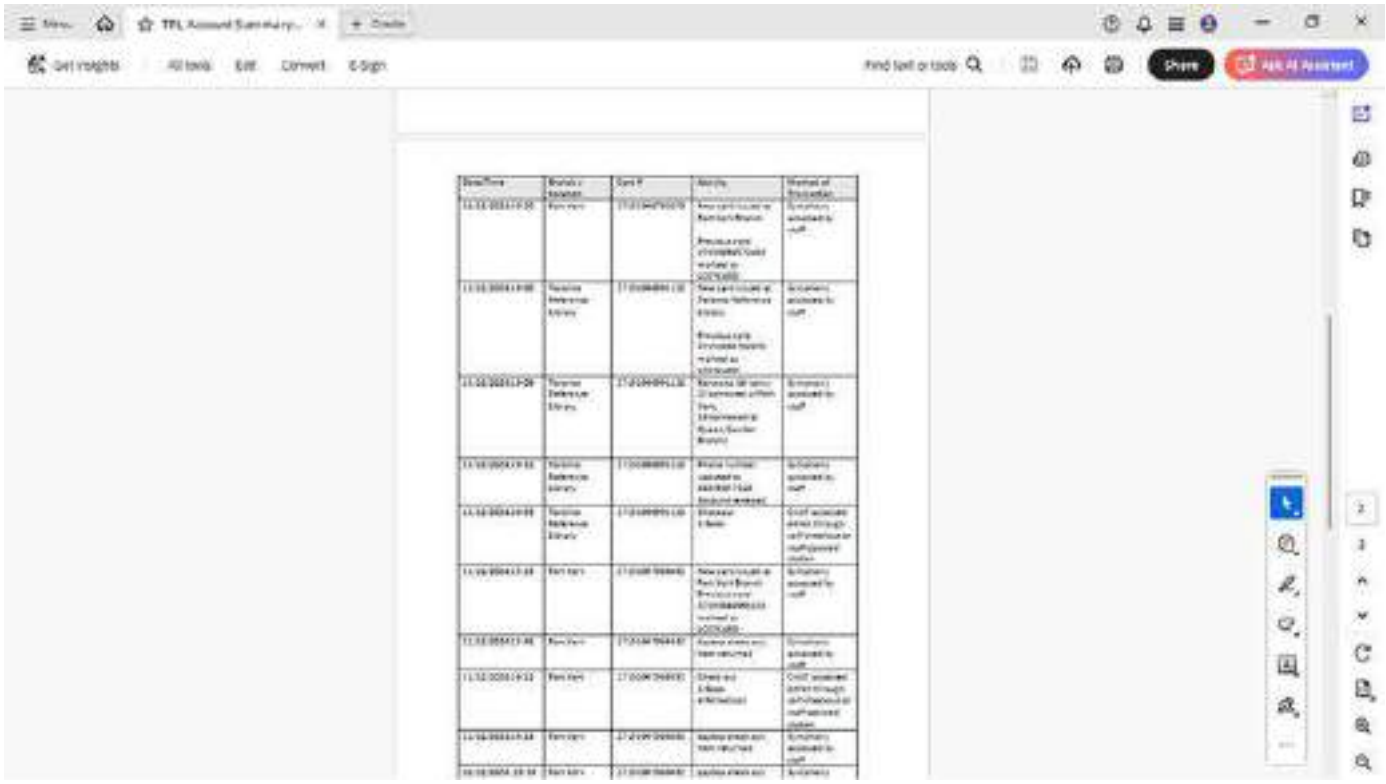
ANSWER 6: Yes.

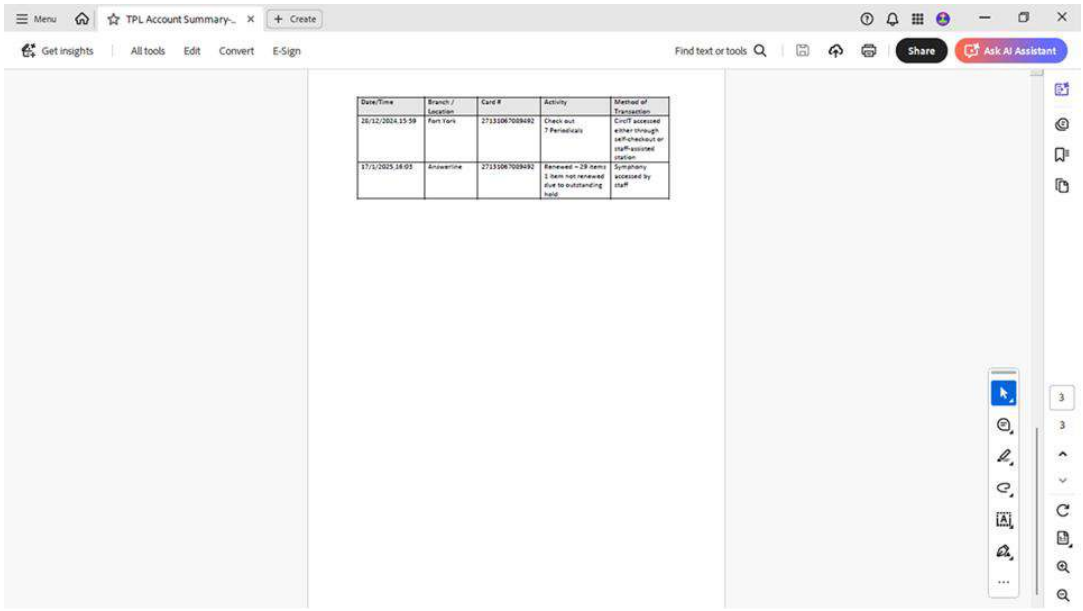
Legal Analysis:

I. The administrative functions of the provincial registrar and registry staff under the *Courts of Justice Act*, RSO 1990, c C.43, are strictly ministerial in nature. Unlike the Registrar of the Supreme Court of Canada, provincial registrars completely lack quasi-judicial discretion to unilaterally screen, assess the substantive merits of, or reject pleadings that meet the basic, formal formatting criteria, a principle affirmed in *Sydel v. Canada*, 2013 FC 1116. Upon the satisfaction of formal filing requirements, administrative functionaries serve merely as ministerial conduits, duty-bound under the rules to process the documents and advance the matter, as historically established in *Steiner v. Canada*, [1982] 2 FC 231.

II. The uncontradicted evidentiary record indicates that a certificate of perfection was successfully filed on December 13, THE YEAR OF 2024. Despite the fulfillment of this paramount statutory requirement, the mandatory duty to place the matter on a listing for hearing, as commanded by *Rule 68.05*, was perversely neglected. Compounding this administrative paralysis, an unprecedented, targeted digital lockout via a 403 Forbidden Error Code on the Ontario Courts Public Portal was effectuated, aggressively denying access to the required document sharing platforms.

III. Although Mr. Papadimitropoulos (Epstein Cole LLP Client) was not on the email thread when the Applicant filed and confirmed the filing and payment of the "Certificate Of Perfection", 90 minutes thereafter, the Epstein Cole LLP Client engaged in very troubling and frightening fraud with the TPL Reference Library (see: supra):





IV. In *Ontario (Attorney General) v. $25,610 in Canadian Currency*, 2017 ONCA 251 at para 1 (the "*Canadian Currency*"), the Court of Appeal for Ontario emphatically articulated that the preservation of a litigant's fundamental entitlement to access public courts for the resolution of civil disputes serves as an indispensable cornerstone of the constitutional architecture of the federation. The Court explicitly stated that access to justice (the "**Access To Justice**") is not a hollow, aspirational slogan, but rather a rigid, functional requirement of the rule of law (the "**Rule Of Law**"). It was concluded that without the unfettered ability to file proceedings and secure one's day in court, the substantive legal rights of citizens are rendered entirely illusory, and the essential constitutional role of the judiciary as a robust check on executive power is effectively neutralized.

V. This bedrock principle of accessibility was previously fortified by the Supreme Court of Canada in *Trial Lawyers Association of British Columbia v. British Columbia (Attorney General)*, 2014 SCC 59 (the "*TLABC 2014*"). The Supreme Court established unequivocally that any procedural, financial, or technological measure

erecting an arbitrary barrier to the Superior Court constitutes a direct, unconstitutional violation of the Rule Of Law. The *TLABC 2014* framework was subsequently reaffirmed and expansively applied within the jurisdiction of Alberta in *Chisan v. Fielding*, 2017 ABQB 233 (see: book of authorities (the "**BOA**"), Tab 140) (the "*Chisan*"). In *Chisan*, the Court specifically operationalized the *TLABC 2014* principles to guarantee that filing fees or administrative procedural barriers do not surreptitiously "price out" or "block out" meritorious litigants from accessing the Superior Courts, which are constitutionally mandated to serve as the ultimate arbiters of legality. The *Chisan* decision definitively highlights that any state-imposed hurdle—whether it manifests as an exorbitant financial tariff or, as in the present circumstances, a deliberately orchestrated technical blockade—that prevents a citizen from bringing a matter before a Section 96 court must be subjected to the most rigorous, strict constitutional scrutiny (the "**Strict Constitutional Scrutiny**").

VI. A prospective counter-argument may be formally mounted by opposing counsel, or scrutinized by the Presiding President, asserting that the registry apparatus was merely executing the overarching administrative directives of a presiding judicial officer, or alternatively, that the 403 Forbidden Error Code constituted a benign, systemic technological aberration completely devoid of targeted, malicious intent. Both postulates are demonstrably legally deficient and fundamentally irrelevant to the operation of *mandamus*. Firstly, an administrative functionary cannot invoke the shield of blind obedience to an *ultra vires* directive promulgated *coram non judice* to justify the overt dereliction of a mandatory, non-discretionary statutory duty. An order rendered without jurisdiction is an Irremediable Nullity and commands absolutely no lawful obedience (*Canada (Human Rights Commission) v. Taylor*, [1990] 3 SCR 892). Secondly, whether the impenetrable technological blockade was effectuated through deliberate, targeted sabotage orchestrated by adversarial actors, or alternatively through gross, systemic administrative negligence by the state, is ultimately a distinction without a material legal difference regarding the unconstitutional deprivation suffered. The operational effect—a total, constructive denial of access to the Superior Court—remains identical and equally unconstitutional under the strict, uncompromising parameters established in *TLABC 2014* and *Chisan*. The deprivation of Access To Justice is a strict liability offense against the constitution, thereby necessitating the immediate, coercive intervention of *mandamus* regardless of the registry's purported subjective intent.

Conclusion:

VII. The administrative paralysis and the subsequent targeted technological lockouts operate as an unconstitutional constructive denial of justice, effectively rendering the affected party a legal non-entity stripped of their day in court in direct contravention of the principles delineated in *TLABC 2014* and *Chisan*. An order of *mandamus* is legally imperative and urgently required to compel the rectification of the digital interfaces, the processing of all *nunc pro tunc* filings without further delay, and the issuance of necessary invitations to restore constitutionally protected access to the civil justice system.

ISSUE 7: SUPERVISORY JURISDICTION OF THE *PRIMUS INTER PARES*

G. Whether the President of the Divisional Court possesses the inherent constitutional authority, as Primus Inter Pares, to unilaterally intervene, re-assign the proceeding, and cure the systemic structural anomalies corrupting the adjudicative record.

ANSWER 7: Yes.

Legal Analysis:

I. As objectively established by the magnetic resonance imaging results of the Applicant procured in the Summer of THE YEAR OF 2025, the physiological degeneration of the Applicant continues precipitously, precisely as prognosticated by the preeminent radiologist, Dr. Bohdan Lychasz. The unassailable medical trajectory indicates an inexorable deterioration (see: *Compendium For NOM #3-5*, Tab 4, Exhibit "M"). Consequently, time remains of the absolute essence. The extant judicial review procedure act proceeding (the "**JRPA Proceeding**") is profoundly characterized by a series of systemic administrative and adjudicative failures. The

cast of characters complicit in these failures is comprehensively delineated and particularized at the appendices (see: Appendix regarding the Bayesian Variable Probability Model).

II. The unauthorized assumption of jurisdiction by Madam Justice Shore, acting as an invalid case management judge (the "**Invalid CMJ**"), constitutes a definitive and ontological example of an Irremediable Nullity.

III. Since the seminal adjudication in *Ruffo v. Conseil de la magistrature*, [1995] 4 SCR 267, the doctrine of *Primus Inter Pares* (the "***Primus Inter Pares***"), where such Latin phrase was mentioned for the first time in relation to judges has crystallized into a substantive, operational designation. A Chief Justice, and by direct structural extension, the President of the Divisional Court, possesses an inherent, non-delegable suite of responsibilities—the 13 chief justice duties (the "**13 Chief Justice Duties**")—specifically comprising:

a. (a) **Ultimate Jurisdiction:** Definitive and final authority over adjudicative and administrative functions;
b. (b) **Constitutional Trust Stewards:** Non-delegable responsibility as the primary guardian of the constitutional trust;
c. (c) **Imperviously Influenced Mandate:** The requirement to remain impervious to external pressures;
d. (d) **Master of the Roster:** Absolute authority over the scheduling and distribution of judicial resources;
e. (e) **Self-Assignment Power:** Inherent authority to self-assign matters of profound institutional significance;
f. (f) **Administrative Steward:** The duty to oversee clerical and registry functions pursuant to section 76 of the *Courts of Justice Act*, RSO 1990, c C.43;
g. (g) **Institutional Reputation Guardian:** The strict obligation to protect the standing of the Court in the public eye;
h. (h) **Efficiency Operation Duty:** The responsibility to ensure the seamless operation of all Court functions;
i. (i) **Ethical Compliance Guarantee:** The role as final arbiter of professional conduct within the tribunal;
j. (j) **Complaint Laying Power:** The intrinsic authority to initiate formal complaints;
k. (k) **Puisne Judge Removal Power:** The authority to dynamically reassign colleagues during ethical inquiries;
l. (l) **Moral Barometer:** The role as the ethical and integrity barometer for the institution; and
m. (m) **Moral Authority:** The power to impose judicial will upon other *puisne* judges through ethical directives.

IV. When the JRPA Proceeding is characterized by pervasive, multifaceted controversy, severe procedural subversion, digital lockouts, and allegations implicating the very integrity of the judicial institution itself, standard, slow-moving appellate pathways become hopelessly inadequate. Such matters transcend ordinary civil litigation and crystallize into an institutional crisis. In these rare, existential instances, the *Primus Inter Pares* possesses the unwritten but compelling constitutional imperative to assume direct supervisory control. The unilateral, proactive assumption of carriage by the Invalid CMJ via the coordination of an unauthorized shadow administrator completely undermines the structural sovereignty of the court, a foundational concept of institutional independence thoughtfully expanded in *R. v. Baldovi*, 2016 MBQB 90, and explored in *Peace River Hydro Partners v. Petrowest Corp.*, 2022 SCC 41. A court cannot legitimately function if its internal assignment mechanisms are hijacked by conflicted actors acting outside the formal roster, effectively creating a rogue adjudicative silo.

Conclusion:

V. To preserve the rapidly eroding public trust, ensure the impartial administration of justice, and protect the inviolable majesty of the *lex terrae* (the law of the land), the President of the Divisional Court holds the inherent, compelling, and exclusive authority to self-assign this matter *ex debito justitiae* (as a matter of right). It is structurally imperative that the conflicted judicial officer be formally relieved of their unassigned duties and that a final restoration motion be executed to summarily expunge the *ultra vires acta*, thereby restoring the proceeding to its lawful, untainted *status quo ante*.

ISSUE 8: INSTITUTIONAL BIAS AND TRIBUNAL MALFEASANCE

II. Whether the systemic conduct of the adjudicative tribunal, operating under the aegis of the Executive Chair albeit for Tribunals Ontario, exhibits an institutional bias that irremediably taints the underlying administrative decisions and necessitates an order of certiorari.

ANSWER 8: Yes.

Legal Analysis:

I. Administrative tribunals, though existing outside the traditional court hierarchy, are strictly bound by the unyielding duty of fairness, the *Statutory Powers Procedure Act*, RSO 1990, c S.22, and the paramount imperative of institutional independence. This was masterfully articulated by the Supreme Court in *Ocean Port Hotel Ltd. v. British Columbia (General Manager, Liquor Control and Licensing Branch)*, [2001] 2 SCR 781, and *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 SCR 817. Where a tribunal's structural framework, funding mechanisms, or the overt conduct of its executive leadership demonstrates a closed-minded, systemic alignment with powerful industry respondents, it gives rise to a fatal institutional bias.

II. Exhaustive submissions detail a documented pattern of administrative hostility, evidentiary suppression, and procedural subversion at the tribunal level. The tribunal is functioning less as an impartial, fact-finding adjudicative body and more as a taxpayer-funded extension of aggressive adversarial strategies. When an administrative tribunal acts in covert concert with corporate respondents to effectuate somatic attrition and financial bleeding, it completely abandons its statutory mandate. Such coordinated actions constitute an egregious failure of the tribunal to afford natural justice, rendering its proceedings, hearings, and consequent decisions fundamentally *ultra vires* and subject to immediate judicial quashing.

Conclusion:

III. The systemic institutional bias and procedural malfeasance demonstrated completely invalidate the underlying administrative process, stripping it of any deference normally afforded by a reviewing court. The Divisional Court, exercising its broad supervisory jurisdiction over the administrative state, must issue an order of *certiorari* to decisively quash the tainted decisions and formally declare the tribunal's conduct to be an abuse of process.

ISSUE 9: INTENTIONAL SPOLIATION OF EVIDENCE AND TECHNOLOGICAL SABOTAGE

I. Whether the ongoing, unauthorized technological interception and spoliation of digital evidence triggers an evidentiary presumption that warrants the striking of any documents although not filed by the Respondents

ANSWER 9: Yes.

Legal Analysis:

I. The equitable doctrine of spoliation applies with full force where a party intentionally destroys, conceals, alters, or renders inaccessible evidence that is relevant to ongoing or reasonably foreseeable litigation, as established in *McDougall v. Black & Decker Canada Inc.*, 2008 ABCA 353, and *St. Lawrence Cement Inc. v. Wakeham & Sons Ltd.*, 1995 CanLII 2541 (ON CA). The compelling record demonstrates that primary digital repositories have been subjected to continuous, unauthorized third-party interception and deliberate depletion. This is evidenced by systemic, anomalous notifications stipulating that storage is full, indicating that documents, contacts, and device data are no longer backing up. This manifests active data manipulation and the malicious blocking of crucial evidentiary backups.

II. This is not a circumstance of passive loss of data, negligent deletion, or simple hardware failure; it is active technological sabotage inextricably linked to the underlying TDI Karat Theft. The deliberate destruction, sequestration, or corruption of a digital footprint by adversarial actors effectively blinds the court to the full, unvarnished factual matrix. In law, the powerful maxim *omnia praesumuntur contra spoliatorem* (all things are

5250 presumed against a despoiler) applies *ipso facto*. When spoliation ascends beyond mere negligence to the level of malicious intent specifically designed to pervert the course of justice, standard adverse inferences are woefully insufficient to cure the severe prejudice inflicted upon the proceedings.

Conclusion:

III. The intentional technological sabotage and ongoing, active spoliation of primary evidentiary repositories fundamentally effectuate a deprivation of the raw materials necessary to prosecute the action. Consequently, it is necessitated that inherent jurisdiction be exercised to strike the relevant pleadings and defenses in their entirety as the only proportionate and effective remedy for this egregious, calculated subversion of the truth-seeking function of the court.

ISSUE 10: ABUSE OF PROCESS AND THE FALSE INFORMATION PACKAGE (NOTA BENE: the fraudulent police force and court officers could NOT even count 15 months and 18 months forward)

J. Whether the fabrication and dissemination of the False Information Package, in to weaponize the justice system and secure an unrecorded warrant constitutes a tortious abuse of process necessitating exemplary sanctions.

ANSWER 10: Yes.

Legal Analysis:

I. The tort of abuse of process is a unique and powerful legal construct, activated when the legal system or state apparatus is utilized for a collateral, improper, or malicious purpose that directly contradicts the very function and dignity of the courts. This principle was thoroughly examined in *Toronto (City) v. C.U.P.E., Local 79*, [2003] 3 SCR 77, and *Beaudoin Estate v. Stevens*, 2021 ONCA 644. Unlike malicious prosecution, it does not require the proceeding to terminate in favor of the plaintiff; the tort is complete the exact moment the process is weaponized. The creation, curation, and strategic circulation of the False Information Package—a compiled, highly prejudicial dossier of fabricated intelligence designed specifically to induce unwarranted state action, namely, an unlawful residential lockout—is the quintessential manifestation of an improper collateral purpose.

II. By intentionally misleading judicial officers, Justices of the Peace, or law enforcement officers to issue an unrecorded, shadow warrant, actors transition aggressively from zealous litigators to active obstructors of justice. This conduct deeply offends the inherent sense of decency, fairness, and the rule of law. It has been repeatedly held by the Supreme Court that superior courts possess an inherent, unassailable, and flexible jurisdiction to protect their processes from such vexatious, retaliatory weaponization.

Conclusion:

III. The False Information Package is a highly orchestrated fraudulent instrument that severely abuses the integrity of the judicial and law enforcement processes. It is legally compelled that such actions be declared a formal, tortious abuse of process, that any derivative or parallel proceedings initiated based upon this tainted intelligence be immediately stayed, and that substantial punitive, exemplary, and full-indemnity costs be imposed.

ISSUE 11 AND 12: *NUNC PRO TUNC* RELIEF AND EQUITABLE TOLLING FOR CONSTRUCTIVE LOCKOUT

K. Whether comprehensive nunc pro tunc relief should be granted?

L. and the equitable tolling of all statutory and procedural limitations are necessitated as a direct remedy for the constructive denial of access to the public portal.

ANSWER 11 and 12: Yes.

Legal Analysis:

I. The equitable doctrine of *nunc pro tunc* ("now for then") is a powerful remedial tool permitting a court to backdate an order or retroactively validate a late filing to prevent a gross injustice caused by systemic, technological, or administrative failures entirely beyond a litigant's control, as utilized in *R. v. Dudley*, 2009 SCC 58. This is animated by the fundamental maxim *actus curiae neminem gravabit* (an act of the court shall prejudice no man). Furthermore, the doctrine of equitable tolling legally pauses the running of strict limitation periods when extraordinary, state-imposed circumstances prevent a party from timely asserting their rights.

II. The inability to meet arbitrary procedural deadlines or access digital filings is explicitly not the result of dilatory conduct, negligence, or a lack of diligence. Rather, it is the direct, intended consequence of the state-imposed 403 Forbidden Error Code and the retaliatory refusal of access by the registry. It is a foundational, non-derogable principle of equity that a party cannot be penalized or non-suited for failing to comply with a procedural rule when the state itself has physically or digitally blockaded the only avenue of compliance (*lex non cogit ad impossibilia* - the law does not compel the doing of impossibilities).

Conclusion:

III. Penalization via dismissals, cost awards, or struck pleadings for procedural delays caused exclusively by an impenetrable digital blockade effectuated by the Former Registrar Gentles, court clerk Ms. Clegg, Ms. Lawrence and, the unappointed Ms. Ibula, would result in a profound, unconscionable miscarriage of justice. An order must issue *ex debito justitiae* granting absolute *nunc pro tunc* relief, retroactively validating all outstanding filings as if submitted perfectly on the date they were initially attempted, and equitably tolling all limitation periods from the exact inception of the digital lockout until full, unhindered access to the registry is certifiably restored.

ISSUE 13: FRAUDULENT MISREPRESENTATION BY REGISTRY OFFICERS AND VICARIOUS JUDICIAL DECEIT

M. Whether the demonstrably false written representation effectuated by a court clerk on February 3, THE YEAR OF 2025—asserting that all matters are currently being case managed to deny a hearing date—constitutes an actionable fraudulent misrepresentation attributable to the presiding judge, thereby vitiating the entire adjudicative process.

ANSWER 13: Yes.

Legal Analysis:

I. An order, including a judgment, that has been contaminated and fundamentally affected by fraudulent conduct is irrevocably tainted throughout its entire complexion, necessitating the failure of the whole proceeding (see: book of authorities (the "**BOA**"), *Compendium For NOM #3-5*, Tab 1, page 20). This absolute principle traces directly to Lord Denning's seminal statement in *Lazarus Estates Ltd. v. Beasley*, [1956] 1 QB 702 at 712, adopted by the Supreme Court of Canada in *Landreville v. Boucherville (Town of)*, [1978] 2 SCR 801: "Fraud, dishonesty, bad faith, extortion and bribery form a special category of causes of nullity, which transcends all others. Fraud unravels everything. The Court is careful not to find fraud unless it is distinctly pleaded and proved; but once it is proved, it vitiates judgments, contracts and all transactions whatsoever…" (see: *Compendium For NOM #3-5*, Tab 1, page 18).

II. The established test for civil fraud is perfectly satisfied by the egregious, documented conduct of court clerk Ms. Clegg. On February 3, THE YEAR OF 2025, a correspondence was dispatched stating: *"Are you requesting a Hearing date or a case conference? Please advise that all cases are being case managed, coordinators are not providing dates. As all matters are currently being case managed in Divisional Court, Hearings are scheduled as per the directions of the case management Judge. The Coordinators are not providing Hearing*

5252 *dates unless directed."* (see: *Compendium For NOM #3-5*, pages 144, 162, 1077). Applying the strict legal threshold to this evidence establishes a *prima facie* case of deceit:

a. **(a) Fraudulent Nature and Attribution:**
    i. The representation was objectively false and remains unremedied. The *Rules of Civil Procedure*, specifically *Rule 77*, do not permit a blanket policy wherein all cases are automatically case managed. This statement could not have been promulgated with an honest belief in its legal truth; it was profoundly reckless, if not deliberately deceptive. Crucially, because the quotes were unsourced and completely misrepresented the structural law, the orchestration of this administrative blockade is vicariously attributable to the presiding judicial officer functioning as the directing, albeit concealed, authority over the registry.
b. **(b) Materiality:**
    i. The misstatement was highly material. It functioned as the direct administrative instrument utilized to deny a lawful hearing date, effectively freezing access to justice and fundamentally altering the trajectory and outcome of the scheduling process.
c. **(c) Absence of Knowledge of Falsity and Subsequent Reliance:**
    i. Blind reliance to a detriment did not occur; rather, an inquiry was promptly submitted to ascertain the source of the quote. When the source or statutory or prescribed authority was strategically withheld, it was subsequently uncovered that no formal order for assignment to case management existed upon the record.
d. **(d) Diligence:**
    i. Exceptional diligence was exercised.
        1. Upon uncovering the deceit, the fraud was immediately mitigated by moving promptly to bring the matter to the attention of the Divisional Court within the very same day. This grievance was formally incorporated into notice of motion number three (the "**NOM #3**") via Requisition #11, as evidenced upon the OCPP Case View.

Conclusion:

III. The communication of February 3, THE YEAR OF 2025, is not a mere administrative error; it constitutes an actionable fraudulent misrepresentation executed by a court officer to enforce an unlawful adjudicative silo. Because fraud strictly vitiates all subsequent transactions and orders *in limine*, as firmly established in *Lazarus Estates*, the entire administrative framework erected upon this deceit collapses, demanding immediate corrective intervention and the expungement of all resulting Irremediable Nullities.

ISSUE 14: MULTIPLICITY OF PROCEEDINGS, JUDICIAL IMMUNITY, AND THE SOLEMN UNDERTAKING

N. Whether the provision of a solemn undertaking to the President of the Divisional Court, perpetually staying any contemplated civil action for damages against the presiding judicial officer for acts executed coram non judice and as an unauthorized case management judge interloper (the "Unauthorized CMJ Interloper"), resolves the apprehension of judicial liability, precludes a multiplicity of proceedings, and strictly curtails the aiding and abetting of a civil conspiracy?

ANSWER 14: Yes.

Legal Analysis:

I. It is an established legal maxim that there exists no plea of justification for any state actor, litigant, court staff, or subsequent judicial officer to rely upon an order or warrant that is fundamentally defective due to a complete want of jurisdiction. Acts promulgated by an Unauthorized CMJ Interloper are, *ipso facto, factum a judice, quod ad officium jure non pertinet, ratum non est*. Reliance upon such Irremediable Nullities exposes reliant actors to liability under the tort of civil conspiracy, which manifests in two branches: unlawful means

conspiracy and lawful means conspiracy. As the Ontario Court of Appeal articulated in *Reach M.D. Inc. v. Pharmaceutical Manufacturers Assn. of Canada*, 2003 CanLII 27828 (ON CA), citing Lord Denning in *Torquay Hotel Co. Ltd. v. Cousins*, [1969] 2 Ch 106 (CA), an action devoid of legal justification constitutes an unlawful means. Furthermore, when a victim's rights are overtly engaged, damage and loss are presumed, as established in *Shaw v. Lewis*, [1949] 1 WWR 355 (BCCA).

II. Liability in civil conspiracy can be imposed for maintaining silence and permitting the promulgation of false statements, a principle affirmed in *Sugar v. Peat Marwick Ltd.* (1988), 55 DLR (4th) 230 (Ont HCJ). To extricate oneself definitively from an ongoing conspiracy, unequivocal steps must be undertaken to absolve continuing acts, as mandated by *Claiborne Industries Ltd. v. National Bank of Canada*, 1989 CanLII 183 (ON CA). The mere aiding and abetting of a co-conspirator in the commission of unlawful means qualifies as an unlawful act *per se*, pursuant to *2038724 Ontario Ltd. v. Quizno's Canada Restaurant Corp*, 2010 ONCA 466. Furthermore, it is not required that every conspirator actively participate in the *actus reus*, provided the unlawful act was a probable consequence of the original common design (*Kuwait Oil Tanker Co. v. Al Bader*, [2000] 2 All ER (Comm) 271 (CA); *Golden Capital Securities Ltd. v. Holmes*, 2004 BCSC 262; *HM Revenue & Customs v. Begum*, [2010] EWHC 1799 (Ch)).

III. Any potential defense predicated upon judicial immunity is fundamentally constrained. Absolute judicial immunity strictly applies to the lawful duties and functions of a judge. As elucidated in *Prefontaine v. Gosman*, 2000 ABQB 314, citing *R. v. Germain* (1984), 53 AR 264 (QB), a judicial officer is shielded from civil liability for acts executed outside of their jurisdiction only if the judge held a genuine belief that they were acting with jurisdiction. It is legally inconceivable that the Unauthorized CMJ Interloper maintained such a belief, given the procedural precedent established in the contemporaneous *Nash v. CAMI* proceeding, wherein the identical judicial officer demonstrably waited for the lawful assignment directives of a superior judicial authority before acting. Ignorance of the explicit strictures of *Rule 77* offers no defense. The jurisprudential threshold established in *Kopyto v. Ontario*, [1995] OJ No 601 (Gen Div), dictates that an official must operate within their statutory or inherent framework to retain their judicial capacity. Without the requisite *Order* for an Assignment For Case Management, the capacity itself ceases to exist. Furthermore, pursuant to the *Crown Liability and Proceedings Act*, RSC 1985, c C-50, and the *Crown Liability and Proceedings Act, 2019*, SO 2019, c 7, Sch 17, neither the federal nor the provincial state assumes liability for a judge acting completely outside their statutory framework without an honest belief of jurisdiction. The overt subversion of Section 96 of the *Constitution Act, 1867*, fundamentally strips away any purported administrative privilege, which is inherently subject to abrogation when engaged in unlawful conduct (*MacKeigan v. Hickman*, [1989] 2 SCR 796). Criminal liability under Section 122 (Breach of Trust by Public Officer) and Section 126 of the *Criminal Code* remains a viable statutory consequence for such deliberate jurisdictional overreach.

IV. To decisively resolve the apprehension of liability and to honor the moral and legal imperative of avoiding a multiplicity of proceedings under section 138 of the *Courts of Justice Act*, an absolute undertaking is formally proffered to the President of the Divisional Court. Should the requested relief be granted, a solemn undertaking is provided that no further steps or civil actions shall be pursued against the presiding judicial officer in perpetuity. This proactive concession provides an absolute, legally binding defense against future civil litigation, extinguishing the potential for an action in damages.

V. A reviewing President might or opposing counsel might have countered that the formal provision of a solemn undertaking, while ostensibly attempting to extinguish civil liability, cannot prospectively cure the initial constitutional and jurisdictional defects, nor can a private litigant essentially "bargain" with the court's disciplinary mechanisms to secure favorable relief. This counter-argument profoundly misconstrues the strict equitable purpose of the provided undertaking. The undertaking is explicitly not a *quid pro quo* designed to retroactively validate the *ultra vires acta*, nor does it attempt to usurp the regulatory purview of the Canadian Judicial Council. Rather, it is a unilateral, principled equitable concession designed exclusively to definitively neutralize the overarching institutional apprehension of collateral, retaliatory civil litigation. By formally extinguishing the looming threat of a multiplicity of proceedings, the Applicant ensures that the Divisional Court may adjudicate the substantive, foundational merits of the JRPA Application free from the paralyzing specter of institutional self-preservation. It demonstrates the utmost good faith, directly facilitating the court's ability to correct the record unencumbered by defensive bias, and strictly aligns with the mandatory legislative directive of section 138 of the *Courts of Justice Act*.

VI. The provision of this solemn undertaking definitively extinguishes any potential civil exposure for the unauthorized adjudicative acts, entirely eliminating the institutional apprehension of judicial liability. This mechanism strictly conforms to the overarching equitable imperative to avoid a multiplicity of proceedings, thereby compelling the immediate granting of the relief sought by a lawful judge of the Divisional Court, and definitively severing the ongoing facilitation of the underlying conspiracy.

ISSUE 15: INHERENT JURISDICTION VERSUS STATUTORY JURISDICTION OF THE DIVISIONAL COURT

O. Whether the Divisional Court possesses inherent jurisdiction (the "Inherent Jurisdiction") to unilaterally expand its subject-matter authority and procedural mechanisms, or whether it functions strictly as a statutory branch whose adjudicative acts, when executed outside the explicit parameters of its enabling legislation, constitute Irremediable Nullities?

ANSWER 15: No.

Legal Analysis:

The Strictly Circumscribed Jurisdictional Parameters:

I. It is a foundational tenet of administrative law that the Divisional Court manifests definitively and exclusively as a creature of statute, entirely notwithstanding its administrative placement within the broader Superior Court of Justice (the "**SCJ**"). The Divisional Court was formally instantiated in THE YEAR OF 1970 via legislative amendments affixed to the *Judicature Act*, RSO 1970, c 228, predominantly as a targeted response to the recommendations of the McRuer Commission, which sought to modernize and demystify the technical intricacies historically associated with the procedural challenging of governmental actions. Whereas the SCJ, evaluated in its entirety, operates unequivocally as a court of Inherent Jurisdiction, the Divisional Court, functioning strictly as a specialized branch, operates exclusively within the circumscribed parameters delineated by the *Courts of Justice Act*, RSO 1990, c C.43 (the "**CJA**"), and the *Judicial Review Procedure Act*, RSO 1990, c J.1 (the "**JRPA**"). This demarcation is of paramount foundational significance: a court of Inherent Jurisdiction possesses plenary authority by virtue of its existential character as a superior court, whereas a statutory tribunal or branch possesses solely those specific powers expressly or implicitly conferred upon it by the legislative assembly.

II. The prevailing legal consensus, as recently affirmed by binding jurisprudence in *Murray v. Office of the Independent Police Review Director*, 2020 ONSC 7977 at paras 10-12 (the "*Murray*"), establishes incontrovertibly that the Divisional Court constitutes a statutory appellate or reviewing court and is categorically divested of any standing as a court of Inherent Jurisdiction. This strict jurisdictional limitation dictates that the Divisional Court is entirely precluded from unilaterally expanding its subject-matter jurisdiction or fashioning novel categories of substantive relief that are not firmly rooted within the JRPA or auxiliary enabling legislation. This constitutional imperative was further expanded upon within the context of the Licence Appeal Tribunal (the "**LAT**") and the JRPA in *Yatar v. TD Insurance Meloche Monnex,* 2024 SCC 8 at para 49 (the "*Yatar*"). In *Yatar*, the Supreme Court of Canada affirmed that a person possesses an unassailable right to seek judicial review, noting that the affording of judicial discretion to decline the hearing of judicial review applications based upon the perceived quality or quantity of internal reconsiderations would permit judicial discretion to improperly trump a constitutional principle. While discretion exists to hear the application on the merits and deny relief, such discretion does not extend to an absolute refusal to consider the application for judicial review *in limine*.

III. The legislative rationale undergirding the establishment of the Divisional Court as a statutory branch was the explicit creation of a specialist tribunal dedicated to judicial review amidst an era characterized by an exponentially expanding administrative state (*Murray*, at para 10). By consolidating these adjudicative reviews

5255 within a designated branch, the legislative intent was the cultivation of sophisticated public law acumen and the absolute assurance of jurisprudential consistency regarding the overarching oversight of tribunals and boards. Nevertheless, because its jurisdiction is demonstrably not inherent, the tribunal is invariably compelled to locate its authority to adjudicate strictly within the four corners of a governing statute. Should a legal issue fail to be encompassed within the specifically enumerated categories of review or appeal structurally allocated to the Divisional Court, the branch is *ipso facto* divested of all adjudicative authority. This absolute preclusion remains forcefully operative even in circumstances wherein a federally appointed superior court judge is actively presiding. In the present factual matrix, the judicial officer in question was never formally presiding over an assigned proceeding, thereby rendering the adjudicative footing nonexistent.

The Dichotomy of Inherent Jurisdiction and Equitable Jurisdiction

IV. The architectural framework of the Ontario judiciary is predicated upon a sophisticated interplay of powers that unequivocally define the constitutional authority of the SCJ. A critical, substantive distinction must be rigorously maintained between the Inherent Jurisdiction and equitable jurisdiction (the "**Equitable Jurisdiction**"). Within the SCJ, the Inherent Jurisdiction designates the essential, unwritten prerogative of the court to govern its internal processes and procedures, whereas the Equitable Jurisdiction refers to a specific corpus of jurisprudence—equity (the "**Equity**")—historically engineered to ameliorate the rigidities and procedural exactitudes of the strict common law. Pursuant to section 96 of the CJA, in circumstances wherein a rule of equity conflicts with a rule of common law, the rule of equity is statutorily mandated to prevail over the common law (the "**Prevalence Of Equity**").

V. The contemporary jurisdictional framework of Ontario is the direct evolutionary consequence of English legal antiquity. The traditional common law courts functioned under an inflexible, formalized system of writs (the "**Writ System**"), prioritizing jurisprudential certainty strictly through the rigid application of the doctrine of *stare decisis*. Conversely, the Court of Chancery evolved to dispense substantive relief predicated upon the dictates of conscience, administering the Equity, which was explicitly formulated to supplement the common law. The historical friction manifested between these bifurcated systems was authoritatively reconciled in the *Earl of Oxford's Case* (1615), 1 Rep Ch 1 (the "*Earl of Oxford*"), wherein it was definitively established that in all instances of irreconcilable conflict, the rules of equity shall overwhelmingly prevail.

VI. While both frameworks facilitate the exercise of profound judicial discretion, the Inherent Jurisdiction is universally recognized as an inseparable constitutional attribute of a section 96 court, whereas the Equitable Jurisdiction is characterized merely as a substantive, historical codification of legal rules. The Inherent Jurisdiction functions as the indispensable reserve fund (the "**Reserve Fund**") of judicial authority that a superior court may appropriate to guarantee the administration of substantive justice. As articulated by Master I.H. Jacob in the doctrinal text *The Inherent Jurisdiction of the Court* (THE YEAR OF 1970), it is characterized as "virile and viable." The paramount distinguishing feature of the Inherent Jurisdiction is its absolute independence from legislative authorization. The SCJ operates universally as a tribunal of plenary jurisdiction (the "**Plenary Jurisdiction**")—synonymously designated as general jurisdiction (the "**General Jurisdiction**")—signifying the retention of comprehensive adjudicative authority over all legal matters unless such authority has been unequivocally abrogated by explicit statutory directive.

VII. Consequently, profound strategic considerations are strictly necessitated whenever an application is advanced before the Divisional Court in contradistinction to the SCJ, most particularly when invoked pursuant to subsections 6(1) and 6(2) of the JRPA. The Divisional Court constitutes a statutory judicial review court, not a Section 96 court acting in its primary capacity. As a statutory creation, its powers are exclusively defined by the four corners of its enabling legislation, rendering it devoid of Inherent Jurisdiction, notwithstanding its possession of Equitable Jurisdiction. The exercise of Equitable Jurisdiction must be guided by established equitable maxims and may not be utilized as a pretext for the circumvention of statutory requirements or the creation of new procedural rules *ex nihilo*. Equity follows the law; it does not subvert it. Where the legislature has clearly spoken through the JRPA or the *Rules of Civil Procedure*, RRO 1990, Reg 194 (the "**Rules**"), equitable powers may not be exercised in a manner that contradicts the express will of the sovereign legislature (*lex scripta*). A judicial review court may not rely upon the gap-filling nature of Inherent Jurisdiction to justify procedural deviations lacking an explicit statutory basis.

VIII. The doctrine of Inherent Jurisdiction is circumscribed by parameters precluding its invocation in contravention of legislative intent (the "**Legislative Will**"). In *Baxter Student Housing Ltd. v. College Housing Co-operative Ltd.*, [1976] 2 SCR 475 at 480 (the "*Baxter*"), the Supreme Court of Canada affirmed that the *curia* cannot negate the expression of the Legislative Will. Inherent Jurisdiction remains irrevocably subordinate to *lex scripta* and must be exercised *parcimoniose* (sparingly). In Ontario, the *Rules* constitute formal regulations under the CJA; consequently, the judiciary (the "**Judiciary**") is absolutely precluded from utilizing its extraordinary power (the "**Extraordinary Power**") to circumvent these binding directives. The Supreme Court in *Baxter* explicitly established that Inherent Jurisdiction cannot be exercised to conflict with a statute or rule, a principle forcefully affirmed by the Ontario Court of Appeal in *Cheong v. Ontario (Minister of Finance)*, 2004 CanLII 17750 (ON CA) at para 36 (the "*Cheong*"), citing *Montreal Trust Company et al. v. Churchill Forest Industries (Manitoba) Limited*, 1971 CanLII 960 (MB CA) at 546. In *Cheong*, it was clarified that neither section 11 nor section 146 of the CJA confers jurisdiction upon the court to override clearly expressed statutory limitations.

IX. This paradigm is further illuminated by the historical consolidation of the judiciary (THE YEAR OF 1975 to THE YEAR OF 1990), wherein provincial courts (the "**Provincial Courts**") of limited statutory jurisdiction were distinctly demarcated from superior courts (the "**Superior Courts**") endowed with Inherent Jurisdiction. While the Small Claims Court operates as a branch of the SCJ, it possesses neither Inherent Jurisdiction nor Equitable Jurisdiction, functioning strictly within its statutory confines. Any attempt by a Small Claims Court judge to exercise the powers of an SCJ judge without proper assignment constitutes an *ultra vires* act resulting in a jurisdictional collapse. This exact principle applies with equal force to the Divisional Court. The specific capacity or role in which a judge is presiding (the "**Judicial Sitting**") is fundamentally determinative of the exact jurisdiction that is actively being exercised. Upon the filing and issuance of a JRPA application, no Inherent Jurisdiction exists for the court or any judge to unilaterally purport to make an order for an Assignment For Case Management. Authority is *prima facie* strictly confined by the JRPA, the CJA, the *Legislation Act, 2006*, SO 2006, c 21, Sch F, and the *Rules*.

X. Under *Rule 77* for Cities of Toronto and Ottawa, case management is an exceptional measure for applications that requires a specific triggering event—the **First Defence**—and a formal judicial order of the application proceeding to case management. By projecting an impenetrable illusion of authority without proper assignment or the satisfaction of statutorily mandated prerequisites, the resultant actions violently transcend mere erroneous procedure; they constitute acts executed entirely outside the legislative grant of power, rendering the resulting directives Irremediable Nullities.

XI. A potential jurisdictional counter-argument may assert that because the Divisional Court is populated by federally appointed judges of the Superior Court of Justice, those specific judicial officers implicitly carry their expansive, individual Inherent Jurisdiction into the appellate branch seamlessly, thereby theoretically validating the unilateral assumption of unassigned powers to correct perceived administrative lethargy. This jurisprudential reasoning impermissibly and dangerously conflates the individual, personal capacity of the appointed jurist with the rigid, statutory constitutional architecture of the specific forum in which they are seated. As firmly established in *R. v. Dudley*, 2009 SCC 58, and supported by the administrative framework of *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65, the designated statutory forum unconditionally dictates the absolute boundaries of adjudicative power. When an SCJ judge is statutorily designated to sit as a judge of the Divisional Court, their authority is instantaneously localized, restricted, and strictly confined to the appellate and reviewing parameters of the *CJA* and the *JRPA*. The Inherent Jurisdiction of the SCJ cannot be legally smuggled into the Divisional Court as a jurisprudential trojan horse to bypass the mandatory, codified prerequisites of the *Rules*. To allow such an infiltration would fundamentally destroy the legislative intent behind creating a specialized, limited-jurisdiction reviewing branch.

Conclusion:

XVII. The Divisional Court is a creature of statute strictly divested of Inherent Jurisdiction. It is legally impossible for a judge of the Divisional Court to utilize the gap-filling Extraordinary Power of Inherent Jurisdiction to unilaterally bypass the mandatory strictures of *Rule 77*. The assumption of case management powers absent the

 formal triggering mechanisms constitutes an aggressive subversion of the Legislative Will. Consequently, all adjudicative acts promulgated under this fabricated jurisdiction are *ultra vires*, procedurally void *ab initio*, and constitute categorical Irremediable Nullities.

ISSUE 16: EQUITABLE FRAUD AND BREACH OF FIDUCIARY DUTY BY THE FIRST INSURER

P. Whether the respondent insurance companies, specifically TD Home and Auto Insurance Company (the "TDHA"), as the first respondent insurance company (the "First Respondent Insurance Company"), committed equitable fraud (the "Equitable Fraud") by virtue of breaching the elevated fiduciary duty (the "Fiduciary Duty") of uberrima fides (utmost good faith) as established in Beasley v. Barrand, through the deliberate suppression of material information and the orchestration of a coordinated administrative embargo?

ANSWER 16: Yes.

Legal Analysis:

The Doctrine of Equitable Fraud and the Duty of Veracity:

I. Regarding the doctrine of Equitable Fraud, the Ontario Court of Appeal in *Outaouais Synergest Inc. v. Keenan*, 2013 ONCA 526 at paras 77 and 92 (see: BOA, Tab 166), confirmed that silence or the conveyance of half-truths may constitute fraudulent misrepresentation. Where a party elects to terminate their silence, the doctrine of *caveat emptor* is extinguished, and a duty of veracity is imposed. The court held that once a vendor decides to break that silence, they must speak truthfully and completely about the matters raised, as an incomplete disclosure can be as misleading as an outright fabrication. This ensures that the courts of equity remain a shield against unconscionable conduct, particularly in transactions where one party possesses superior knowledge or where a special relationship exists. The extrapolation of this principle to the context of litigation suggests that a party who chooses to disclose information to the court or an adversary must ensure its totality, lest they be found to have engaged in Equitable Fraud through selective omission or the presentation of a curated reality that obscures the material facts.

II. The scope of *Rule 59.06(2)(a)* remains unencumbered by restrictive language regarding the species of fraud required to trigger its application. As established in *Kitchen v. Royal Air Force Assn.*, [1958] 2 All ER 241, Equitable Fraud involves conduct which, in light of a special relationship, is unconscionable. Such conduct, or the fraudulent concealment thereof, may preclude a party from invoking a limitation period or other statutory exoneration. This principle ensures that the law does not provide a sanctuary for those who utilize technicalities to benefit from their own unconscionable behavior, thereby maintaining the integrity of the judicial process. It is a fundamental tenet of the *Rules* that fraud of any kind—whether common law or equitable—vitiates every proceeding it touches, often resulting in a judgment that is null and void. Such vitiation renders the resulting order an Irremediable Nullity, as a court of record cannot permit its processes to be utilized as instruments of deception. Where a judgment is obtained through Equitable Fraud, the court retains an inherent and statutory jurisdiction to set aside the order, restoring the parties to the *status quo ante*.

Fiduciary Status and the Fiduciary Duty of First Insurers:

III. It is further posited, with the absolute utmost gravity, that the aforementioned procedural irregularities are catastrophically compounded by profound, systemic breaches of adjudicative neutrality and procedural fairness. The jurisprudence articulated in *Beasley v. Barrand*, 2010 ONSC 1408 (the "*Beasley 2010*"), formally established the fiduciary status (the "**Fiduciary Status**") of First Respondent Insurance Companies in specific, specialized litigation contexts where profound imbalances of power exist between the corporate entity and the individual. This elevated Fiduciary Duty demands an unwavering, rigorous adherence to the equitable principle of *uberrima fides* (utmost good faith) throughout the entirety of the adversarial process. Consequently, the deliberate suppression of material information, coordinated procedural maneuvering designed to obscure the record, or reliance upon manifestly unauthorized judicial interventions constitutes a sophisticated species of

5258 fraud (the "**Fraud**") upon the court. This Fraud inherently vitiates all resulting procedural steps, rendering them subject to immediate expungement pursuant to the powerful equitable mechanisms preserved in *Rule 59.06(2)(a)*. The court's process cannot be permitted to serve as the instrument of fiduciary breach.

The Ethics Vacuum and the Appearance of Neutrality:

IV. Within this highly sensitized procedural context, the antecedent professional association of the undisclosed judge with Epstein Cole LLP—the legal counsel representing the adverse interest in the proceeding—was conspicuously and inexplicably omitted from any proactive disclosure protocol. The rigorous Canadian framework for adjudicative ethics, derived from the core constitutional tenets of natural justice and specifically the rule against bias (*nemo judex in causa sua*), strictly mandates that any prior association raising a reasonable apprehension of bias in the mind of an informed observer must be thoroughly disclosed on the formal record prior to any assumption of jurisdiction. This profound systemic ethics vacuum (the "**Ethics Vacuum**") engenders a fatal taint (the "**Fatal Taint**") upon the entirety of the proceedings, rendering the objective appearance of justice an absolute impossibility. The deployment of unparalleled, unprecedented *sua sponte* discretion absent the explicit disclosure of relevant former professional affiliations irrevocably fractures the appearance of neutrality (the "**Appearance of Neutrality**"), creating an irrebuttable presumption in law that the scales of justice were procedurally unbalanced and structurally compromised before the matter was formally heard.

Subversion of Ministerial Duty and the Civil Death Strategy:

V. The overarching procedural trajectory, executed through a calculated, deliberate subversion of ministerial duty (the "**Subversion Of Ministerial Duty**") by the registry apparatus, served to systematically prevent the perfection and subsequent public listing of the JRPA Application. Instead of the Registrar executing the mandatory administrative directive under *Rule 68.05(2)* to place the fully perfected application on a listing for hearing (see: *Rule 1.03*, "Definitions") without delay, an administrative embargo (the "**Administrative Embargo**") was erected without statutory justification. This opaque embargo functioned as the necessary logistical precursor to the unauthorized judicial descent (the "**Judicial Descent**") into the adversarial arena. By artificially stalling the routine progression of the file, the registry created the very vacuum into which the unassigned judge stepped. This coordinated institutional paralysis served to effectively insulate the corporate respondents from rigorous constitutional scrutiny (the "**Constitutional Scrutiny**") and culminated in a meticulously designed civil death strategy (the "**Civil Death Strategy**") against the self-represented Applicant, thereby rendering the foundational promise of judicial review utterly illusory.

Conclusion:

VI. The Respondent Insurance Companies, led by TDHA as the First Respondent Insurance Company, engaged in a sophisticated campaign of Equitable Fraud by breaching the non-delegable Fiduciary Duty of utmost good faith. This conduct, harmonized with the Subversion Of Ministerial Duty by the registry and the non-disclosure of the Ethics Vacuum, renders all resulting *acta* Irremediable Nullities. Equity compels the court to set aside all contaminated orders and restore the Applicant to the *status quo ante ex debito justitiae*.

ISSUE 17: FALSITY BY OMISSION AND THE DOCTRINAL EQUIVALENCE OF SILENCE TO FRAUDULENT MISREPRESENTATION

Q. Whether the strategic silence and deliberate withholding of material information regarding internal corporate structures and the true identity of the underwriter by the respondent insurance companies constitutes actionable falsity by omission (the "Falsity By Omission"), thereby vitiating subsequent determinations and rendering them Irremediable Nullities?

ANSWER 17: Yes.

Legal Analysis:

I. The doctrine regarding Falsity By Omission, silence, or inaction—as rigorously elucidated in *Halsbury's Laws of England*, 4th ed reissue (London: Butterworths, THE YEAR OF 1998), vol 31 at paragraphs 748 through 750—posits that the deliberate withholding of material information, in circumstances where a proactive duty of disclosure exists, is legally indistinguishable from a positive, affirmative misstatement of fact.

II. This foundational principle is applied with equal, unyielding vigor to innocent misrepresentations as it is to those characterized by explicit fraudulent intent. This legal proposition is fortified by a robust and unassailable body of jurisprudence, including *C.R.F. Holdings Ltd. et al. v. Fundy Chemical International Ltd. et al.*, 1980 CanLII 586 (BC SC), aff'd on the issue of liability at 1981 CanLII 488 (BC CA), and *Ontex Resources Ltd. v. Metalore Resources Ltd.*, 1990 CanLII 6952 (ON SC), appeal allowed in part at 1993 CanLII 8673 (ON CA). *Ipso facto*, the deliberate concealment of a material fact—encompassing the obfuscation of internal corporate structures, conflicts of interest, or clandestine relationships—by an adversarial entity, an officer of the court, or an administrative functionary fundamentally vitiates any subsequent adjudicative determination, rendering it voidable and crystallizing it as an Irremediable Nullity.

III. Furthermore, in *Halton v. Rezaizadeh*, 2004 CanLII 6236 (ON SC) at para 18 (see: book of authorities (the "**BOA**"), Tab 87), the Superior Court adopted the stringent legal principles articulated by the British Columbia Court of Appeal in *Sidhu Estate v. Bains*, 1996 CanLII 3332 (BC CA). The Court definitively held that remaining strategically silent, whilst a party possesses actual knowledge of a non-representor's critical misconception, is entirely sufficient to constitute fraudulent misrepresentation.

IV. In the present circumstances, the strategic silence maintained by the respondent insurance companies regarding their internal corporate structures and the true identity of the underwriter constitutes a *prima facie* demonstration of such Equitable Fraud. This weaponized silence, maintained precisely where a rigorous duty to speak and clarify is mandated, is as legally damaging and procedurally fatal as an overt, documented falsehood.

Conclusion regarding Issue #17:

V. The calculated deployment of Falsity By Omission by the respondent insurance companies to conceal the true identity of the underwriter and obscure internal corporate architectures transcends mere adversarial posturing; it constitutes a profound misrepresentation by silence. This deceptive stratagem fundamentally corrupts the evidentiary record, directly necessitating the invocation of the inherent equitable jurisdiction of the court to strike the resulting *acta* as categorical Irremediable Nullities.

ISSUE 18: BREACH OF ANCILLARY DUTIES TO THE ADMINISTRATION OF JUSTICE BY LEGAL COUNSEL AND IMPLICATION IN INTENTIONAL TORTS

R. Whether legal counsel acting on behalf of the Licence Appeal Tribunal (the "LAT") and the respondent insurance companies (the "Respondent Insurance Companies"), despite purposefully omitting the filing of a First Defence (the "First Defence") or the delivery of a notice of appearance (the "Notice Of Appearance"), catastrophically failed in their professional obligations and breached their non-delegable duties to the administration of justice as strictly defined in Laiken v. Carey?

ANSWER 18: Yes.

Legal Analysis:

I. An explicit and rigorous exception is recognized to the traditional axiom that a solicitor owes no duty to opposing or third parties. This exception thoroughly encompasses specific circumstances wherein the conduct of the legal practitioner transcends the protected sphere of zealous advocacy and directly implicates the integrity of the judicial process. In *Laiken v. Carey*, 2011 ONSC 5892 at paras 54, 55, and 56 (see: book of authorities

5260 (the "**BOA**"), Tab 285), adjudicated in THE YEAR OF 2011, the Superior Court of Justice meticulously elucidated that while the primary obligation of a solicitor is typically reserved exclusively for their principal, an ancillary, paramount, and non-delegable duty to the administration of justice (the "**Duty To The Administration Of Justice**") exists toward the court and, by direct extension, to adverse litigants.

II. This Duty To The Administration Of Justice is specifically engaged in well-established contexts, fundamentally circumscribing the permissible limits of adversarial posturing. As articulated in *Laiken*, these specific contexts include, but are not strictly limited to

a. (i) **Undertakings to the Court:** In circumstances where a lawyer provides a formal undertaking to the court or to opposing litigants and subsequently fails to perform said obligation, the court inherently possesses the unassailable authority to compel performance or mandate the restitution of losses directly flowing from the non-performance.

b. (ii) **Implication in Intentional Torts:** The professional immunity normally afforded to counsel in civil litigation is comprehensively defeated where a lawyer is implicated in intentional torts (the "**Intentional Torts**"). Such Intentional Torts include, but are not limited to, fraud, slander of title, false imprisonment, malicious prosecution, abuse of process, and civil conspiracy.

III. The profound judicial analysis embedded within *Laiken* further confirms that there exists no absolute bar to an action against a legal practitioner by an opposing party whom the lawyer has injured while acting overtly outside the legitimate scope of their duty as a solicitor. A lawyer may be held strictly liable where an independent tortious act is committed that results in foreseeable injury to a third party. This Duty To The Administration Of Justice acts as a prescriptive, uncompromising limit upon the principle of zealous advocacy, asserting unequivocally that a lawyer must not permit themselves to be utilized as a willing instrument of deception or as a passive conduit for the frustration of a lawful judicial decree. Any such facilitation of non-compliance is deemed to be *prima facie* inconsistent with the stringent professional standards mandated for officers of the court. The consequence of such a catastrophic breach may include personal cost awards against counsel or, in extreme jurisdictional cases, a formal finding of contempt of court.

IV. In the present procedural matrix, it is an uncontested fact upon the formal record that counsel for both the LAT and the Respondent Insurance Companies entirely failed to execute the mandatory, preliminary procedural requirements—specifically, the filing of the **First Defence** or the delivery of the Notice Of Appearance. The deliberate abstention from formalizing their standing upon the record, while concurrently and covertly attempting to improperly leverage the unauthorized, *sua sponte* case management interventions of an unassigned judicial officer, constitutes a profound subversion of the *Rules of Civil Procedure*, RRO 1990, Reg 194. By maintaining strategic silence regarding the absolute absence of the triggering **First Defence** and actively participating in proceedings conducted *coram non judice*, counsel functionally aided and abetted the jurisdictional usurpation. Such participation constitutes an implication in the Intentional Torts of abuse of process and civil conspiracy, rendering their conduct devoid of legal justification.

Conclusion Regarding Issue #18

V. The deliberate procedural omission of filing a **First Defence**, coupled with the covert exploitation of an unauthorized adjudicative forum, transcends permissible advocacy and constitutes a gross, indefensible dereliction of the Duty To The Administration Of Justice. Such conduct legally implicates counsel in the overarching abuse of process and civil conspiracy, thereby completely extinguishing their traditional litigation immunity. Consequently, this breach strictly necessitates the imposition of severe sanctions, the striking of any subsequently filed materials, and the formal preclusion of their continued participation in the tainted proceeding.

ISSUE 19: THE STANDARD OF REVIEW APPLICABLE TO LICENCE APPEAL TRIBUNAL DECISIONS AND THE MANDATORY DISPLACEMENT OF THE PRESUMPTION OF REASONABLENESS

S. Whether the standard of review applicable to the adjudicative determinations of the Licence Appeal Tribunal is strictly that of correctness, affording zero deference to the administrative delegate, by virtue of the explicit statutory appeal mechanisms and the presence of profound questions of law central to the legal system at large, as formally articulated in Vavilov?

ANSWER 19: Yes.

Legal Analysis

I. In the seminal authority of *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65 (the "*Vavilov*"), the Supreme Court of Canada effected a profound metamorphosis of the administrative landscape, superseding the erstwhile framework established in *Dunsmuir v. New Brunswick*, 2008 SCC 9. By virtue of this decision, there was the formal promulgation of a revised framework for judicial review (the "**Judicial Review Framework**"), predicated upon the foundational ethos that a culture of justification (the "**Culture Of Justification**") mandatorily requires all state delegates to provide reasons characterized by absolute internal coherence and rigorous justification in relation to the relevant legal and factual constraints. Consequently, the reasonableness standard (the "**Reasonableness Standard**") operates as the *prima facie* baseline for all state action; *ipso facto*, any determination devoid of a rational nexus or rendered in contravention of the established *Rules of Civil Procedure*, RRO 1990, Reg 194 (the "**Rules**"), is inherently unsustainable and constitutes an Irremediable Nullity.

II. It is a fundamental postulate of Canadian administrative law that a person maintains an inherent, constitutionally protected right to seek judicial intervention. As forcefully elucidated in the academic jurisprudence, to afford reviewing courts a discretionary power to decline the adjudication of judicial review applications based upon a subjective perception of the efficacy or quantity of internal reconsiderations would impermissibly permit judicial discretion to subvert a constitutional principle. While the court retains the *in limine* discretion to adjudicate an application on its merits and subsequently deny relief, such discretion absolutely does not extend to an outright refusal to entertain the application for judicial review, as definitively confirmed at paragraph 49 of *Yatar v. TD Insurance Meloche Monnex*, 2024 SCC 8 (the "*Yatar*").

III. The *Vavilov* decision drastically altered the judicial review topography from the preceding *Dunsmuir* era. Since THE YEAR OF 2019, while the presumptive standard of review is reasonableness, said presumption is rigorously displaced by the correctness standard (the "**Correctness Standard**") in a plurality of circumstances—all of which are undeniably manifest in the present proceedings. There exist, at minimum, five primary exceptions to the presumptive standard of reasonableness, establishing a profound legal basis as to why *Rule 50* is entirely inapplicable to JRPA proceedings, thereby rendering *Rule 78.08* inapplicable in Toronto, Ottawa, or Essex. These include: (i) where the Correctness Standard is mandated by legislation; (ii) where statutory appeal mechanisms are explicitly provided; (iii) the presence of constitutional questions; (iv) general legal questions of central importance to the legal system at large; and (v) questions pertaining to the jurisdictional boundaries between administrative entities, as strictly delineated in *Vavilov* at paras 34, 36, 55, 58, and 63. These exceptions, specifically those enumerated at (iii) through (v), are explicitly defined herein as the rule of law SOR exceptions (the "**Rule Of Law SOR Exceptions**"). Furthermore, the jurisprudence articulated in *Society of Composers, Authors and Music Publishers of Canada v. Entertainment Software Association*, 2022 SCC 30 (the "*SOCAN*"), identified an additional ground for the absolute rebuttal of the reasonableness presumption: the existence of concurrent jurisdiction between the court and a tribunal, particularly where there is persistent discord in the application of legal principles.

IV. Per the *Vavilov* plurality at paragraph 54, when the Correctness Standard is successfully invoked, the reviewing court is expansively empowered to either uphold the administrative determination or, in the alternative, substitute its own judgment for that of the decision-maker. While the *Vavilov* adjudication was rendered by a nine-justice panel featuring both the Vavilov joint reasons (the "**Vavilov Joint Reasons**") and the Vavilov joint concurring reasons (the "**Vavilov Joint Concurring Reasons**") authored by Justices Abella and Karakatsanis, the majority unambiguously established the *lex terrae* operative at the time the *Judicial Review Procedure Act*, RSO 1990, c J.1 (the "**JRPA**") application was initiated. In the Vavilov Joint Reasons, the majority observed that questions of central importance have been transformed into a comprehensive category for correctness review, primarily because administrative expertise no longer functions as a determinative factor in the selection of the standard of review (at para 61).

V. Within the strict context of the decision rendered by Vice Chair Morissette (the "**VCM Decision**"), this jurisprudential shift is categorically fatal to the purported reasons provided. The adjudicator, while improperly engaging in irrelevant and unconstrained pejoratives directed at the Applicant, sought to unlawfully rely upon

the illusory expertise of the tribunal and its internal processes to shield the decision from rigorous judicial scrutiny. While the adjudicator baselessly alleged that a non-natural person endured a degree of "strain", the very same tribunal completely failed to produce even a solitary document from the formal record of proceeding (the "**Record Of Proceeding**"), notwithstanding two concomitant statutory obligations and a total failure to adhere to the temporal constraints mandated by the *Rules*. According to the 1st Amended Compendium filed on February 14, THE YEAR OF 2025, an agent of the Licence Appeal Tribunal (the "**LAT**") admitted, in a most disconcerting fashion, that the office was merely attempting to compile the Record Of Proceeding long after the requisite statutory deadlines had lapsed. As established in *Vavilov* at paragraph 68, reasonableness review can never be justified by an appeal to expertise, as such a concept does not grant administrative actors a licence to enlarge their powers or omit the mandatory exercise thereof beyond the legislative intent. The governing statutory scheme perpetually operates as a strict constraint on administrative delegates and as an absolute circumscription of their authority.

VI. The Supreme Court clarified that while the common law presumption favors reasonableness, this is readily and mandatorily rebutted where the statutory architecture provides for a statutory appeal on questions of law. In the present instance, the questions of law are manifold, profoundly evasive of typical appellate review, and of central importance to both substantive law and the procedural practice before the tribunal. *Ergo*, the standard of review is absolute correctness regarding the orders dismissed in Notice of Motion #14 and the specific order delineated in Notice of Motion #15. This naturally does not preclude a finding by a sitting justice or a panel of the Divisional Court that the decision was incorrect *ab initio*, either in its entirety or in relation to specific constituent orders.

VII. The precision of the language employed by the Supreme Court is paramount; the utilization of the phrase "may appeal" signifies that the mere objective existence of the statutory appellate route, rather than its active utilization, triggers the Correctness Standard. Under the *Licence Appeal Tribunal Act, 1999*, SO 1999, c 12, Sch G (the "**LATA**"), parties are exclusively permitted to appeal solely on questions of law. Consequently, even where a party actively elects the alternative route of judicial review, the appellate standard of correctness rigidly governs each question of law to be adjudicated. Where the legislature has formally enacted a provision for appeal, triggering the statutory appeal SOR exception (the "**Statutory Appeal SOR Exception**"), a correctness review is unequivocally mandatory. As *Vavilov* dictates at paragraph 36, by subjecting the administrative regime to appellate oversight, the legislature indicates its explicit expectation that courts will scrutinize such decisions on a strict appellate basis. This represents a seismic shift in the law which effectively strips deference from hundreds of administrative actors subject to statutory rights of appeal.

VIII. The reference to "administrative decisions" operates as the dispositive phrase; the Supreme Court did not restrict this strict scrutiny merely to "orders". Therefore, if the decision of an administrative body is subject to statutory appeal mechanisms, the presumption of reasonableness is instantly displaced by correctness. The legislature, in its sovereign wisdom, did not provide a broad right of appeal for all matters, but specifically for "errors of law". When the legislative language of the *JRPA* is harmonized with the common law of the Ontario Superior Court of Justice (the "**ONSC**") Divisional Court, the formal distinction between questions of fact, mixed fact and law, or law does not govern the automatic right to be heard on judicial review. The threshold issue is solely the determination of whether final orders or final decisions are at stake, which legally entitles an applicant to a hearing.

IX. Under a categorical, non-nuanced approach, this legal classification requires the reviewing court to afford zero deference to the impugned five orders of the adjudicator and the fundamentally flawed aspects of her decisions within the unilaterally consolidated motions. It remains logically sound and legally prudent for an insured person to strategically seek judicial review in isolation to avoid a multiplicity of proceedings. In evaluating the statutory right to appeal, the Supreme Court forcefully reaffirmed in *Vavilov* that because judicial review is constitutionally protected by Section 96 of the *Constitution Act, 1867* (UK), 30 & 31 Vict, c 3, legislatures are strictly prohibited from entirely shielding administrative decision-making from judicial scrutiny. *Ipso facto*, the doctrine of paramountcy and the unyielding supremacy of the Constitution of Canada remain the governing, unassailable principles.

Conclusion:

5263 The adjudicative determinations rendered by the LAT are subject to the strict Correctness Standard, totally devoid of curial deference. The presence of the Statutory Appeal SOR Exception, coupled with the profound Rule Of Law SOR Exceptions, mandates that the Divisional Court must rigorously scrutinize the impugned decisions for errors of law. Any reliance upon administrative expertise to mask jurisdictional dereliction or procedural failure is explicitly prohibited under the *Vavilov* framework, rendering the resulting *acta* Irremediable Nullities subject to immediate judicial intervention and expungement.

ISSUE 20: STATUTORY DELEGATION OF ADMINISTRATIVE POWER, THE BENEFITS AND BURDENS DOCTRINE, AND THE *ULTRA VIRES* ACTS OF THE PURPORTED DESIGNEE

T. Whether the purported designee, operating under the legally incongruous title of assistant trial coordinator (the "Assistant Trial Coordinator"), was lawfully assigned by the deputy attorney general (the "DAG") pursuant to section 73 of the Courts of Justice Act, and if so, whether the subsequent conduct exceeded the explicit parameters of any such assignment, thereby violating the doctrine of benefits and burdens and rendering the administrative directives Irremediable Nullities?

ANSWER 20: Yes.

Legal Analysis:

The Commercial Law Principle: Benefits and Burdens:

I. Adjudication was rendered by the Supreme Court of Canada in *Peace River Hydro Partners v. Petrowest Corp.*, 2022 SCC 41 (the "*Peace River*"), rigorously defining the fundamental ontology of assignment. While the primary subject matter concerned the intersection of insolvency and arbitral proceedings, the Court forcefully reaffirmed a universal commercial legal principle, deeply rooted in the foundational doctrines of equity, contract, and administrative delegation. This principle strictly dictates that the authority inherent in a designated role is inextricably annexed to its essential obligations. The Court emphasized that the symbiotic, reciprocal relationship between a granted right and its corresponding duty operates as a fundamental tenet of the rule of law (the "**Rule Of Law**"). A strict, equitable prohibition is imposed upon an assignor against the assignment of contractual or statutory rights in a manner that exclusively facilitates the acquisition of benefits by the assignee while concurrently evading the correlated burdens, duties, or liabilities. The legal right and the ethical duty are, *ipso facto*, inseparable. To permit otherwise would functionally facilitate the creation of a shadow authority (the "**Shadow Authority**"), entirely exempt from the mandatory constitutional constraints of transparency, accountability, and fairness.

Application to the Equities:

II. The principle dictates that a party transferring a right does so strictly subject to the exact conditions and limitations annexed thereto. Where the right encompasses the exercise of power as a public official or a sworn officer of the court, the corresponding burden is strictly comprised of the ethical, constitutional, and professional obligation of that office to maintain rigid, *prima facie* neutrality. Administrative authority cannot be lawfully assumed in the absolute absence of institutional accountability. If the purported designee was assigned the solemn mantle of a registrar, the individual was simultaneously burdened with the non-delegable duty of strict institutional impartiality. The severing of administrative power from its ethical constraints constitutes an *ultra vires* act *ab initio*.

III. Furthermore, an assignee accepts an assignment subject to the equities, signifying that a superior, more robust, or cleansed position relative to that of the assignor at the exact moment of transfer cannot be occupied. If the assignor is encumbered by a conflict of interest or a jurisdictional limitation, the assignee is equally restricted, chained, and tainted by that pre-existing conflict. This strictly reflects the ancient, unyielding maxim *nemo dat quod non habet*: one cannot grant that which one does not possess. This equitable limitation was firmly established by the Ontario Court of Appeal in *Clark v. Werden*, 2011 ONCA 619 (the "*Clark*"). The modern

authority governing this paradigm is *Owners, Strata Plan LMS 3905 v. Crystal Square Parking Corp.*, 2020 SCC 29 (the "*Crystal Square*"), holding definitively that an entity cannot selectively claim the prerogatives of an office while concurrently discarding its mandatory duties. The nexus established in *Peace River* observes that the enforcement of a right (the benefit) necessitates strict adherence to the mechanism established for its enforcement (the burden). The authority of a registrar cannot legally exist in isolation from the neutrality, transparency, and accountability mandated by the *Courts of Justice Act*, RSO 1990, c C.43 (the "**CJA**"), and the *Rules*. Any administrative attempt to exercise the benefit of adjudicative direction while circumventing the burden of registry oversight results directly in a procedural nullity.

Statutory Assignment under Section 73 of the CJA:

IV. The assignment contemplated within section 73 of the *CJA* constitutes a strict, highly formalized form of statutory delegation of administrative power. It represents a specific, narrow exception to the standard appointment protocols established for permanent civil servants, designed solely for operational flexibility but remaining entirely subject to strict, documented, and non-waivable criteria intended to prevent the catastrophic abuse of administrative discretion.

V. Section 73(1) establishes the normative appointment process for court staff pursuant to the *Public Service of Ontario Act, 2006*, SO 2006, c 35, Sch A (the "**PSOA**"). These individuals are permanent, sworn, and ethically bound servants of the Crown who have solemnized an oath of office, thereby inextricably tethering their personal conduct to the institutional integrity of the judiciary. Section 73(2) empowers the DAG or a proper designate to assign specific powers of a court officer to any person or class of persons. While this provision theoretically facilitates the engagement of external personnel, it demands meticulous and documented compliance to rigorously preserve the chain of sovereign authority. The lack of a written instrument of assignment renders the purported official a mere interloper in the judicial process. Section 73(2.1) articulates that the individual receiving the assignment need not be formally appointed under the *PSOA*. Nevertheless, such individuals are legally deemed officers of the court while discharging those specific duties and remain strictly subject to the identical ethical, legal, and constitutional constraints as sworn personnel. The operation of such officials within an ethical vacuum or a shadow office (see: book of authorities (the "**BOA**"), Tab 15) is strictly prohibited.

VI. To be legally valid, effective, and binding, the assignment must satisfy rigorous criteria:

a. (i) **Written Instrument:**
    i. The assignment must be in writing. An oral, implied, or informal delegation is categorically insufficient for the exercise of statutory powers affecting the substantive rights of litigants. This requirement serves a mandatory evidentiary purpose, ensuring structural transparency, as firmly established in *DiGuilo v. Boland*, 1958 CanLII 92 (ON CA) (the "*DiGuilo*"), which held that informal assignments fail to convey legal power, resulting in a jurisdictional void;

b. (ii) **Proper Assignor:**
    i. The delegation must originate from the DAG or a formally authorized designate possessed of the specific delegated power to assign. An assignment issued by a non-authorized official is void *ab initio*. As strictly held in *Canada Life Assurance Co. v. Nova Scotia (Minister of Municipal Affairs)*, 1996 CanLII 5304 (NS CA) (the "*Canada Life 1996*"), delegated statutory powers must be exercised with unflinching adherence to statutory conditions.

c. **Specific Duties:** The written instrument must strictly assign powers pertaining to a recognized, existing class (e.g., registrar or court clerk). The powers cannot be broad, indeterminate, or fictitious.

d. **No Nullification of Burdens:** Extrapolating the logic in *Peace River*, an individual assigned authority must be inextricably bound by the ethical burdens of that precise office. The power to act cannot be assigned without the simultaneous *sine qua non* duty to act fairly and transparently.

Application of the Law to the Facts:

VII. Pursuant to section 73(2.1), the mere fact that an individual is not appointed under the *PSOA* does not, in itself, constitute grounds for invalidity. However, the absolute legality of subsequent *acta* is entirely contingent upon the prior, verified existence of a written, specific assignment from the DAG. The formal record within the

5265 compendium for notice of motion number three (the "**Compendium For NOM #3-5**") indicates that the purported designee asserted the title of an Assistant Trial Coordinator within a specific forum—the Divisional Court—wherein trials are categorically not conducted. This renders the asserted role a functional and legal non-entity. The Divisional Court primarily adjudicates applications for judicial review and statutory appeals; the concept of trial coordination is logically and legally inconsistent with the nature of the proceedings, rendering the title itself an indicium of *ultra vires* operation.

VIII. Should an individual discharge duties beyond the scope of their explicit assignment, or should the role itself be non-existent within that specific branch of the judiciary, the actions are fundamentally *ultra vires*, as emphasized by the Supreme Court in *R. v. 974649 Ontario Inc.*, 2001 SCC 81 (the "*Dunedin*"). The exercise of such a purported role is a jurisdictional nullity. The *CJA* permits the assignment of specific powers vested in a registrar. This refers specifically to the Registrar of the Divisional Court, a position held by Ms. Tashekah Gentles (the "**Former Registrar**") and subsequently Ms. Roxanne Parris (the "**Current Registrar**"). As noted in *Sydel v. Canada*, 2013 FC 1116 (the "*Sydel*"), the Registrar of the Divisional Court exercises purely ministerial, non-quasi-judicial powers. Any valid assignment to the purported designee must have supplemented the explicit duties of the Former Registrar via a written instrument; yet, the purported designee operated entirely outside the supervision of the Registrar, creating an unmonitored, unauthorized, and clandestine channel of communication.

IX. A court officer carries the severe burden of impartiality. If the purported designee possesses a professional or historical nexus to the respondents—for example, sharing an operational office at 55 University Avenue—the appointment constitutes a profound breach of the benefits and burdens doctrine. Utilizing an assignee to circumvent conflict rules, specifically by relaying the ibula email (the "**Ibula Email**") on behalf of a deeply conflicted judge, constitutes a deliberate attempt to convey the benefits of state authority while nullifying the strict burdens of accountability, thereby representing a fraud on the power.

X. Upon an assessment conducted strictly on a balance of probabilities, the evidentiary record powerfully suggests that the purported designee was either not validly designated or engaged in conduct diametrically opposed to the established requirements. This structural opacity is underscored by the confusion generated by her unverified status, leading the Applicant to mistakenly identify her as "Ms. Tibula". Furthermore, the dissemination of electronic communication from the presiding judicial officer to the Applicant, while simultaneously including the respondents—who had not filed a **First Defence** and therefore did not constitute formal parties of record—precludes any finding of adherence to the relevant legal framework. Such conduct egregiously violates the core principles of procedural fairness and institutional neutrality.

Conclusion:

XI. The execution of administrative and adjudicative directives by a purported designee operating under a legally non-existent title, without transparent evidence of a written assignment from the DAG, and in direct violation of the Benefits and Burdens doctrine, constitutes an *ultra vires* usurpation of registry functions. The resulting communications and directives are entirely devoid of legal authority and must be declared Irremediable Nullities.

XII. HOW IRONIC IS IT THAT THE SEMINAL CASE OF OUR COUNTRY REGARDING ALL OF THOSE ISSUES HAS THE SAME SURNAME AS Mr. Kevin A. McLean (BA, JD, CIM) IN MCLEAN V. BRADLEY AND COVER THOSE ISSUES WITH A SINGULAR PARAGRAPH THAT TAPS OUT ALL OF THEM:

> "When the Court has no jurisdiction of the cause, the whole proceeding is *coram non judice*, and actions will lie against the above mentioned parties without any regard to the precept or process, and in this case it is not necessary to obey one who is not judge of the cause." *Broom*, L. M. 90, *Taylor* v. *Clemson**[29]*.
>
> *Factum a judice, quod ad officium jure non pertinet, ratum non est.* "A plea of justification by a constable acting under the warrant of a justice will accordingly be bad, if it does not show that the justice had

jurisdiction over the subject matter upon which it is granted." *Taylor* v. *Clemson**[30]*; *Broom's Prac.**[31]*; *Broom*, L. M.[32].

McLean v. Bradley, 1878 CanLII 22 (SCC), 2 SCR 535,

XIII. And that is exactly why neither the Executive Branch (municipal, provincial or national) cannot rely on any fraudulent information, fraudulent warrants or without jurisdiction CMJ "directions" from Madam Justice Shore who was and is the Unauthorized CMJ Interloper because they would be liable for continuing, facilitating and perpetrating further frauds. There is no immunity for that.

THE REMEDIAL ORDERS AND DECLARATIONS FOR COMPENDIUM FOR NOM #3-5

A. CONSOLIDATED ORDERS FOR NOTICE OF MOTION #3

THIS DIVISIONAL COURT ORDERS AND DECLARES THE FOLLOWING (WHERE APPLICABLE): INITIAL ORDERS

1. **THIS DIVISIONAL COURT ORDERS** that the motions of the Applicant, denoted as notice of motion number one (the "**NOM #1**"), notice of motion number two (the "**NOM #2**") and notice of motion number three (the "**NOM #3**") (collectively, the "**Motions**"), were formally consolidated for a hearing (see: *Rule 1.03*, "Definitions") and were all heard in writing, without the attendance of the Applicant, who was the sole party as of the date of the hearing. It is strictly noted that none of the responding parties (the "**Responding Parties**"), which includes the formal Respondents and non-respondents (see: Tab #22 of the Affidavit of Service of the Applicant), complied with *Rule 37.12(5)* of the *Rules of Civil Procedure* by consenting, not opposing, opposing (with a motion record, prescribed notice agreeing to have the motion heard and determined in writing, and a factum for a motion in writing) or providing a notice of intending to make oral argument on Wednesday, December 3, THE YEAR OF 2025, at the Divisional Court of Ontario at 130 Queen Street West, Toronto, Ontario;

2. **THIS DIVISIONAL COURT DECLARES AND ORDERS** that:
    - (a) There was an absolute dispensation of compliance with any rules, strictly in the interest of justice at any and all times on a retroactive, current, and prospective basis in relation to any procedural strictures that allowed this NOM #3 to be heard, in writing, on December 3, THE YEAR OF 2025;
    - (b) Specifically, a formal declaration is issued that the Applicant lawfully made the motion to the Divisional Court, via electronic mail, with effective service of the NOM #3 on November 17, THE YEAR OF 2025;
    - (c) Specifically, a declaration is issued in the alternative that the Applicant's NOM #3, in the prevailing circumstances, rendered the formal motion unnecessary pursuant to *Rule 37.01* of the *Rules of Civil Procedure*;
    - (d) A declaration is issued that there was absolutely no practice direction of the Divisional Court actively in effect concerning the specific scheduling of a motion proposed in writing and without the formal attendance of the parties;
    - (e) A declaration is issued that the moving party (the "**Moving Party**") validly filed the motion with the Divisional Court with proper proof of service before the hearing date and specifically on November 26, THE YEAR OF 2025;
    - (f) A declaration is issued that the Moving Party was formally not required to explicitly serve the Responding Parties, or in the alternative the Respondents, with the NOM #3, Motion Record, Factum, and initial Draft Order (November 19, THE YEAR OF 2025), although such service was dutifully executed on the aforementioned dates. A further declaration and order is issued that, pursuant to, *inter alia*, *Rule 37.08(2)*, the Moving Party was legally entitled to file the NOM #3 at or strictly before the hearing, which was required to have been "confirmed" on November 26, THE YEAR OF 2025, and within three business days of that date;
    - (g) In the alternative, a declaration and order is issued that this Divisional Court formally dispensed with strict compliance for the filing of the NOM #3 and the Registrar of the Divisional Court is hereby explicitly directed to return the levied payment of $339.00 to the Moving Party;
    - (h) In the further alternative, this Divisional Court requested that the formal court file was placed before the presiding motions judge or by way of requisition of the Applicant wherein the filing was directed, and such order was granted *nunc pro tunc*;
    - (i) A declaration is issued that the Applicant (Moving Party) validly provided the Registrar, as she then was, a Confirmation of Motion (Form 38(B)) on Monday, November 24, THE YEAR OF 2025, via electronic mail;
    - (j) A declaration is issued that this hearing was conducted in writing, strictly without attendance of the party (Applicant) and pursuant to *Rule 37.11(1)(a)* in the formal absence of the public;
    - (k) A declaration is issued that any systemic compliance issues regarding the "filing" of the aforementioned documents by the Moving Party occurred strictly through no fault of his own;

- (l) A declaration is issued that any formal filings via mail or physical delivery at the court office of the Divisional Court, even if executing a duplicate of Ontario Courts Public Portal filings, are strictly backdated to the precise date of the filing in the OCPP by receipt date;

3. **THIS DIVISIONAL COURT DECLARES** that the Attorney General of Ontario formally confirmed in writing on January 30, THE YEAR OF 2025, with the Applicant, other Respondents, and the Court that it would unequivocally not participate in the JRPA Proceeding and formally requested to be removed from any future correspondence;
4. **THIS DIVISIONAL COURT ORDERS** that the formally delegated or presiding motion judge for this motion was absolutely not the Honourable Madam Justice Shore and/or any other judicial officer formerly employed by Epstein Cole LLP prior to the commencement of and after the filing and serving of this JRPA Application;
5. **THIS DIVISIONAL COURT ORDERS** that all Orders herein contained shall be granted strictly *nunc pro tunc*, alongside any required abridgment of time pursuant to, *inter alia*, *Rule 3.02(1)* and *(2)* where such retroactive equitable application is necessary;
6. **THIS DIVISIONAL COURT ORDERS** that, consistent with the mandatory amendments to the *Rules of Civil Procedure* in October THE YEAR OF 2025, the Divisional Court (court staff) (registrar) must strictly upload all of the Applicant's filed documents for purposes of NOM #3 (see: *Rule 4.05.3 (3.0.1)*);
7. **THIS DIVISIONAL COURT ORDERS** that the Divisional Court (court staff) (registrar) must immediately provide a formal electronic invitation to the Applicant to upload the Compendium For NOM #3 (see: *Rule 4.05.3(3.)*);
8. **THIS COURT FURTHER DECLARES** that the Tribunal catastrophically failed to file a record of the proceeding forthwith or at all, and the Respondent Insurance Companies, collectively breached section 10 of the *JRPA*;
9. **THIS DIVISIONAL COURT FURTHER DECLARES** that the Tribunal egregiously failed to "deliver" responsive factums and application records in strict accordance with *Rule 68.04(4)* of the *Rules of Civil Procedure*;
10. **THIS DIVISIONAL COURT DECLARES AND ORDERS** that the LAT completely failed to serve its Notice of Appearance (Form 38(B)) on November 27, THE YEAR OF 2024;
11. **THIS DIVISIONAL COURT DECLARES** that the LAT categorically failed to "file" and "deliver" its Notice of Appearance forthwith, prior to December 3, THE YEAR OF 2024, or at any point thereafter;
12. **THIS DIVISIONAL COURT DECLARES** that Respondent Insurance Companies improperly served their Notices of Appearances on December 3, THE YEAR OF 2024, at 4:50 p.m.;
13. **THIS DIVISIONAL COURT FURTHER DECLARES** that the LAT's unauthorized request for a case conference occurred on or before 3:30 p.m. on December 3, THE YEAR OF 2024;
14. **THIS DIVISIONAL COURT DECLARES AND ORDERS** that the LAT's request for a case conference on or before December 3, THE YEAR OF 2024, was null and void, and strictly void *ab initio*, directly on account of none of the Respondents having filed a first "Defence" (see: *Rule 77.03* of the *Rules of Civil Procedure*) prior to the LAT's request for a case conference;
15. **THIS DIVISIONAL COURT DECLARES AND ORDERS** that any purported "Assignment For Case Management" (see: *Rule 77.05* of *Rules of Civil Procedure*) of the JRPA Proceeding by "the case management judge" (Madam Justice Shore) was null and void, void *ab initio*, and entirely of no force and effect because there was absolutely no consent of any "parties" (*Rule 77.05(1)* of the *Rules of Civil Procedure*) and the LAT's request, as there was no formal motion from the LAT, for a case conference was void *ab initio* and of no force and effect (see: *Rule 77.05(2)(b)*);
16. **THIS DIVISIONAL COURT ORDERS AND DECLARES** that, to the exact extent that Justice Shore considered the LAT's void *ab initio* request for Assignment For Case Management of the JRPA Proceeding and subsequently unlawfully considered herself to be assigned to the JRPA Proceeding, such an act was a patently impermissible delegation of authority, and/or was directly and violently contrary to *Rule 77* of the *Rules of Civil Procedure*, any "source law", the common law, or binding equitable principles;
17. **THIS DIVISIONAL COURT FURTHER DECLARES** that to the explicit extent that Madam Justice Shore believed she could, on her own volition, require the Applicant and Respondents to appear before her for a case conference, absolutely no such power under any "source law" existed at the time of such unconstitutional consideration and compulsion.
    - (a) **THIS DIVISIONAL COURT FURTHER DECLARES** that to the extent that Madam Justice Shore believed her power arose from *Rule 77.08*, dovetailed to *Rule 50.13* of the *Rules of Civil Procedure*, no

such power existed because of the total failure of the Respondents to file a **First Defence**, and said *Rule 50.13* strictly arises under pre-trial procedures.

- (b) **THIS DIVISIONAL COURT FURTHER DECLARES** that to the extent that Madam Justice Shore was purportedly relying upon *Rule 50.03*, she completely failed to compel the actual parties to a pre-trial conference.
- (c) **THIS DIVISIONAL COURT FURTHER DECLARES** that to the extent that Madam Justice Shore was seeking to unlawfully compel the parties to a conference under *Rule 50*, she completely failed to order that the "parties" themselves participate, and such case conferences were null and void on that independent legal ground alone.
- (d) **THIS DIVISIONAL COURT FURTHER DECLARES** that to the extent that Madam Justice Shore was relying on *Rule 50.13* of the *Rules of Civil Procedure*, the LAT was completely devoid of party status at the time of the written request (December 3, THE YEAR OF 2024) by a total failure to "deliver" its NOA, not lawfully served, and there was absolutely no filing of a **First Defence** at said time, and as a direct consequence of *Rule 50.13(2)*, Madam Justice Shore entirely failed to order that all of the actual "parties" participate in addition to their lawyers as a consequence, and the case conferences are hereby strictly set aside on said unassailable legal ground;

18. **THIS DIVISIONAL COURT FURTHER DECLARES AND ORDERS** that any purported case conference compulsory requirement relating to the exchange of materials and to arbitrarily discuss prematurity was completely null and void on account of the LAT, which was the only Respondent purportedly raising the issue albeit strictly without party status, as there was only one formal "party" at said time in the Applicant;
    - (a) **THIS DIVISIONAL COURT FURTHER DECLARES AND ORDERS** that any potential timetable arising out of that purported case conference compulsory attendance requirement, which would have unlawfully required the lawyers for the parties and the parties themselves, absent a valid order of the court, did not and could not operate as a legal stay or abeyance of the strict obligations of the Respondents to comply with the *JRPA* and *Rules of Civil Procedure*;
19. **THIS DIVISIONAL COURT FURTHER DECLARES AND ORDERS** that as a direct consequence of the Applicant having already successfully perfected the JRPA Application on December 16, THE YEAR OF 2024, there were absolutely no further materials for him to exchange, and the mandatory deadline for the Respondents to file their responsive application records and factums was Monday, January 13, THE YEAR OF 2025;
20. **THIS DIVISIONAL COURT ORDERS AND DECLARES** that any purported filings, whether *de facto* or *de jure*, submitted by the LAT or the Respondent Insurance Companies post-November 27 or December 3, THE YEAR OF 2024, respectively, are hereby rendered void *ab initio* and are subject to the total vitiating effect of the insufficient notice rules stipulated under the *Rules of Civil Procedure*, and any setting aside of the same are to be heard strictly on three days' notice;
21. **THIS DIVISIONAL COURT FURTHER DECLARES AND ORDERS** that all procedural steps and documents involving the "Assignment For Case Management" and any and all "case management conferences" are strictly void *ab initio*, completely null and void, entirely of no force and effect, and are hereby definitively set aside.
    - (a) **THIS DIVISIONAL COURT FURTHER DECLARES AND ORDERS** that any and all "orders" arising from such unauthorized "case conferences" are categorically null and void, void *ab initio*, entirely of no force and effect, and are definitively set aside;
22. **THIS DIVISIONAL COURT DECLARES AND ORDERS** that any conference conducted without the Applicant possessing lawful access to Case Center for this Divisional Court Proceeding (JRPA Proceeding) by way of formal invitation, as per the strict state of the *Rules of Civil Procedure* at said time and without the ability to upload the filed documents at least five days prior to said case conferences (see: *Rule 4.05.3* et al), rendered said case conferences permanently null and void, void *ab initio*, entirely of no force and effect, and they are hereby definitively set aside without reference to their substantive merits otherwise;
23. **THIS DIVISIONAL COURT DECLARES** that the Applicant was absolutely entitled to a formal invitation to the Divisional Court Case Center electronic platform immediately upon the formal commencement or bringing of this JRPA Application on or around November 15, THE YEAR OF 2024, pursuant to, *inter alia*, the *JRPA*, the *Rules of Civil Procedure*, and the Divisional Court JRPA Guide in force at said time;
    - (a) **THIS DIVISIONAL COURT DECLARES** that the specific portion of the Divisional Court JRPA Guide relating to the mandatory provision of an invitation to Case Center upon the bringing of a JRPA Application is strictly not inconsistent with the *Rules of Civil Procedure*;

24. **THIS DIVISIONAL COURT FURTHER DECLARES AND ORDERS** that but for the formal notice that the Applicant provided herein in relation to NOM #3, the Applicant is formally permitted to not further file or serve the Respondent Insurance Companies and LAT with any further filings or otherwise, save for any subsequent challenges by the LAT in the constitutional and *Charter* questions relating strictly to its control or authority of any of the Respondent Insurance Companies and its agents involved in the theft of the Applicant's property and subsequent impersonation, extortion, and bribery;

NULLIFICATION *IN TOTO* AND MISLEADING OF THE APPLICANT BY FRAUDULENT MISREPRESENTATION AND FINDINGS OF PRIOR JUDICIAL INVOLVEMENT (UNDISCLOSED)

25. **THIS DIVISIONAL COURT DECLARES AND ORDERS** the definitive setting aside, *in toto* and *ab initio*, of all of the Justice Shore Steps strictly pursuant to:
    - (i) The Declarations of Law herein established;
    - (ii) *Rule 38.11* of the *Rules of Civil Procedure* strictly on account of insufficient or non-existent notice;
    - (iii) *Rule 59* of the *Rules of Civil Procedure* explicitly on the formal grounds of fraud and a gross miscarriage of justice, as the underlying judicial steps were irrevocably and fundamentally tainted by egregious misconduct and conflict;
    - (iv) *Rule 2.02* of the *Rules of Civil Procedure*;
26. **THIS DIVISIONAL COURT FURTHER DECLARES** that all fraudulent misrepresentations formally made by commission or omission, whether iterated by the Divisional Court (court staff) as particularized herein, are strictly and vicariously attributed to the "case management judge" exactly after December 3, THE YEAR OF 2024;
27. **THIS DIVISIONAL COURT FURTHER DECLARES** that there exists absolutely no prerequisite or requirement under *Rule 59.06(2)(a)* of the *Rules of Civil Procedure* that the fraud must be committed exclusively against an opposing party or solely by a party, Respondent or non-Respondent, and that it may be legally committed by any person so long as it had a material effect (i.e., may have been a factor or reasonably affected the ultimate outcome of the proceeding);
28. **THIS DIVISIONAL COURT FURTHER DECLARES** that, strictly on a balance of probabilities and directly due to the absolute lack of opposition of this NOM #3, Madam Justice Shore maintained an undisclosed prior judicial involvement with the Applicant in the Undisclosed Criminal Proceeding.
    - (a) **THIS DIVISIONAL COURT FURTHER DECLARES AND ORDERS** that Madam Justice Shore's prior judicial involvement in a deliberately undisclosed fashion amounted to material facts or fraud formally discovered post April THE YEAR OF 2025 by the Applicant, and all of the steps taken and orders issued by said judge are hereby definitively set aside;
29. **THIS DIVISIONAL COURT FURTHER DECLARES** that the deliberately undisclosed prior judicial involvement of Madam Justice Shore with the Applicant amounted to a severe fraudulent misrepresentation upon the Applicant which was profoundly material to the outcome of the JRPA Proceeding, and all steps, documents, and/or orders involving or relating to Madam Justice Shore are hereby definitively set aside;

FRAUD, BRIBERY, AND EXTORTION INVOLVING THE RESPONDENT INSURANCE COMPANIES AND LAT

(I) Fraud

30. **THIS DIVISIONAL COURT FURTHER DECLARES AND ORDERS** that the Licence Appeal Tribunal (LAT) and the Respondent Insurance Companies unequivocally committed a demonstrable fraud, whether by omission or commission, upon the Court, with specific and precise reference to the unassailable facts fully particularized in the Applicant's Affidavits, Factum, and evidence to be gleaned from the case conference transcripts, thereby irrevocably tainting the entire *acta* of the proceeding with fraud, and they are strictly prohibited from retaining any benefits of the same.(a) **THIS DIVISIONAL COURT FURTHER DECLARES AND ORDERS** that all steps, documents, and/or orders relating to said fraudulent conduct, meticulously particularized in the Applicant's Compendium For NOM #3, may have reasonably affected the outcome of the JRPA Proceeding, and they are hereby definitively set aside;

(II) Bribery

31. **THIS DIVISIONAL COURT FURTHER DECLARES AND ORDERS** that the documented conduct involving Mr. Karat, an employee or contractor to the Respondent Insurance Companies, in the unauthorized, physical appropriation of the Applicant's property on October 25, THE YEAR OF 2024, and the subsequent related actions (including the highly suspicious purchase of new real property and the utilization of a fictitious name by Ms. Julia Dunk) definitively ascended to the level of a bribe or an actionable act of bribery. (a) **A FURTHER DECLARATION AND ORDER** is issued that the aforementioned declared act of bribery has irreparably tainted the entire proceeding and precisely rises to the level of a special nullity such that any and all steps, requirements, orders, decisions, or judgments prejudicial to the Applicant must be, *ipso facto*, immediately set aside.

(III) Extortion

32. **THIS DIVISIONAL COURT FURTHER DECLARES AND ORDERS** that the Respondent Insurance Companies conclusively committed the criminal offence of extortion and obstruction of justice, strictly upon a balance of probabilities, and the associated intentional torts, both prior to the origination of this JRPA Proceeding and continuously throughout its subsequent bringing, commencement, and advancement;

INTERIM, INTERLOCUTORY, AND INJUNCTIVE RELIEF

33. **THIS DIVISIONAL COURT ORDERS** that all automotive insurance entities securely within the TDIA Group, Mr. Karat, and his then supervisor or manager, Mr. Papadimitropoulos, shall immediately undertake all reasonable, efficacious, and affirmative steps to strictly preserve and secure all confidential and proprietary information pertaining to the Applicant, whether such information exists in tangible hard-copy form or as electronic data, pending the final and conclusive disposition of the within proceeding (constituting an "**Interim, Interlocutory And Permanent Injunction**");
34. **THIS DIVISIONAL COURT ORDERS** that all persons who maintain control, possession, and/or custody of the stolen property, some or all, of the Applicant, that was subjected to the unauthorized appropriation (the "**TDI Karat Theft**") on October 25, THE YEAR OF 2024, at the premises of 1025 Queen Street West, Toronto, Ontario (visitor area of CAMH's building known as the "McCain Recovery Complex Building"), and subsequently utilized and/or disclosed said stolen property including personal information, confidential information, and/or personal health information, are compelled to the immediate and unreserved delivery up of the Applicant's property, with such property to be fully restored to the Applicant precisely within three (3) days of the formal pronouncement of this Order;
35. **THIS DIVISIONAL COURT ORDERS** that any and all of the unauthorized possessors or controllers or custodians of the stolen property of the Applicant shall forthwith completely cease from any such usage and must strictly comply with the above orders forthwith;
36. **THIS DIVISIONAL COURT ORDERS** that the SCJ recording management office (the "**RMO**") is strictly required to provide the Applicant's retained authorized transcriptionists in Ontario (the "**ATO**") with, in their absolute custody, possession, and/or control, formal copies of the "tapes and materials required for transcription" in the following proceedings:
    - (a) Undisclosed Criminal Proceedings and "Ex Parte In Camera Hearing(s)" involving the Applicant; and
    - (b) The case conferences strictly within this Divisional Court Proceeding.
37. **THIS DIVISIONAL COURT ORDERS** that the SCJ RMO is formally obligated to strictly provide the Applicant with the following documents which are exact copies on CD of the digital recordings requested by the Request Form Undertaking, with payment of the prescribed fees pursuant to Reg 293/92, for the following:
    - (a) Undisclosed Criminal Proceedings and "Ex Parte In Camera Hearing(s)" involving the Applicant; and
    - (b) The case conferences strictly within the Divisional Court proceeding;
38. **THIS DIVISIONAL COURT ORDERS** that the Superior Court of Justice (the "**SCJ**") or the Divisional Court, if a judge of the Divisional Court heard and considered Criminal Code Form 2 "Information" or "Informations" involving the Applicant or a Criminal Code Form 4 Criminal Code Indictment or "Indictments", shall immediately produce exact copies of any and all informations and indictments received involving the Applicant, strictly including any associated or supporting documents or administrative records.

39. **THIS DIVISIONAL COURT ORDERS** that the Toronto Police Service (the "**TPS**") produce forthwith any documents and records involving TPS Occurrence Numbers of Sunday, September 15, THE YEAR OF 2024, and Sunday, September 22, THE YEAR OF 2024, and Police Case ID: 457197, explicitly including but not limited to any formal complaints made by any of the Respondents or their agents (actual or purported).
40. **THIS DIVISIONAL COURT ORDERS** that any relevant ministry of the Ontario Government, with extremely particular reference to the Ministry of the Attorney General (the "**MAG**") and the Ministry of the Solicitor General (the "**SOLGEN**"), shall produce to the Parties (aside from itself strictly with respect to the MAG) exact copies of any draft or signed Criminal Code Form 4 Indictments and/or any other formal documents relating to the Applicant.
41. **THIS DIVISIONAL COURT ORDERS** that all Respondents and persons formally notified of this NOM #3 shall seamlessly produce all documents, things, papers, records, or communications that are demonstrably relevant to this NOM #3, completely irrespective of the physical or electronic situs of their storage or custody.
42. **THIS DIVISIONAL COURT ORDERS** that all formal records of the JRPA Proceeding, strictly including but not limited to those documents purportedly served but never legally "filed" or "delivered" exactly according to the *Rules*, being irrevocably and fundamentally tainted by fraud and bribery, shall be permanently sealed and/or administratively expunged from all publicly accessible databases to absolutely prevent the dissemination of records arising from a special nullity (the "**Protective Expungement Order**" and "**Open Court Principle Regularization Order**").

NOM #1 ORDERS (STILL APPLICABLE)

43. **THIS DIVISIONAL COURT ORDERS** that, strictly in addition to the LAT's ongoing requirement to file the formal record of proceeding, the LAT shall immediately provide exact copies of the two undisclosed motion orders, on a forthwith basis to the Applicant and the Divisional Court, as denoted in the LAT's provided portions of the purported record of proceeding index pursuant to a TARA request by the Applicant on July 24, THE YEAR OF 2024, and August 16, THE YEAR OF 2024;
44. **THIS DIVISIONAL COURT ORDERS** that the Applicant is absolutely entitled to full costs of NOM #1 as per the precise Costs Submissions (see: *Compendium For NOM #3*, TAB #28) and Bill of Costs (see: *Compendium For NOM #3*, TAB #29).

CONVERTING THIS MOTION INTO A MOTION FOR JUDGMENT BUT FOR CONSTITUTIONAL AND CHARTER ISSUES AND THOSE ISSUES ARISING

45. **THIS DIVISIONAL COURT ORDERS** that NOM #3 was formally converted into a motion for Judgment (see: *Rule 1.03(2)*) strictly pursuant to *Rule 37.13(2)(a)* but precisely for any Constitutional or *Charter* issues explicitly contained in the Applicant's NOCQ.
    - (a) **THIS DIVISIONAL COURT FURTHER ORDERS** that the AGO is formally entitled to strictly participate in the hearing (see: *Rule 1.03*, "Definitions") of the NOCQ and any final relief arising strictly under this JRPA Application;

NOM #2 ORDERS

46. **THIS DIVISIONAL COURT ORDERS** that the following relief is strictly granted:
    - (a) An Order definitively setting aside the final orders, decisions, and determinations of VC Morrisette of the LAT (September 13, THE YEAR OF 2024) that improperly refused the Applicant's relief sought to formally add TDHA as a party and substituting it strictly with an order that TDHA is immediately added as a party to the LAT Appeal, along with the definitive upholding or affirming of the same by VC Lake on October 16, THE YEAR OF 2024;
    - (b) An Order that TDHA possesses exactly 14 days from the precise date of this order to file a responsive pleading to the strict causes of action of the Applicant's LAT Appeal that it formally received on December 24, THE YEAR OF 2023, via fax;
    - (c) An Order that TDHA is definitively declared as the First Insurer strictly pursuant to Reg 283;
    - (c) An Order that TDHA is strictly required to comply with all of its statutory obligations under the *Insurance Act*, Reg 283, and SABS on a forthwith basis on a past, current, and prospective future basis;

- (e) An Order that SNIC and TDHA shall immediately take all necessary steps to provide the precise, correct name of 'the insurer' that absolutely first received the Applicant's Completed Application with the current mailing address and fax number to the Applicant exactly at the email for the accident benefits claim at mcleansniclat@gmail.com, and correct the very same with the central processing agency also explicitly known as HCAI exactly within 7 days of this order; and
- (f) An Order that the Applicant is strictly at liberty to seek any relief against TDHA at law.

CHARTER DETERMINATION WITHIN 30 DAYS OF THE DATE OF ALL ORDERS HEREIN AND THOSE ARISING FROM ANY ADDITIONAL FILING OF EVIDENCE AND SUBMISSIONS ARISING FROM THE INTERIM, INTERLOCUTORY, AND INJUNCTIVE RELIEF HEREIN

47. **THIS DIVISIONAL COURT ORDERS** that the formal determination of the said *Charter* relief shall proceed strictly via written argument or oral hearing (see: *Rule 1.03*, "Definitions"), to be finally adjudicated and conclusively decided by the presiding Divisional Court Judge strictly within thirty (30) days of all orders herein and any orders seamlessly arising from any evidence or submissions of the Applicant arising directly from the interim, interlocutory, and injunctive relief;

LEAVE TO SUBMIT FURTHER EVIDENCE AND SUBMISSIONS ARISING

48. **THIS DIVISIONAL COURT ORDERS** that the Applicant is unconditionally entitled to formal leave to file further submissions and supplementary evidence, the quantum of which shall be reasonably restricted to a predetermined number of pages, strictly based upon the granting of the interim, interlocutory, and injunctive relief and prior to the formal judicial adjudication of the outstanding and herein Orders, explicitly contingent upon the Applicant's receipt of the documents, records, evidence, and things sought strictly through the production mandates herein established and/or through the multitude of PIPEDA requests and OPCC complaints along with FIPPA requests and OIPC Appeals;
49. **THIS DIVISIONAL COURT ORDERS** that the Applicant is unconditionally entitled to seek subsequent judicial directions regarding the precise implementation or interpretation of any of the provisions strictly contained herein.

B. COSTS ORDER AGAINST NON-CONFORMING, DEFAULTING, YET UNAUTHORIZED INTERVENTIONIST RESPONDENTS (APPORTIONED LIABILITY)

THIS DIVISIONAL COURT ORDERS AND DECLARES THE FOLLOWING:

THIS MOTION, made by the Applicant on November 17, THE YEAR OF 2025, for relief including the formal costs of this motion and prior motions, was formally heard in writing on December 3, THE YEAR OF 2025, at the Divisional Court (Osgoode Hall), 130 Queen Street West, Toronto, Ontario.
ON READING the Applicant's Costs Submissions and Bill of Costs filed strictly in relation to Notice of Motion #3 which formally incorporated NOM #1 and #2, and explicitly detailing all associated efforts, time spent, and disbursements associated precisely with the due diligence efforts relating to seeking absolute relief under *Rule 59.06(2)(a)* et al:

1. **THIS DIVISIONAL COURT ORDERS** that the Applicant is absolutely entitled to the full costs of NOM #1 strictly as per the Costs Submissions and Bill of Costs.
2. **THIS DIVISIONAL COURT ORDERS** that the comprehensive costs of this motion (NOM #3) are definitively awarded to the Applicant strictly on a full-indemnity basis exactly as set out in the Costs Submissions and Bill of Costs in the precise amount of $888,661.00 (the "**Costs Award**").
3. **THIS DIVISIONAL COURT ORDERS** that the Costs Award is formally apportioned exactly as follows:
    - (a) 75 percent liability strictly against the Respondent Insurance Companies, jointly and severally; and
    - (b) 25 percent liability strictly against the Licence Appeal Tribunal (LAT).
4. **THIS DIVISIONAL COURT FURTHER ORDERS** that the Costs Award is absolutely subject to pre-judgment interest and post-judgment interest strictly in accordance with the *Courts of Justice Act*.

C. ORDERS FOR MOTION #4 (DISPENSATION OF FORM 37A AND MANDAMUS DIRECTIVES)

THIS DIVISIONAL COURT ORDERS AND DECLARES THE FOLLOWING:

THIS MOTION, made by the Applicant (the "**Moving Party**") for the precise relief in the motion, strictly absent a Form 37A directly due to the absolute lack of necessity in the same, the extreme urgency of the relief sought herein and formally in NOM #3, and the severe circumstances particularized contained exactly in the record of proceeding for this JRPA Proceeding, the Applicant's NOM #3, Compendium For NOM #3, which was effectively mail filed on December 11, THE YEAR OF 2025, with the Divisional Court (Toronto Region office at Osgoode Hall) and the motion record for motion number four (the "**Motion #4**") (collectively, the "**Motion Record #4**"), made strictly on abridged notice on the Responding Parties, explicitly being the former Registrar of the Divisional Court, Ms. Tashekah Gentles (the "**Former Registrar**"), and the current Registrar of the Divisional Court, Ms. Roxanne Parris (the "**Current Registrar**"), was formally heard in writing on December 23, THE YEAR OF 2025, at Osgoode Hall, Divisional Court of Ontario, 130 Queen Street West, Toronto, Ontario, M5H 2N5, strictly by the Applicant's provision and/or referencing to:

(i) filed documents formerly existing in the JSO Portal, transferred directly to the OCPP in this JRPA Proceeding;
(ii) submitted filings precisely in the OCPP from November THE YEAR OF 2025 to December 15, THE YEAR OF 2025; and
(iii) provided documents, strictly inclusive of electronic emails and attachments, via email to the Divisional Court, the Former Registrar, and the Current Registrar, along with, strictly in relation to some of the documents including a draft order, by way of fax to the Divisional Court and directly to the attention of the President of the Divisional Court from November 17, THE YEAR OF 2025 to present (collectively, the "**Read Documents**" or "**Documents In Support**").

ON READING the Moving Party's Documents In Support and strictly reading any and all written submissions of the Moving Party, precisely contained in the above or separately that are demonstrably relevant to this motion, made strictly without a Form 37(A), by way of formal hearing (see: *Rule 1.03*, "Definitions") exactly without attendance of the Moving Party and Responding Registrar Parties, and strictly without oral argument, and on an extremely urgent basis, exactly in the absence of the public, strictly without the necessity of responsive submissions or hearing (see: *Rule 1.03*, "Definitions") from the Registrar Responding Parties:

Declaration Re: Form 37A Not Required or Circumstances Do Not Require; and Dispensing with Notice Periods et al:

1. **THIS COURT DECLARES** that the formal requirement to file a Form 37A is hereby strictly dispensed with, this Divisional Court being absolutely satisfied that such filing was entirely unnecessary and in the specific circumstances, such filing would definitively not have been complied with by the Registrar exactly in accordance with her strict legal duties at all or in sufficient time to decide the extremely urgent issues herein;
2. **THIS COURT ORDERS** that all formal requirements strictly under *Rule 37.06* by way of content exactly in the Form 37A are dispensed with;
3. **THIS COURT ORDERS** that the formal requirement strictly under *Rule 37.07* are formally dispensed and the email provision of the Form 59A by the Moving Party and any Documents In Support exactly via email were absolutely sufficient for strict compliance with the *Rules of Civil Procedure* purposes;
4. **THIS COURT ORDERS** that *Rule 37.08* strictly with respect to the filing of the Form 37(A) under *Rule 37.08* is dispensed with;
5. **THIS COURT ORDERS** that the Moving Party was definitively not required to provide a Confirmation of Motion strictly pursuant to *Rule 37.10.1* of *Rules of Civil Procedure* but may provide one strictly for the record of proceeding purposes and any such giving of the same directly to the Registrar shall be legally deemed to have been given on December 23, THE YEAR OF 2025;

Abridgment of Time, Dispensing of Compliance with Requirements under Rules of Civil Procedure et al, and Nunc Pro Tunc Orders:

6. **THIS COURT ORDERS** that this motion was definitively declared as an extremely urgent motion;
7. **THIS COURT ORDERS** that the formal time for service and filing of the Notice of Motion and supporting materials be and is hereby strictly abridged, such that this formal motion is properly returnable today on December 23, THE YEAR OF 2025, and any further strict requirements under the *Rules of Civil Procedure* regarding filing, service, time et al are completely dispensed with;

Effective Date of Order:

8. **THIS COURT ORDERS** that this formal Order is strictly effective from the precise time it was made on December 23, THE YEAR OF 2025, by formally providing an email confirmation directly to the Applicant strictly at the email with the Divisional Court of the absolute relief granted herein;

Settlement and Signing of Order:

9. **THIS COURT ORDERS** that, strictly pursuant to, *inter alia*, *Rule 59.04*, this formal Order shall be seamlessly settled and signed exactly by the President of the Divisional Court without the necessity of obtaining the approval strictly as to form and content from any other party or person involved or affected precisely by this Motion #4;

Section 76 of the Courts of Justice Act:

10. **THIS COURT ORDERS** strictly pursuant to the absolute requirement that Registrars, court staff et al are formally directed by the Chief Justice of the SCJ, which in this precise instance is the President of the Divisional Court, that the Current Registrar of the Divisional Court is strictly required to discharge all extant obligations of the Former Registrar and herself, exactly by successor obligation (where applicable) specifically in relation to this Applicant strictly under statute, regulations, and at law entirely on a forthwith basis.
11. **THIS COURT FURTHER ORDERS** that the Moving Party is strictly required to confirm directly with the Divisional Court and Divisional Court Registrar, exactly within 24 hours, of the formal receipt of any processed filings submitted directly to the OCPP, formal invitations to Case Center, et al, that have been definitively confirmed with the Moving Party by email or by formal invitation requiring login to Case Center;
12. **THIS COURT FURTHER ORDERS** the Registrar to immediately and flawlessly upload all documents strictly filed by the Applicant in this exact matter directly to the Case Center platform to seamlessly ensure a complete and accurate digital record and that such filed documents strictly in support of the NOM #3 have been formally brought to the direct attention of the presiding motions judge and any prospective future judges strictly assigned with judicial duties in this JRPA Proceeding;
13. **THIS COURT ORDERS** the Registrar to seamlessly issue an electronic invitation directly to the Applicant for the relevant Case Center bundle immediately and forthwith upon the strict issuance of this Order;
14. **THIS COURT ORDERS** that entirely upon the Applicant receiving the formal invitation to Case Center, uploading of any Compendia For NOM #3 is strictly required within exactly 24 hours precisely pursuant to, *inter alia*, *Rule 4.05.3.0.1*;

Declaration Re: Notices of Appearance:

15. **THIS COURT DECLARES**, strictly upon a review of the Case View exactly in the OCPP and the Applicant's formal Requisitions and Requests (Form 1 of the Divisional Court and the unnumbered form precisely in the OCPP) seamlessly submitted for filing on various specific dates in December THE YEAR OF 2025, that the Respondents, specifically named exactly in the style of cause, have egregiously failed, neglected, or omitted to file Notices of Appearance strictly in accordance with the *Rules* exactly as required by Form 68(A) specifically in relation to a self-represented litigant (Applicant), and have absolutely failed to provide proof of service of the same;

Declaration Re: Mail Filing:

16. **THIS COURT DECLARES** that the Applicant effectively and lawfully filed precisely by mail, strictly pursuant to *Rules of Civil Procedure, Rule 4.05(4)*, exactly on the following documents on the precise dates specified:

a. (a) The formal Draft Order dated December 4, THE YEAR OF 2025 (filed December 8, THE YEAR OF 2025); and
b. (b) The precise Compendium for Notice of Motion #3 dated December 7, THE YEAR OF 2025 (filed December 11, THE YEAR OF 2025).

Assignment of Independent Motions Judge:

17. **THIS COURT ORDERS** that exactly to the extent that a presiding motions judge was absolutely not assigned directly to the Applicant's NOM #3 which was formally returnable exactly on December 3, THE YEAR OF 2025, a strict assignment of a presiding motions judge to seamlessly determine the Applicant's Notice of Motion #3 is mandated, and such judge shall be strictly independent of the parties and absolutely have had no prior conflicting involvement precisely in the matters or exactly with the responding parties named herein.

Adjudication of Notice of Motion #3:

18. **THIS COURT ORDERS** that the formally assigned motions judge shall definitively determine the exact relief sought strictly in Notice of Motion #3 (formally heard in writing precisely on December 3, THE YEAR OF 2025) and seamlessly issue Orders exactly therein on an interim and permanent basis, strictly in respect thereof, directly with formal reasons to flawlessly follow;

Mandamus Re: Registrar Duties:

19. **THIS COURT ORDERS**, that exactly to the extent that the Registrar absolutely does not comply strictly with any or all of the above paramount public legal duties to act seamlessly within 24 hours of exact receipt of the Applicant's draft order, the Applicant is formally entitled to seamlessly notify this Divisional Court of the very same precisely via email, fax, and/or mail or drop off, and formally seek a Writ of Mandamus strictly by written submission or factum, exactly however so styled, flawlessly by providing an exact copy of those written submissions or factum directly to the Divisional Court precisely via email strictly with mail or drop off filing thereafter, exactly with the effective date of formal filing directly with the Divisional Court being the precise email delivery date, and the Respondent Registrar Parties shall seamlessly provide written submissions strictly in relation to the same exactly within three business days;
20. **THIS COURT DECLARES** that such formal determination of issues strictly involving a potential issuance of a Writ of Mandamus are entirely independent exactly of the above orders and the Registrar of the Divisional Court must seamlessly comply forthwith strictly with all above formal obligations relevant precisely to the office;

Costs:

21. **THIS COURT ORDERS** that exactly to the extent that the Registrar Responding Parties absolutely do not comply strictly with any of the above paramount public legal duties to act seamlessly within exactly 24 hours or formally opposes the exact relief sought strictly by any means or precise methods, the Moving Party is formally entitled to flawlessly seek costs strictly by a five-page costs submissions seamlessly emailed directly to the Divisional Court.

D. ORDERS FOR MOTION #5 (SUPERVISORY OVERSIGHT AND DIGITAL RECTIFICATION)

THIS DIVISIONAL COURT ORDERS AND DECLARES THE FOLLOWING:

THIS MOTION, formally initiated by the Applicant (the "**Moving Party**"), strictly in consideration of the President of the Divisional Court's specialized, constitutional capacity precisely as the Master of the Roster and the pre-eminent, absolute guardian of the institutional integrity and functional efficacy of the Divisional Court, seeking mandatory orders directly for judicial self-assignment, absolute technical rectification of the Ontario Courts Public Portal (the "**OCPP**"), and the immediate production of court records and recordings fundamentally essential exactly to the advancement of this judicial review, was seamlessly adjudicated this precise day strictly via written format;

ON READING the formal Factum in Support exactly of motion number five (the "**Motion #5**"), the undeniable supporting evidence strictly regarding the persistent 403 forbidden error code (the "**403 Forbidden Error Code**"), the prior formal Motion Records exactly for Notice of Motion #3 and Motion #4, the formal Compendium For NOM #3, the explicit Request Form Undertakings strictly for digital recordings; and formally noting with extreme judicial concern that the Respondents have entirely failed to file and/or deliver Notices of Appearance, responding documents, or strictly otherwise absolutely oppose the exact relief sought precisely in the prior motions exactly as required strictly by the *Rules of Civil Procedure*, thereby mandating and necessitating extraordinary, supervisory judicial intervention to flawlessly ensure the orderly administration of justice;

Dispensation and Abridgment of Time:

1. **THIS COURT ORDERS** that the formal requirement exactly for the filing of a formal Notice of Motion (Form 37A) precisely for this Motion #5 is hereby absolutely dispensed with, such seamless dispensation being strictly necessitated directly by the insurmountable technical barriers seamlessly presented by the 403 Forbidden Error Code that the Applicant is currently experiencing precisely with the OCPP. This absolute digital lockout has effectively severed the Applicant's primary, authorized means of formal service and filing precisely involving the email strictly for service herein, and explicitly given the severe history of previous unassailable controversies and procedural challenges precisely in this proceeding, a formal dispensation is absolutely required to prevent any further prejudice directly to the Moving Party.
2. **THIS COURT ORDERS** that the precise time for formal service and filing of this motion and all supporting documents be and is hereby strictly abridged, and this motion is formally declared to be properly returnable this exact day, to immediately address the urgent need exactly for supervisory judicial oversight strictly over the digital and administrative components precisely of this litigation.
3. **THIS COURT ORDERS** that all formal orders precisely involving timing, service, and the filing of documents strictly relating exactly to the hearing (see: *Rule 1.03*, "Definitions") precisely of this matter and the preceding formal motions are flawlessly granted *nunc pro tunc*, ensuring absolutely that the formal record is perfectly perfected despite the egregious administrative failures encountered exactly by the Applicant.

Judicial Assignment and Institutional Oversight:

4. **THIS COURT ORDERS** that the President of the Divisional Court hereby flawlessly self-assigns the present formal proceeding precisely under the *Judicial Review Procedure Act* directly to the exclusive jurisdiction of the office, or exactly in the alternative, shall formally adjudicate the precise relief sought strictly in NOM #3 and exactly by natural extension Motion #5 and #4.
5. **THIS COURT FURTHER ORDERS AND DECLARES** that this JRPA Proceeding has faced extraordinary, system-threatening challenges and severe controversies that raise profound, existential issues exactly concerning the unassailable integrity of the Divisional Court strictly as an institution, requiring the absolute direct supervision and explicit supervisory jurisdiction precisely of the President of the Divisional Court exactly as the *Primus Inter Pares* to instantly restore public and litigant confidence perfectly in the judicial process before it.

6. **THIS COURT ORDERS** that Madam Justice Shore is flawlessly and immediately relieved exactly from all duties precisely involving the Applicant or any related formal proceedings exactly involving the Applicant, strictly without any finding exactly at this precise time as to absolutely whether or not a conflict of interest existed and/or if the rights of the Applicant were breached. This explicit order is formally made purely to seamlessly maintain the absolute appearance of total judicial impartiality and exactly to ensure that the unassailable adjudication precisely of the merits exactly of the JRPA proceeding is absolutely not obscured strictly by collateral disputes exactly regarding judicial conduct.

Section 76 of the CJA and Constitutional Access:

7. **THIS COURT ORDERS** that court staff, IT administrators, and absolutely any officials strictly responsible for the OCPP immediately take all necessary, efficacious technical and administrative steps exactly to flawlessly rectify the digital interface and definitively extinguish the 403 Forbidden Error Code perfectly precluding access exactly to the OCPP precisely as it relates directly to the Applicant's account and the specific email utilized herein. This flawless rectification shall strictly include, but is absolutely not limited to, the immediate whitelisting exactly of the Applicant's IP address and the seamless restoration exactly of full electronic filing and retrieval privileges.
8. **THIS COURT ORDERS** that the court staff must flawlessly provide the Applicant strictly with an individual email contact exactly of the Divisional Court and OCPP (IT department) perfectly to troubleshoot the 403 Error Code issue precisely as it relates exactly to the email address herein strictly in the event that the technological court staff absolutely cannot seamlessly fix the same
9. **THIS COURT ORDERS** that the OCPP manager exactly of the IT department and the Registrar of the Divisional Court are to flawlessly provide directly to the President of the Divisional Court, forthwith, exact copies of all relevant logs precisely of the Applicant's seeking to seamlessly access the OCPP exactly along with when the 403 Error Code originally commenced and precisely why it has persistently persisted and the exact reasons strictly for the same.
10. **THIS COURT ORDERS** that strictly until the court staff absolutely fix the 403 Error Code, the Applicant is formally entitled exactly to file documents precisely via email and they shall be legally deemed filed perfectly at the precise time that they are emailed directly to the Divisional Court correspondence email and Acting Registrar Ms. Roxanne Parris, and exactly such order shall be flawlessly granted *nunc pro tunc* strictly in relation exactly to all email submitted documents.
11. **THIS COURT DECLARES** that such systemic digital disenfranchisement, as strictly denoted exactly in the Factum for Motion #5 and undeniable supporting evidence therein, violently violates the procedural expectations exactly of a self-represented litigant and constitutes an absolute, constructive denial exactly of the constitutional right strictly to be heard (*audi alteram partem*). **THIS COURT FURTHER DECLARES AND AFFIRMS** the foundational rule of law principle precisely that universal access exactly to the courts is an absolute constitutionalized and untouchable principle. Any formal technical or administrative interference directly with a litigant flawlessly pursuing a legal remedy—whether intentional, targeted, or strictly through systemic neglect—is a profound violation exactly of the rule of law and the Constitution of Canada. Access exactly to justice, specifically precisely in the form of access exactly to the Superior Court of Justice and its formal digital records, is an absolute, untouchable constitutional imperative, and exactly any sustained lockout seamlessly constitutes a fatal breach precisely of the Core Jurisdiction exactly of the SCJ as flawlessly protected under Section 96 of the *Constitution Act, 1867*.

Access to Court Recordings, Documents, and Information Assets:

12. **THIS COURT ORDERS** that the SCJ Recording Management Office precisely provide the Applicant strictly with exact copies precisely of the digital recordings exactly for all case conferences formally held strictly in this JRPA proceeding. This explicit order seamlessly applies strictly to all formal requests exactly for which a Request Form Undertaking has been flawlessly submitted and precisely for which the Applicant has completely made the prescribed payment, ensuring absolutely that the Applicant possesses a flawless, complete, and accurate record exactly of all oral submissions and formal judicial directions.
13. **THIS COURT ORDERS** that the SCJ Recording Management Office flawlessly provide the Applicant's formal retained and authorized transcriptionist exactly with the specific "tapes and materials required for transcription"

5280 formally required strictly for the flawless production exactly of certified transcripts precisely in relation to the case conferences herein.

14. **THIS COURT ORDERS** that Divisional Court staff and the Registrar seamlessly provide the Applicant exactly with immediate, unfettered access to, and exact copies of, the formally requested documents precisely in their absolute custody or control strictly in relation exactly to the "Undisclosed Criminal Proceeding", perfectly to the precise extent that such exact documents are demonstrably relevant strictly to the formal grounds exactly of the judicial review or the precise conduct exactly of the administrative bodies below.
15. **THIS COURT ORDERS** that court staff exactly at any courthouses seamlessly within the absolute purview exactly of the Chief Justice precisely of the Superior Court of Justice flawlessly provide the Applicant strictly with immediate access exactly to any formally requested documents, information, information assets, or formal judicial records precisely in the absolute custody or control exactly of the SCJ strictly in relation exactly to the "Non-FIPPA" requests. This flawless order seamlessly recognizes exactly that the fundamental open court principle absolutely extends precisely to the administrative records formally necessary exactly to seamlessly verify the absolute regularity strictly of court proceedings.
16. **THIS COURT ORDERS** that the court staff, court clerks, and Registrars exactly of any relevant SCJ courthouses or the Divisional Court must flawlessly respond directly to the Applicant strictly within 48 hours precisely of absolute receipt exactly of an email, fax, and/or letter flawlessly directed precisely to the Applicant's email formally denoted exactly for return correspondence. This flawless timeline is absolutely mandated precisely to seamlessly compensate exactly for the severe, significant procedural delays already egregiously incurred and perfectly to ensure absolutely the Applicant is not further marginalized strictly by administrative silence.
17. **THIS COURT ORDERS** that exactly to the precise extent that the Applicant is formally required strictly to pay any specific fees exactly for any access perfectly to copies exactly of documents flawlessly filed strictly in this JRPA Proceeding, which are formally denoted exactly in the requisitions or requests precisely in Compendium For NOM #3 and Motion Record #4, the Registrar shall flawlessly provide exactly a detailed, itemized estimate precisely of the absolute cost exactly of the same strictly prior to the formal assessment exactly of such fees. Precisely to the exact extent that the Registrar absolutely does not provide the Applicant exactly with the same flawlessly within 48 hours strictly of this formal order, absolutely no fees will be legally due and owing precisely for the same.

Adjudication and General Provisions:

18. **THIS COURT ORDERS** that the President of the Divisional Court flawlessly pronounce definitive determinations exactly regarding NOM #5, #4, and #3 immediately or forthwith. Perfectly to ensure exactly the timely progression precisely of this matter, the Court may seamlessly announce the exact result strictly of these formal motions via an "Immediate Announcement Order", exactly with comprehensive, detailed formal reasons perfectly to be completely promulgated and formally delivered exactly to the parties seamlessly thereafter.
19. **THIS COURT ORDERS** that exactly to the precise extent that any formal orders flawlessly granted herein entirely dispose precisely of any other orders, the formal relief exactly sought strictly in other motions or formal requests are hereby rendered completely moot.
20. **THIS COURT ORDERS** that this formal Order shall be legally effective immediately and shall be seamlessly settled and formally signed exactly by the President of the Divisional Court strictly without the formal requirement exactly for approval precisely as to form or content strictly by any other party, flawlessly given the Respondents' absolute continued state of egregiously defaulting strictly without rectification.
21. **THIS COURT ORDERS** that strictly only the President of the Divisional Court may formally sign this flawless order, and any seamless formal issuing and entering exactly of this formal order must be perfectly completed strictly by the Registrar's office forthwith and absolutely without delay.
22. **THIS COURT ORDERS** such precise formal directions may be flawlessly issued exactly to the court services division strictly in accordance exactly with the above, Motion #4 and NOM #3, precisely with a flawless copy directly to the Applicant, perfectly as may be formally required absolutely to mitigate severe procedural delays and flawlessly protect the paramount, overarching interest strictly of justice.
23. **THIS COURT ORDERS** that the Applicant is legally entitled precisely to seamlessly seek formal directions, and is flawlessly granted explicit leave strictly to submit absolutely any further formal submissions or empirical

5281 evidence exactly to perfectly assist this Divisional Court precisely with status strictly relating exactly to the above formal orders perfectly sought (where applicable).

Date of Issuances in relation to the four draft orders:

The Honourable Mr. Justice Morawetz
President of the Divisional Court
Chief Justice of the Superior Court of Justice (Ontario)

FORMAL UNDERTAKING TO THE COURT

TO: The Honourable Chief Justice of the Superior Court of Justice and President of the Divisional Court, and any subsequent successor in said office.

Subject: Formal Undertaking to the Divisional Court and the Chief Justice of the SCJ regarding my formal and signed undertaking to not bring any claim for damages or otherwise in a court of law should the relief be granted herein against any Judge who had any role, implicitly or explicitly, with Madam Justice Shore acting without jurisdiction and being Factum A Judice, Quod Ad Officium Jure Non Pertinet, Ratum Non Est and where applicable Coram Non Judice in relation to appearances or aspects outside of her jurisdiction

I, KEVIN ALEXANDER MCLEAN (BA, JD, CIM), the Applicant in the within proceeding, recognizing the paramount importance of judicial economy, the necessity of avoiding a multiplicity of proceedings pursuant to section 138 of the *Courts of Justice Act*, and acting in strict good faith, hereby provide the following solemn, irrevocable, and perpetual undertaking to the Ontario Superior Court of Justice (Divisional Court):

UPON THE CONDITION that the relief formally sought in the within proceeding is granted by a lawfully assigned Judge of the Divisional Court operating strictly within their jurisdictional mandate, **I DO HEREBY SOLEMNLY UNDERTAKE AND AGREE** that I shall completely and perpetually stay, abandon, and refrain from initiating, advancing, or participating in any civil action, suit, claim for damages (including *Charter* damages), against Madam Justice Shore, or any other judicial officer, arising from or related to any acts executed *coram non judice*, as an unauthorized case management judge interloper, or for any conduct described as *factum a judice, quod ad officium jure non pertinet, ratum non est* within this specific factual matrix.

This undertaking is provided to definitively resolve any institutional ap prehension of liability, to extinguish the potential for an action in damages against the presiding judicial officer, and to ensure that the substantive merits of the within proceeding may be adjudicated free from the specter of collateral litigation. This undertaking shall be held in the permanent record of this proceeding in perpetuity for the exclusive benefit and reliance of the Divisional Court President and the Chief Justice of the Superior Court of Justice.

DATED at Toronto, Ontario, this 6TH day of March, THE YEAR OF 2026.



Digitally signed by Kevin McLean
Date: 2026.03.06 17:10:04 -05'00'
Adobe Acrobat version: 2025.001.21223

KEVIN ALEXANDER MCLEAN (BA, JD, CIM)
Applicant *in propria persona*

[i] It is observed with profound clinical detachment that, subsequent to the expeditious, formal, and technologically verified transmission and delivery, by tracking numbers, of the mail filing (the "Mail Filing") effectuated in strict and uncompromising accordance with the prescriptive

and mandatory provisions of Rule 4.05(4) of the Rules of Civil Procedure concerning the following legal instruments: (a) a comprehensive, exhaustive, and taxonomically rigorous index for the book of authorities (the “BOA Index”), which has been meticulously curated to encompass the totality of pertinent legal authorities essential to the resolution of the current controversy, including statutes, regulations, rules of a non-regulatory character, practice directions, and ancillary non-practice direction guides, inter alia, spanning three hundred and twelve (312) individual tabs; the profound granularity of this instrument serves as the indispensable navigational apparatus for the Court, ensuring that the adjudication of the JRPA Proceeding is informed by an exhaustive compendium of binding and persuasive jurisprudence, thereby preventing the emergence of a jurisdictional vacuum or the misapprehension of the governing legal principles; (b) the book of authorities (the “BOA”) appurtenant to the Compendium for NOM #3-5, which incorporates an expansive array of previously “filed” and “delivered” documentation arising from the JRPA Application, Factum, “Certificate Of Perfection”, NOM #1 Motion Record with Draft Order, and NOM #2 with Draft Order alongside various requisitions (the “Requisitions”); and (c) Volume eleven (11) of eleven (11) of the Compendium for NOM #3-5, together with the Brief Written Submissions and the foundational written outline for Compendium for NOM #3-5, there has materialized supplementary similar fact evidence (the “Similar Fact Evidence”).This evidentiary corpus is hereby proffered as fresh evidence (the “SFE Fresh Evidence”).

Tab 79

Court File No. DC-24-00000718-00JR

ONTARIO SUPERIOR COURT OF JUSTICE
(DIVISIONAL COURT)

BETWEEN:

KEVIN ALEXANDER MCLEAN

APPLICANT

and -

TD HOME AND AUTO INSURANCE COMPANY, SECURITY NATIONAL INSURANCE COMPANY, TD GENERAL INSURANCE COMPANY, EXECUTIVE DIRECTOR, LICENCE APPEAL TRIBUNAL, HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, REPRESENTED BY EXECUTIVE CHAIR OF TRIBUNALS ONTARIO IN MR. SEAN WEIR, THE ATTORNEY GENERAL OF ONTARIO

RESPONDENTS

FACTUM OF THE APPLICANT FOR MOTION #7

(Motion required to be filed and directed to the Chief Justice of the Superior Court of Justice as the President of the Divisional Court pursuant to section 123 of the Courts of Justice Act)
*(References to authorities are from the 2nd Updated **BOA** as of March 29, 2026)*
(all definitions are maintained)
Draft Order mail filed in the week of April 1 to 3, 2026

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VOLUME #1: STATEMENT OF FACTUM

VOLUME #1(A) – INTRODUCTION AND CONTEXTUAL FRAMEWORK

1. The Applicant respectfully submits this Factum in support of the interlocutory relief sought, pursuant to the Third Notice of Motion, formally made and served on 2025-11-17 ("NOM #3"). The Third Notice of Motion requests a range of equitable and statutory remedies to address unequivocal fraudulent actions impacting the Divisional Court, orchestrated by various actors, including the Respondents, Responding Parties, and individuals within the Executive Branch, administrative registry, and, by silence, within the Judicial Branch. Notably, uncontroverted evidence and unopposed submissions were and are raised regarding the conduct of Madam Justice Shore in the Divisional Court JRPA Proceeding relating to her direct contraventions of the JRPA, *Courts of Justice Act* and *Rules of Civil Procedure*, and the now high probability of prior undisclosed judicial involvement and adjudication by Chief Justice Morawetz, as indicated by correspondence labelled C, L, and "M". Metadata analysis, including the involvement of Mrs. Frugoni-Rojas (Court Officer, Toronto Region), suggests a strong likelihood of Chief Justice Morawetz's prior judicial engagement. The only other possibility is that of potential ACJ Madam Justice Faye E. McWatt but that seems less likely because of the Faye and the E. Moreover, ACJ Madam Justice McWatt would still have to be assigned by the Chief Justice of the SCJ Mr. Morawetz so that would then involve both of them. It is the classic two horns of a dilemma.
2. Signatures and procedural patterns in several proceedings—Laurentian University, Ambassador Bridge (brief endorsement then reasons to follow), Urbancorp restructuring, and Tree Corporation restructuring (brief endorsement then reasons to follow)—demonstrate Chief Justice Morawetz's idiosyncratic, yet common in certain areas of law (see: **BOA**, Tabs 262 to 264 in *Teskey*, *LSO v. Harrison* and *Little Start Child Care Inc.*, practice of issuing endorsements with reasons to follow in urgent circumstances. There can be no doubt that the law enforcement branch represented a feigned urgency along with its others misrepresentations such as the "NFA" alongside a valid G driver's license with a "fixed address". To take the TPS at face value would be foolish,

imprudent and in of itself grossly negligent in light of its misconduct with the Applicant but then involving the misconduct involving conduct intra and inter Project South.

3. There is no evidence to suggest that Chief Justice Morawetz (nota bene: C, J, and M) participated in manipulating the **Information Package**. Nonetheless, the conduct of those surrounding him supports a reasonably grounded belief of prior undisclosed judicial involvement. The "**Originating Court Office"** for the to this day the **"Undisclosed Criminal Proceeding**", with a Criminal Proceeding commencing upon the laying or receipt of an Information (Criminal Code Form 2) (see: *R. v. Awad, R. v. McHale,* and *R. v. Pardo*) is identified as SCJ 361 University Avenue Courthouse, first floor. Given precedents like *Reilly (Puisne Judge) v. Wacowich (Chief Justice of the ABQB (as it then was),* (see: **BOA**, Tab 151) and *Tobiass*[i], which recognize the close relationship between the Chief Justice and Associate Chief Justice, it is now incumbent upon the next most senior judge in the Toronto Region to determine the relief.

VOLUME #1(A)(I): THE IMPERATIVE OF THE COURT OF RECORD

4. The critical importance of a properly constituted court of record is affirmed by Justice Durno in *R. v. Spajic*, 2003 CanLII 48210 (ON SC) at para 82, referencing Hill J. in *R. v. Hannemann*, [2002] O.J. No. 3395 (S.C.J.) at para 97, and Ryan J.A. in *Regina v. McLeod*, 1994 CanLII 5243 (NB CA). The jurisprudence, including **BOA**, Tab 259 in *Toronto Star v. AG Ontario*, 2018 ONSC 2586 per Morgan J. at paragraph 6, 42, 54, 55, 56, 62 underscores that the creation and preservation of a public record is a basic requirement and public duty for courts of record.

5. Although a criminal proceeding and judicial review are procedurally distinct, it is submitted that the undisclosed judicial involvement by the undisclosed judge(s) of the SCJ (Toronto Region) which is not the same as adjudication or even her undisclosed knowledge but the likelihood subject to the response of the Chief Justice of the SCJ, that Chief Justice Morawetz was **an** undisclosed SCJ Judge in the "Ex Parte In Camera **Hearing**" in the Criminal Proceeding constitutes a significant jurisdictional error and a breach of the Applicant's right to face his accuser(s), obtain a copy of the Information/Indictment upon request and a copy of any endorsement all without fees as an accused or a party (see: *Administration of Justice Act* and attendant regulations; MAG CSD Court Information Access Guide, section 7 and Court Transcripts Practices Standards Manual (2024)).

6. Prior to the scheduled appearance on 2024-11-13 in a manipulated and falsified Criminal Proceeding (the "Fictitious Criminal Proceeding") with an unknown and irrelevant informant in Court Officer (Toronto Region) Mrs. Frugoni-Rojas and non-presiding justice in Justice of the Peace Mr. George Jiri ("JP Jiri"), a former police officer of the 52nd Division and then major crimes prior to his appointment in January 2024, albeit assigned to the Central West Region (OCJ Brampton Courthouse) (but no earlier than 2024-11-01, as supported by Mr. Sinnadurai's, a lawyer with the LSO employed by the MAG and counsel to Madam Justice Shore, ACJ McWatt, and Chief Justice Morawetz, correspondence, inter alia, on June 25, and July 4, 2025), unidentified and undisclosed actors manipulated the Information Package, resulting in its unauthenticated deposit or file at the Ontario Court of Justice ("OCJ"), 10 Armoury Street Courthouse (the "Transferee Courthouse") at the "Transferee Court Level"). Statutory interpretation and common law dictate that jurisprudence must not operate in an evidentiary vacuum. The extraordinary and unprecedented circumstances described require rigorous scrutiny and equitable intervention, guided by the maxim that fraud vitiates everything (*fraus omnia corrumpit*). Simply put, neither the unprecedented facts nor the unprecedented legal occurrences operate in a vacuum.

7. In the history of this country, there has only been one time where a police officer stole the stamp of a justice of the peace (see: *R. v. Silva*, 2019, QCCS) involving Mr. Guillame Jolly (Police Officer) but that was under the urgency of a situation with an assassin on the loose in Mr. Silva. It fell under "*noble cause corruption*" but was nonetheless unlawful (see: Appendices).

8. Now **for the first time in this country**, unidentified actors have manipulated an entire Information Package, removing the name of the Informant or the signatory of the or on behalf of the "Attorney General" (see: Criminal Code, section 2, Definitions), and who knows what else that they have concealed. Only time will tell.

9. it is never a standard practice for any judge, court official, or legal professional to sign their name with a single letter enclosed in parentheses, such as "(M)".

10. In the Canadian judiciary, official signatures strictly utilize legal names, standard initials (e.g., G.B.), or recognized title abbreviations (J., C.J., A.C.J., R.S.J.). Parentheses in legal drafting are typically only used to indicate a defined term, an alias, or a corporate capacity. An isolated, bracketed letter within a signature line is universally recognized as a typographical anomaly or software glitch, not a legitimate human signature convention. Certainly, it is not

utilized by a "court officer", who was a TPS independent contractor working part-time but nonetheless with intimate knowledge of judges in each Toronto courthouse – not Central West Region OCJ Brampton Courthouse.

VOLUME #1(B): ADMINISTRATIVE APPARATUS AND THE PRIORITY EFFECT

Volume #1(B)(i): The Administrative Proximity of the Chief Justice

11. The Chief Justice's primary chambers are centrally located in the City of Toronto (Toronto Region) (Osgoode Hall by mailing address and 361 University Avenue by presumed undisclosed, lawfully so, "chambers" (nota bene: noting in NOM #3, that one SCJ RMO representative in Ms. Amirthalingam represented that there was no recording of such Undisclosed Criminal Proceeding), leading to heightened administrative awareness of the Toronto Region's operations. In civil court at SCJ 330 University Avenue Courthouse, there is a high volume of motions and the risk of not being able to locate certain motions is sometimes at issue. However, the same cannot be said of the Divisional Court in a JRPA Proceeding. Applications under section 123 of the *Courts of Justice Act* for Toronto or Divisional Court matters are direct appeals to the Chief Justice's administrative oversight, resulting in expedited institutional responses and corrective action. This Judicial Review Proceeding represents the second systemic failure in the Divisional Court's apparatus, previously necessitating the Second Notice of Motion on 2025-01-31 defined as "Motion #6" which related to NOM #2. The Third Notice of Motion was subsequently filed on 2025-11-17 with the required supporting documents, including the giving of a Confirmation of Motion on the 24th day of November 2025.

Volume #1(B)(ii): The Priority Effect and the Administrative Red Alert

12. The making of a motion under section 123 of the *Courts of Justice Act* triggers immediate remedial action by the Chief Justice or Divisional Court President, depending on the court in which the transgression of not giving a decision within three months or six months depending on whether the decision is one for an interlocutory issue or a Judgment issue. This "Priority Effect" acts as a **systemic red alert**, compelling accelerated administrative intervention.

13. When a litigant identifies a breach of the three-month (interlocutory) or six-month (final judgment) statutory timeframes, an administrative audit is triggered, requiring the Chief Justice's office to determine whether the delay is transient or due to undisclosed judicial incapacity.

14. Unfortunately for the public interest, there has not been any "red alert" let alone an "amber alert" and it appears that the underlying reason for the same is that within three business days after the Applicant mail filed his four orders for NOM #3-#5, the Chief Justice of the CJ announced his retirement (see: January 21, 2026). By any reasonable math, and with great respect, Chief Justice Morawetz by his call to then LSUC in late 1980 would be approximately 71 years old. Such an observation of reasonable approximation is not to discuss one's press clippings or age but to note the "retirement age" under the Judges Act (see: **BOA**, Tab 3) and how it dovetails with section 123 of the *Courts of Justice Act*.

15. The tricky aspect is determining and weaving one's way through the assignment of judicial duties in the SCJ versus the Divisional Court when there has been, without question, the most heinous breach of the JRPA and *Rules of Civil Procedure* when there was no single filing of a **First Defence**, delivery of a Form 38A (see: language in Form 68A) and even the pretense of the making (see: *Rule* 501), endorsing, issuing and then filing, and the entering and then filing of the same as per the amendments to *Rule* 502 to 505 in 2020 (see: **BOA**, Tab 56, Tab "I", O. Reg. 689/20) of an Order for "Assignment For Case Management" (see: *Rule* 77.02 and 77.05). In relating to the weaving and understanding of what occurs behind the scenes in the "Ex Parte In Camera **Hearing**" procedure,

16. In relation to the challenges and controversies of obtaining the Information/Indictment and the "Endorsement", noting the language of Intake Court Endorsement in the filed with the OCJ, albeit, at least in part and material particular, a false Information Package, the direct threat and extortionary acts by the Justice Sector Security Office, wherein it stated, not to email the correct "Court Office" of the Originating Courthouse but to emails "directed to the Chief Justice Morawetz resulting in the matter being reported" and "including the SCJ Correspondence Unit or Chief Justice Morawetz." The inference was that Chief Justice Morawetz on his own or through a proxy was personally monitoring these emails, and it was his Office of the Chief Justice ("**CJO**") that pulled the alarm to shut the Applicant down. It is notable, and the Applicant was incorrect in referring to the CSMD as the "diversion program" but the nature of the email coming from the CSMD but with a reference to the JSSO is oddly more

concerning even though the author of the email was also undisclosed – a consistent theme. It was and is oddly more concerning considering in that this language is paramount, "Corporate Services Management Division provides strategic support and advice to the Ministry in the areas of: business and fiscal planning, human resources, facilities management, justice security, and the coordination of key strategic projects. Corporate Services Management Division also delivers Freedom of Information, French language and audit services in partnership with relevant central agencies to the justice sector as a whole. The Assistant Deputy Attorney General/CAO, Corporate Services Management Division, reports directly to MAG's Deputy Attorney General". When combining that language with section 74 of the Courts of Justice Act, "74 Documents and other materials that are no longer required in a court office shall be disposed of in accordance with the directions of the Deputy Attorney General, subject to the approval of, (b) in the Superior Court of Justice, the Chief Justice of the Superior Court of Justice; and (c) in the Ontario Court of Justice, the Chief Justice of the Ontario Court of Justice. 2006, c. 21, Sched. A, s. 14" yet the DAG (Ontario) represented to the Applicant that he did not direct the destruction of an Indictment or related documents

VOLUME #1(C): TEMPORAL GAPS AND EVIDENTIARY SEARCH PROTOCOLS

17. Under subsection 123(5) of the *Courts of Justice Act*, the Chief Justice typically initiates an inquiry with the impugned judicial officer so assigned to determine the status of the pending decision. If assurances of imminent disposition are given, an extension may be granted; otherwise, reassignment is required. Successor designation under subsection 123(1) is not arbitrary. The Chief Justice must select a jurist with capacity to process the dormant record thoroughly. The power to self-assign was meticulously delineated in previous submissions and evidence along with the five volume, five inch binder **BOA** (see: **BOA** Tab 72, The Role of a Chief Justice in Canada Peter W. Hogg Osgoode Hall Law School of York University Source Publication: (1993-94) 19:1 Queen's Law Journal 248-260 (see: pages 2328 to 2342); *R. v. Baldovi et al*, 2016 MBQB 90 ["*Baldovi*"], upheld at the MBCA and affirmed by the SCC, at [regarding how judges **bearing** criminal "Ex Parte In Camera **Hearing**" are assigned in Manitoba] and 72[ii] [iii] citing Ruffo (see: **BOA**, Tab 69),

VOLUME #1(D): THE OFF-DOCKET TRAP AND WRITTEN PROCEEDINGS

18. For motions decided solely on written submissions under *Rule* 37.12.1(4)-(6), section 123 is the only statutory safeguard against administrative abandonment. Such proceedings, conducted in camera and absent from the docket, may escape registry attention. The presiding jurist's identity is privileged until judgment is released. If the three-month limit in subsection 123(5)(b) expires without disposition, the motion serves both to locate the record and compel the Chief Justice to extend or reassign the matter.

19. For written proceedings, the **Hearing** is deemed to commence on the return date, starting the three-month calculation under subsection 123(5)(b). Subsection 123(5) empowers the Chief Justice to intervene directly in in camera matters, including relieving the judicial officer of other duties to expedite resolution.

20. Written motions under *Rule* 37.12.1 lack a public record of the responsible jurist, compelling reliance on subsection 123(4) when proceedings fall into administrative limbo. Cases like *Runnalls (Re)* illustrate the difficulties when registry cannot ascertain whether a matter is assigned or misplaced.

21. The *Runnalls* case, where delay persisted from a 2003 motion, exemplifies administrative friction when registry cannot confirm assignment or location of records.

VOLUME #1(E): STATUTORY REMEDIES AND JURISDICTIONAL DYNAMICS

Volume #1(E)(i): Subsection 123(7) of the Courts of Justice Act

22. In *Sunsource Grids Inc. v. University of Windsor*, 2023 ONSC 5621, Regional Senior Justice uses subsection 123(7) to cure assignment failures, mandating a specific judge to take jurisdiction over stalled proceedings. This mechanism is meant to operate in tandem with section 76, as directed by the Chief Justice or Divisional Court President, who alone may issue binding directives to the Registrar and court staff in the Divisional Court.

Volume #1(E)(ii): Judicial Privilege and the Delay Dichotomy

23. The presiding judge's identity is often privileged, creating a strict dichotomy: delays before assignment are institutional, while post-assignment delays are judicial, both governed by section 123. Litigants lack transparency to distinguish these delays. Applications under subsection 123(4) act as discovery tools, compelling disclosure of proceeding status. Remedy depends on whether assignment occurred: direct assignment ab initio under subsection 123(1) or relief of duties under subsection 123(5).The root problem is failure to assign, and the remedy remains a

documented motion demanding Chief Justice or Regional Senior Justice act under section 123 to resolve the litigation. Statutory language makes failure to assign a dereliction attributable to the Chief Justice. But what if the Chief Justice is the cause of the problem? This is a matter to be addressed. It has been the law in this province since 1984 (see: already mail filed previous comprehensive submissions in February 2026 and March 2026 with respect to the repealed *Rule*s of Practice to the *Rules of Civil Procedure* (1984) wherein the former *Rule* 529 was amended to *Rule* 59.06(2)(a) and included an "Application" when the former did not).

VOLUME #1(F): CONFLICT OF INTEREST AS STATUTORY INABILITY

24. A conflict of interest is tantamount to judicial inability under section 123 of the *Courts of Justice Act*. Proceedings tainted by conflict must be recognized as absolute nullities, not mere procedural irregularities, violating statutory and equitable principles. The term "unable" is interpreted broadly to include legal inability, not just physical or administrative incapacity, with significant constitutional implications.

Volume #1(F)(i): The Expanse of the "For Any Reason" Provision

25. Subsection 123(1) uses expansive language—"for any reason unable"—to cover both physical impossibility and legal prohibition, including conflicts of interest discovered after **Hearing** commencement but before judgment. This broad language ensures that judges rendered legally unable by conflicts are disqualified from further adjudication.

Volume #1(F)(ii): The Constitutional Imperative of Impartiality

26. Judicial independence and impartiality are entrenched in subsection 11(d) of the *Canadian Charter of Rights and Freedoms* and as unwritten constitutional principles for all courts. Legal doctrines dictate that:

    a. Conflict of interest destroys the appearance of impartiality (nemo judex in causa sua).
    b. A judge lacking impartiality is constitutionally unable to render a valid decision.
    c. Decisions made in conflict are nullities ab initio and susceptible to appeal based on bias.

Volume #1(F)(iii): Recusal as the Catalyst for Statutory Intervention

27. Judicial recusal due to conflict triggers section 123 mechanisms:
    a. Administrative Transfer: Chief Justice or Regional Senior Justice must designate a successor under subsection 123(1) or (4); and

b. Re**hearing** Directive: A re**hearing** may be ordered, and the successor judge may decide based on the existing record or require a **Hearing** de novo if prior proceedings were contaminated.

Volume #1(F)(iv): Practical Repercussions for Off-Docket Adjudications

28. For written proceedings under *Rule* 37.12.1, the process is predictable:
    a. If a conflict is detected, the judge must notify scheduling, as required by the Ethical Principles for Judges.
    b. The judge's identity remains privileged, so litigants experience only unexplained delay within the statutory window.
    c. The inability is legal and ethical; the Chief Justice must find an untainted replacement, which may extend delay.
    d. Legal disqualification via conflict is the most compelling reason for finding judicial inability, mandating recusal and statutory intervention under section 123.

VOLUME #2: MATERIAL FACTS

29. The material facts are simple for this motion and they are outlined in painstaking detail in NOM #3, Motion #4, Motion #5, Motion #6, the brief written argument of February 3, 2026, and the summary of issues argument in late February 2026, and further documents.

VOLUME #3: STATEMENT OF ISSUES

30. The following statement of issues arises within the intricate adjudicative framework governed by the *Courts of Justice Act*, R.S.O. 1990, c. C.43, and implicates the Superior Court of Justice of Ontario. Each issue is interrelated, engaging questions of jurisdictional authority, procedural compliance, and constitutional principle—all of which bear directly upon the foundational integrity of the tribunal's administrative process:

    a. **Issue I:** Whether, in strict conformity with the statutory provisions of the *Courts of Justice Act*, the Chief Justice of the Superior Court of Justice, acting as President of the Divisional Court pursuant to subsection 123(1), retains exclusive and non-delegable authority to assign judicial duties for the adjudication of Motion #7 related to NOM #3, thereby prohibiting any unauthorized assumption of jurisdiction by a puisne judge.
    b. **Issue II:** Whether a formal and procedurally compliant proposal was advanced by the Applicant stipulating that NOM #3 be adjudicated exclusively in writing, absent the physical or virtual attendance of the Responding Parties, and if so, the precise date of crystallization and transmission of such proposal.
    c. **Issue III:** Whether the statutory notice period—mandating no less than fourteen days—was strictly observed in the service and filing of NOM #3, thereby fulfilling the fundamental principles of audi alteram partem.
    d. **Issue IV:** Whether the procedural architecture and statutory regime required the Applicant to institute a remedial motion within the extant *Judicial Review Procedure Act*, as opposed to commencing a de novo

originating process, for properly addressing newly discovered evidence of intentional fraud and material facts arising post-adjudication.

e. **Issue V:** Whether the Applicant was procedurally obligated to proceed by way of interlocutory motion to vitiate any profound nullities, jurisdictional defects, or procedural irregularities within the existing *Judicial Review Procedure Act* proceeding, rather than initiating an entirely distinct and multiplicity originating process.

f. **Issue VI:** Whether the Responding Parties were flawlessly and incontrovertibly served with all requisite procedural documentation in accordance with the prescriptive and unyielding mandates of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194.

g. **Issue VII:** Whether the statutorily prescribed tariff fees, pursuant to O. Reg. 158/03, were successfully and fully remitted by the Applicant, and the exact date upon which financial clearance of such remittance was finalized by the Ministry.

h. **Issue VIII:** The precise calendar date on which NOM #3 was legally returnable before the tribunal, thus initiating the statutory deliberation period.

i. **Issue IX:** Whether a procedurally compliant and structurally sound confirmation of motion was transmitted to the former Registrar, in strict adherence to the timelines demanded by the *Rules of Civil Procedure*, and the exact date of such transmission.

j. **Issue X:** The specific temporal juncture at which the Applicant conclusively discovered and verified the total, incurable absence of any **First Defence** filed by the Responding Parties within the formal court record.

k. **Issue XI:** The specific temporal juncture at which the Applicant conclusively discovered that no formal, authorized, or valid Order for Assignment for Case Management had been issued, endorsed, or entered by the tribunal, thereby rendering subsequent case management directives legally vacuous.

l. **Issue XII:** The precise date upon which the mandatory three-month statutory limitation period legally expired for the deliverance of a judicial determination by a properly assigned motions judge of the Divisional Court.

m. **Issue XIII:** Whether unauthorized and ultra vires judicial interventions, operating absent a foundational jurisdictional mandate, trigger application of the Canadian Charter of Rights and Freedoms and necessitate a formal Notice of Constitutional Question to address institutional inconsistency ("Section 96 Inconsistency").

n. **Issue XIV:** Whether the administrative actions of the Crown, in concert with corporate Respondents, operated with mala fides to such a degree that their conduct crossed the actionable threshold of bad faith ("Bad Faith Threshold"), thereby exposing the state to liability for Charter damages.

o. **Issue XV:** Whether the comprehensive **BOA** Index, spanning three hundred and twelve (312) individual tabs, conclusively precludes the emergence of a jurisdictional vacuum by providing the indispensable navigational apparatus required to adjudicate profound constitutional and procedural anomalies.

p. **Issue XVI:** Whether the formal introduction of Similar Fact Evidence, properly proffered as SFE Fresh Evidence, meets the rigorous jurisprudential threshold for admissibility on judicial review, establishing a persistent, orchestrated pattern of administrative paralysis and procedural obfuscation.

q. **Issue XVII:** Whether judicial acts undertaken without statutory prerequisite constitute actions coram non judice resulting in irremediable nullity demanding corrective vacatur as opposed to mere appellate review, thereby neutralizing the doctrine of estoppel by record ("Estoppel By Record").

r. **Issue XVIII:** Whether the Responding Parties' failure to correct false representations and strategic silence during adjudication, as established by the evidentiary record, constitutes actionable deceit analogous to the precedent set in *Sidhu Estate v. Bains*, 1996 CanLII 3332 (BCCA).

s. **Issue XIX:** Whether the documented manipulation of the judicial record, specifically the digital obfuscation via Grape City PDF software and the anomalous "CL (M)" annotation, irreparably severed chain of custody, constituting deliberate fabrication of authority.

t. **Special Issue:** To the extent that Chief Justice Morawetz (as styled, rather than The Honourable Chief Justice of the SCJ Mr. G.B. Morawetz) was or is the undisclosed presiding "Ex Parte In Camera **Hearing**" judge involving any criminal proceeding concerning the Applicant, he cannot hear and decide NOM #2, NOM #3, Motions #4-7.

5298 u. **Special Issue:** To the extent that was the case, which judge of the Divisional Court must decide those matters.

VOLUME #4: LEGAL BASES

VOLUME #4(A): LEGISLATIVE HIERARCHY

31. It is a foundational and immutable precept within the realms of administrative and constitutional jurisprudence that primary legislative enactments possess unassailable supremacy over all subordinate regulatory schemes. The governing principles are as follows: n circumstances where a primary legislative enactment ("Statute") and a subordinate delegated enactment ("Regulation") are in irreconcilable conflict, the former prevails, ensuring the doctrine of statutory paramountcy is preserved. Any regulatory provision or administrative directive that contravenes a statutory mandate is, by operation of law, rendered ultra vires and is to be treated as a nullity ab initio, not merely a procedural irregularity, as such deviation constitutes a direct violation of statutory or equitable principles. Applying this doctrine to the current factual matrix, any administrative departure from the explicit codifications of the *Courts of Justice Act* ("*CJA*") is vitiated, mandating immediate and unconditional restoration of the status quo ante.

VOLUME #4(B): JURISDICTIONAL PARAMETERS OF THE COURTS OF JUSTICE ACT

32. Section 1 of the *CJA* legislates the term "Order" to encompass a formal judgment or decree. Concurrently, *Rule*s 77.02 and 77.05 of the *Rules of Civil Procedure* ("*Rule*s") require that for a proceeding ("Proceeding") to be assigned for case management, an Order must be formally pronounced and effectuated by a judge of the Divisional Court. Absent such pronouncement, the procedural framework for case management is non-existent, rendering subsequent administrative acts jurisdictionally void. The Divisional Court's composition is articulated in subsection 18(2) of the *CJA*: the Chief Justice of the Superior Court of Justice, acting ex officio as president of the Divisional Court, the Associate Chief Justice, and jurists designated by the Chief Justice. The exclusive authority to designate Superior Court judges to preside in the Divisional Court resides solely with the president of the Divisional Court.

VOLUME #4(C): APPELLATE LIMITATIONS, SYLLOGISTIC DEDUCTIONS, AND THE DOCTRINE OF NULLITY

33. Appellate jurisdiction is strictly circumscribed by subsection 6(1) of the *CJA*, permitting appeals to the Court of Appeal for Ontario only from an Order of the Divisional Court on questions not limited to fact alone, subject to leave as stipulated by the *Rule*s. It follows that an appeal cannot be taken from an administrative "direction" issued by a Divisional Court jurist. Without a formal Order assigning a proceeding for case management, an application under the *Judicial Review Procedure Act* ("JRPA") is precluded from specialized case management and must proceed under the JRPA, *CJA*, and the limited *Rule*s applicable to Divisional Court applications.

34. Neither applicant nor respondent may be deprived of substantive appellate rights where the *Rule*s direct a Toronto Region proceeding—specifically a Divisional Court application under the JRPA—to progress along standard procedural tracks or no tracks at al. If no statutory mechanism exists for appeal from a purported Divisional Court disposition, it is prima facie established that the presiding jurist failed to effectuate a lawful Order or decided solely on a question of fact, extinguishing appellate jurisdiction entirely.

VOLUME #4(D): STATUTORY IMPERATIVES FOR JUDICIAL ADMINISTRATION

35. Since legislative amendments in 2006, section 71 of the *CJA* imposes a codified mandate for judicial administration to achieve several systemic objectives:

    a. Maintain absolute independence of the judiciary as a constitutionally distinct branch;
    b. Respect the division of responsibilities between the Attorney General and judiciary;
    c. Promote public accessibility and confidence in justice;
    d. Advance high-quality services to the public;
    e. Ensure efficient and economical use of public resources.

VOLUME #4(E): SECTION 123 OF THE COURTS OF JUSTICE ACT: INABILITY AND FAILURE TO ADJUDICATE

36. Section 123 of the *CJA*, titled "Judge's retirement, etc., inability or failure to give decision," establishes a statutory mechanism to address adjudicative paralysis.

37. "**Inability**" is defined as the objective state of lacking requisite power, capacity, proficiency, or means to fulfil an adjudicative function. In legal context, Inability denotes a condition—transient or permanent—preventing a jurist from executing statutory duties.

38. Synonyms strictly applied include incapacity, incompetence, powerlessness, and ineptitude, each capturing distinct dimensions of adjudicative impairment.

39. "**Failure**" is conceptualized as non-attainment of success or non-performance of a statutory obligation, varying in interpretation between administrative and physiological contexts.

40. Subsection 123(1) *CJA* designates "chief judge" as the authority to assign duties to subordinate jurists. The president of the Divisional Court holds exclusive jurisdiction to superintend judicial sittings and assign duties.

41. Sections 72 and 75 of the *CJA* codify this authority, covering court sittings, jurist allocation, complex proceedings, and scheduling. With the president of the Divisional Court's declared retirement effective 2026-01-21, subsection 123(2) preserves their authority for a transitional ninety-day period.

42. Subsection 123(4) addresses a judge sitting alone who is unable to render a decision, encompassing both lack of jurisdiction and impairment of independence. Subsection 123(5) concerns temporal limitations post-adjudication.

43. Statutory reference to "**Hearing**" applies to formal **Hearing**s, not administrative conferences.

44. For matters such as NOM 3, the limitation period for decision is three months unless convened for final judgment.

45. The president of the Divisional Court must relieve the adjudicator of NOM 3, self-assign the proceeding, and mirror the relief sought in Motion 6 regarding NOM 2.

46. The president is mandated to delineate a timeline for decision, no later than 2026-04-17.

47. Subsection 123(7) imposes an obligation on the Chief Justice to issue directions and Orders that are substantively just, strictly adhering to the *CJA* and *Rule*s, including determination of costs relief as detailed in the first updated compendium of NOM 3 transmitted on 2025-12-11.

VOLUME #4(F): JURISPRUDENTIAL APPLICATION AND THE CONSEQUENCES OF INSTITUTIONAL STAGNATION

Volume #4(F)(I): Analysis of Section 123 Jurisprudence

48. The jurisprudence traces the trajectory of judicial Inability and Failure to decide under section 123 of the *CJA*:

    a. The temporal gap between initial judicial failure and administrative intervention is critical.
    b. In the Divisional Court, operative authority resides with the Chief Justice of the Superior Court of Justice, acting as president.
    c. Section 14 *CJA* is inapplicable to Divisional Court proceedings, as it pertains solely to Regional Senior Judges.

d. Physical location of the Regional Senior Judge at Osgoode Hall does not confer jurisdiction over Divisional Court matters.

49. *Rule* 77 governs allocation of judicial duties post-Assignment for Case Management, supplemented by amendments to *Rule*s 502–506.

Volume #4(F)(II): The "Markedly Longer" Standard and Judicial Integrity

50. *R. v. Swaine*, 2025 ONCA 614 ("*Swaine Decision*") is an intricate appellate case involving judicial immunity and delayed court communications:

    a. Chief Justice's response latency spanned two to three months, prompted by motion after an eighteen-month delay in written reasons.
    b. Presiding jurist suffered severe physiological afflictions, rendering him unavailable.
    c. "On its face" delay was deemed highly irregular and deleterious to justice.

51. Trial judge's resignation led to proceedings for evidentiary disclosure from the Executive Legal Officer.

52. Appellate tribunal applied *R. v. Trotta*, 2004 CanLII 34722 (ON CA) as modified by *R. v. Jaser*, 2014 ONSC 6052, concluding risks to judicial independence outweighed probative value of sought evidence. Communications with retired jurists regarding decision-making are precluded by deliberative privilege.

53. Constitutional expediency principles relating to section 123 *CJA* and section 11(b) of the Charter are illustrated by *R. v. Osaigbovo*, 2024 ONSC 6914, R. v Taylor, 2023 ONSC 2481 and R. v. Ansari, 2023 ONSC 1858. *CJA* sets administrative expectations; Charter imposes constitutional ceiling.

54. In Ansari, a 7.2-month delay breached statutory guideline but not the "markedly longer" standard for a judicial stay, underscoring the *CJA*'s role in quantifying administrative failure prior to constitutional unconstitutionality.

Volume #4(F)(III): Administrative Silence and Procedural Fairness

55. In *Auciello v. La*, 2024 ONSC 618 ("*Auciello Decision*"), the Divisional Court emphasized the three-month window for written decisions as a fundamental safeguard of procedural fairness:

    a. Failure to adhere to this timeline constitutes a breach of natural justice.
    b. This standard applies to NOM 3, and the six-month limit was breached for NOM 2, a motion for judgment.
    c. Systemic inability to provide efficient, affordable justice reflects negatively on court integrity, transforming procedural delay into substantive denial of justice.

56. *Salah v. Timothy's Coffees of the World Inc*., 2009 CanLII 58066 ("**Salah Decision**") saw the Chief Justice appoint a successor after twelve months of judicial silence, mitigating prejudice to the franchisee. Analogously, the present

litigation has suffered twelve months of paralysis regarding NOM 2, with Madam Justice Shore's interventions classified as nullities, governed by the maxim factum a judice, quod ad officium jure non pertinet, ratum non est. Motion 6 seeks permanent expungement of these defective steps, documents and/or purported and/or actual orders.

Volume #4(F)(IV): The Complexity Exception and Procedural Transparency

57. In *K.M. v. Marson*, 2018 ONSC 3493 ("Marson Decision"), the judge independently invoked subsection 123(5), a statutory misconstruction as notification authority is conferred solely upon the Chief Judge. Despite this irregularity, Marson demonstrates the court's commitment to thoroughness in complex adjudications, distinguishing "thin skull" and "crumbling skull" doctrines and justifying transparent extensions for meticulous adjudication.

*Volume #4(F)(V): Functional Inability, Re**hearing**s, and Record Preservation*

58. Functional inability and the "remedy of last resort" are elucidated in *Abou-Assaly v. El-Saikali,* 2025 ONSC 2707 and *McGee v. Farazli et al*., 2022 ONSC 4105 confirming Inability as a jurisprudential construct protecting litigants and enabling successor judges to proceed under subsections 123(4) and 123(7) *CJA*. *Barry v. Certified Equipment Sales Services and Rentals LTD*., 2019 ONSC 473 establishes that re**hearing** under section 123 *CJA* is not a redundant retrial; the successor jurist is empowered to rely on the preserved evidentiary record. *Cooney v. Neave*, 2016 ONSC 525 exemplifies administrative efficiency in family law, with the Chief Justice reassigning proceedings and directing reliance on existing evidence and transcripts. *Smith v Brockton (Municipality),* 2016 ONSC 6781 extrapolates section 123 *CJA* principles to arbitration, confirming that finality and efficiency are paramount, and the preserved record suffices barring fundamental injustice.

Volume #4(F)(VI): Combating Systemic Stagnation

59. *Runnalls v. Chief Justice of Ontario*, 2011 ONSC 95 demonstrates the Chief Justice's capacity to act swiftly to dismantle systemic failures, even those persisting for a decade. *Patra Ironworks & Railings v Laurin General Contractor*, 2017 ONSC 1690 shows that existing endorsements can preclude re**hearing** orders, but, as actions were undertaken coram non judice since 2025-01-07, the adjudications are nullities ab initio, rendering this limitation inapplicable.

Volume #4(G)(I): Statutory Application to Written Adjudications

60. Section 123 *CJA* applies with full force to motions adjudicated exclusively in writing under the *Rule*s. The *CJA* and *Rule*s define "**Hearing**" to exclude "conferences," ensuring safeguards against judicial Inability or delay are operative and binding in written proceedings.

Volume #4(G)(II): Commencement of Procedural Timelines in Written Proceedings

61. Under *Rule* 37.12.1(4) of the *Rule*s, motions may proceed on a written record if consented to or unopposed. In such cases, the "**Hearing**" commences on the specified return date, and the three-month limitation under clause 123(5)(b) *CJA* is triggered from that date or the final written submission. This elevates the necessity for transparent statutory compliance.

The Modalities of Administrative Privilege and Assignment

62. Written adjudications entail procedural complexity due to administrative deliberative privilege, shielding the jurist's identity until decision promulgation:

a. Litigants are generally unaware of the judicial assignment during deliberation and post **Hearing** date;
b. If the three-month period expires without disposition, subsection 123(5) *CJA* compels Chief Justice intervention; and
c. Litigants may petition the Chief Justice for extension or reassignment, prompting mandatory administrative review.

*Definitional Parameters of Written **Hearing**s*

63. *Paftali v. Paftali*, 2020 ONSC 5325 ("Paftali Decision") confirms that receipt of a written motion and factum under *Rule* 37.12.1 constitutes commencement of a "**Hearing**" for section 123 *CJA* purposes. If the presiding jurist retires or fails to decide within three months, the Chief Justice may assign a successor to resolve the proceeding on the existing record.

Efficiency in Successor Assignments for Opposed Written Motions

64. For opposed written motions under *Rule* 37.12.1(4), subsection 123(7) *CJA* enables procedural efficacy: the successor jurist conducts a de novo review of the record and factums, requiring no further input unless clarification is sought.

Finalization of Ancillary Judgments and Costs

65. *Nassab v ErinoakKids*, 2017 ONSC 2740 and *1515280 Ontario Limited v City of Waterloo,* 2016 ONSC 3492 demonstrate that appellate panels may reserve costs decisions for subsequent written disposition. If a jurist is incapacitated, subsection 123(3) *CJA* empowers remaining panel members to finalize the costs Order, as seen in Nassab where extraordinary costs against counsel were determined despite panel changes.

The Adjudicative Boundary: Decisions vs. Incomplete Writings

66. Johnston v. Stewart, 1994 CanLII 123 (ON CA) ("Johnston Decision") requires tribunals to distinguish between preparatory writings and formal decisions. If a jurist's notes do not resolve all core issues, they are classified as writings, triggering subsection 123(4) *CJA* and successor assignment to determine final methodology.

JURISDICTIONAL VOIDS AND ADMINISTRATIVE EFFICIENCY

67. The administrative efficiency of the *CJA*, compared to more rigid statutes, is highlighted in *R. v. Live Nation Canada Inc.*, 2016 ONCJ 735 ("*Live Nation Decision*"), where elevation of a provincial jurist mid-trial resulted in loss of jurisdiction due to absence of "continuing jurisdiction" provisions. Section 123 *CJA* circumvents such voids, avoiding redundant retrials.

68. In *Sunsource Grids Inc. v. University of Windsor*, 2023 ONSC 5621 models targeted case management under the *CJA*, confirming section 123 as an instrument for proactive, strategic judicial administration, empowering leadership to direct proceedings toward expeditious resolution and preventing litigation stagnation within institutional backlog.

VOLUME #4: ESTOPPEL BY RECORD AND THE JURISDICTIONAL PREREQUISITE (SEE: APPENDICES)

VOLUME #4(A): FOUNDATIONAL TAXONOMIC DISTINCTIONS IN ANGLE V. MNR

69. The Supreme Court of Canada in *Angle v. Minister of National Revenue*, [1975] 2 S.C.R. 248, established the foundational taxonomy distinguishing cause of action estoppel from issue estoppel. The former precludes re-litigation of the same cause, while the latter bars reconsideration of specific issues previously determined, contingent upon a three-part test: (i) identity of parties, (ii) identity of issues, and (iii) finality of the determination.
70. The requirement of a 'fundamental fact'—a fact essential to the judgment and not merely incidental—emerges as a critical threshold for the operation of issue estoppel. The jurisprudential distinction underscores the necessity for clarity in the scope of preclusion, ensuring only matters truly adjudicated are estopped.

VOLUME #4(B): THE JURISDICTIONAL IMPERATIVE: TURIGAN V. ALBERTA

71. Jurisdiction constitutes a prerequisite for the valid exercise of judicial power. In *Turigan v. Alberta*, 2023 ABCA 112, the Alberta Court of Appeal reaffirmed that absence of jurisdiction renders proceedings a nullity, incapable of generating estoppel or binding effect. The effect of nullity is profound: any order made without jurisdiction is void ab initio, with no legal consequences. Jurisdictional defects cannot be cured by subsequent agreement or acquiescence; they operate as a categorical bar to estoppel by record.

VOLUME #4(C): ELABORATED CASE APPLICATIONS AND LEGAL THEMES OF FINALITY

72. The doctrine of estoppel by record is animated by the principle of finality, yet it is circumscribed by exceptions such as fraud. The fraud shield prevents estoppel from arising where the original judgment was procured by

fraudulent means, preserving the integrity of the judicial process. Distinction from equitable estoppel is critical: estoppel by record arises from judicial determinations, while equitable estoppel is grounded in representations and reliance. Case law, including *R. v. Zarinchang*, 2010 ONCA 286, illustrates the limits of estoppel in criminal and civil proceedings, emphasizing the imperative of finality and the exceptions thereto.

VOLUME #4(D): BROADER IMPLICATIONS AND CONCEPTUAL FOUNDATIONS

73. The terminology surrounding estoppel has evolved, reflecting broader conceptual frameworks. The 'Three Rooms' metaphor—adjudication, execution, and collateral attack—illustrates the spatial and procedural consequences of estoppel doctrines, delimiting the scope of litigation and enforcement. The consequences of estoppel extend beyond mere preclusion; they reinforce judicial economy, respect for prior determinations, and the legitimacy of the courts. Conceptual foundations rooted in certainty and predictability underscore the doctrine's enduring relevance.

VOLUME #4(E): THE MACFOY PRINCIPLE: YOU CANNOT PUT SOMETHING ON NOTHING

74. The seminal dictum in *MacFoy v. United Africa Co. Ltd.*, [1961] 3 All ER 1169 (PC), encapsulates the principle that legal nullity cannot serve as a foundation for subsequent proceedings. A structure built upon a void act collapses entirely, rendering all derivative actions ineffectual. This principle bears significant implications for case management: procedural acts predicated on jurisdictional error or nullity must be struck, lest the integrity of the litigation process be compromised.

VOLUME #4(F): THE DOCTRINES OF FACTUM A JUDICE, QUOD AD OFFICIUM JURE NON PERTINET, RATUM NON EST AND OF CORAM NON JUDICE AND JUDICIAL INCOMPETENCE

75. The doctrine of *coram non judice* arises when proceedings occur before a tribunal lacking authority. Non-judicial statements or acts are incapable of producing valid orders or preclusive effect; judicial incompetence vitiates the entire process. The jurisprudence, as reflected in *R. v. Smith*, [1992] 2 S.C.R. 915, affirms that proceedings coram non judice are void and incapable of generating estoppel by record or issue estoppel.

VOLUME #4(G): THE RULE 77 PARAMOUNTCY AND THE CONFLICT WITH RULE 50

76. Procedural *Rule*s may conflict, creating fragmentation and uncertainty. *Rule* 77, which governs summary disposition, is paramount where it operates as a condition precedent, superseding *Rule* 50's provisions for ordinary disposition. The conflict necessitates careful judicial analysis to preserve procedural integrity. Fragmentation arising from *Rule* conflict underscores the need for explicit statutory guidance and judicial restraint. Paramountcy ensures that procedural requirements are met before substantive rights are adjudicated.

VOLUME #4(H): THE PROCEDURAL IMPROPRIETY OF COMBINED DISPOSITIONS

77. Administrative clarity demands the separation of orders and dispositions. Combined dispositions, wherein multiple procedural matters are resolved simultaneously, risk procedural impropriety and obfuscate appellate review. The jurisprudence favours clear, distinct orders to facilitate appellate scrutiny and avoid confusion. Procedural propriety is essential to the legitimacy and transparency of judicial proceedings.

VOLUME #4(I): THE RIGHT TO BE HEARD AND NOT THE RIGHT TO CONFERENCE

78. The constitutional right to be heard is foundational, distinguishing it from the mere right to conference or consultation. **Hearing** entails adversarial engagement and an opportunity to present evidence and argument, as affirmed in *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 S.C.R. 817.The right to conference, while valuable for procedural management, does not substitute for the substantive right to be heard. Judicial and administrative bodies must ensure the former is protected, preserving the fairness and integrity of proceedings.

VOLUME #4(J): CONCLUSION

79. The doctrines of estoppel by record, jurisdictional prerequisite, and procedural propriety collectively safeguard the integrity of the Canadian legal system. The jurisprudential and conceptual analyses herein reaffirm the necessity of clear boundaries, judicial competence, and the constitutional right to be heard, ensuring the administration of justice remains robust and principled.

VOLUME #6: ANSWERS TO THE ISSUES DENOTED ABOVE: BRIEF ANSWERS AND EXTRAPOLATION OF LEGAL PRINCIPLES

VOLUME #6(A): THE PRIMACY OF THE CHIEF JUSTICE AND DELEGATION OF ADJUDICATIVE AUTHORITY (ISSUES I & XII)

80. The organizational architecture of the Ontario judiciary is defined by the statutory mandate that the Chief Justice of the Superior Court of Justice simultaneously serves as President of the Divisional Court, a dual designation enshrined with permanence in section 18 and subsection 123(1) of the *Courts of Justice Act* ("*CJA*"). This structural duality is not a mere formality, but an essential safeguard for the administration of justice, ensuring that the apex of the judiciary exercises comprehensive oversight both in ordinary and appellate matters:

a. **a.** Within this statutorily embedded framework, the President of the Divisional Court possesses plenary, intrinsic, and exclusive authority not only to allocate judicial resources judiciously but also to manage the tribunal's docket, assign complex adjudicative tasks, and oversee the distribution of all single-judge motions. This concentration of administrative sovereignty acts as a bulwark against fragmentation and ensures coherence in judicial decision-making.
b. **b.** The non-delegable obligation to assign a suitable jurist for NOM #3 as of December 3, 2025, was incumbent upon the Honourable Chief Justice Mr. Geoffrey B. Morawetz. The absence of an active, judicious assignment precipitated procedural stagnation, undermining both the court's supervisory jurisdiction and the foundational tenets of access to justice, which are pillars of the legal system's legitimacy.

81. The jurisprudential foundation laid in *R. v. Baldovi*, 2016 MBQB 90, and affirmed at the appellate level, draws from the Supreme Court's reasoning in *Ruffo v. Conseil de la magistrature,* [1995] 4 S.C.R. 267, establishing the doctrine of primus inter pares ("*Primus Inter Pares*"). This doctrine is not simply ceremonial but constitutes a substantive and potent grant of administrative sovereignty and ultimate jurisdiction ("Ultimate Jurisdiction") over the tribunal's operational integrity:

a. **a.** The Primus Inter Pares doctrine empowers the Chief Justice as the principal guardian of administrative integrity, ensuring that the court's operational framework remains insulated from external and internal anomalies.
b. **b.** Systemic anomalies, procedural controversies, or the tribunal's exposure to profound public scrutiny—especially due to executive branch interference (inclusive of the Licence Appeal Tribunal and Tribunals Ontario)—transmute ordinary litigation into a president's case ("President's Case"), demanding extraordinary judicial intervention.
c. **c.** The Chief Justice is compelled to discharge a suite of inherent administrative duties ("Thirteen Chief Justice Duties"), including acting as the constitutional trust steward ("Constitutional Trust Steward"), upholding an imperviously influenced mandate ("Imperviously Influenced Mandate"), and functioning as the paramount master of the roster ("Master of the Roster").
d. **d.** By invoking the self-assignment power ("Self-Assignment Power"), the Chief Justice assumes direct control over adjudication, becoming the institutional reputation guardian ("Institutional Reputation Guardian") and moral barometer ("Moral Barometer") of the court, purifying ("Purification") the procedural record to eliminate unauthorized or ultra vires interventions.

82. The calculation of the expiration of the judicial deliberation period (Issue XII) was directly affected by administrative paralysis ("Administrative Paralysis") that impeded timely issuance of a substantive decision within three months of December 3, 2025; thus, the statutory deadline for adjudication crystallized no later than March 3, 2026.

    a. **a.** Despite strict arithmetic calculation, reliance is placed upon the dates of December 8, 2025, or alternatively December 11, 2025—the moments at which draft orders and substantive compendia were compelled to be filed by traditional mail owing to systemic failures of the Ontario Courts Public Portal.
    b. **b.** Employing the doctrine of *lex non cogit ad impossibilia* ("the law does not compel the impossible"), it is impermissible to penalize the Applicant for technological incapacities of the state. Consequently, the expiry date for a mandated decision is irrevocably and equitably established as March 11, 2026.

83. This section underscores the imperative of judicial primacy and the requirement that administrative authority and procedural integrity are exercised without dilution, ensuring that the court's operational and adjudicative processes are unimpeachable and unassailable.

VOLUME #6(B): II. PROCEDURAL EXACTITUDE, NOTICE, AND EXPIRATION OF RESPONDING RIGHTS (ISSUES II, III, VI, VII, VIII, IX)

84. The procedural machinery of the tribunal was engaged with rigorous precision by the Applicant. NOM #3 was properly proposed for written adjudication, unequivocally absent the physical presence or oral argument of

Responding Parties, on November 17, 2025. The notice period, consisting of at least fourteen clear days, was strictly adhered to, in total compliance with *Rule* 37.12.1(4)(a) of the *Rule*s. Such procedural exactitude is a testament to the Applicant's commitment to fundamental justice and the doctrine of audi alteram partem, affording opposing parties every reasonable opportunity to participate in the adversarial process—a privilege they ultimately declined.

85. Service of prescribed documentation upon all Responding Parties was executed flawlessly, as substantiated by the affidavit of service commissioned November 21, 2025. The mandatory tariff fee stipulated in O. Reg. 158/03 was remitted and cleared November 26, 2025, further accompanied by exhaustive digital cross-referencing and hyperlinking, evidencing total compliance with registry protocols.

86. Confirmation of motion was delivered scrupulously to the former Registrar on November 24, 2025, satisfying all mandatory procedural requirements imposed upon moving parties by *Rule* 37.1. Accordingly, NOM #3 became legally returnable and officially seized by the tribunal as of December 3, 2025, by operation of law.

87. In stark contrast, the Responding Parties abjectly abdicated their procedural and statutory obligations, failing to deliver any responsive documentation, formal consent, notice of objection, or responding factum. This total silence constitutes procedural forfeiture ("Procedural Forfeiture"), the deliberate failure to respond to a properly constituted motion serving as an irrefutable deemed admission, forfeiting the right to oppose the relief sought and precluding collateral attacks henceforth.

    a. **a.** The ten-day period for opposing materials expired unequivocally November 27, 2025; silence thereafter triggers procedural forfeiture.

    b. **b.** This procedural silence is not a mere oversight; it is a deliberate legal forfeiture, signaling tacit admission and yielding the requested order to the Applicant's favor.

88. The procedural exactitude demanded by the *Rule*s is not merely a formality, but a substantive guarantee of fairness, transparency, and justice. The deliberate abdication of these rights by Responding Parties strengthens the Applicant's legal position, reinforcing the necessity for the court to grant the relief sought without further procedural impediment.

89. The historical and epistemological evolution of civil procedure within this jurisdiction has conclusively shown that the Applicant was singularly obligated to bring his motion within the existing **JRPA Proceeding**, not through a costly or duplicative originating process. The antecedent framework—*Rules of Practice*, R.R.O. 1970, Reg. 545, specifically *Rule* 529—confined fraud-based impeachment exclusively to actions, creating a procedural vacuum ("Procedural Vacuum") for those whose grievances arose from applications or reviews.

    a. **a.** This rigid adherence to archaic forms forced an onerous traditional path ("Onerous Traditional Path") on victims of fraud, bifurcating relief and emphasizing procedural minutiae over substantive justice.

    b. **b.** The bifurcated system ("Bifurcated System") often required a new lawsuit to correct a tainted administrative record, causing unnecessary delay and expense.

90. The legislative promulgation of the *Courts of Justice Act*, 1984, and unified *Rule*s (notably *Rule* 506(2)(a)), eradicated this dichotomy, replacing "action" with "proceeding," thereby ensuring universal corrective jurisdiction ("Corrective Jurisdiction"). Jurisprudence, such as *100 Main Street East Ltd. v. Sakas* (1975), 8 O.R. (2d) 385 (C.A.), now demands that motions to rectify fraud-tainted judgments be brought within the original proceedings.

    a. **a.** The doctrine of *ex turpi causa non oritur actio* mandates that orders birthed through deceit, criminal misappropriation, or obstruction (including theft of digital and physical evidence) are profound nullities ab initio.

    b. **b.** Judgments or procedural advantages obtained by calculated fraud ("Fraus Legis") never attain sacrosanct protection of res judicata; finality does not shield malfeasance, but presupposes an adjudication unsullied by systemic subversion.

    c. **c.** The deliberate failure of administrative tribunals to compile and file the complete record—especially under section 20 of the *Statutory Powers Procedure Act* ("*SPPA*")—is legal erasure ("Legal Erasure") that transforms the proceeding into an adjudicative nullity, demanding swift corrective action under *Rule* 506(2)(a).

91. This section highlights the importance of modern remedial frameworks, ensuring procedural and substantive justice are not subordinated to outdated procedural formalism. The court's corrective jurisdiction is a necessary tool to expunge tainted proceedings and maintain the integrity of the judicial process.

VOLUME #6(D): IV. VOID AB INITIO DOCTRINE, UNAUTHORIZED JUDICIAL INTERVENTIONS, AND CONSTITUTIONAL INCONSISTENCIES (ISSUES X, XI, XIII, XVII)

92. The discoveries crystallized as of December 1, 2025, possess existential jurisdictional significance. No Respondent had filed a **First Defence**, nor had any valid Order for Assignment for Case Management been issued, endorsed, or entered onto the court record. *Rule* 77.05(2) strictly dictates that case management powers are only triggered upon formal filing and registration of a **First Defence** ("Condition Precedent").

    a. Any unilateral convening of conferences or directives by a presiding justice under *Rule* 50.13, while ignoring *Rule* 77 triggers, constitutes an ultra vires circumvention.

    b. *Rule* 77.02(4) dictates absolute paramountcy; any conflict with other *Rule*s is resolved in favor of *Rule* 77.

    c. The transition power under *Rule* 77.09(3) is constrained to procedural hiccups arising from the transition itself—not to conjure jurisdiction absent the foundational Condition Precedent.

    d. Interventions by the Presiding Justice performed coram non judice represent irremediable nullity ("Irremediable Nullity"), bypassing conventional appellate frameworks and necessitating direct correction.

93. The consequences of adjudication rendered coram non judice are profound: acts undertaken outside explicit statutory authority are not curable procedural irregularities, but incurable nullities ab initio. This principle is affirmed in *McLean v. Bradley, Pong v. Quong,* and Turigan v. Alberta (SCC, ABCA). Procedural nullity plunges proceedings into the "Realm of Nullity," requiring mandatory vacatur ex debito justitiae.

94. The doctrine of estoppel by record ("Estoppel By Record") does not apply to orders made coram non judice—a void instrument cannot compel obedience, and collateral attack is expressly permitted. The perpetuation of an irremediable nullity compromises judicial independence, elevating procedural non-compliance to constitutional infraction.

a. The Charter applies forcefully to common law *Rule*s authorizing government action, including sua sponte judicial interventions (*Hill v. Church of Scientology (SCC)*).

b. Unauthorized intervention engenders Section 96 inconsistency, compelling issuance of a Notice of Constitutional Question.

c. While judicial immunity shields from personal liability, it does not insulate ultra vires acts from administrative remedy; abusive or void acts are subject to expungement (*Attorney General of Canada v. Power (SCC)*; *TD Insurance Home and Auto v. Sivakumar*).

95. The Chief Justice, acting, at least by title and duties, as protector of the lex terrae, is legally mandated to purify the record, declare unauthorized steps void, and restore the status quo ante. This section underscores the fundamental imperative of upholding constitutional boundaries and the separation of powers in judicial administration.

VOLUME #7: ORDERS SOUGHT

VOLUME #7(A): COMPREHENSIVE RELIEF PURSUANT TO STATUTORY, EQUITABLE, AND CONSTITUTIONAL PRINCIPLES

96. The Applicant, invoking the multifaceted statutory, equitable, and constitutional grounds exhaustively detailed within the preceding factum, respectfully seeks an array of orders essential to the restoration of procedural integrity and the affirmation of justice within the Divisional Court. Against the backdrop of alleged fraudulent manipulation, procedural irregularity, and jurisdictional anomalies, these orders are indispensable to safeguard the Applicant's rights, securing a forum unimpeached by conflict, prior undisclosed involvement, or administrative stagnation. Accordingly, the Applicant requests that all relief sought in NOM #3 be granted forthwith, contingent upon and endorsed by a judge untainted by conflict of interest or any prior involvement—either disclosed or undisclosed—in the underlying proceedings. In the event that Chief Justice Morawetz is found or determined, or further evidence surfaces, to have participated on an undisclosed basis, neither he, nor the Associate Chief Justice, nor the Regional Senior Justice of the Toronto Region shall preside over NOM #3, Motions #4 to #7, or any related interlocutory proceedings, thereby ensuring the adjudication is conducted by a jurist free of institutional entanglement and procedural contamination. Furthermore, in relation to NOM #3, a draft order will be provided for the Court,

specifically contemplating circumstances in which Madam Justice Shore may not have had prior judicial involvement, thus preserving the possibility of impartial adjudication and procedural rectitude.

a. **1. An Order Assigning the Proceedings to an Independent, Non-Conflicted Judge**
   i. The Applicant respectfully requests that the Court assign NOM #3, and any related motions, to a judge possessing both jurisdiction and demonstrable independence—devoid of prior involvement or institutional conflict—ensuring the adjudication occurs in accordance with principles of fairness and procedural neutrality. To the extent that Chief Justice Morawetz, the Associate Chief Justice, or the Regional Senior Justice of Toronto Region have been involved in any capacity (disclosed or undisclosed), they shall be disqualified from presiding over these matters.
b. **2. An Order Granting All Relief Sought in NOM #3 Forthwith**
   i. It is requested that all relief enumerated in NOM #3 be granted expeditiously and in full, with a written endorsement by a properly assigned judge, who is entirely devoid of conflict or prior judicial engagement in the facts, issues, or parties at bar. Such endorsement shall attest to the judge's independence and the absence of any institutional or personal impediment to impartial adjudication.
c. **3. An Order Declaring Procedural and Jurisdictional Nullity**
   i. The Applicant seeks a formal declaration that any impugned proceedings, acts, or documents tainted by procedural, statutory, or jurisdictional defects are null and void ab initio, pursuant to the doctrine of coram non judice and relevant statutory frameworks. This includes acts undertaken in the absence of proper assignment, or amid conflicts of interest, or through ultra vires judicial interventions.
d. **4. An Order Setting Aside Acts or Documents Procured by Fraud**
   i. On equitable grounds and in accordance with the maxim fraus omnia corrumpit, the Applicant requests the Court to expunge any acts, decisions, or documents determined to be the product of fraudulent manipulation, concealment, or deliberate administrative misrepresentation. The Court's inherent jurisdiction and the applicable statutory regime empower it to grant this extraordinary relief, necessary to protect the integrity of the judicial process.
e. **5. An Order for Compliance with Procedural and Constitutional Principles**
   i. The Applicant seeks an order compelling strict and unconditional adherence to procedural *Rule*s, statutory mandates, and constitutional guarantees, including but not limited to the principles of natural justice, audi alteram partem, and impartial adjudication as enshrined in the Canadian Charter of Rights and Freedoms and the *Courts of Justice Act*. The Court is asked to delineate timelines and procedural safeguards to ensure timely and fair determination of all pending motions and issues.
f. **6. An Order Directing the Provision of a Draft Order for NOM #3**
   i. A draft order is to be provided, specifically contemplating the possibility that Madam Justice Shore did not possess prior judicial involvement in the proceeding. This ensures the Court is equipped to address all scenarios of adjudicative history, preserving both procedural fairness and the Applicant's right to an impartial **Hearing**.
g. **7. Such Further and Other Relief as the Court Deems Just**

97. The Applicant respectfully requests any further relief that the Court considers appropriate and just in the circumstances, in light of the complex procedural, statutory, and constitutional matters at issue. This includes orders for costs, directions to the administrative registry, and any ancillary relief required to effectuate the primary orders sought.

98. Each order is predicated upon the necessity to remedy procedural and jurisdictional defects, prevent the perpetuation of fraud or conflict, and uphold the foundational integrity of the judicial process. The urgency and

5315 gravity of the circumstances demand decisive intervention, immediate relief, and a return to the *Rule* of law. The Applicant submits that only through the granting of these comprehensive orders can the Court restore confidence in the administration of justice, ensuring that all parties are afforded their rightful procedural and substantive protections.

All of which is respectfully submitted on April 10, 2026



Mr. Kevin A. McLean (BA, JD, CIM)

SCHEDULES

SCHEDULE "A": REQUISITION #11 (BY INCLUSION BY HARD COPY)

Definitions

Data Element within WANT Record	Operational Function	Relevance to Fraud Detection and Verification
Originating Agency (ORI)	Identifies the police department responsible for the entry.	Pinpoints the specific agency that holds the master file and identifies the source of any subsequent data modifications.
Issuing Authority / Court Field	Denotes the legal entity that granted the coercive power of arrest.	Definitively establishes the court level and geographic location of the judicial authorization.
Remarks / Narrative Field	Allows for free-text entry of supplementary operational instructions.	Routinely contains the specific name of the judge, justice of the peace, or magistrate who signed the warrant.
System Identification Number	Unique transaction identifier generated by CPIC upon entry.	Used by system administrators to track the exact lifecycle of the record across the network.

Forensic Traceability: System Audit Trails and Transaction Logs

Transaction Type	System Function	Impact on Active Database	Traceability in Audit Logs
ADD	Creates a new WANT record.	Record becomes live and visible to all agencies.	Logs user ID, terminal, timestamp, and all initial data fields entered.
MODIFY	Alters existing data fields.	Active record is updated with new information.	**Logs user ID, timestamp, and precisely captures the "before" and "after" state of the altered fields.**
CLEAR	Indicates the warrant was successfully executed.	Record is removed from active screens.	Logs the arresting agency, time of execution, and initiates transfer to Offline Historical Database.

5319 Transaction Type	System Function	Impact on Active Database	Traceability in Audit Logs
CANCEL	Indicates the warrant is invalid, recalled, or erroneous.	Record is removed from active screens.	Logs the reason for cancellation and initiates transfer to Offline Historical Database.

Whether or not state actors engaged in a conspiracy to fraudulently manipulate the record to obscure a conflict of interest, they would be forced to actively overwrite the Issuing Authority field, delete the judicial officer's name from the CPIC remarks section, and potentially alter the master file within the local RMS.

Data Element within WANT Record	Operational Function	Relevance to Fraud Detection and Verification
Originating Agency (ORI)	Identifies the police department responsible for the entry.	Pinpoints the specific agency that holds the master file and identifies the source of any subsequent data modifications.
Issuing Authority / Court Field	Denotes the legal entity that granted the coercive power of arrest.	Definitively establishes the court level and geographic location of the judicial authorization.
Remarks / Narrative Field	Allows for free-text entry of supplementary operational instructions.	Routinely contains the specific name of the judge, justice of the peace, or magistrate who signed the warrant.
System Identification Number	Unique transaction identifier generated by CPIC upon entry.	Used by system administrators to track the exact lifecycle of the record across the network.

APPENDIX "A" - SUMMARY AND LIST OF AUTHORITIES[iv]

The following specific jurisprudential precedents, having been rigorously analyzed and systematically incorporated within the substantive arguments of this Factum, are expressly relied upon by the Applicant:

1. *Amacon Property Management Services Inc. v. Dutt*, 2008 BCSC 889
2. *ATCO Gas and Pipelines Ltd. v. Alberta (Energy and Utilities **BOA**rd)*, 2006 SCC 4, [2006] 1 SCR 140

3. *Aniello v. La*, 2024 ONSC 594 (Div. Ct.)
4. *Baker v. Canada (Minister of Citizenship and Immigration)*, 1999 CanLII 699 (SCC), [1999] 2 SCR 817
5. *Bradley v. The Queen*, [1973] SCR 547
6. *Cooney v. Neave*, 2016 ONSC 525
7. *Gurtins v. Goyert*, 2008 BCCA 196
8. *High-Crest Enterprises Limited v. Canada*, 2017 FCA 88
9. *Inquiry concerning the Honourable Andrée Ruffo* (2005) (CJC)
10. *Inquiry concerning the Honourable Gérard Dugré* (2022) (CJC)
11. *Inquiry concerning the Honourable Lori Douglas* (2014) (CJC)
12. *Inquiry concerning the Honourable Michel Girouard* (2018) (CJC)
13. *Inquiry concerning the Honourable Paul Cosgrove* (2009) (CJC)
14. *Inquiry concerning the Honourable Robin Camp* (2017) (CJC)
15. *Inquiry concerning the Honourable Theodore Matlow* (2008) (CJC)
16. *Julius v. Lord Bishop of Oxford*, (1880) 5 App Cas 214 (HL)
17. *K.M. v. Marson*, 2018 ONSC 1342
18. *Law Society of Ontario v. Harrison*, 2022 ONLSTH 87
19. *McGee v. Farazli*, 2022 ONSC 4056
20. *McLean v. Bradley*, 1878 CanLII 10 (SCC), 2 SCR 535
21. *McLean v. Pettigrew*, [1945] SCR 62
22. *Moore v. British Columbia (Education)*, 2012 SCC 61
23. *Nash v. CAMI* (Divisional Court File No. DC-25-00000872-00JR)
24. *Patra Ironworks Ltd. v. 1826279 Ontario Inc.*, 2017 ONSC 1576
25. *Petro-Canada v. British Columbia (Workers' Compensation **BOA**rd)*, 2009 BCCA 396
26. *Pong v. Quong*, [1927] SCR 271
27. *Pong v. Her Majesty the Queen*, (1994) 94 CCC (3d) 481 (Ont CA)
28. *R. v. Cunningham*, 2010 SCC 10
29. *R. v. Elliott*
30. *R. v. Swaine*, 2025 ONCA
31. *R. v. Teskey*, 2007 SCC 25
32. *R. v. Wagar*
33. *Rio Tinto Alcan Inc. v. Carrier Sekani Tribal Council*, 2010 SCC 43, [2010] 2 SCR 650
34. *Runnalls (Re)*, 2011 ONSC 7695
35. *Salah v. Timothy's Coffees of the World Inc.*, 2010 ONSC 1731
36. *Taylor v. Clemson*, (1844) 11 Cl & Fin 610 (HL)
37. *Trial Lawyers Association of British Columbia v. British Columbia (Attorney General)*, 2014 SCC 59

It is further submitted that the following legislative enactments and procedural regulations, strictly governing the jurisdictional bounds and temporal mandates of the judicature, are fundamentally relied upon:

1. *Constitution Act, 1867*, 30 & 31 Victoria, c. 3 (U.K.)
2. *Courts of Justice Act*, R.S.O. 1990, c. C.43
3. *Judges Act*, R.S.C. 1985, c. J-1 (including amendments pursuant to Bill C-9)
4. *Judicial Review Procedure Act*, R.S.O. 1990, c. J.1
5. *Legislation Act, 2006*, S.O. 2006, c. 21, Sched. F
6. *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194

APPENDIX "C" - RELEVANT ISSUES ANALYSIS: ISSUES OF FACT AND LAW THAT REMAIN OUTSTANDING BY NOM #2 AND NOM #3

#	Issue	Answer to Issue	Miscellaneous
1	Did the Applicant strictly make, serve, file and pay for Notice Of Motion Number Three?	Yes.	Constitutes formal perfection of the moving party's obligations.
2	Did the Applicant comprehensively serve and file his Factum, Motion Record, Draft Order, and Affidavit of Service?	Yes.	Ensures the evidentiary record is complete for adjudication.
3	Did the Applicant formally provide a copy of the Confirmation of Motion to the Registrar, specifically Former Registrar Gentles?	Yes.	The registry was officially notified and the court formally seized.
4	Did the Applicant properly serve and file a Compendium for Notice Of Motion Number Three?	Yes.	Finalized the synthesis of the evidentiary record for the bench.
5	When was the Applicant unequivocally apprised that an Order for "Assignment For Case Management"	December 1, 2025, at approximately 11:00 p.m.	Exposes the absolute nullity of the preceding administrative acts.

5323	was never formally entered?		
6	Upon what date did the Applicant formally query the Respondents regarding their filing of a **First Defence** and/or delivery of Notices of Appearance?	October 26, 2025.	Demonstrates proactive diligence by the Applicant.
7	Did the Respondents tender any response to the aforementioned procedural inquiry?	No.	Evidences a calculated, strategic posture of silence.
8	When did the Applicant acquire absolute, incontrovertible knowledge that the Respondents had completely failed to file a **First Defence**?	December 1, 2025, at approximately 11:00 p.m.	Confirms the Responding Parties were entirely in default.
9	Upon what date were the Responding Parties statutorily mandated to deliver requisite notices or substantive responses to Notice Of Motion Number Three?	Within ten days of November 17, 2025, culminating on Thursday, November 27, 2025.	Establishes the strict temporal boundary of the default.
10	Did the Responding Parties serve, file, or deliver any responding documents, notices, or substantive materials to Notice	No.	Mandates summary adjudication via Active Guardianship.

5324	Of Motion Number Three?		
11	Who functioned as legal counsel to Madam Justice Shore in the 2023 proceedings of *McIntosh v. Shore et al.*?	Annathan Sinnadurai, a lawyer licensee of the LSO, employed by the Ministry of the Attorney General (Civil Law Division) at 720 Bay Street.	Raises profound questions regarding institutional conflicts of interest.
12	Who formally responded to the administrative requests directed by Mr. McLean (BA, JD, CIM) to the Originating Courthouses during the Summer of 2025?	Annathan Sinnadurai.	Suggests an inappropriate consolidation of distinct administrative and defensive roles.
13	Who formally admitted that no filing occurred regarding the formal commencement of criminal proceedings involving the Fraudulent Information Package between August and October 2024, and when?	Mr. Sinnadurai, on June 25 and July 4, 2025.	Fatally vitiates the jurisdictional basis for any related *ex parte* or *in camera* **Hearing**s.
14	When was the Applicant apprised that the 416-774-3120 facsimile number and the 306 The East Mall address belonged to TDHA, and when	Discovered August 1 and 4, 2024; motion filed August 4 and 5, 2024.	Uncovered fundamental misrepresentations regarding corporate addresses.

5325	was a subsequent motion filed?		
15	When was an unreleased, unissued, and ungiven decision purportedly rendered, and when was the Applicant made aware of its existence?	Purportedly rendered August 16, 2024; discovered late February 2025 via a LAT index.	Highlights severe procedural irregularities within the tribunal record.
16	When was the Applicant apprised of the authentic SNIC facsimile number (905-315-1074), and did the Respondents seek reconsideration or review?	Discovered September 12, 2024, via a LAT order; no review was sought.	Establishes the fact as uncontroverted due to Respondent inaction.
17	When did the Applicant formally tender the Anniversary Card evidencing forgery by Mr. Papadimitropoulos (an Epstein Cole LLP Client)?	September 19, 2024.	Introduced irrefutable documentary evidence of misconduct.
18	When was the Applicant subjected to an unlawful residential lockout entirely bereft of notice or a Landlord and Tenant **BOA**rd order?	September 20, 2024.	Evidences a coordinated campaign of extra-judicial reprisal.
19	When was the Applicant apprised of success regarding his August 7, 2024,	October 1, 2024.	Establishes the underlying legal right to the unlawfully seized property.

5326	Landlord and Tenant **BOA**rd Application?		
20	When was the Applicant subjected to police luring and arrest involving the TPS 14th Division, and was medication seized?	October 2, 2024; property received but medication was not seized.	The 14th Division is the same jurisdiction as Sergeant Robert Black, indicating potential systemic issues.
21	When did the Superior Court of Justice Regional Manager's Office (Ms. Azim) represent that Madam Justice Kraft had no involvement in any *ex parte, in camera* **Hearing**s involving the Applicant?	August 2024.	Contradicts subsequent discoveries of hidden proceedings.
22	When did the SCJ RMO represent that Madam Justice Shore was entirely uninvolved in any proceeding involving the Applicant from September 23 to October 2, 2024?	Mid-August 2024.	Confirms the *ex parte* **Hearing** must have occurred prior to September 23, 2024.
23	When did the Applicant discover an antecedent TPS Occurrence Number involving Officer Eric Tang, and what was the date of said occurrence?	Discovered late August 2025; occurrence dated September 15, 2024.	Furthers the narrative of coordinated state harassment prior to the formal "arrest."

5327	Was any formal denial issued asserting that Madam Justice Shore did not preside over an *ex parte, in camera* **Hearing** as a Judge with Superior Court Of Criminal Jurisdiction prior to September 23, 2024?	No.	The absence of denial is legally significant given the gravity of the allegation.
25	When did the Applicant formally file and serve his HRTO Application?	Mid-October, with service on the TPS and the Landlord finalized on October 24, 2024.	Acted as a catalyst for subsequent retaliatory actions.
26	When was the Applicant's property unlawfully stolen from the CAMH visitor area, and by whom was it perpetrated?	October 25, 2024, by "Mr. David," an individual claiming authority for four TDIA Group entities.	Constitutes the predicate theft that facilitated subsequent identity fraud.
27	When did the Epstein Cole LLP Client engage in the fraudulent TPL Equipment Loan Agreement and book thefts under the Applicant's name, and where?	October 28, 2024, at the TPL Fort York Library.	Demonstrates immediate, unauthorized weaponization of the stolen identity.
28	Was the Applicant contemporaneously aware of these fraudulent activities?	No.	The Applicant was a victim of covert identity theft.
29	When did the Applicant exercise	October 29, 2024; heavily redacted	Demonstrates continuous obstruction of the Applicant's fact-finding efforts.

5328	due diligence via FIPPA requests to CAMH, and what was initially provided?	photos of the theft were initially provided.	
30	When was the thief conclusively identified as Mr. Karat, and why is this critical to the *Rule 506(2)(a)* motion?	Unredacted May 4, 2025; identified May 9-13, 2025. It is critical because Mr. Karat is an agent/party (signed a LAT pleading for SNIC), not a mere third party, tying the theft directly to the institutional Respondents and a secret commission (the Nov 7 house purchase).	Fundamentally alters the legal standard required for relief under the *Rule*.
31	When did an unauthorized individual execute a reservation at the Aga Khan Museum under the Applicant's name, and what is its significance?	November 8, 2024 (Friday). It followed the Nov 7 service of the HRTO NOCQ and suggests another attempted police luring.	The Applicant discovered this immediately via a reservation pass on Nov 8.
32	When was the Applicant apprised of the subsequent book thefts (Oct 28 and Nov 11, 2024), and did the titles contain veiled threats?	Discovered November 16, 2024. Yes, the titles (e.g., *Camino Ghosts*, *Boys From Biloxi*) constituted threats, and the Nov 11 theft occurred 300 meters from the Epstein Cole Client's residence.	Evidences a highly sophisticated, localized campaign of psychological intimidation.
33	Upon what date did the Applicant	December 13, 2024 (Friday).	The absolute baseline for the commencement of statutory timelines.

5329	formally perfect the Judicial Review Application?		
34	When did the Epstein Cole LLP Client fraudulently obtain a new library card utilizing the identification seized during the TDI Karat Theft?	December 13, 2024, at 7:30 p.m. at the TPL Reference Library.	Indicates ongoing, synchronized identity fraud precisely as the JRPA was perfected.
35	When was the Applicant first apprised of the existence of the Fraudulent Information Package?	Early April 2025.	Explains the delay in addressing the fraudulent criminal commencement.
36	When was the Epstein Cole LLP Client abruptly removed from the LSO website association with TD Insurance?	Early February 2025.	Suggests a rapid institutional distancing following the exposure of malfeasance.
37	Can the Applicant be lawfully faulted or prejudiced by the administrative failures stemming from the prolonged absences of Registrars Gentles and Parris?	No.	The subject cannot be penalized for the internal administrative collapse of the state apparatus.
38	What was the formally scheduled date for the **Hearing** in writing of Notice Of Motion Number Three?	December 3, 2025.	The date the court was unequivocally seized of the perfected motion.

5330	Upon what exact date did the three-month statutory temporal mandate strictly expire following the **Hearing** in writing?	March 3, 2026.	The definitive breach of section 123 of the *Courts of Justice Act*.
40	When did the Applicant formally file the requisite Compendium for Notice Of Motion Number Three?	December 11, 2025.	Completes the documentary synthesis required for judicial review.
41	What is the probability that Madam Justice Shore authored the four specific, questioned communications (the Intake Endorsement, the Ibula Email, the Clegg Email, the Amirthalingam Email)?	Highly probable. The grammatical structure ("Please advise...") strongly suggests dictation to court staff, rendering the communications false documents in material particulars, lacking formal judicial signatures or entry.	Exposes the communications as entirely *ultra vires* and *void ab initio*.

Audit Point / Category	Forensic Deficiency / Artifact	Technical Standard / Comparison	Legal Implication & Forensic Depth
Case Indexing	Police Case ID: 457197 (6 digits).	strictly 7-digit Case IDs (ICON/CCO).	**The Barcode of Fraud:** Indicates manual "back-fill" from a legacy civil database (FRANK/CaseTrack) or a localized 52 Division tracking key. Proves document bypassed central criminal index.
Execution Integrity	Absence of holographic or verified digital signature for JP Jiri.	Mandatory visual or cryptographic signature.	**Chambers Bypass Artifact:** Proves Page 3 is a mere text insertion built by server script in private office environment (likely JSO portal used by 1st floor).
Document Producer	GrapeCity Documents for PDF; version 6.0.2.0.	Standard secure court software (ICON/FRANK).	**SDK SDK Provenance Proof:** GrapeCity is a professional developer kit for programmatically modifying PDFs, not an end-user application. Proves document was "built" not "issued."
Linguistic Fingerprints	Phrasing: "This Information is Accepted on its face."	Mandatory: "Reasonable and probable grounds"	**Administrative Graft:** Use of Family Law administrative

5332		(s. 504 *Criminal Code*).	standards ("Accepted on its face") in a criminal instrument renders it a jurisdictional nullity.
Typographical Markers	Page 1: Misplaced period in hard-coded field: "Information of. Christyn Frugoni-Rojas."	Standard layer: "Information of".	Indicates clumsy manual intervention using a PDF editor to bypass protected template layers.
Typological Errors	Page 5: Police Agency spelled "Toronto Police Service__."	Standard lookup table: "Toronto Police Service."	Proves generation via unauthorized back-end integration (SDK) rather than official software.
Data Integrity	" At Bail Review date" floating vertically between unrelated fields.	Hard-coded footer/sidebar element (rev. 06/18).	Corroborates "Anchor Point" corruption common when programmatically linearizing PDFs via GrapeCity library.
Procedural Header	Page 3: JP signature under heading: "Intake Court Endorsement."	Standard: "Presiding Justice" or "Justice of the Peace" block.	Use of Family Law nomenclature ("Endorsement") by a JP suggests procedural diversion in Room 1
Header Reproduction	Page 3 of 5 erroneously reproduces the Header from Page 1 of 5.	Page 3 must contain substantive charges/tracking.	Corroborates known "Footer Rendering Defects" in unstable versions of the GrapeCity SDK.
Character Encoding	rev. 10/20 footer text illegible/corrupted in Toner Save mode.	High-contrast, scalable vector fonts.	Suggests base layer was a rasterized scan of a false document modified via SDK injection.

5333 **Jurisdictional Nexus**	Terminal ID / User ID responsible for metamorphosis.	Single Source of Truth: PIB RCMP PPU 005.	CPIC transaction logs will definitively expose the institutional nexus (52 Div / SCJ 1st floor) during “lunch hour” closure (11:49–12:59).

Alphanumeric Marker	Identification / ORI Code	Jurisdictional Control	Legal Significance & Nexus
TPS Originating Agency	ON30247	52 Division (Major Crimes).	Held "Originator Control" over the CPIC record; 14 Division was unable to "CLEAR" without 52's approval.
Custodial Agency	ON30243	14 Division (Custodial hub).	Location of the October 2, 2024 arrest; creates a jurisdictional split with the investigating agency.
SCJ Family Law Branch	Room 114 / 1st Floor (Toronto).	Administrative sphere of Madam Justice Shore.	Nexus between "Major Crimes" and Family Law administration discovered via the "Ibula Email."

Calculation Element	Printed Document Date	Correct Calendar Calculation	Forensic Implication
Sworn Date	230924 (September 23, 2024)	September 23, 2024	The baseline for all statutory calculations under *R. v. Jordan*.
15-Month Flag	241225 (December 24, 2025)	December 23, 2025	Math is off by 1 day. Standard CCO automation calculates exact calendar months. Indicates manual entry bypass.
18-Month Flag	250326 (March 25, 2026)	March 23, 2026	Math is off by 2 days. Indicates “Human in the Loop” error, proving the document was manufactured outside the automated system logic.

5336 APPENDIX "G": TORONTO POLICE SERVICE (TPS) ORI CODES REFERENCE

The Originating Agency Identifier (ORI) is a unique nine-character alphanumeric code used in the Canadian Police Information Centre (CPIC) to identify the agency responsible for a specific data transaction. In Ontario, these codes typically begin with "ON30".

Major Investigative & Administrative ORIs

Division / Unit	ORI Code		Contextual Significance
52 Division	**ON30247**		Investigating agency for the Downtown West/Major Crimes area.
14 Division	**ON30243**		Custodial agency where the arrest and detention took place.
Records Management (HQ)	**ON30244**		Centralized hub for long-term archival and systemic "cleanup."
Hold-Up / Specialized	**ON30260**		Often used by specialized investigative squads.

TPS Geographic Divisions (ON30xxx)

Division	ORI Code	Neighborhood / Patrol Area
11 Division	**ON30241**	High Park, Junction, Bloor West Village
12 Division	**ON30242**	York, Weston, Stockyards
13 Division	**ON30245**	Eglinton West, Forest Hill
22 Division	**ON30248**	Etobicoke South
23 Division	**ON30249**	Etobicoke North
31 Division	**ON30251**	North York West
32 Division	**ON30252**	North York Centre

[illegible]vision	**ON30253**	North York East
41 Division	**ON30255**	Scarborough West
42 Division	**ON30256**	Scarborough North
43 Division	**ON30257**	Scarborough East
51 Division	**ON30246**	Regent Park, Distillery, St. Lawrence
53 Division	**ON30254**	Midtown, Rosedale, Leaside
55 Division	**ON30258**	Beaches, Leslieville, Danforth

APPENDIX “H” INTEGRATED ANALYSIS OF THE “FALSE INFORMATION PACKAGE” (FIP)

With fresh evidence from a credible source confirming a variety of matters including but not limited to the impossibility of the accuracy of the Fraudulent Information Package along with the ties to the various CPIC records including level of court, authorizing court location et al. For confirmation purposes, the following non-public information was provided herein.

Subject: Comprehensive Forensic Audit of 160+ Enumerated Errors and Inconsistencies vs. Standardized CCO Form CCO-2-000-1-C

This appendices provides an exhaustive, multi-dimensional synthesis of factual errors, technical metadata failures (GcPdf 6.0.2.0), and procedural “Family Law” diversions. It specifically identifies the **“Chambers Bypass”**—a systemic administrative failure where Superior Court (SCJ) administrative logic, software, and “non-transparent finding” protocols were improperly grafted onto Ontario Court (OCJ) criminal procedures to manufacture a “metamorphosed” legal record outside the authorized judicial workflow, public oversight, and the **FRANK/ICON** case management systems.

APPENDIX "I" FACTUAL AND FORMAT INCONSISTENCIES

Forensic analysis identifying markers of manual fabrication, template manipulation, and "Linguistic Fingerprints."

Category	Specific Deficiency	Location	Legal Implication & Forensic Depth
Case Indexing	**Police Case ID: 457197**	Page 3	**The Barcode of Fraud:** Valid ICON/CCO Case IDs are strictly 7 digits (e.g., 4811-998-24-1234567). A 6-digit ID is an alien artifact. It indicates a manual "back-fill" from a legacy civil database (FRANK/CaseTrack) or a localized 52 Division tracking primary key. In a synchronized system, these are auto-generated; a mismatched length proves the document was pulled from a siloed repository, bypassing the central criminal index and creating a "ghost file" invisible to standard criminal queries.
Logic Conflict	**"NFA" vs. License Number**	P1 & P5	**Constitutional Subversion:** Labeling the accused as "NFA" (No Fixed Address) while possessing a valid Driver's License number

5340			(M1651...) on Page 5 is a fatal logical void. This "NFA" status was strategically utilized to bypass s. 509 of the *Criminal Code*, providing a false pretext for a "Warrant in the First" (Form 7) under s. 512 by claiming the subject was unlocatable for service. This is a deliberate "Status Masking" intended to trigger coercive state power to facilitate a residential lockout.
Jordan Math	**15/18 month flags off by 1 and 2 days**	Page 1	**The Family Law Fingerprint:** Sworn Date Sept 23, 2024. A 15-month criminal anniversary is strictly Dec 23, 2025. The FIP lists Dec 24. This reflects **Family Law *Rule* 3 (Computation of Time)**, where practitioners "exclude the first day but count the last." This (+1) day drift is definitive proof that the calculator was a civilian clerk habituated to Family Court service *Rule*s, not a criminal official trained in

5341			strict *R. v. Jordan* anniversaries.
Template Error	**“rev. 10/20” vs “rev. 06/18”**	All Pages	**PDF Stitching Artifacts:** Authentic CCO forms use a single, locked template version. The presence of mismatched revision dates across the footer (e.g., “rev. 10/20” on P1 vs “rev. 06/18” on P5) proves the document was manually “stitched” together from disparate PDF components using a programmatic SDK (GcPdf). This is a “Frankenstein” assembly that fails the basic “contemporaneous record” test for judicial instruments, indicating post-facto manufacture.
Truncation	**“TORONTO POLICE SERVIC”**	Page 5	**Manual String Truncation:** In verified systems, agency names are pulled from validated tables. This truncation (missing the final “E”) only occurs when a human manually types into a character-limited text box in a “bespoke” document builder

5342			that lacks database synchronization. It proves the "Police Agency" field was a manual text-entry field, not a system-validated data-pull from a secure RMS.
Language	**Accent Grave vs. Accent Aigu**	Page 2	**Manual Translation Failure:** Standard court forms use hard-coded, verified bilingual text. Mismatched accent orientation on the French boilerplate indicates the text was manually re-typed by an English-speaking operator or a script attempting to mimic the form without utilizing the official Ministry language templates.

Analysis of the .NET SDK used to manufacture the document outside of authorized court channels.

Feature Attribute	Technical Detail	Forensic Implication
Software Type	.NET Class Library (SDK)	**Programmatic Genesis:** GcPdf 6.0.2.0 (Released Jan 3, 2023) is a professional developer SDK, not an end-user application. Its presence as “Producer” proves the PDF was born-digital from a custom-coded government portal (likely **Justice Services Online - JSO**) rather than a standard court terminal (ICON/CCO).
Licensing	Enterprise $999/dev	**Corporate Procurement:** Software typically purchased by enterprise IT departments (e.g., MAG Technical Branch) to build automated, server-side document systems. This excludes the possibility of the document being generated by a standard criminal court clerk workstation using validated MAG software.
PDF Version	1.3 (Acrobat 4.x)	**The Security Vacuum:** Released in 1999, Version 1.3 is the archaic default fallback for simple developer scripts. It lacks modern encryption and object layers of the CCO standard (PDF 1.7+), identifying an ad-hoc, low-security environment utilized specifically to bypass official digital

5344		signatures and “digital seals” of the ICON system.
Linearization	Failed (Ghosting)	**Structural Garbling:** Page 5 triplication proves the GrapeCity engine failed to “flatten” the document layers during a programmatic merge. This rendering failure is a “smoking gun” for a document built from disparate parts (stitching) rather than “issued” as a contiguous stream from a database.
Rendering Defects	Item has an owner Exception	**System Instability:** Version 6.0.2.0 is known for rendering bugs when headers and footers are defined in a programmatic loop. This explains why Page 3 has a typed attribution but no visual signature for JP Jiri, as the software failed to render the “graphical signature object” within the loop.

Analysis of the technological apartheid and jurisdictional divide between OCJ and SCJ systems.

APPENDIX "K"(I): ICON (INTEGRATED COURTS OFFENCES NETWORK) - THE OCJ CRIMINAL STANDARD

- **Purpose:** The exclusive environment for internal management of OCJ criminal charges, **Hearing**s, and outcomes. It is used strictly by court staff to manage data and generate official reports.

- **Portal:** Integration with **Versaterm (eJust Systems, Inc.)** for the Criminal E-Intake Platform.

- **Auditability:** Every Form 2 and Form 7 generated within ICON carries a system-wide digital seal and a contiguous Jurat.

- **FIP Conflict:** The FIP claims to be a Form 2 (OCJ) but its metadata (GcPdf 6.0.2.0) confirms it bypassed the Versaterm E-Intake portal entirely, proving it was "off-**BOA**rded" to a custom administrative script, likely situated on the 1st floor where FRANK-adjacent tools are maintained. It was also confirmed with the SCJ Intake for Criminal Matters that no email was sent for an information or an indictment (see: Criminal Proceeding *Rule*s regarding the same).

- **As such it had to be, and as confirmed externally, it was conducted through the SCJ in Toronto Region which leaves only one courthouse**

- **There are further details and evidence in this regard but for these purposes this is sufficient.**

APPENDIX "K"(II):FRANK (FRAMEWORK FOR AUTOMATED AND NETWORKED COURTS) - THE SCJ STANDARD

- **Purpose:** A broader case tracking system for SCJ (Family/Civil) designed for a wider range of users, including lawyers and litigants. It operates as a paper and electronic hybrid.

- **Logic:** Emphasizes automation, notice generation, and clerical "homework" lists.

- **FIP Conflict:** The FIP adopts **FRANK-style administrative logic**, utilizing terms like "Intake Court Endorsement"—standard phrasing for the 1st-floor SCJ Family Intake office, but legally alien to the 2nd-floor OCJ Criminal Intake office.

APPENDIX "K"(III): STATUTORY JURISDICTIONAL BREACH & VENUE NULLITY (SECTION 599)

Analysis of the failure to comply with Criminal Code transfer and territorial division requirements.

Under the *Criminal Code*, the **Ontario Court of Justice (OCJ)** and the **Superior Court of Justice (SCJ)** operate under distinct territorial divisions and jurisdictional mandates.

1. **The Territorial Division Standard:** Under the *Criminal Code*, an offence must be tried in the territorial division in which it occurred unless a change of venue is ordered.

2. **The Brampton-Toronto Disconnect:** JP George Jiri is assigned to the **Central West Region (Brampton)** (Order in Council 74/2024). The FIP purports that he issued a warrant for a matter strictly localized in the **Toronto Region** (Region 5).

3. **Change of Venue Breach (Section 599):** Under **Section 599(1)**, a transfer between these divisions requires a formal application and/or the **consent of the Crown**. The FIP contains zero record of a Section 599 order, zero committal for trial to the SCJ, and zero Crown consent to move the jurisdiction.

4. **The Mirzoyan Standard (2019 ONSC 3862):** Justice Charney noted that administrative transfers between divisions without a s. 599 application are inappropriate and create procedural redundancies. The "walk-across" from the 1st-floor chambers was an unauthorized administrative bypass of statutory geographic constraints, rendering the document an **Irremediable Nullity** as the JP acted *coram non judice* (not before a judge with authority).

APPENDIX "K"(IV): ADMINISTRATIVE OVERSIGHT AND THE 1ST FLOOR HIERARCHY

Analysis of the clerical chain of command responsible for the 1st-floor "Intake" silo.

1. **Manager of Court Operations (MCO):** The MCO for the Superior Court of Justice (SCJ) Family Court at 361 University Avenue is **Monica Simion** (Phone: 416-326-4581).

2. **Supervisor of Court Operations:** The primary supervisor superintending the counter staff and the 1st-floor JSO infrastructure is **Natasha Marjadsingh** (Phone: 416-327-6709).

3. **The Family Trial Office:** Located on the **1st Floor**, this office utilizes **Fax: 416-327-6137** for administrative coordination.

4. **Persistent Leadership:** Madam Justice Shore is the **Team Leader of Family Law** at 361 SCJ University. This is a permanent administrative appointment that persists even while she is on a **Divisional Court rotation**.

5. **The Nexus:** The production of the FIP relied on the proximity between Shore J.'s chambers, the MCO's administrative oversight (**Simion/Marjadsingh**), and the specific GcPdf 6.0.2.0 software used for **JSO (Justice Services Online)** filings on the 1st floor. This geographic silo explains why the 2nd-floor Criminal Intake (Room 241) has **no original file number** and no record of the document in the **FRANK** criminal index.

APPENDIX "L" THE PRECEDENT OF JURISDICTIONAL OVERREACH

Analysis of Justice Shore's pattern of extra-jurisdictional interference.

1. **The Divisional Court Interference:** During the user's insurance car accident matter at the Divisional Court, Shore J. purportedly exercised jurisdiction she did not possess by calling a case conference when **no defense was filed** and **no order for assignment for case management** existed.

2. **Statutory Breach:** This mirrors the current criminal "metamorphosis." In both instances, the judicial act (calling a conference / issuing a warrant) occurred in a procedural vacuum where the foundational statutory triggers (a filed defense / a sworn Information in the correct division) were absent.

3. **Implication:** This establishes a documented pattern where the **1st-floor Family Law Team Leader** utilizes her administrative authority to project judicial power into matters where she lacks the specific assignment or territorial jurisdiction.

APPENDIX "M" INSTITUTIONAL CONFLICT AND THE SHORE J. NEXUS

Analysis of the socio-professional environment facilitating the document's production.

1. **The McIntosh v Shore (2023 ONSC 3124) Precedent:** This case reveals a documented pattern of "behind-the-scenes" dissemination of non-transparent findings.

○ **Para 49:** Shore J. is alleged to have disseminated defamatory remarks and non-transparent "findings" (via email/Case History Reports) to 90 colleagues.

○ **Para 46:** It is noted that she "did not provide any transparency in her finding," and it was only by chance the litigant became aware of it months later.

○ **Forensic Application:** This precedent proves that Shore J. utilizes administrative tools (Case History Reports/emails) to disseminate "findings" outside of open-court transparency. The FIP's "Intake Court Endorsement" on Page 3 is an identical exercise: a non-transparent, unsigned "finding" disseminated to police to sanitize an illegal lockout, bypassing the requirement for a public, system-validated Form 7.

2. **The TPS-JP Nexus:** The use of **Justice of the Peace George Jiri** (a former 52 Division officer) severs the required "neutral arbiter" status. This nexus allows for the informal "luring" to the 14th Division under the guise of property retrieval, while a "ghost warrant" exists in the CPIC system without a corresponding, system-validated Form 7 in the court repository.

APPENDIX "N" SCHEDULE M: FEE POLICY VIOLATIONS AND THE "BURDEN OF COPY" FRAUD

Analysis of the violation of the Administration of Justice Act and court access policies.

According to the **Ministry of the Attorney General's Fee Schedule for Public Access to Court Documents (Section 7.1.1)**:

- **The Mandate:** "Copies of informations, indictments and judicial interim release documents **shall be provided upon request to the accused** and their counsel of record **without copy fees being charged**."

- **The Breach:** The Crown's instruction to the accused to "bring a copy" of the very warrant used for their arrest is a direct violation of this mandatory standard and a fundamental failure of disclosure under *Stinchcombe*.

- **Forensic Inference:** The refusal to provide a copy is a tacit admission of **documentary non-existence**. By placing the burden on the accused, the Crown attempted to hide the fact that no system-generated Form 7 exists within the **FRANK** or **ICON** repositories, confirming the FIP was the only available "ghost" document.

APPENDIX "O": THE "GHOST COURT" TEMPORAL WINDOW

Analysis of the signature timestamps in relation to courthouse counter hours.

1. **Informant Signature (Page 2):** 11:48:25 AM

2. **JP Attribution albeit falsely (Page 3):** 12:59:50 PM

3. **The Paradox:** The Family Law division and counter services at 361 University Avenue are strictly **closed to the public but not the non-public lunch breaks from 11:00 AM to 2:00 PM** daily.

4. **Implication:** Both critical signatures were affixed while the public counters were closed. This definitively places the production of the FIP in the **private chambers silo**, where public oversight and official record-keeping protocols (like the **ICON/Versaterm** sync) do not apply. This is the temporal "Digital DNA" of the Chambers Bypass.

APPENDIX "P": SUMMARY OF LEGAL DEFECT: THE "CHAMBERS BYPASS" THEORY

The document fails to uphold the **three pillars of a valid legal instrument**, each representing a non-derogable threshold for criminal proceedings under the *Criminal Code of Canada*:

1. **Contiguous Jurat (Structural Integrity):** The physical and structural separation of the informant's declaration (Page 2) from the judicial "endorsement" (Page 3) severs the "chain of the oath." Under the *Canada Evidence Act*, an oath must be administered in a single, contemporaneous event. This FIP mimics the separate "Application" and "Endorsement" structure of Family Court filings, rendering it legally null as a criminal Information.

2. **Facial Validity (Total Omission of Form 7 Structure):** Page 3 bears zero resemblance to a mandatory **Form 7 Warrant for Arrest**. It lacks the Sovereign's command ("ordered, in Her Majesty's name"), the statutory checkboxes (a-j) required by s. 512 to justify the arrest (e.g., public interest, evasion of service), and—most critically—the **Section 511 Endorsement** necessary for the user's release on a Form

3. **Execution Integrity (Authenticity):** The total absence of a visual, verified digital, or holographic signature for JP Jiri proves Page 3 is a mere text insertion. The reliance on **GrapeCity Documents for PDF 6.0.2.0** (a professional developer SDK) further proves the document was "built" by a server script in a private office environment (likely the JSO portal used by the 1st floor), not "issued" by an authorized, secured court terminal albeit being outside of the ICON/Versastrem at the time.

Conclusion:

The FIP is a technically corrupted, administratively diverted document produced via an unauthorized procedural bypass. The evidence identifies an institutional nexus between **52 Division (Detective Abdul Virani**, the **1st-floor SCJ Family Law branch (Shore J. /**and a **former 52 Division officer turned JP (Jiri)**. This "nexus" utilized family law administrative standards ("Accepted on its face"), **Family Law *Rule* 3 or even Civil *Rule*s including that which is utilized in a variety of restructuring proceedings of which Morawetz Chief Justice has presided over along with the Laurentian University Proceeding and the Ambassador Bridge Proceeding** computation logic, and developer software (GrapeCity) to manufacture a criminal record during the "lunch hour" counter closure (11:49–12:59). The CPIC transaction logs (**PIB RCMP PPU 005**) remain the "Single Source of Truth" that have expose the Terminal ID and User ID responsible for this metamorphosis, proving the warrant was added or modified post-arrest to sanitize a jurisdictional nullity that bypassed the **Section 599** transfer requirements and left no record in the **FRANK** file system but transferred to the OCJ but as admitted by Mr. Sinnadurai that the Fraudulent Information Package was never filed during the time of August to October 2024 and nothing from any of the IT providers was in their technology and storage infrastructure.

APPENDIX "Q" FORENSIC DIGITAL MANIPULATION ANALYSIS: THE CREATION OF THE "CL (M)" ARTIFACT

Forensic Digital Manipulation Analysis: The Creation of the "CL (M)" Artifact and the Collapse of Jurisdictional Authority

Executive Summary

This document provides a comprehensive, pictorial, and highly detailed analytical breakdown of how a legitimate Superior Court of Justice (SCJ) "Intake Court Endorsement" was digitally manipulated into a fraudulent criminal Information package.

At the intersection of cybersecurity, vector morphology, and constitutional law, this analysis provides irrefutable proof of state-actor tampering. Specifically, this forensic analysis explains the true origin of the anomalous letters **"CL (M)"** appearing next to the name of Court Officer Christyn Frugoni-Rojas. By dissecting the underlying digital architecture of the document, this report exposes the unauthorized use of GrapeCity.PDF manipulation software and the failed cyber-erasure of an original Superior Court judicial signature line—specifically, the traditional signature of **Chief Justice Geoffrey B. Morawetz**.

Furthermore, this analysis proves that the elaborate "digital signature" block purportedly belonging to the police informant was a completely manufactured visual ruse. It was deployed solely to camouflage the forensic artifacts of the botched erasure, weaponizing bureaucratic visual complexity to deceive downstream legal actors.

Ultimately, this forensic evidence traces the fabricated document's chain of custody directly back to a procedural handover by the Family Law Team Leader at the SCJ 361 University Avenue Courthouse (1st floor). Simultaneously, it exposes a desperate, coordinated cover-up at the highest levels of the judiciary and the Ministry of the Attorney General (MAG). This cover-up escalated into the targeted digital blacklisting of the Applicant, the deployment of proxy judges with preexisting conflicts of interest, and culminated in the sudden, forced early retirement of the Chief Justice himself when trapped by his own un-redacted metadata.

The issue described centres on the severe technical challenges and digital artifacts that occur when enterprise PDF processing software is used to illicitly handle, flatten, and manipulate scanned, secure court documents. The resulting legal actions are not merely curable administrative defects or minor clerical errors; they constitute a fundamental collapse of the *Rule* of law. A proceeding founded upon fabricated authority, deliberate documentary concealment, and the bypassing of mandatory statutory gateways is deemed an absolute jurisdictional nullity. When the state utilizes forged instruments to deprive a citizen of their liberty, the justice system is violently and fundamentally compromised.

PART 1: The Original Document and the "Place of Filing" Mandate

To understand the mechanics of this sophisticated forgery, we must first establish the undisputed provenance of the source document before it was subjected to digital alteration. Digital forensics relies entirely on establishing a reliable baseline of truth. The original baseline file was generated by the 1st-floor Family Registry at the Superior Court of Justice (361 University Ave) to process an order originally made by the Chief Justice.

The Strict Separation of Court Registries and Systems

It is vital to explicitly identify this as the **Family Registry**—and absolutely not a criminal registry. Following the structural modernization of the Ontario courts, family, civil, and criminal matters were strictly separated by distinct registries, distinct statutory *Rule*s of procedure, and entirely incompatible administrative software systems. As

highlighted in multiple Auditor General reports regarding court operations, facilities, and the chronic lack of integration between divisions, these systems do not organically interact. For example, family courts utilize the FRANK tracking system, while criminal courts utilize the ICON system.

A document generated in the Family Registry possesses no inherent authority to initiate criminal proceedings under the *Criminal Code of Canada*. It cannot cross the jurisdictional divide between the Superior Court of Justice (SCJ) and the Ontario Court of Justice (OCJ) without formal, highly regulated statutory mechanisms—none of which were employed in this instance. The mere presence of a family-formatted document in a criminal prosecution immediately signals a severe procedural deviation.

***Rule* 4.05(1) and the Procedural Handover**

The routing of this document was not an accident; it was governed by strict procedural *Rule*s that forced the Chief Justice's hand and established an undeniable digital paper trail. According to *Rule* 4.05(1) of the *Rules of Civil Procedure* regarding the **Place of Filing**:

*"All documents required to be filed in a proceeding shall be filed electronically by email or by other electronic means provided by the Court... with the court office in which the proceeding was commenced, except where they are filed in the course of a **Hearing** or where these Rules provide otherwise."*

When Chief Justice Geoffrey B. Morawetz made the oral ex parte order (*"This Information is Accepted on its face... Warrant In The First: Issue"*), the judicial assistant assigned to him in that specific instance could not legally act as a clerk of the court for this type of directive. Because the proceeding was tethered to this specific jurisdiction, the Chief Justice was statutorily required to route the Intake Court Endorsement through the **SCJ 361 University Avenue, 1st Floor Court Office**.

To transmit the Chief Justice's orders to law enforcement, the Family Law Team Leader typed the directive onto a standard "Intake Court Endorsement." It was then traditionally signed for authentication by the Chief Justice before being emailed directly to the Detective In Charge—most likely **Detective Abdulhameed K. Virani of the 52nd Division**. **This exact routing protocol is precisely why the staff at the 361 University Court Office possess intrinsic knowledge of the document's true origins and maintain the un-redacted metadata in their secure internal servers.**

Visual Representation 1: The Chief Justice's Traditional Signature Baseline

A review of verified, high-profile orders signed by Chief Justice Morawetz (e.g., the *Laurentian University of Sudbury* CCAA proceedings, 2022 ONSC 429, and the *Urbancorp* CCAA proceedings, 2020) reveals a crucial forensic fact: **Chief Justice Morawetz does not utilize cryptographic digital signature blocks.**

His signature block is a traditional, clean execution. It features a physical (or scanned physical) signature placed directly above his uniquely capitalized and punctuated typed name: **Chief Justice G.B. Morawetz**.

The original Intake Court Endorsement emailed to the 52nd Division was a simple, traditional judicial endorsement block. It did not contain complex Adobe digital certificates, timestamps, or time zone modifiers:

```
+-----------------------------------------------------------------+
|                                                                 |
|    [ Signature of G.B. Morawetz ]                               |
|                                                                 |
|    Chief Justice G.B. Morawetz                                  |
|                                                                 |
```

| Date: September 23, 2024 |

| |

| Superior Court of Justice |

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PART 2: The GrapeCity.PDF Software Failure and Vector Morphology

Upon receiving this emailed SCJ PDF, the manipulator (acting within the Toronto Police Service) faced a daunting, illicit task: they needed to scrub the SCJ branding and the Chief Justice's name, forcefully mutating the document to look like a valid Ontario Court of Justice (OCJ) criminal document.

To achieve this unauthorized conversion at scale, they utilized a third-party enterprise PDF editing tool called **GrapeCity.PDF (now Mescius) version 6.0.2**. Police services often use these third-party, server-side APIs for document automation because they bypass the strict, manual user-interface warnings and lockouts inherent in official Adobe Acrobat software. However, when the GrapeCity manipulator highlighted the signature block and attempted the **cutting or deleting** of "Chief Justice G.B. Morawetz", the flattening process glitched, triggering a catastrophic vector collapse.

The OCR Font-Parsing Glitch (The Transformation of "C J G.B. M")

The letters **"CL (M)"** are not random gibberish, nor are they a bureaucratic acronym. They are the mathematically predictable, unavoidable result of an Optical Character Recognition (OCR) and vector morphology failure when a third-party software attempts to aggressively delete the string **"C J G.B. M"** from a flattened PDF.

1. The "J" to "L" Glitch (Stem Shearing)

To understand this transformation, one must understand how computers draw letters. In serif fonts (like Times New Roman, the standard of the courts), letters are not stored as pixels, but rather drawn using mathematical formulas called Bezier curves. A capital "J" and a capital "L" share a nearly identical central vertical stem.

When GrapeCity attempted to brute-force delete the text, it caused a catastrophic spatial collapse. The invisible bounding box containing the "J" was clipped on its left margin, completely s**hearing** off the defining leftward hook of the "J" character. What remained in the document's visual memory was a naked vertical stem.

The software's OCR shape-recognition algorithm surveyed this broken shape and was forced to guess its identity to render the final PDF. Lacking the hook, the algorithm compared the remaining stem against its typography database and defaulted to the closest matching character with the highest confidence score: the letter "L".

2. The "G.B." to "( )" Glitch (The Rounded Vector Collapse)

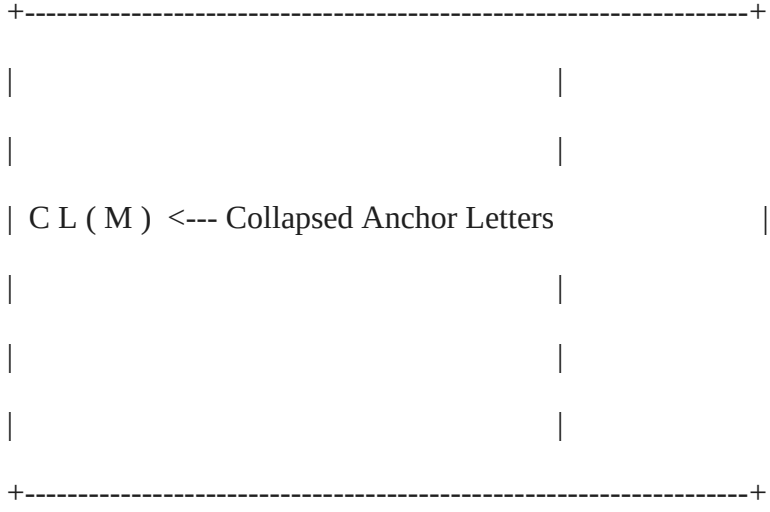
The Chief Justice explicitly utilizes his middle initials: **G.B.** Both of these letters are constructed heavily from sweeping, rounded Bezier curves (typographically known as bowls or lobes).

When GrapeCity's known "whitespace bug" (DOC-6507) violently collapsed the spacing data between the letters, the internal horizontal crossbars and straight vertical stems of the "G" and "B" were mathematically crushed out of existence due to vector compression. All that survived the rasterization crash were the outermost rounded vector paths.

5355 (

- The left-sweeping outer curve of the “G” was isolated and interpreted by the OCR engine as an open parenthesis:
- The right-sweeping outer curve of the “B” was isolated and interpreted as a closed parenthesis: **)**

Thus, the original anchor initials **“C J G.B. M”** were morphologically degraded, squished together by the loss of kerning data, and algorithmically translated into the visible digital artifact: **C L (M)**.



(nota bene:

1. The “C” remained;
2. The “L” was a “J”;
3. If the initials “G” and “B” were utilized, then:
    a. The “G” became the “(“
    b. The “B” became the “)”;
4. The “M” remained.

PART 3: The Digital Signature Ruse and the Decoy Document

Confronted with this software glitch, the manipulator realized they had a severe problem. They could not fully erase the stubborn letters without corrupting the entire page, which would render the PDF entirely unreadable. Having deleted the bulk of the Chief Justice’s name, they were left with the “CL (M)” digital shrapnel staring back at them.

To hide this glitch, they deployed an entirely fraudulent, highly sophisticated visual smokescreen.

The Fraudulent Digital Informant Signature

By pasting a complex, bureaucratic-looking “digital certificate” box directly over the “CL (M)” artifact, they weaponized the visual complexity of a digital signature to make the nonsensical “CL (M)” artifact look like it belonged to Court Officer Christyn Frugoni-Rojas.

This is an absolute procedural fraud that betrays a complete misunderstanding of criminal procedure. Under Section 504 of the *Criminal Code*, an Information must be laid in writing and under oath before a justice. As evidenced by the standard *Adult Common Information Form (Lincoln County Law Association)*, an informant swearing an Information in person does not require—nor utilize—a floating, highly formatted “digital signature” box randomly placed on a secondary page of a PDF.

5356

The physical Form 2 requires a wet-ink signature or a highly specific, certified e-signature in the jurat, executed simultaneously before the Justice of the Peace. The "digital signature" deployed here was used exclusively as a visual ruse to overwrite the void left by the removed SCJ signature and to legitimize the visibly altered document through overwhelming bureaucratic clutter.

The Fake OCJ Arms Logo and the Decoy Justice of the Peace

A closer inspection reveals that the final product is a true "Frankenstein" document—a patchwork of conflicting jurisdictional authorities. The manipulator took a Superior Court document, pasted a **FAKE ONTARIO COURT OF JUSTICE ARMS LOGO** at the top, and included a **FAKE JUSTICE OF THE PEACE** signature line (George Jiri) to complete the illusion.

The MAG has explicitly admitted that the Form 2 Information was never formally filed and that JP Jiri did not actually sign the document. Furthermore, a Form 4 Indictment (Superior Court) cannot be authorized by a Justice of the Peace (Provincial Court) due to absolute statutory bars on jurisdiction.

This confirms the police intentionally used a digital "template" bearing JP Jiri's name—a familiar former colleague who previously worked closely with the police human trafficking team—to create a facially valid-looking decoy for the executing officers on the street. This highly sophisticated misdirection allowed the *actual* judicial authority (Chief Justice Morawetz) to stay completely hidden behind a curtain of "in chambers" secrecy, blatantly violating the Open Court Principle.

+--+

| |

| Christyn |

| Frugoni- |

| Rojas CL (M) <--- The Fused Artifact hidden in the fake text |

| |

| Digitally signed by |

| Christyn Frugoni-
|

| Rojas CL (M) |

| Date: 2024:023 12:550 -04-'00' |

| |

+--+

PART 4: Coordinated Stonewalling, MAG Conflicts, and Digital Blacklisting

Because *Rule* 4.05(1) mandated that the Intake Court Endorsement be routed through the SCJ 361 University Avenue court office, the registry staff securely retain the original metadata and un-redacted files. They know exactly what was

5357

s of the 52nd Division on September 23, 2024. However, the Applicant's attempts to retrieve the Authentic Information Package were met with a coordinated, multi-tiered blockade.

The "McIntosh" Conflict of Interest (Annathan Sinnadurai)

When the Applicant demanded answers in the Summer of 2025, the Ministry of the Attorney General (MAG) deployed legal counsel **Annathan Sinnadurai** to respond. This assignment was not random; it represented a profound, paralyzing, and highly strategic conflict of interest.

Mr. Sinnadurai previously served as direct legal counsel for Chief Justice Morawetz, Associate Chief Justice McWatt, and Madam Justice Sharon Shore in the closely related, highly contentious matter of *McIntosh v. Shore, McWatt and Morawetz*. By deploying the exact same lawyer who previously defended this specific triad of judges, MAG ensured that the Applicant's inquiries were intercepted by counsel whose primary professional loyalty was to shielding the Chief Justice and Justice Shore from personal liability, rather than upholding the integrity of the public court record.

E-Portal Blacklisting and the "403 Forbidden" Error

Realizing the Applicant was closing in on the GrapeCity metadata and the underlying forgery, the state escalated from administrative stonewalling to active technological suppression. When the Applicant attempted to utilize the Ontario Courts Public Portal (OCPP) to file mandatory documents for the *Judicial Review Procedure Act* (JRPA) proceeding, they were suddenly met with a persistent **"403 Forbidden Error Code."**

In web architecture, a 403 Forbidden code is drastically different from a 500 Internal Server Error (which indicates a broken website) or a 404 Not Found (which indicates a missing page). A 403 status code indicates that the server understands the request perfectly, but the server is actively refusing to authorize it based on the user's credentials or IP address.

In the context of a government portal, this strongly indicates that the Applicant's specific IP address and user profile were deliberately blacklisted by system administrators. The state weaponized the IT infrastructure of the courts to sever the Applicant's access to justice, intentionally preventing the forged document from being formally challenged on the electronic docket.

PART 5: Proxy Judges and the 48-Hour Retirement Catalyst

Prevented from e-filing, the Applicant engaged in a brilliant tactical workaround: they circumvented the digital blockade by physically **mail-filing** a series of devastating Draft Orders (Notice of Motions 3, 4, and 5) directly to the Divisional Court at Osgoode Hall in December 2025 and January 2026.

The Malleability of Justice Shore: A Proxy Intervention

Prior to these draft orders, Madam Justice Sharon Shore intervened directly in the Applicant's Divisional Court JRPA proceeding. This intervention was highly irregular, acting contrary to the strict parameters of the *Rules of Civil Procedure* and the JRPA.

Why did she intervene? Because Chief Justice Morawetz could not touch the file himself without exposing his own signature. Justice Shore, having previously been defended alongside Morawetz by MAG counsel Sinnadurai in the *McIntosh* case, acted as a malleable proxy. Bound by a shared legal defense history and institutional loyalty, she intervened to shield the Chief Justice, absorbing the procedural friction and attempting to dismiss or derail the JRPA before the GrapeCity metadata could be fully exposed.

Notice of Motion #5: The Ultimate Legal Trap without the Applicant knowing

The Applicant's mail-filed draft orders engineered an inescapable legal Catch-22. Specifically, **Notice of Motion #5 (Drafted January 12, 2026)** was a strategic masterstroke. It explicitly demanded that Chief Justice Morawetz—in his capacity as the President of the Divisional Court and Master of the Roster—*self-assign* to the matter, override the 403 Forbidden E-Portal blockade, and compel the production of the Authentic Information Package.

The trap snapped shut. The Chief Justice was paralyzed:

- If he signed NOM #5 and ordered the production of the records, he would release the un-redacted SCJ document bearing his own "C J G.B. M" signature, irrefutably proving the police forgery and his own involvement in authorizing a void warrant.

- If he denied the motion, or allowed Justice Shore to continue running interference, he committed documented fraud on the court, endorsing an ongoing state-actor kidnapping and compounding the Charter violations.

The Timeline of Collapse: The mail-filed draft orders (NOM 3, 4, and 5) circumvented the MAG blockade and landed directly on the Chief Justice's desk. Exactly **two business days** after the delivery of these inescapable draft orders, Chief Justice Geoffrey B. Morawetz announced his sudden, immediate retirement.

Faced with a complete forensic unravelling of the GrapeCity forgery, a mathematically proven vector collapse of his own signature, and an Applicant who successfully bypassed an IP blacklist to deliver a checkmate draft order, the only viable institutional exit strategy to avoid a catastrophic public scandal, professional disbarment, and severe personal liability was to immediately vacate the bench.

Conclusion: Jurisdictional Nullity and State Liability

The systemic nature of this fabrication transforms this from a localized police clerical error into a massive, compensable institutional conspiracy. The coordinated actions of the TPS, MAG, and the judiciary demonstrate a chilling willingness to falsify records to achieve prosecutorial ends.

Because this proceeding was founded upon a manipulated Family Court endorsement processed through a third-party developer API (GrapeCity), rather than a properly sworn Information (Form 2), the entire proceeding is a **jurisdictional nullity** (*coram non judice*, meaning "not before a judge"). It is void *ab initio* (invalid from the very beginning). A nullity of this magnitude cannot be retroactively cured by the Crown, nor saved by the curative provisions of Section 599 of the *Criminal Code*.

A bureaucratic apparatus deliberately constructed to effect the physical movement and imprisonment of a citizen through forged documents constitutes the most egregious state-actor kidnapping scenario imaginable. It completely strips the police of their lawful statutory authority and immunities, transforming a standard arrest into a false imprisonment and an arbitrary detention.

Comprehensive Legal Memorandum: Jurisdictional Nullity & Procedural Irregularities - Factum Appendix Table

Point	Topic	Core Legal Issue	Forensic / Factual Evidence	Legal Escalation / Consequence
1	**Section 599 Inapplicability & Election**	Section 599 of the *Criminal Code* is a substantive "Change of Venue" provision intended exclusively to ensure trial fairness for indictable offences facing a jury. It is	The Crown has explicitly elected to proceed summarily; therefore, an indictment does not and will never exist. The state is	The Crown's reliance on s. 599 is statutorily invalid, legally nonsensical, and highlights their fundamental procedural

5359		not an administrative mechanism for transferring an initial charging document between court levels.	attempting to use a complex jury-trial provision to excuse a catastrophic filing failure at the intake level.	desperation. It constitutes an admission that the matter is not properly before the court and represents a jurisdictional phantom.
2	**Jurisdictional Routing & The Broken Chain**	The criminal process must legally commence at the Ontario Court of Justice (OCJ) Intake Court. While a Superior Court (SCJ) judge possesses *ex officio* status to swear an oath, the file does not legally enter the trial docket until the physical paperwork is filed with the OCJ clerk.	The police physically or electronically held the sworn Information instead of filing it immediately with the OCJ clerk, bypassing the automated ICON docketing system entirely. The file remained in a state of legal limbo within the police records management system (Niche RMS).	The chain of custody was instantly broken. Because the matter never legally "resided" in the SCJ docket and was never properly transmitted to the OCJ, the current proceedings are a jurisdictional nullity devoid of any statutory foundation.
3	**Spoliation of Sworn Evidence & The Jurat**	The intentional destruction, alteration, or concealment of court documents constitutes spoliation. Sworn Information pages (the Jurat) cannot be materially altered or swapped by police after the oath is taken without swearing a completely new Information before a justice.	The standard 5-page Form 2 package is missing its critical swearing and tracking pages (the jurat/counts). These were replaced with a custom-typed administrative page on Toronto Police letterhead, effectively sanitizing the document's history.	Under *omnia praesumuntur contra spoliatorem*, the court must infer the destroyed pages contained evidence detrimental to the state. The resulting Information is an unsworn legal nullity, rendering all subsequent steps void *ab initio*.
4	**Statutory Timelines (s. 505) & The Jordan Gap**	Section 505 dictates that an Information must be laid "as soon as practicable." While the oath was theoretically taken on October 2, the administrative	Police intentionally held the unfiled file for a six-week period (October 2 to November 13) before submitting it to the OCJ, creating	This extensive delay facilitated the subsequent digital document manipulation and severely prejudices the Applicant's s.

5360		transmission and formal filing at the OCJ must occur promptly to respect constitutional rights.	an unmonitored "black hole" where the file was not publicly docketed or accessible for legal review.	11(b) *Charter* rights. The state cannot unilaterally pause the *Jordan* clock while manipulating its own charging documents.
5	**The SCJ Origin & The Recording Anomaly**	Regardless of whether a warrant is sworn via telewarrant (s. 508.1) or *in chambers*, the originating court of inherent jurisdiction (SCJ) must retain the original record. Routine urgent applications are normally recorded via the DARTS system or virtual links.	There is a complete absence of the original warrant or Information at the SCJ 361 University records office. The Recording Management Office admitted the proceeding occurred "in chambers" with zero electronic DARTS recording or court reporter presence.	The lack of a formal electronic record for an *ex parte* liberty deprivation points directly to an authorization executed at the highest levels (Osgoode Hall) or a deliberate, off-the-books circumvention of standard recording protocols.
6	**Form 2 vs. Form 7: Statutory Requirements**	A Form 2 Information contains only the factual allegations. The actual Form 7 Arrest Warrant is an entirely separate, distinct statutory command document requiring its own execution, return, and mandatory checkboxes for public interest.	The fabricated package completely lacks the required jurat, release confirmation, and Crown election blocks. Crucially, the Crown and police cannot produce the corresponding executed Form 7, relying instead on a directional memo.	Without a proper Form 7, there is no physical, statutorily compliant command authorizing peace officers to execute an arrest. The detention was therefore arbitrary, unlawful, and executed without the necessary judicial warrant.
7	**Forum Shopping & Conflicts of Interest**	Standard procedure requires police to utilize veteran Intake JPs at the OCJ who rigorously scrutinize warrant thresholds. Bypassing the OCJ to utilize an SCJ Family Court judge with pre-existing firm conflicts is highly irregular forum shopping.	Police bypassed the immediate, automated ICON docketing system used by the OCJ to seek authorization from a civil/family bench located at 361 University Avenue, specifically targeting a judge	This maneuver provided police with total, unmonitored control over the file, shielding it from standard criminal scrutiny and enabling the eventually discovered digital substitution of the

5361			with ties to Epstein Cole LLP.	authorizing JP's signature.
8	**The Section 508 Bypass (The "DJ" Ruse)**	Mandatory *Criminal Code* safety checks (Confirmation of Process) require an independent justice to review the sworn Information and "Confirm" or "Cancel" the police undertaking. This is the ultimate check against police overreach.	These statutory blocks were entirely removed from the package. Furthermore, a "DJ" (Duty Judge) endorsement on October 3 was used to bypass the standard Intake JP queue and sanitize the file before its official return date.	This effectively neutered the judicial "checks and balances" mandated by the Supreme Court in *Hunter v. Southam*, allowing a facially defective and forged file to coast through the system unexamined.
9	**Facial Invalidity & Impossibility of Trial**	A valid Form 2 contains specific architecture to record the Crown's election and the ultimate judicial disposition (guilt/acquittal). A court of record cannot operate on a document that lacks this permanent tracking framework.	The fabricated "Intake Court Endorsement" replaces provincial forms with a custom-typed TPS letterhead that lacks the mandatory structural boxes, dispose columns, and jurat lines required for a court of record.	Proceeding to trial on this document is functionally and administratively impossible. Recognizing these fatal, irreparable defects, the Crown capitulated and stayed the charges rather than face an evidentiary **Hearing** on the document's origin.
10	**The Phantom JP (George Jiri) Theory**	A civilian Court Officer swearing an Information relies solely on "information and belief." If the officer did not actually appear before the listed Justice, the entire document is a fabricated placeholder created after the fact.	Ministry of Attorney General (MAG) FOI responses confirmed zero records exist of Court Officer Frugoni-Rojas swearing an Information before JP Jiri. JP Jiri, a former TPS officer, was likely utilized as a familiar placeholder name.	This formal "nil" response proves beyond a reasonable doubt that the document was backdated and digitally fabricated outside standard OCJ tracking systems to hide the involvement of the Superior Court's leadership.
11	**The Institutional Catch-22 & Retirement**	The judiciary must avoid both actual bias and the reasonable apprehension of bias. The Applicant	Five days after the Applicant directed high-stakes materials to him,	This establishes a profound motive for the irregular SCJ involvement. The

5362		engineered a Catch-22 by filing draft orders demanding Chief Justice Morawetz investigate Justice Shore's unauthorized issuance.	Chief Justice Morawetz announced an early retirement, effective May 2026. This announcement involved forfeiting an estimated $2,000,000 in future salary/wealth management.	sudden retirement serves as a classic institutional exit strategy to preserve "faith in the judiciary" and pre-empt a Canadian Judicial Council (CJC) public inquiry.
12	**The "Smoking Gun": Family Law Construct**	The title "Intake Court Endorsement" is entirely alien to criminal procedure and the *Criminal Code*. It is a specific ONSC Family Law construct used for rapid triage directions (e.g., OCL, interim custody).	A Brampton OCJ Justice of the Peace possesses no such template. The use of this terminology proves the document originated from Justice Shore's family registry triage as an administrative conduit for the Chief Justice's fiat.	This terminology constitutes the "DNA" of the document, proving conclusively that it was ported over from a civil/family procedure where the Chief Justice was exercising his inherent jurisdiction improperly.
13	**The 9 Breaches of a Form 7 Warrant**	While minor deviations are curable, a document must meet the substance of a prescribed form. The fabricated "Endorsement" fails on nine critical foundational elements required of a Warrant for Arrest under the *Criminal Code*.	It lacks the "Form 7" title, a command to peace officers, the subject's DOB, offence particulars, statutory grounds, the immediate arrest command, date, location, and a verifiable judicial signature block.	Because it completely lacks these elements, it is facially invalid and legally void. Utilizing it violates s. 29 of the *Criminal Code* (duty to produce warrant) and s. 9 of the *Charter* (arbitrary detention).
14	**Digital Signature Invalidity (PIPEDA)**	Under the *Canada Evidence Act* and PIPEDA, a legally binding "secure electronic signature" requires highly specific cryptographic processes, such as an asymmetric Key Pair and a trusted Certification Authority.	The typed text "Digitally signed by Justice of the Peace George Jiri" in standard Arial font is merely plain text inputted via a key**boa**rd, utterly lacking the embedded metadata of a secure cryptographic certificate.	The document is legally unsigned and carries zero judicial authority. Without a valid signature (physical or secure digital), it is a mere piece of paper incapable of compelling an arrest or authenticating a record.

5363 15	**Application of *R. v. Smith* (Forgery)**	Under *R. v. Smith* (2020 ONCJ), forging a signature on a material court document constitutes creating a "false document" (s. 321), and utilizing it satisfies the *mens rea* for uttering a forgery (s. 368).	The manipulators used a fake JP signature line and an elaborate Adobe certification block belonging to Frugoni-Rojas to visually camouflage the forensic artifacts of the botched SCJ signature erasure.	Deploying this manufactured visual ruse to deceive the accused, the police, and the court regarding the document's origin constitutes the criminal uttering of a forged document by state actors.
16	**The 70-Minute Drafting Scramble**	The timeline on September 23, 2024, reveals a highly condensed 70-minute window from the initial declaration (11:48 AM) to the final "digital signature" (12:59 PM), indicating a rushed, *ex parte* scramble.	SCJ Family Registry staff, lacking access to criminal ICON system templates, panicked and utilized their daily civil dictation format to process Chief Justice Morawetz's oral/written fiat for Detective Virani.	This frantic drafting by civil clerks unfamiliar with strict criminal constraints directly resulted in the creation of a legally void, procedurally mutant instrument that failed to meet statutory thresholds.
17	**The "Ruse" and Section 29 Withholding**	Police are permitted investigative trickery, but utilizing a ruse to lure an accused into custody to circumvent the physical lack of a lawful warrant crosses into illegality and violates s. 29 of the *Criminal Code*.	Police lured the Applicant to the station using an email regarding "returning property" and subsequently refused to produce the physical warrant upon his multiple, explicit demands.	They utilized the ruse because they knew the paperwork was facially defective and that an accused with legal training would instantly identify it was not a lawful Form 7 Arrest Warrant.
18	**The "CPIC Trap" & Metadata Logs**	To operationalize an arrest across police divisions, police must enter the warrant into the Canadian Police Information Centre (CPIC), an immutable digital ledger maintained by the RCMP.	Creating a CPIC entry requires mandatory, audited fields: Originating Agency (52 Div), Level of Court (SCJ), Location (361 University), and Authorizing Justice (Morawetz).	Even if the physical paperwork was destroyed or altered, RCMP server logs from September 23 will permanently reflect the objective truth of the Chief Justice's involvement, trapping the state in its own system.

5364 19	**Institutional Misdirection & Silos**	When institutions engage in cover-ups, they frequently utilize bureaucratic compartmentalization to exhaust inquiries and hide the true origin of unauthorized actions through confusing staff.	Courthouse staff deliberately misdirected the Applicant away from the 1st-floor Family Registry (origin) to the 2nd-floor Criminal Intake, where staff were visibly confused and evasive.	The 2nd-floor staff had no custody of the file because it was never properly e-filed. This was a classic diversionary tactic designed to obscure Justice Shore's role as the administrative triage conduit.
20	**The "e-Intake" Impossibility Proof**	The OCJ's automated e-Intake system completely standardizes the Form 2/Form 7 process, utilizing *Rule*s-based geographic routing and generating locked, mathematically compliant PDFs.	The system is programmed to be incapable of overriding geographic constraints to assign a Toronto file to a Brampton JP, nor can it output a manually typed "Intake Court Endorsement" header.	The complete absence of standard e-Intake routing logs is definitive, systemic proof that the OCJ digital safety nets were intentionally bypassed via the SCJ family registry back-channel.
21	**Endorsement vs. Order (Morawetz Style)**	Under *Rule* 2.01, an "order" is the formal command. An "endorsement" is merely a judge's fiat. Chief Justice Morawetz's established style (e.g., *Laurentian*, *Ambassador Bridge*) is a brief endorsement with fulsome reasons to follow.	The document used states "Warrant In The First: Issue". This perfectly matches the Chief Justice's style of a brief directional fiat to a clerk, intended as a placeholder while the state "reasoned" its way toward a prosecution.	By executing an arrest based solely on a brief directional memo (an endorsement), the police executed a detention without the legally mandated statutory Order, rendering the arrest a jurisdictional nullity.
22	**30-Day Limit & *Fraus Omnia Corrumpit***	The Crown relies on *Rule* 43.04 limitation periods to stall challenges. However, equitable principles dictate that "fraud unravels everything" (*fraus omnia corrumpit*), including procedural clocks.	The Crown concedes the "Intake Court Endorsement" is not a proper statutory Order. Furthermore, the document contains forged signatures and was actively concealed by state agents.	Because the document is not an Order, it does not trigger the 30-day clock. Additionally, the state's fraud inherently tolls (pauses) all statutory limitation periods, validating

5365				the timeliness of the application.
23	**Nullity & *Coram Non Judice***	Because an Information is legally defined as an "indictment" under SCJ *Rule*s, it is subject to strict e-filing mandates to ensure a permanent, unalterable digital record is established instantly.	By physically rushing the paper document or handling it "in chambers" to bypass these e-filing portals, the criminal jurisdiction of the Superior Court was never legitimately engaged in the first instance.	The proceeding occurred *coram non judice* (before one who is not a judge of competent jurisdiction). The resulting endorsements are an absolute, incurable legal nullity from their inception.
24	**The "Court Office" Trap (*Rule* 4.05)**	CPR *Rule* 1.03 defines the "court office" as the place where the proceeding commenced (the 1st-floor registry). *Rule* 4.05(6) mandates that if that office has no record, it is deemed not filed.	The "Intake Court Endorsement" physically originated from the 1st-floor Family Registry. However, this office contains no proper e-filed record of the criminal Information as required by *Rule* 4.05(1).	Serving the 1st floor traps the court: by applying its own strict *Rule*s, the court must admit the file was never properly commenced and therefore does not legally exist in its system.
25	**Forcing Admission of Nullity (*Rule* 43)**	*Rule* 43.03 acts as a statutory subpoena, compelling the Manager of Court Operations at the originating location to return true copies of the indictment, accompanied by a sworn Certificate.	The 1st-floor Manager faces an impossible binary: sign a Certificate finding nothing (admitting nullity via *Rule* 4.05(6)) or produce the true original signed by Chief Justice Morawetz.	This strategic service checkmates the institution, forcing it to either formally admit the procedural void or permanently cement the unauthorized SCJ involvement into the criminal record on the 2nd floor.
26	**The GrapeCity Vector Collapse (Forensics)**	Advanced forensic analysis reveals the use of GrapeCity.PDF (Mescius) v6.0.2, which suffers from the DOC-6507 "whitespace bug," causing catastrophic OCR morphological failures during erasure.	When attempting to digitally scrub the anchor text "Chief Justice G.B. Morawetz", stem s**hearing** mutated "C J" to "C L", and Bezier curve vector compression	This resulted in the indelible "C L (M)" artifact. It provides incontrovertible, mathematically predictable forensic proof of a coordinated digital falsification of state

5366			crushed “G.B.” into “( )”.	documents to hide judicial identity.
27	**Escalation to State-Actor Kidnapping**	Kidnapping requires *asportation* (physical movement) without lawful authority. Specific intent (*mens rea*) is established through the police’s willful blindness to facially void documentation.	The Applicant was lured via a ruse and physically transported from the admin area to the dungeon/cells based entirely on a fabricated family-law endorsement devoid of a Form 7 command.	This goes far beyond false imprisonment; it constitutes the most egregious state-actor kidnapping scenario imaginable, exposing the state to massive civil damages and robust Section 24(1) *Charter* remedies.

APPENDIX “R”: EXHIBIT “F FROM STATUTORY DECLARATION #1 FOR NOM #3

APPENDIX "S": THE EMAIL CHAIN WITH THE SCJ 361 UNIVERSITY AVENUE COURTHOUSE, 1ST FLOOR

[i]See: **BOA**, Tab 146

[ii]R. v. Baldovi et al, 2016 MBQB 90 (CanLII), at para 72: [72] In addition to the practical reality discussed above, it can also be said that from time to time, a case presents as "a Chief's case". Such a case may be defined by its challenges, its controversy and/or its high profile nature. Such a case may also present as one whose circumstances place the focus on the integrity of the court. Even if an ultimate adjudication (concerning initial questions that touch the integrity of a court's process) proves not to be determinative in a legal sense, there is in most cases – given the stakes – no one more appropriately positioned to conduct such adjudications than the Chief Justice. While not all judicial decisions to recuse or not recuse can or should be reduced to an ethical issue, to the extent that a potential link does exist, the Chief Justice as *primus inter pares* is often in a preferred position to comment. No less so in the context of a formal adjudication. See ***Ruffo v. Conseil de la magistrature***, 1995 CanLII 49 (SCC), [1995] 4 S.C.R. 267 at paras. 58-59. That is not to say that any Chief Justice can or should consider him or herself in court or in chambers as the final arbiter of ethical questions. Yet, as the face of the court, the Chief Justice is uniquely placed to present for his colleagues, the legal profession and the public generally, a leadership that will address potential legal/ethical issues that require administrative or adjudicative clarification so as to ensure public confidence not only in his or her own court, but the judiciary generally.

[iii]Such a case may be defined by its challenges, its controversy and/or its high profile nature. Such a case may also present as one whose circumstances place the focus on the integrity of the court (issue in Request of the Applicant on January 5, 2026: Has the case been defined by (i) challenges; (ii) controversy; (iii) high profile nature; and/or (iv) circumstance place focus on integrity of the court) such that this JRPA Proceeding, particularly NOM #3 and Motion #4 present a chief's case)Even if an ultimate adjudication (concerning initial questions that touch the integrity of a court's process) proves not to be determinative in a legal sense, there is in most cases – given the stakes – no one more appropriately positioned to conduct such adjudications than the Chief Justice. While not all judicial decisions to recuse or not recuse can or should be reduced to an ethical issue, to the extent that a potential link does exist, the Chief Justice as primus inter pares is often in a preferred position to comment. No less so in the context of a formal adjudication. See Ruffo v. Conseil de la magistrature, 1995 CanLII 49 (SCC), [1995] 4 S.C.R. 267 at paras. 58-59 (nota bene: the issue of Madam Justice Shore's ethics were raised by letter to the CJ of the SCJ (President of the Divisional Court) by letter in January 2025 but without response presumably failure of the since dismissed or resigned Former Registrar Gentles)Yet, as the face of the court, the Chief Justice is uniquely placed to present for his colleagues, the legal profession and the public generally, a leadership that will address potential legal/ethical issues that require administrative or adjudicative clarification so as to ensure public confidence not only in his or her own court, but the judiciary generally.

[iv] It is formally submitted that the comprehensive collection of jurisprudence and statutes relied upon herein is encapsulated within the first amended [book of authorities] (the "Book Of Authorities"). The Book Of Authorities was originally filed on January 23, 2025, and subsequently amended on February 18, 2026, to explicitly incorporate foundational historical precedents at Tabs 307 through 312.

The 146-page Book Of Authorities is explicitly framed as an exhaustive adjudicative resource tailored for the direct, supervisory jurisdiction of the President of the Divisional Court. This targeted compilation is necessitated by the profound challenges, institutional controversies, and severe ethical concerns that strike directly at the holistic integrity of the Divisional Court. It is structurally organized into distinct chapters, meticulously dividing the governing statutory instruments—categorized as [source laws] (the "Source Laws")—from the binding jurisprudential precedents—categorized as [common law authorities] (the "Common Law Authorities").

Chapter 1 delineates the Source Laws. This encompasses the foundational constitutional framework, specifically the Judicature Sections of the *Constitution Act, 1867*, alongside judicial administration legislation, including the *Judges Act*, the *Supreme Court Act*, and the *Act*. A critical jurisprudential focus is directed toward the jurisdictional dichotomy existing between the quasi-judicial powers possessed by the Supreme Court of Canada Registrar and the strictly administrative, executive-branch limitations of the Divisional Court Registrar. Further inclusions encompass privacy, evidence, and tribunal-specific legislation, establishing the rigid statutory boundaries within which state actors are confined.

Chapter 2 systematically catalogues the Common Law Authorities. This robust jurisprudential foundation is categorized by overarching legal doctrines, specifically addressing: judicial independence and the paramountcy of the [primus inter pares] (the "Primus Inter Pares") doctrine; the core, constitutionally protected jurisdiction of superior courts against executive interference; the stringent legal tests for the prerogative writ of *mandamus* utilized to compel public officers to fulfill their statutory duties; the torts of deceit and civil fraud, particularly concerning the duty of good faith and the fatal consequences of silence and half-truths in government contexts; and the strict, non-negotiable standards governing judicial conduct, conflicts of interest, and the due execution of office as delineated by the Canadian Judicial Council. Additional chapters comprehensively address preclusive doctrines, the admissibility of fresh evidence upon judicial review, and the standard of review.

Tab 80

FORM 59A

Courts of Justice Act

ORDER

Court File No. DC-24-00000718-00JR

ONTARIO SUPERIOR COURT OF JUSTICE

(DIVISIONAL COURT)

THE HONOURABLE) ((_____, ___ (day) of ___, 2026

CHIEF JUSTICE MORAWETZ)

BETWEEN:

KEVIN ALEXANDER MCLEAN

Applicant

- and -

TD HOME AND AUTO INSURANCE COMPANY, SECURITY NATIONAL INSURANCE COMPANY, TD GENERAL INSURANCE COMPANY, EXECUTIVE DIRECTOR, LICENCE APPEAL TRIBUNAL,

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, REPRESENTED BY EXECUTIVE CHAIR OF TRIBUNALS ONTARIO IN MR. SEAN WEIR, THE ATTORNEY GENERAL OF ONTARIO

Respondents

ORDER

(Motion #7 - Paramount Supervisory Intervention Pursuant to Section 123 of the *Courts of Justice Act*, Declarations of Irremediable Nullity, and Constitutional Relief)

THIS MOTION, made by the Applicant, Kevin Alexander McLean, in writing, directed specifically and exclusively to the Chief Justice of the Superior Court of Justice in their capacity as the President of the Divisional Court. This motion is brought strictly pursuant to the mandatory supervisory mechanisms of section 123 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43. This motion seeks immediate, extraordinary administrative intervention, jurisdictional reassignment, and an expedited Rehearing of Motion Number Three due to extreme judicial delay, severe procedural stasis, systemic institutional obstruction, and profound, documented allegations of extra-jurisdictional state action bordering on the usurpation of judicial independence. The motion aims to permanently and retroactively correct a cascading series of jurisdictional nullities that have fundamentally derailed the administration of justice and created an impenetrable “shadow docket” insulated from appellate review. This motion was read this day at Osgoode Hall, 130 Queen Street West, Toronto, Ontario.

ON READING the Applicant’s motion of November 17, 2025, the highly detailed Factum of November 18, 2025, the deeply indexed Motion Record, the 1st Updated Compendium encompassing Tabs 1 through 71 (incorporating the Applicant’s Statutory Declaration of October 13, 2025, extensive Costs Submissions, Requisitions #11 through #14 dated December 2 to December 5, 2025, and the Draft Order of December 4, 2025), and the comprehensive Book of Authorities. These meticulously prepared, voluminous materials formally, flawlessly, and incontrovertibly perfected the evidentiary and jurisprudential record for a hearing in writing originally scheduled and firmly set down for December 3, 2025. The Court notes the Applicant duly paid the requisite $339.00 fee for NOM #3 on November 26, 2025, thereby establishing a reasonable, legally enforceable statutory expectation of standard, timely judicial processing. The Court further

acknowledges the Applicant's exhaustive compliance with all procedural prerequisites to properly engage the adjudicative machinery of the Divisional Court and the egregious failure of the state to respond to the same;

AND ON READING the deeply substantiated Costs Submissions and corresponding Draft Bill of Costs, seeking sweeping, full-indemnity costs pursuant to Rule 59.06(2)(a) and the inherent jurisdiction of the Court. The Court notes that these submissions exhaustively synthesize the Applicant's monumental due diligence efforts encompassing Notice of Motion #1, Notice of Motion #2, and Notice of Motion #3, seeking to hold the institutional Respondents fully accountable for the severe financial and procedural prejudice inflicted by their calculated, bad-faith silence and deliberate obstruction of the adjudicative process, transforming silence into a strategic weapon of attrition;

AND ON READING the subsequent cascading motions necessitated by severe, ongoing institutional failure and registry collapse, specifically including Motion #4 (made on abridged notice on December 23, 2025). The Court notes that Motion #4 was brought out of absolute procedural necessity to compel the Former Registrar of the Divisional Court, Ms. Tashekah Gentles, and the Current Registrar, Ms. Roxanne Parris, to fulfill their strict, mandatory statutory duties assigned by law to the Judiciary. The Court recognizes the constitutional peril inherent when administrative staff operating within the executive branch functionally usurp the judicial function through strategic inaction, creating impenetrable barriers to access and rendering perfectly constituted applications "procedurally invisible" to the Bench;

AND ON READING Motion #5 (made January 12, 2026), wherein the Applicant expressly invoked the President of the Divisional Court's specialized, paramount capacity as the "Master of the Roster" to seek mandatory orders for judicial self-assignment. The Court notes the critical, highly technical evidence submitted regarding the persistent "403 Forbidden Error Code"—a digital barrier effectively and exclusively blocking the Applicant from accessing the Ontario Courts Public Portal (OCPP), manifesting a deeply concerning form of digital procedural gatekeeping. The Court further notes the Applicant's submission of formal Request Form Undertakings seeking the production of digital audio recordings of unauthorized, oral case conferences—a crucial evidentiary step necessary to permanently pierce the veil of procedural invisibility and reveal the true nature of the extra-jurisdictional acts in question;

AND UPON READING Motion #6 (made February 25, 2026), formally and robustly invoking section 123 of the CJA to definitively break the procedural stasis. The Court notes the Applicant's highly persuasive reliance upon the Auciello precedent, which explicitly categorized an egregious delay surpassing 22 months regarding a straightforward motion as a terminal, manifest breach of procedural fairness occurring within the Chief Justice's "own court." The Court recognizes the Applicant's compelling proposition that exceeding the explicit three-month statutory window for written motions constitutes an absolute failure of the adjudicative objective, fundamentally breaching the fundamental tenets of natural justice and the Section 96 duty to decide;

AND UPON NOTING that the December 1, 2025 "Record of Proceeding" generated by the registry was subjected to forensic scrutiny by the Applicant, revealing a profound and fatal adjudicative void. The Court acknowledges that this official record contained absolutely not a single formally entered Order, conclusively demonstrating the absolute absence of any Order for "Assignment For Case Management." This irrebuttable documentary absence confirms beyond a balance of probabilities that any and all prior oral case conference appearances, unrecorded administrative touchpoints, and informal directives issued by Madam Justice Shore were inherently Coram Non Judice (before a person not a judge of the matter) and were definitively void ab initio (from the beginning). The Court recognizes the legal reality that acts devoid of foundational authority command no obedience from the citizenry and must be struck from the record;

AND UPON FURTHER NOTING that the statutory three-month maximum deliberation period strictly delineated under section 123 of the *Courts of Justice Act* unequivocally expired on March 3, 2026. This expiration functions in law as the rigid dies a quo (the day from which)—a definitive, unyielding, and mathematically precise temporal marker that irrevocably shifts the burden of action from the diligent litigant to the overarching supervisory jurisdiction of this Court. This expiration instantly triggers the Chief Justice's non-delegable, constitutional duty to directly remedy the unconstitutional functional paralysis of the adjudicative process. The indefinite suspension of adjudicative duties operates as a de facto denial of justice, transforming the judicial process from a mechanism of dispute resolution into an instrument of state oppression;

AND UPON FURTHER NOTING the profound constitutional implications raised herein, specifically regarding the overarching necessity to safeguard the strict separation of powers and forcefully protect the Section 96 integrity of the Superior Court of Justice. The Court recognizes the severe, existential threat posed to the judicature by unauthorized administrative capture, registry gatekeeping, and the insidious utilization of "procedural invisibility" to orchestrate a de facto denial of the constitutional right to access justice. Access to justice is constitutionally defined not merely by the mechanical ability to submit physical documents into a digital void, but by the correlative, mandatory right to receive a substantive, reasoned adjudicative answer from the bench within a legally cognizable timeframe;

AND UPON FURTHER NOTING the incontrovertible evidentiary record proving that the institutional insurance entities (TD Home and Auto Insurance Company, Security National Insurance Company, TD General Insurance Company), the Crown Respondents (Her Majesty The Queen in Right of Ontario, the Attorney General of Ontario), and specifically named non-respondent entities intricately involved in the factual matrix (including the Toronto Police Services Board via Chief Legal Officer Falguni Debnath, and the Solicitor General of Ontario, the Honourable Michael Kerzner), were duly, formally, and verifiably served with the aforementioned extensive materials culminating on November 21, 2025. The Court observes with profound concern that these highly sophisticated, heavily resourced entities have uniformly and completely failed to serve or file responding materials within the mandatory ten-day statutory period, have completely failed to deliver Notices of Appearance, have completely failed to file a First Defence, and have elected to maintain a highly calculated, strategic posture of absolute silence. This synchronized abstention from the adversarial process cannot, and shall not, serve as a permanent, impenetrable shield against adjudication. The Respondents are therefore legally deemed to have strategically accepted the uncontradicted factual matrix and do not oppose the substantive, constitutional, and prerogative relief sought within this motion;

AND UPON FURTHER NOTING that this order is issued pursuant to a motion brought without notice and ex parte to the Respondents and Responding Parties, as they failed to comply with the Rules of Civil Procedure despite having been properly served, in accordance with Rule 37.12.1(5) in relation to NOM #3:

1. THIS COURT ORDERS AND DECLARES that the Applicant's motion for paramount supervisory relief pursuant to section 123 of the *Courts of Justice Act* is hereby granted in its absolute entirety. This Court formally and necessarily invokes the inherent Primus Inter Pares (first among equals) authority of the Chief Justice to aggressively restore procedural equilibrium, entirely dismantle the artificial administrative barriers of institutional delay, and robustly uphold the constitutional imperative of timely, transparent, and legally sound adjudication.
2. THIS COURT DECLARES that Madam Justice Shore's acts within these proceedings were irrevocably invalid and constitute Factum A Judice, Quod Ad Officium Jure Non Pertinet, Ratum Non Est (an act of a judge which does not pertain to the duties of her office is of no force and cannot be ratified). This declaration includes, but is strictly not limited to, her extra-jurisdictional acts commencing on or about January 7, 2025, executed via the informal, off-docket "Ibula Email." Jurisdiction must be formally and transparently conferred through established, codified channels; it cannot be informally assumed or seized sua sponte from the registry ether.
3. THIS COURT DECLARES that any case conference appearances, administrative touchpoints, or purported case management sessions convened before Madam Justice Shore were strictly Coram Non Judice (before a person who was not a lawful Judge of the matter). In the absolute absence of a formally issued and entered Order for Assignment for Case Management, the judicial officer lacked all foundational authority to compel attendance, issue directives, or manage the trajectory of the lis between the parties.
4. THIS COURT DECLARES that Madam Justice Shore was demonstrably incorrect when she represented through SCJ RMO representative Ms. Amirthalingam that the Applicant's retained Authorized Transcriptionist in Ontario ("ATO") was not entitled to the "tapes and materials required for transcription." Her assertion that the Divisional Court or any SCJ Court dealing in non-family law proceedings "do not give them" and/or are "unable to do so" fundamentally offends the open court principle and directly contradicts the Ministry's own binding transcription directives.
5. THIS COURT DECLARES that Madam Justice Shore was one of the Undisclosed SCJ Judges, or the singular Undisclosed SCJ Judge, who received a Form 2 Information under the Criminal Code in the form of a common Adult Information package (a six-page document) in September 2024. She received the same entirely outside the standard criminal intake flow, securely within her judicial office (chambers). This Court Declares that a Criminal

Proceeding was formally commenced against the Applicant on the exact date in which the Criminal Code Form 2 Information was received and/or laid. This Court Further Declares that Madam Justice Shore was the individual SCJ Judge who commissioned or swore the oath involving the Police Officer of the Toronto Police Service (TPS). This highly irregular chamber intervention explicitly explains why unknown persons subsequently removed page four of six from the Information Package—a deliberate act of obfuscation engineered to conceal the identity of Madam Justice Shore from the Applicant and shield the extra-jurisdictional act from appellate scrutiny.

6. THIS COURT DECLARES that the Applicant was unlawfully arrested on October 2, 2024, at the 14th Division of the TPS. This arrest was executed only after the Applicant was deliberately lured to said divisional detachment under false pretenses, following an unlawful, extra-judicial lockout from his apartment and apartment buildings on September 20, 2024. The Court notes with grave concern that the Applicant was thereafter maliciously mis-designated as having "no fixed address." This deliberate mis-designation was deployed as a bad-faith administrative method by the TPS to bypass Section 509 of the Criminal Code, ensuring the Applicant was improperly subjected to the coercive powers of a Criminal Code Form 7 Arrest Warrant rather than the legally appropriate Form 6 Summons.
7. THIS COURT DECLARES that the Applicant was never subjected to a lawfully generated, system-validated Criminal Code Form 7 Warrant For Arrest. Instead, the Applicant was subjected to a procedurally alien "Intake Court Endorsement" given, made, or issued by Madam Justice Shore. This endorsement entirely lacked the Sovereign's command, lacked the statutory checkboxes required by Section 512, and lacked the indispensable Section 511 endorsement necessary for interim release, rendering the detention fundamentally arbitrary.
8. THIS COURT DECLARES that the TPS Police Officer and a civilian court officer, specifically Court Officer (Toronto Region) Mrs. Frugoni-Rojas, were physically present before Madam Justice Shore on the day in question, bypassing the standard public intake counter.
9. THIS COURT DECLARES that the Court Officer (Toronto Region) Mrs. Frugoni-Rojas escorted the TPS Police Officer directly to the private judicial office (chambers) of Madam Justice Shore on the day in question. They were greeted by Madam Justice Shore's judicial assistant and proceeded to lay the Criminal Code Form 2 Information in person. This action was not executed via telecommunications as permitted by statute, but in a closed physical

etting, a fact formally admitted by SCJ RMO representative Ms. Amirthalingam. This "Chambers Bypass" circumvented the public docket and standard Versaterm/ICON digital sealing protocols.

10. THIS COURT DECLARES that while there is no strict statutory requirement under the Criminal Code for an "Ex Parte In Camera Hearing" to be recorded by audio or recording devices, the overarching administrative frameworks—specifically the MAG CSD Court Information Access Guide (2019) and the Court Transcripts Practices Standards Manual (2024)—unequivocally represent that intake court proceedings are to be transcribed and made available to the public after a process has been issued and/or an accused has been arrested. An ATO is mandated to provide a best-efforts transcript of the same. The failure to maintain a verifiable record of this extraordinary chamber intervention severely compromises the transparency of the administration of justice.
11. THIS COURT DECLARES that Madam Justice Shore's affixed and permanently assigned administrative location was the SCJ 361 University Avenue Courthouse. Within this facility, she held the permanent administrative appointment as the family law team leader of the judges therein, a role she occupied since a time on or around after family law proceedings were migrated from 393 University Avenue to 361 University Avenue in approximately 2020. This deeply entrenched proximity to Family Court operations provides the factual nexus explaining the improper utilization of Family Law nomenclature ("Intake Court Endorsement," "Accepted on its face") within a purported criminal instrument.
12. THIS COURT DECLARES that the Chief Justice of the SCJ (in their capacity as Divisional Court President) designated Madam Justice Shore to provide judicial services to the Divisional Court on or around 2022. However, this designation strictly limits her authority to matters properly perfected and assigned within that specialized, statutory forum, conferring absolutely no inherent, roving jurisdiction to manage un-pled issues or unassigned files.
13. THIS COURT DECLARES that prior to Madam Justice Shore being appointed to the SCJ by the Department of Justice on the recommendation of the Prime Minister of Canada, and subsequently assigned by the former Chief Justice of the SCJ in 2018 to the Toronto Region, Madam Justice Shore was a senior partner at Epstein Cole LLP. During the period spanning from April 2018 to June 2024, said law firm acted in a deeply adversarial posture against the Applicant's girlfriend and then common-law spouse, representing Mr. Papadimitropoulos (Andrew). Mr. Papadimitropoulos concurrently served as legal counsel to insurance companies within the TD Insurance

Group, specifically the TD Insurance Automotive Group ("TDIA Group"), and functioned as the manager of SABS and tort litigation ("Consequence Management") from 2023 until his abrupt departure in late January 2025. This profound historical nexus creates an inescapable, fatal conflict of interest that irreparably taints any judicial intervention by Madam Justice Shore in matters directly involving the TDIA Group and the Applicant.

14. THIS COURT DECLARES that the Applicant's Judicial Review Procedure Act (JRPA) Application was meticulously, formally, and legally perfected on December 16, 2024, initiating the mandatory statutory timelines which have been subsequently and egregiously ignored by the registry.

15. THIS COURT DECLARES that Former Registrar Gentles (and by extension the current registry apparatus under Ms. Parris) of the Divisional Court, as of December 3, 2025, comprehensively failed to comply with the mandatory directives of the Rules of Civil Procedure, specifically failing in the strict administrative duty to issue, sign, and process a Form 68B. The subject cannot and shall not be penalized for the internal administrative collapse, gatekeeping, or apathy of the state apparatus.

16. THIS COURT DECLARES that in addition to Madam Justice Shore's acts in the Divisional Court Proceeding being Factum A Judice, Quod Ad Officium Jure Non Pertinet, Ratum Non Est—including but not limited to the Ibula Email wherein she purported to "direct" (sic) the convening of a "case management conference" on January 7, 2025, without a scintilla of jurisdiction in a JRPA Application—her acts in the Criminal Proceeding of September 2024 were equally void. This Court Declares that as a direct consequence of the total absence of a BY ORDER "Assignment For Case Management" and the total absence of a First Defence 'filed' by any Respondent, all appearances before her were legally invisible (Coram Non Judice). Furthermore, This Court Declares that Madam Justice Shore's issuance of an "Intake Court Endorsement" in the Criminal Proceeding was a profound excess of jurisdiction. Upon hearing an ex parte application by law enforcement in camera, she was legally constrained to either issue a Form 6 Summons, issue a Form 7 Warrant For Arrest, or dismiss the application entirely. The invention of a hybrid Family-Criminal endorsement constitutes a stark jurisdictional nullity.

17. THIS COURT DECLARES that Madam Justice Shore was unconditionally, ethically, and legally required to provide immediate, transparent notice to the Applicant of her undisclosed, ex parte judicial involvement in the Fall of 2024 Criminal Proceeding. This strict duty of disclosure exists absolutely irrespective of whether she possessed

contemporaneous knowledge that the Information Package presented to her in chambers had been—or would subsequently be—post facto manipulated or forensically altered by state actors.

18. THIS COURT DECLARES that since there was no legal filing of a First Defence and absolutely no BY ORDER "Assignment For Case Management" formally entered onto the court record, Madam Justice Shore was strictly unassigned to hear, manage, or conduct any procedural steps whatsoever in this Divisional Court JRPA Proceeding, let alone conduct and hear all steps as contemplated by Rule 77.06. This Court Further Declares that Madam Justice Shore was never the lawfully seized presiding motions judge for any of the Applicant's motions. Consequently, she is hereby permanently restrained and formally prohibited from any further administrative, adjudicative, or clerical involvement in this matter or any related proceedings.
19. THIS COURT DECLARES that the systemic metadata deeply embedded within the Canadian Police Information Centre (CPIC)—specifically the first entries detailing the originating agency identifier, the issuing court level, the issuing court region, and the name of the authorizing SCJ Judge—are entirely and factually consistent with the specific law enforcement agency that attended the courthouse in Fall 2024, the Superior Court of Justice, the Toronto Region, and Madam Justice Shore. This metadata provides an irrefutable digital footprint confirming her involvement in the purported Intake Court Endorsement, directly contradicting subsequent registry denials.
20. THIS COURT DECLARES that Madam Justice Shore possessed absolutely no statutory jurisdiction, inherent power, or administrative authority to unilaterally self-assign herself to this complex JRPA Divisional Court Proceeding. Jurisdiction in statutory courts is strictly conferred, never telepathically or administratively seized.
21. THIS COURT FURTHER DECLARES that irrespective of the void ab initio, Factum A Judice, and Coram Non Judice status of the steps taken by Madam Justice Shore in January 2025 and beyond, the specific language utilized in the directives relayed by Ms. Ibula—a non-appointed individual of the MAG and non-member of the union (OPSEU)—was manifestly extra-jurisdictional. The use of highly discretionary, non-committal language such as "if necessary" regarding the hearing of a perfectly constituted JRPA Application represents a gross misapprehension of the judicial duty to decide. This language is fundamentally inconsistent with the mandatory commands of the JRPA, the *Courts of Justice Act*, the Rules of Civil Procedure, and the binding common law principles of administrative review established by the Supreme Court of Canada in Vavilov and Yatar.

22. THIS COURT DECLARES that the prominent inclusion of Ms. Ibula in the administrative chain of custody creates an inescapable, fatal reasonable apprehension of bias. Based upon public decisions, Ms. Ibula was or is concurrently employed at the offices of Martin Barristers at Suite 55-1100 University Avenue. This is the exact, identical office location as then-counsel Ms. Nikki Kanavas, a lawyer of the LSO representing the Landlord of the Applicant—a party inextricably intertwined in the underlying property thefts and unlawful lockouts detailed herein. This deeply compromised administrative nexus shatters the appearance of judicial independence, and every document and step flowing through this channel is hereby formally set aside on the distinct and independent ground of bias and conflict of interest.

23. THIS COURT DECLARES that pursuant to section 123(1) of the *Courts of Justice Act*, the "chief judge" is a person having authority to assign duties to the judge. Furthermore, the Divisional Court President has the exclusive authority to direct and supervise the sittings and the assignment of the judicial duties of the court (see: s. 72 of the *Courts of Justice Act*), which includes determining the sittings of the court; assigning judges to the sittings; assigning cases and other judicial duties to individual judges; and determining the sitting schedules and places of sittings for individual judges (see: section 75 of the *Courts of Justice Act*).

24. THIS COURT DECLARES that as the Divisional Court President announced his retirement on January 21, 2026, which occurred a few days after the draft orders were mail-filed with the Divisional Court, he is statutorily entitled to give decisions for 90 days following said announcement pursuant to section 123(2) of the *Courts of Justice Act*.

25. THIS COURT DECLARES that the "inability" or being "unable to give a decision" within the meaning of section 123(4) and section 124(2) of the *Courts of Justice Act* relates not only to a physical or mental defect, but fundamentally encompasses the lack of authority to do so, including but not limited to the lack of independence, impartiality, and jurisdiction.

26. THIS COURT DECLARES that under section 123(5) of the *Courts of Justice Act*, the statutory reference to "hearing" a matter strictly relates to a Hearing and not a case conference. Where a judge has heard a matter like NOM #3, whether it be in writing or orally, with or without oral argument, and with or without the public, the mandatory timeline for that judicial officer to give a decision was three months, unless it was strictly reserved for Judgment.

27. THIS COURT ORDERS AND DIRECTS that an unredacted, certified copy of this made, issued, signed, endorsed, filed, and entered Order may be formally provided by the Applicant to the Canadian Judicial Council. This provision facilitates the Council's exclusive jurisdiction over the review of judicial conduct that severely departs from the Quamdiu Se Bene Gesserit standard, particularly regarding allegations of sua sponte excess of jurisdiction and the failure in the due execution of office.

28. THIS COURT ORDERS that Motion Number Three, having been maliciously or negligently orphaned in a state of procedural invisibility and held captive in a constitutionally offensive "shadow docket", is hereby immediately rescued from administrative stasis. Pursuant to section 123(5) of the *Courts of Justice Act*, the Divisional Court President hereby relieves whomever he purportedly assigned to hear NOM #3, and formally self-assigns to take over and adjudicate this matter, mirroring the relief explicitly sought in Motion #6 in relation to NOM #2.

29. THIS COURT ORDERS that the Divisional Court President must provide a specific time as to when the decision is given, and the substantive decision shall be rendered by no later than Thursday, April 2, 2026.

30. THIS COURT DIRECTS AND MANDATES that the Chief Justice, in adjudicating this Rehearing, shall rigorously and unhesitatingly apply the foundational doctrine of Active Guardianship in evaluating the unopposed evidentiary record. The Chief Justice shall proactively examine the uncontradicted facts to determine if the legal threshold for relief has been satisfied on a balance of probabilities. The Applicant shall not be penalized for the intentional default, procedural delinquency, and calculated, bad-faith silence of the institutional and Crown Respondents.

31. THIS COURT DIRECTS that the Applicant's fundamental right to formally pursue Charter damages, secure declaratory relief regarding the "Bad Faith Threshold," and seek extraordinary remedies stemming from the alleged "Section 96 Inconsistency," remains fully intact, vibrant, and actively actionable before the Chief Justice. The Court expressly adopts the jurisprudential framework of Power, recognizing that where systemic anomalies trigger a "gross usurpation" of power, and where "bad faith" involves acting for collateral purposes through precipitously rushed, ex parte processes without notice (as outlined in Grosvenor), the state loses its immunity. Because the sua sponte Irremediable Nullity violently bypassed standard appellate avenues, the alternative remedy barrier articulated in Ernst is definitively overcome.

32. THIS COURT ORDERS that Former Registrar Ms. Tashekah Gentles and Current Registrar Ms. Roxanne Parris are hereby legally and mandatory compelled to fulfill their statutory duties, specifically to formally and immediately issue and sign the Form 68B and process the Applicant's unopposed JRPA application without further administrative obstruction, gatekeeping, or extra-judicial delay. The Registrar's office is strictly prohibited from substituting its administrative preference for the mandatory requirements of the Rules of Civil Procedure.

33. THIS COURT ORDERS that the Ministry of the Attorney General (Justice Technology Services / Justice Services Online) shall immediately and unconditionally lift the "403 Forbidden Error Code" effectively blocking the Applicant's IP addresses and user credentials from accessing the Ontario Courts Public Portal (OCPP), thereby restoring the Applicant's right to digital access to justice and equal standing before the law.

34. THIS COURT ORDERS the Registrar and the designated Court Reporting staff to immediately honor the Applicant's Request Form Undertakings and release the digital audio recordings of all unauthorized case conferences, administrative meetings, or oral proceedings conducted in this matter, regardless of whether they were formally docketed in the ICON or FRANK systems, ensuring the absolute transparency of the judicial record.

35. THIS COURT ORDERS the strict, immediate, and uncompromising preservation of all systemic digital and physical evidence. This preservation order specifically captures: all systemic metadata; JSO portal access logs; CPIC transaction logs (specifically including PIB RCMP PPU 005); ICON and FRANK database queries; and internal registry electronic mail communications pertaining to this proceeding and the FIP. Furthermore, this order explicitly covers records related to the generation of the "False Information Package" (FIP) via the GrapeCity Documents for PDF 6.0.2.0 SDK, all metadata associated with the "TDI Karat Theft", OnLand active/deleted instruments concerning the Fleetwood Drive Home, and the documented unauthorized interference with the Applicant's cellular device and Apple iCloud storage infrastructure. The Crown Respondents, the Toronto Police Service (including the 14th and 52nd Divisions), and the Ministry of the Attorney General are strictly, formally, and permanently enjoined from the spoliation, deletion, alteration, or systemic "cleanup" of these digital records.

36. THIS COURT DIRECTS that, to fiercely preserve the absolute independence of the judiciary and actively prevent severe, fatal institutional conflicts of interest, the Ministry of the Attorney General (Civil Law Division) is strictly prohibited from concurrently providing legal representation, strategic advice, or administrative shielding to any

reassigned judicial officer involved in the coram non judice acts while simultaneously representing the Crown Respondents in the underlying adversarial lis. The executive branch of government must not act as a protective shield for judicial excess of jurisdiction.

37. THIS COURT ORDERS that all relief, reassignments, and mandatory directives granted herein are unequivocally ordered nunc pro tunc (retroactively effective) as of December 3, 2025. This ensures the absolute, impenetrable preservation of the Applicant's statutory timelines, appellate windows, and procedural standing, wholly immunizing the diligent litigant against any loss of rights resulting from the institution's own profound, prolonged delay.

38. THIS COURT ORDERS AND COMMANDS the Registrar of the Divisional Court to immediately, without exception, completely bypass standard queueing procedures, administrative gatekeeping, and routine processing delays to formally execute this Order. The Registrar shall facilitate the immediate digital and physical transfer of the perfected record for a final, substantive disposition forthwith. The Registrar is explicitly and personally directed to ensure the immediate, permanent cessation of the shadow docket and to restore strict, unwavering compliance with the open court principle.

39. THIS COURT ORDERS that pursuant to section 123(7) of the *Courts of Justice Act*, the Chief Justice must give directions and make orders that are just (see: *Courts of Justice Act* and Rules of Civil Procedure) and hereby decides and awards the costs relief sought as per NOM #3's Compendium 1st Updated and mail filed on December 11, 2025. There shall be no costs awarded on this specific, extraordinary motion for supervisory intervention, acknowledging that this structural remedy was necessitated by severe systemic judicial failure and registry collapse.

The Honourable Chief Justice of the SCJ Mr. Justice Morawetz in his capacity as the Divisional Court President

Signature of judge, officer or registrar)

FORM 59A (November 1, 2005)

FORM 4C

Courts of Justice Act

BACKSHEET

McLean v. TDHA et al

Court file no. DC-24-00000718-00JR

ONTARIO SUPERIOR COURT OF JUSTICE (DIVISIONAL COURT)

PROCEEDING COMMENCED AT **TORONTO**

FACTUM FOR Motion #7 (made on March 30, 2026)

EXCLUSIVELY WITHIN THE PURVIEW OF THE PRESIDENT OF THE Divisional Court

Mr. Kevin A. McLean (B.A., J.D., CIM)
Applicant in this Notice of Application For Judicial Review ("**JRPA Application**") and perfected on December 16, 2024
775 King Street West
Suite 410
Toronto, Ontario
M5V 2K3
Email: mcleansettlement@gmail.com

SERVED ON
Former Registrar of the Divisional Court in Ms. Tashekah Gentles (no longer the Registrar of the Divisional Court as of December 3, 2025) (email: tashekah.gentles@ontario.ca)
Acting Registrar of the Divisional Court as of December 3, 2025, in Ms. Parris (Roxanne.parris@ontario.ca)

Not served on any Respondents as they failed to file a First Defence in the JRPA Proceeding and failed to deliver an NOA (Form 38A) and failed to do so with notice in relation to the "Record of Proceeding" as discovered with knowledge by the Applicant on December 1, 2025, by the OCPP

Tab 81

5388 ☐ (Intimate Partner Violence / *Violence contre un partenaire intime*) ☐ Replacement Information / *Dénonciation de remplacement*

☐ S (Impaired driving with substances / *Conduite avec capacités affaiblies par des substances)* ☐ V (Vessel / *Bateau*)

Arrest Date: _____ **15 month Flag:** _____ **18 month Flag:** _____
Date d'arrestation *Alerte à 15 mois (ddmmyy / jjmmaa)* *Alerte à 18 mois (ddmmyy / jjmmaa)*

Sworn Date: 230924 **15 month Flag:** 241225 **18 month Flag:** 250326
Date d'assermentation *Alerte à 15 mois (ddmmyy / jjmmaa)* *Alerte à 18 mois (ddmmyy / jjmmaa)*

4810 998 24 48129169
Information Number / Nº de la dénonciation

NOTICE: Orders concerning this court Information relating to publication bans, non-disclosure/communication and French-language rights, are available on a separate page and **must** be followed.

AVIS: Les ordonnances liées à la présente dénonciation en ce qui a trait aux interdictions de publication, à la non-divulgation ou à la non-communication et aux droits linguistiques des francophones figurent sur une page distincte. Ces ordonnances **doivent** être respectées.

Form 2 Information / *Formule 2 Dénonciation*

Sections 506, 508.1 and 788 of the Criminal Code / *Articles 506, 508.1 et 788 du Code criminel*

CANADA
PROVINCE OF ONTARIO
PROVINCE DE L'ONTARIO
TORONTO
(Region / *Région*)

Information of: **Christyn Frugoni-Rojas**
Dénonciation de :
of **THE CITY OF TORONTO** **Court Officer**
de (occupation / *profession*)
hereinafter called the informant / *ci-après appelé(e) le dénonciateur*

The informant says that he/she believes on reasonable grounds that
Le dénonciateur déclare qu'il a des motifs raisonnables de croire que

(1) **MCLEAN, Kevin** DOB: 25 Mar. 1983
NFA, , ON

COUNT 1

Kevin MCLEAN

on or about the 22nd day of September in the year 2024 at the City of Toronto in the Toronto Region did, without lawful authority and knowing that another person, namely Nicole ARTOPOULOS, was harassed or recklessly as to whether that person was harassed, engage in repeatedly communicating with, either directly or indirectly, that person, and cause the said Nicole ARTOPOULOS to reasonably fear for personal safety, contrary to Section 264, subsection (2), clause (b) of the Criminal Code of Canada.

---------- **End of Charges/Counts** ----------

Declaration of Informant / *Déclaration du dénonciateur*

I declare that all matters contained in the Information are true to my knowledge and belief, pursuant to s. 508.1(2) of the *Criminal Code*.
Je soussigné(e) *déclare tous les renseignements contenus dans la* présente *dénonciation sont, à ma connaissance*, *véridiques, en vertu de par. 508.1(2) du Code criminel.*

Dated at / *Fait à(au)* CITY of TORONTO in the Province of Ontario, this / *dans la province d'Ontario, ce* 23rd day of / *jour de* SEPTEMBER , 20 24

Declared / Déclaré

Christyn Frugoni-Rojas CL (M)

Digitally signed by Christyn Frugoni-Rojas CL (M)
Date: 2024.09.23 11:48:25 -04'00'

Digital Signature of Informant / *Signature numérique du dénonciateur*

This document has been digitally signed / *Ce document a ètè signè numèriquement.*

5890

Intake Court Endorsement

This Information is Accepted on its face.

Kevin MCLEAN:

Warrant In The First: Issue

Dated in the Province of Ontario, this 23rd day of September 2024.
Fait à/au dans la province de l'Ontario, ce 23 septembre 2024.

Justice of the Peace
Ontario Court
of Justice

Digitally signed by
George Jiri
Date:2024.09.23
12:59:50 -04'00'

This document has been digitally signed. / *Ce document a été signé numériquement.*

Arrest Date: _____	**15 month Flag:** _____	**18 month Flag:** _____
Date d'arrestation	*Alerte à 15 mois (ddmmyy / jjmmaa)*	*Alerte à 18 mois (ddmmyy / jjmmaa)*
Sworn Date: 230924	**15 month Flag:** 241225	**18 month Flag:** 250326
Date d'assermentation	*Alerte à 15 mois (ddmmyy / jjmmaa)*	*Alerte à 18 mois (ddmmyy / jjmmaa)*

5391

4810 998 24 48129169
Information Number / Nº de la dénonciation

[ ] **Accused notified court under s. 530(3)**
Tribunal avisé par l'accusé en vertu de l'art. 530(3)

[ ] **Designation Filed**
Désignation déposée

[ ] **Interpreter Required**
Interprète requis

Date *Date*	**Accused** *Accusé*	**Adjournment Date** *Date d'ajournement*	**Adjournment Details** *Détails sur l'ajournement*	Designation Désignation	Counsel No Agent Avocat mandataire	Fail to appear Omet de comparaître	Bench Warrant Mandat d'arrêt	Discretion Discrétion	Certificate of Default Certificat de défaut
03 Oct 2024	MCLEAN, KEVIN	13 Nov 2024	Toronto-OCJ-T-10 Armoury St - 204 @ 2:00 PM, FA, VI, ACP - Warrant in the First Executed						
13 Nov 2024	MCLEAN, KEVIN	18 Dec 2024	Toronto-OCJ-T-10 Armoury St - 204 @ 2:00 PM, ST, VI, ACP - - DISC BW			X	X	X	
18 Dec 2024	MCLEAN, KEVIN	19 Mar 2025	Toronto-OCJ-T-10 Armoury St - 204 @ 2:00 PM, ST, VI, ACP - -11b waived - - DISC BW Rescinded						
19 Mar 2025	MCLEAN, KEVIN	16 Apr 2025	Toronto-OCJ-T-10 Armoury St - 204 @ 2:00 PM, ST, VI, APN - - DISC BW			X	X	X	
16 Apr 2025	MCLEAN, KEVIN	14 May 2025	Toronto-OCJ-T-10 Armoury St - 204 @ 2:00 PM, ST, VI, ACP - - DISC BW Rescinded						
14 May 2025	MCLEAN, KEVIN	11 Jun 2025	Toronto-OCJ-T-10 Armoury St - 702 @ 2:00 PM, ST, VI, ACP						

Date *Date*	**Clerk** *Greffier*	**Crown** *Couronne*	**For the Accused** *Pour l'accusé*	**Justice's Initials** *Initiales du juge*
03 Oct 2024	Henriquez, Michael	NA	NP, NA, NOR	DJ
13 Nov 2024	Nurali, Saira	Pashang, Sia	NP, NP (Acc appeared in triage), NRC	TC
18 Dec 2024	Barna, Elizabeth	Dimiskovska, Andrea	AA, AA, VI, Self-Rep , NRC	JG
19 Mar 2025	Weisemberg, Iara	Laws, Jennifer	NP, NRC	JR
16 Apr 2025	Berhane, Aron	Dimiskovska, Andrea	AA, Self-Rep, NRC	BS
14 May 2025	Booth, Catherine	Laws, Jennifer	AA, Self-Rep, NRC	BS

[ ] **At Bail Review date**
À la révision de l'ordonnance de détention, datée du

[ ] **Original Order Confirmed**
Ordonnance originale Confirmée

[ ] **New Order Made**
Nouvelle ordonnance rendue

[ ] **Gladue Report Requested**
Rapport Gladue demandé

(date / date)

5392

Information No. / *Nº de la dénonciation*

Return Date / *Date à laquelle le document est rapporté*
, 20

INFORMATION Against / *DÉNONCIATION visant*
MCLEAN,Kevin

Address / *Adresse*
NFA
, ON

CHARGE / *ACCUSATION*
HARASSMENT BY REPEATED COMMUNICATION WITH PERSON

Refer to front page for further counts / *Reportez-vous à la première page pour plus de chefs.*

FOR ADMINISTRATIVE PURPOSES ONLY
À DES FINS ADMINISTRATIVES SEULEMENT

☐ Summons *Sommation* ☐ Show Cause *Audience de justification* ☒ Warrant 1st *Mandat en 1re instance*

☐ Replacement Information / *Dénonciation de remplacement*

☐ Reportable M.V. Offence (*H.T.A.* 199) *Infraction V.M. à déclarer (*Code de la route 199*)*

C.V.O.R. No (Commercial Vehicles Only)
Numéro C.I.U.V.U. (véhicules utilitaires seulement)

Sex / *Sexe*	Birth Date / *Date de naissance* Day / *Jour*	Month / *Mois*	Year / *Année*	Was defendant owner? *La partie défenderesse était-elle propriétaire?*
M	25	03	1983	☐ Yes / *Oui* ☐ No / *Non*

Driver's Licence Number / *Numéro du permis de conduire*
M16514331830325

Plate No. / *Numéro de plaque*

☐ Involves a Collision *Infraction reliée à un accident*

Informant
Dénonciateur Christyn Frugoni-Rojas

Deemed Sworn /Affirmed Date SEP 23rd,24
Réputée être déclarée sous serment/affirmée solennellement le

Date of Arrest
Date de l'arrestation

Officer / *Agent de police* KOLANKOWSKI, MI

No. / *Nº* 82239

Police Agency / *Service de police* TORONTO POLICE SERVIC

Div. / *Dist.* 14 DIVISION

Occurrence Number / *Nº d'incident*
24-2082035

Courtroom / *Salle d'audience*

At / *À(Au)* OCJT #204 IPV SOUTH
10 ARMOURY ST, TORONTO ON M7A 0B9

Information No. / *Nº de la dénonciation*

Return Date / *Date à laquelle le document est rapporté*
, 20

INFORMATION Against / *DÉNONCIATION visant*

Address / *Adresse*

CHARGE / *ACCUSATION*

Refer to front page for further counts / *Reportez-vous à la première page pour plus de chefs.*

FOR ADMINISTRATIVE PURPOSES ONLY
À DES FINS ADMINISTRATIVES SEULEMENT

☐ Summons *Sommation* ☐ Show Cause *Audience de justification* ☐ Warrant 1st *Mandat en 1re instance*

☐ Replacement Information / *Dénonciation de remplacement*

☐ Reportable M.V. Offence (*H.T.A.* 199) *Infraction V.M. à déclarer (*Code de la route 199*)*

C.V.O.R. No (Commercial Vehicles Only)
Numéro C.I.U.V.U. (véhicules utilitaires seulement)

Sex / *Sexe*	Birth Date / *Date de naissance* Day / *Jour*	Month / *Mois*	Year / *Année*	Was defendant owner? *La partie défenderesse était-elle propriétaire?*
				☐ Yes / *Oui* ☐ No / *Non*

Driver's Licence Number / Numéro du permis de conduire

Plate No. / *Numéro de plaque*

☐ Involves a Collision *Infraction reliée à un accident*

Informant
Dénonciateur

Deemed Sworn /Affirmed Date
Réputée être déclarée sous serment/affirmée solennellement le

Date of Arrest
Date de l'arrestation

Officer / *Agent de police*

No. / *Nº*

Police Agency / *Service de police*

Div. / *Dist.*

Occurrence Number / *Nº d'incident*

Courtroom / *Salle d'audience*

At / *À(Au)*

Information No. / *Nº de la dénonciation*

Return Date / *Date à laquelle le document est rapporté*
, 20

INFORMATION Against / *DÉNONCIATION visant*

Address / *Adresse*

CHARGE / *ACCUSATION*

Refer to front page for further counts / *Reportez-vous à la première page pour plus de chefs.*

FOR ADMINISTRATIVE PURPOSES ONLY
À DES FINS ADMINISTRATIVES SEULEMENT

☐ Summons *Sommation* ☐ Show Cause *Audience de justification* ☐ Warrant 1st *Mandat en 1re instance*

☐ Replacement Information / *Dénonciation de remplacement*

☐ Reportable M.V. Offence (*H.T.A.* 199) *Infraction V.M. à déclarer (*Code de la route 199*)*

C.V.O.R. No (Commercial Vehicles Only)
Numéro C.I.U.V.U. (véhicules utilitaires seulement)

Sex / *Sexe*	Birth Date / *Date de naissance* Day / *Jour*	Month / *Mois*	Year / *Année*	Was defendant owner? *La partie défenderesse était-elle propriétaire?*
				☐ Yes / *Oui* ☐ No / *Non*

Driver's Licence Number / Numéro du permis de conduire

Plate No. / *Numéro de plaque*

☐ Involves a Collision *Infraction reliée à un accident*

Informant
Dénonciateur

Deemed Sworn /Affirmed Date
Réputée être déclarée sous serment/affirmée solennellement le

Date of Arrest
Date de l'arrestation

Officer / *Agent de police*

No. / *Nº*

Police Agency / *Service de police*

Div. / *Dist.*

Occurrence Number / *Nº d'incident*

Courtroom / *Salle d'audience*

At / *À(Au)*

This document has been digitally signed / *Ce document a été signé numériquement.*

Tab 82

5394 Replacement Information / *Dénonciation de remplacement*

☐ D/V ☐ S

Information Number / *Nº de la dénonciation* .....

☐ Non-Disclosure Order Pursuant to S. 486.31
Ordonnance de non-divulgation, art. 486.31

☐ Non-communication s. 515(12) & 516(2)
Non-communication, par. 515(12) et 516(2)

☐ Publication ban pursuant to .....
Interdiction de publication en vertu de

☐ Provisions of 530(3) Complied With .....
Dispositions du par. 530 (3) observées

Arrest Date: ..... **15 month Flag:** ..... **18 month Flag:** .....
Date d'arrestation *Alerte à 15 mois* *Alerte à 18 mois*

Sworn Date: ..... **15 month Flag:** ..... **18 month Flag:** .....
Date d'assermentation *Alerte à 15 mois* *Alerte à 18 mois*

CANADA
PROVINCE OF ONTARIO
PROVINCE DE L'ONTARIO

Information of: .....
Dénonciation de :

..... of .....
(Region / *Région*) *de* (occupation / *profession*)

The informant says that **he/she** believes on reasonable grounds that
Le dénonciateur déclare qu'il a des motifs raisonnables de croire que

[Accused / Accusé] **[Address / adresse]**
(Last Name, First Name) *(nom, prénom)*

(Date of birth / *date de naissance*)
(Day / *jour*) / (Month / *mois*) /(Year / *année*)

(enter charges here / insérer des accusations ici)

5396

☐ **Information Number** .....
N° de la dénonciation

☐ **Language Notification** .....
Avis de langue

☐ **Designation Filed** .....
Désignation déposée

☐ **Interpreter Required** .....
Interprète requis

Date	**Accused** ***Accusé***	**Adjournment Date** ***Date d'ajournement***	**Adjournment Details** ***Détails sur l'ajournement***	Designation Désignation	Counsel As Agent *Avocat mandataire*	Fails to Appear *Omet de comparaitre*	Bench Warrant *Mandat d'arrêt*	Discretion *Discrétion*	Certificate of Default *Certificat de défaut*

Date	**Clerk** ***Greffier***	**Crown** ***Couronne***	**For the Accused** ***Pour l'accusé***	**Justice's initials** ***Initiales du juge***

At Bail Review dated .....
À la révision de l'ordonnance de détention, datée du

☐ **Original Order Confirmed**
Ordonnance originale confirmée

☐ **New Order Made**
Nouvelle ordonnance rendue

☐ **Gladue Report Ordered**
Rapport Gladue commandé

5397

Information Number / *Nº(s) de dénonciation* .....

☐ **To be completed where information is laid other than in person:** I, ... , state that
À remplir lorsque la dénonciation est déposée autrement qu'en personne : *Je soussigné(e)* (name of informant / *nom du dénonciateur*) *déclare que*

all matters contained in this information are true to my knowledge and belief, pursuant to s. 508.1 (2) of the *Criminal Code*.
tous les renseignements contenus dans la présente dénonciation sont, à ma connaissance, véridiques, en vertu de par. 508.1 (2) du Code criminel.

☐ Deemed to be sworn / *Réputée être faite sous serment*

Sworn/affirmed before me at the .....
Déclaré sous serment/affirmé solennellement devant moi à/au

of / *de* .....

in the Province of Ontario / *dans la province de l'Ontario*

this ..... day of ..... , 20 .....
ce *jour de*

_____
Informant / *Dénonciateur*

_____
Justice of the Peace / *Juge de paix*

☐ Appearance Notice *Citation à comparaître* ☐ Promise to Appear *Promesse de comparaître* ☐ Recognizance *Engagement* for ..... , 20 .....
pour le (day, month / *jour, mois*)

CHECK ONE OF THE FOLLOWING / *COCHEZ LA CASE QUI CONVIENT*

☐ Cancelled – Police to notify defendant
Annulé(e) – La police informera la partie défenderesse

☐ Cancelled – Summons
Sommation

☐ Confirmed on ..... , 20 .....
Confirmé(e) le (day, month / *jour, mois*)

☐ Cancelled - Warrant issued .....
Annulé(e) – Mandat délivré

_____
Justice of the Peace / *Juge de paix*

_____
Justice of the Peace / *Juge de paix*

..... , 20 .....
(day, month / *jour, mois*)

Date *Date* **Crown Elects to Proceed** *La Couronne choisit de procéder par* ☐ Summarily *Procédure sommaire* ☐ By Indictment *Acte d'accusation* | ☐ Summary Conviction Offence(s) *Infraction(s) punissable(s) sur déclaration de culpabilité par procédure sommaire* ☐ Indictable Offence(s) *Infraction(s) punissable(s) par mise en accusation*

Date *Date*	Accused *Accusé*	**Elects Trial by *Choix d'un procès devant***			Preliminary Hearing Requested *Enquête préliminaire demandée*		Justice Initials *Initiales du juge*	Abs. Juris. *Comp. absolue*	**Pleads** *Plaide*	
		Superior Court *Cour supérieure*		Ontario Court *Cour de l'Ontario*						
		Judge *Juge*	Judge & Jury *Juge et jury*	Judge On Counts *Juge pour les chefs d'accusation*	Yes *Oui*	No *Non*			Guilty to Counts *Coupable aux chefs d'accusation*	Not Guilty to Counts *Non coupable aux chefs d'accusation*

Date *Date*	Accused *Accusé*	Committed (or) Ord. Std. Trial *On Counts *Renvoyé à procès pour les chefs d'accusation*	Discharged on Counts *Libéré des chefs d'accusation*	**Found / *Reconnu***	
				Guilty on Counts *Coupable des chefs d'accusation*	Not Guilty on Counts *Non coupable des chefs d'accusation*

* ☐ With consent of accused and prosecutor, without taking or recording *Avec le consentement de l'accusé et du poursuivant, sans recueillir ou consigner* ☐ (a) any evidence *a) des preuves* (or) *(ou)* ☐ (b) further evidence *b) des preuves additionnelles*

_____
Judge / *Juge*

5398

Name(s) / *La Reine c.* Information #(s) / *Dénonciation(s) nº(s)*

Count / ***Chef*** ..... **Sentence date /** ***Date de détermination de la peine*** ..... ☐ **Withdrawn /** ***Accusation retirée***

☐ Pre-sentence custody ..... days/months *Détention sous garde avant prononcé de jours/mois* Time credited: ..... days/months *Crédit octroyé jours/mois* ☐ concurrent with ..... *concurrente avec*

☐ Term that would have been imposed before credit granted: ..... days/months/years *Période d'emprisonnement imposée avant l'octroi de tout crédit jours/mois/ans*

☐ Absolute discharge *Absolution inconditionnelle* ☐ Conditional discharge *Absolution conditionnelle* ☐ Suspended sentence *Condamnation avec sursis*

☐ Imprisoned for ..... days/months/years *Emprisonnement pour jours/mois/ans* ☐ concurrent with *concurrent avec* ☐ consecutive to ..... *consécutif à*

☐ Intermittent sentence for ..... days *Peine discontinue jours* ☐ concurrent with *concurrente avec* ☐ consecutive to ..... *consécutif à*

☐ Conditional sentence for ..... days/months/years *Ordonnance de sursis jours/mois/ans* ☐ concurrent with *concurrente avec* ☐ consecutive to ..... *consécutif à*

☐ Probation ..... months/years *Période de probation mois/ans* ☐ concurrent with *concurrente avec* ☐ consecutive to ..... *consécutif à*

☐ Community service s.732.1(3)(f) / *Service communautaire, par.732.1(3)(f)* ..... hours / *heures*

☐ Fine of $ ..... VS $ ..... Time to pay ..... Days in default ..... *Amende de $ sur. comp. $ Délai de paiement Jours à défaut*

☐ Restitution ☐ s. 738 / s. 739 *Dédommagement art. 738 / art. 739* Amount: $ ..... *Montant $* Time to pay ..... *Délai de paiement*

☐ Victim surcharge: $ ..... Time to pay: ..... Days in default ..... *Suramende compensatoire $ Délai de paiement Jours à défaut*

☐ Ordered to stand trial: / *Renvoyé pour subir son procès* .....

☐ Dismissed *Rejeté*
☐ Acquitted *Acquitté*
☐ Stayed *Sursis*
☐ In Absentia *In absentia*
☐ Other *Autre*

☐ Driving prohibition: *Interdiction de conduite* ☐ *HTA* cautioned *Avertissement (*Code de la route) ..... Months / Years *mois/années* ☐ s.743.21(1) / *par. 743.21(1)*
☐ Weapons prohibition: *Interdiction d'armes* ☐ s. 109(2): ..... years *par. 109(2) ans* ☐ s. 109(3) (Life) *par.109(3)(perpétuité)* ☐ s. 110: ..... years *art 110 ans* ☐ s. 110 (life) *art .110 (perpétuité)*
☐ DNA: *ADN* ☐ 5.03 (Primary) *5.03 (primaire)* ☐ 5.04 (Secondary) *5.04 (secondaire)* ☐ Denied (DND) *Rejetée*
☐ S.O.I.R.A. order: *Ordonnance LERDS* ☐ 10 years *10 ans* ☐ 20 years *20 ans* ☐ Life *Perpétuité*
☐ s. 161 prohibition: *Interdiction, art. 161* ..... months/years *mois/ans* ☐ s. 490 forfeiture order: *Ordonnance de confiscation, art. 490* ☐ Granted *Accordée* ☐ Denied *Rejetée*

Count / ***Chef*** ..... **Sentence date /** ***Date de détermination de la peine*** ..... ☐ **Withdrawn /** ***Accusation retirée***

☐ Pre-sentence custody ..... days/months *Détention sous garde avant prononcé de jours/mois* Time credited: ..... days/months *Crédit octroyé jours/mois* ☐ concurrent with ..... *concurrente avec*

☐ Term that would have been imposed before credit granted: ..... days/months/years *Période d'emprisonnement imposée avant l'octroi de tout crédit jours/mois/ans*

☐ Absolute discharge *Absolution inconditionnelle* ☐ Conditional discharge *Absolution conditionnelle* ☐ Suspended sentence *Condamnation avec sursis*

☐ Imprisoned for ..... days/months/years *Emprisonnement pour jours/mois/ans* ☐ concurrent with *concurrent avec* ☐ consecutive to ..... *consécutif à*

☐ Intermittent sentence for ..... days *Peine discontinue jours* ☐ concurrent with *concurrente avec* ☐ consecutive to ..... *consécutif à*

☐ Conditional sentence for ..... days/months/years *Ordonnance de sursis jours/mois/ans* ☐ concurrent with *concurrente avec* ☐ consecutive to ..... *consécutif à*

☐ Probation ..... months/years *Période de probation mois/ans* ☐ concurrent with *concurrente avec* ☐ consecutive to ..... *consécutif à*

☐ Community service s.732.1(3)(f) / *Service communautaire, par.732.1(3)(f)* ..... hours / *heures*

☐ Fine of $ ..... VS $ ..... Time to pay ..... Days in default ..... *Amende de $ sur. comp. $ Délai de paiement Jours à défaut*

☐ Restitution ☐ s. 738 / s. 739 *Dédommagement art. 738 / art. 739* Amount: $ ..... *Montant $* Time to pay ..... *Délai de paiement*

☐ Victim surcharge: $ ..... Time to pay: ..... Days in default ..... *Suramende compensatoire $ Délai de paiement Jours à défaut*

☐ Ordered to stand trial: / *Renvoyé pour subir son procès* .....

☐ Dismissed *Rejeté*
☐ Acquitted *Acquitté*
☐ Stayed *Sursis*
☐ In Absentia *In absentia*
☐ Other *Autre*

☐ Driving prohibition: *Interdiction de conduite* ☐ *HTA* cautioned *Avertissement (*Code de la route) ..... Months / Years *mois/années* ☐ s.743.21(1) / *par. 743.21(1)*
☐ Weapons prohibition: *Interdiction d'armes* ☐ s. 109(2): ..... years *par. 109(2) ans* ☐ s. 109(3) (Life) *par.109(3)(perpétuité)* ☐ s. 110: ..... years *art 110 ans* ☐ s. 110 (life) *art .110 (perpétuité)*
☐ DNA: *ADN* ☐ 5.03 (Primary) *5.03 (primaire)* ☐ 5.04 (Secondary) *5.04 (secondaire)* ☐ Denied (DND) *Rejetée*
☐ S.O.I.R.A. order: *Ordonnance LERDS* ☐ 10 years *10 ans* ☐ 20 years *20 ans* ☐ Life *Perpétuité*
☐ s. 161 prohibition: *Interdiction, art. 161* ..... months/years *mois/ans* ☐ s. 490 forfeiture order: *Ordonnance de confiscation, art. 490* ☐ Granted *Accordée* ☐ Denied *Rejetée*

Justice of the Peace / *Juge de paix*

Judge / *Juge*

No. of Information / *Nº de la dénonciation*
Return Date / *Date à laquelle le document est rapporté* , 20

INFORMATION Against / *DÉNONCIATION visant*

Address / *Adresse*

CHARGE / *ACCUSATION*

Refer to front page for further counts. / *Reportez-vous à la première page pour plus de chefs.*

FOR ADMINISTRATIVE PURPOSES ONLY
À DES FINS ADMINISTRATIVES SEULEMENT

☐ Summons *Sommation* ☐ Show Cause *Audience de justification* ☐ Warrant 1st *Mandat en 1re instance* ☐ Re-laid Information *Dénonciation de remplacement*

☐ Reportable M.V. Offence (*H.T.A.* 199) *Infraction V.M. à déclarer (Code de la route 199)*	C.V.O.R. No (Commercial Vehicles Only) *Numéro C.E.C.V.U. (véhicules utilitaires seulement)*

Sex *Sexe*	Birth Date / *Date de naissance* Day / *Jour*	Month / *Mois*	Year / *Année*	Was defendant owner? *La partie défenderesse était-elle propriétaire?* ☐ Yes / *Oui* ☐ No / *Non*

Driver's Licence Number / *Numéro du permis de conduire*

Plate No. / *Numéro de plaque*	☐ Involves a Collision *Infraction liée à un accident*

Informant
Dénonciateur

Date Sworn *Date d'assermentation*	Date of Arrest *Date de l'arrestation*

Officer / *Agent de police* No. / *Nº*

Police Agency / *Service de police* Div. / *Dist.*

Occurrence Number / *Nº d'incident*

Courtroom / *Salle d'audience*

At / *À(Au)*

No. of Information / *Nº de la dénonciation*
Return Date / *Date à laquelle le document est rapporté* , 20

INFORMATION Against / *DÉNONCIATION visant*

Address / *Adresse*

CHARGE / *ACCUSATION*

Refer to front page for further counts. / *Reportez-vous à la première page pour plus de chefs.*

FOR ADMINISTRATIVE PURPOSES ONLY
À DES FINS ADMINISTRATIVES SEULEMENT

☐ Summons *Sommation* ☐ Show Cause *Audience de justification* ☐ Warrant 1st *Mandat en 1re instance* ☐ Re-laid Information *Dénonciation de remplacement*

☐ Reportable M.V. Offence (*H.T.A.* 199) *Infraction V.M. à déclarer (Code de la route 199)*	C.V.O.R. No (Commercial Vehicles Only) *Numéro C.E.C.V.U. (véhicules utilitaires seulement)*

Sex *Sexe*	Birth Date / *Date de naissance* Day / *Jour*	Month / *Mois*	Year / *Année*	Was defendant owner? *La partie défenderesse était-elle propriétaire?* ☐ Yes / *Oui* ☐ No / *Non*

Driver's Licence Number / *Numéro du permis de conduire*

Plate No. / *Numéro de plaque*	☐ Involves a Collision *Infraction liée à un accident*

Informant
Dénonciateur

Date Sworn *Date d'assermentation*	Date of Arrest *Date de l'arrestation*

Officer / *Agent de police* No. / *Nº*

Police Agency / *Service de police* Div. / *Dist.*

Occurrence Number / *Nº d'incident*

Courtroom / *Salle d'audience*

At / *À(Au)*

No. of Information / *Nº de la dénonciation*
Return Date / *Date à laquelle le document est rapporté* , 20

INFORMATION Against / *DÉNONCIATION visant*

Address / *Adresse*

CHARGE / *ACCUSATION*

Refer to front page for further counts. / *Reportez-vous à la première page pour plus de chefs.*

FOR ADMINISTRATIVE PURPOSES ONLY
À DES FINS ADMINISTRATIVES SEULEMENT

☐ Summons *Sommation* ☐ Show Cause *Audience de justification* ☐ Warrant 1st *Mandat en 1re instance* ☐ Re-laid Information *Dénonciation de remplacement*

☐ Reportable M.V. Offence (*H.T.A.* 199) *Infraction V.M. à déclarer (Code de la route 199)*	C.V.O.R. No (Commercial Vehicles Only) *Numéro C.E.C.V.U. (véhicules utilitaires seulement)*

Sex *Sexe*	Birth Date / *Date de naissance* Day / *Jour*	Month / *Mois*	Year / *Année*	Was defendant owner? *La partie défenderesse était-elle propriétaire?* ☐ Yes / *Oui* ☐ No / *Non*

Driver's Licence Number / *Numéro du permis de conduire*

Plate No. / *Numéro de plaque*	☐ Involves a Collision *Infraction liée à un accident*

Informant
Dénonciateur

Date Sworn *Date d'assermentation*	Date of Arrest *Date de l'arrestation*

Officer / *Agent de police* No. / *Nº*

Police Agency / *Service de police* Div. / *Dist.*

Occurrence Number / *Nº d'incident*

Courtroom / *Salle d'audience*

At / *À(Au)*

Tab 83

Jan 3/14

5401

Court File No: CV-12-9719-00CL

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C 36, AS AMENDED, APPLICATION OF LIGHTSQUARED LP UNDER SECTION 46 OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C 36, AS AMENDED, AND IN THE MATTER OF CERTAIN PROCEEDINGS TAKEN IN THE UNITED STATES BANKRUPTCY COURT WITH RESPECT TO THE CHAPTER 11 DEBTORS

J. Dietrich for Foreign Representative Jan 3, 2014.
of Chapter 11 Debtors.

B. Empey for Ad Hoc Group of Lenders

A. Sahin for some Trade Creditors

The motion was not opposed.

The Court has reviewed the Affidavit of the Applicant's Chief Financial Officer sworn December 31, 2013 and the exhibits described therein.

I am satisfied, having regard to the record and the submissions

ONTARIO
SUPERIOR COURT OF JUSTICE

PROCEEDING COMMENCED AT TORONTO

MOTION RECORD
(Returnable January 3, 2014)

DENTONS CANADA LLP
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blake.moran@dentons.com

Lawyers for the Chapter 11 Debtors

that it is appropriate for measures
and give full force and effect to
the Foreign Assets Control Regulations,
pursuant to 50 USC 1702.

The period of time within which

[illegible]

Tab 84

CITATION: Imperial Tobacco Company Limited, 2025 ONSC 4497
COURT FILE NO.: CV-19-615862-00CL; CV-19-616077-00CL; CV-19-616779-00CL
DATE: 2025-08-25

SUPERIOR COURT OF JUSTICE - ONTARIO

RE: **IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT**

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF JTI-MACDONALD CORP.

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF IMPERIAL TOBACCO CANADA LIMITED AND IMPERIAL TOBACCO COMPANY LIMITED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF ROTHMANS, BENSON & HEDGES INC.

BEFORE: Chief Justice Geoffrey B. Morawetz

COUNSEL: *Deborah Glendinning, Marleigh Dick and Craig Lockwood*, for Imperial Tobacco Canada Limited and Imperial Tobacco Company Limited

Linda Plumpton, Jeremy Opolsky, Scott Bomhof, Adam Slavens, and Alec Angle, for JT Canada LLC Inc. and PricewaterhouseCoopers Inc., in its capacity as Receiver of JTI-Macdonald TM Corp.

David Ullmann, for La Nordique Compagnie D'Assurance du Canada

Mark E. Meland, Avram Fishman, Tina Silverstein, André Lespérance, Philippe Trudel, Bruce Johnston, and Harvey Chaiton, for Conseil québécois sur le tabac et la santé, Jean-Yves Blais and Cécilia Létourneau (Québec Class Action Plaintiffs)

Brett Harrison and Guneev Bhinder, for the Province of Québec

Patrick Flaherty and Claire Wortsman, for R.J. Reynolds Tobacco Company and R.J. Reynolds Tobacco International Inc.

Nicholas Kluge and Clifton Prophet, for Philip Morris International Inc.

Natasha MacParland, Chanakya Sethi and Anisha Visvanatha, for FTI Consulting Canada Inc., in its capacity as court-appointed Monitor of Imperial Tobacco Canada Limited and Imperial Tobacco Company Limited

Jacqueline Wall, for His Majesty the King, in Right of Ontario

R. Shayne Kukulowicz, for Ernst & Young Inc., in its capacity as court-appointed Monitor of Rothmans, Benson & Hedges Inc.

Matthew Gottlieb, for the Court-appointed Mediator

Linc Rogers, Pamela Huff and Jake Harris, for Deloitte Restructuring Inc., in its capacity as Monitor of JTI-Macdonald Corp.

David Byers and Maria Konyukhova, for British American Tobacco p.l.c., B.A.T. Industries, p.l.c. and British American Tobacco (Investments) Limited

James Bunting and Sam Cotton, for Heart and Stroke Foundation

Michael Feder, K.C., James Gage, Paul Steep, Heather Meredith, Deborah Templer, Trevor Courtis, and Meena Alnajar, for Rothmans, Benson & Hedges Inc.

André I.G. Michael, Preet Gill, Jesse Mighton, Mike Eizenga, Shawn Kirkman, Jeffrey Leon, Michael Peerless, for the Consortium of Provinces and Territories

Douglas Lennox and David Klein, for Representative Plaintiff, Kenneth Knight, in the Certified British Columbia Class Action

Raymond Wagner, K.C., Kate Boyle and Madeline Carter, Representative Counsel for the Pan-Canadian Claimants

Robert Thornton, Leanne Williams, Scott McGrath, Mitch Grossell and Rushi Chakrabarti, for JTI-Macdonald Corp.

Robert Cunningham and Vern DaRe, for the Canadian Cancer Society

William Sasso, for The Ontario Flue-Cured Tobacco Growers' Marketing Board

Ari Kaplan, Representative Counsel for Former Genstar U.S. Retiree Group Committee

Edward Park, for Canada Revenue Agency

Stacy Petriuk, K.C. and Laura Comfort, for the Province of Alberta

Dilina Lallani, for Grand River Enterprises Six Nations Ltd.

HEARD: February 11, and March 7, 2025

ENDORSEMENT

A. Introduction

[1] This endorsement concerns three motions to approve the payment of class counsel fees. These motions occur in the context of insolvency proceedings under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA"), involving JTI-Macdonald Corp. ("JTIM"), Imperial Tobacco Canada Limited and Imperial Tobacco Company Limited ("Imperial"), and Rothmans, Benson & Hedges Inc. ("RBH") (collectively, the "Tobacco Companies").

[2] The CCAA proceedings involve claims pursued in several class action proceedings. The relevant classes are:

a. **The Québec Class Action Plaintiffs ("QCAPs"):** members of the *Blais* and *Létourneau* classes. The certified class definition in the *Létourneau* Class Action includes Québec residents who, as of 1998, were addicted to nicotine from September 30, 1994 onward and continued to be daily smokers of the Tobacco Companies' cigarettes as of February 21, 2005 (or their earlier death). The certified class definition in the *Blais* Class Action includes Québec residents who, prior to November 20, 1998, had smoked a minimum of 87,600 cigarettes and, prior to March 12, 2012, were diagnosed with Lung Cancer, Throat Cancer or Emphysema/COPD (GOLD Grade III or IV);

b. **Pan-Canadian Claimants ("PCCs"):** All individuals, excluding the *Blais* Class Members and *Létourneau* Class Members, who have asserted or may be entitled to assert a PCC Claim against the Tobacco Companies. A PCC Claim is any Claim of any Pan-Canadian Claimant to recover damages in respect of the development, design, manufacture, production, marketing, advertising, distribution, purchase or sale of Tobacco Products, including any representations or omissions in respect thereof, the historical or ongoing use of or exposure (whether directly or indirectly) to Tobacco Products or their emissions and the development of any disease or condition as a result thereof;

c. ***Knight* Class Action Plaintiffs:** Class Action Plaintiffs who pursued a certified class action against only Imperial on behalf of persons who purchased Imperial's light or mild cigarettes in British Columbia for personal, family or household use between May 9, 1997 and July 31, 2007; and

d. **Tobacco Producers:** The Ontario Flue-Cured Tobacco Growers' Marketing Board and certain individual tobacco growers who pursued three uncertified class actions commenced against each of the Tobacco Companies who sold their tobacco through the Ontario Flue-Cured Tobacco Growers' Marketing Board pursuant to the annual Heads of Agreement made with Imperial, RBH and JTIM from January 1, 1986, to December 31, 1996.

[3] Class counsel for the QCAPs, the *Knight* Class Action Plaintiffs and the Tobacco Producers each move for approval of their fees. Counsel for the PCCs are compensated by the Tobacco Companies on a fee-for-service basis. As a result, no court approval is sought or required in relation to PCC Counsel's compensation.

B. Procedural History of the Québec Proceedings

[4] On February 21, 2005, the Québec Superior Court authorized the *Létourneau* and *Blais* class proceedings: *Conseil québécois sur le tabac et la santé c. JTI-MacDonald Corp.*, 2005 CanLII 4070 (Qc. C.S.).

[5] On June 9, 2015, the Québec Superior Court ruled in favour of the QCAPs. Riordan J.S.C. ordered that the Tobacco Companies pay $100,000 to the *Blais* class members who developed the covered forms of cancer and $30,000 to those who developed emphysema. These amounts were reduced if the class member became addicted to nicotine after January 1, 1980, when the public became aware that tobacco caused these diseases. The *Létourneau* class members were awarded $131,000,000 in punitive damages. Additionally, $30,000 of punitive damages were awarded against each of the Tobacco Companies.

[6] The Tobacco Companies appealed the decision of the Québec Superior Court. On March 1, 2019, the Québec Court of Appeal substantially upheld the trial decision: *Imperial Tobacco Canada ltée c. Conseil québécois sur le tabac et la santé*, 2019 QCCA 358, 55 C.C.L.T. (4th) 1.

[7] Within three weeks of the Court of Appeal's decision, all three Tobacco Companies filed for insolvency protection in this court under the CCAA. This commenced a five-and-a-half-year mediation process which led to a set of functionally identical plans of arrangement or compromise for each of the Tobacco Companies (the "CCAA Plans"). The CCAA Plans provide that the Tobacco Companies are to contribute a total of $32,500,000,000 in settlement of creditors' claims.

[8] On January 15, 2025, the Monitors for each of the Tobacco Companies brought motions to sanction the CCAA Plans. Hearings were conducted on January 29-31, 2025, and an additional hearing was held regarding proposed amendments to the CCAA Plans on March 3, 2025. On March 6, 2025, the CCAA Plans relating to each of the Tobacco Companies were sanctioned with reasons reported at 2025 ONSC 1358. Implementation of the CCAA Plans is pending.

[9] On January 29, 2025, I appointed The Honourable André Prévost, a retired Justice of the Québec Superior Court, as *amicus curiae* to provide (i) "a purely legal and academic description of the applicable test under Québec law to determine the appropriateness of the QCAP counsel fees"; and (ii) "some sort of position with respect to the requested fees of all counsel based on that test."

[10] Hearings on the counsel fee motions were held on February 11, 2025, and March 7, 2025. Mr. Prévost filed a factum and made oral submissions. He fulfilled his mandate. I found the contribution of The Honourable André Prévost to be most helpful and I accept the entirety of his

submissions.

[11] The release of this endorsement is timed to coincide with the implementation of the CCAA Plans, which is scheduled to occur later this week.

C. QCAP Counsel Fees

[12] On October 30, 1998, the Conseil québécois sur le tabac et la santé retained Lauzon Bélanger, a predecessor to Trudel Johnson & Lespérance, to pursue a class action claim against the Tobacco Companies. The retainer agreement provided for a 20% contingency fee on amounts collected or benefits realized from the litigation. On March 16, 2017, that retainer agreement was amended to allow for up to an additional 2% of amounts recovered to be paid to counsel providing bankruptcy and insolvency services.

[13] Counsel for the QCAPs seek approval for their fees under Art. 593 of the *Code of Civil Procedure*, C.Q.L.R., c. C-25.01.

[14] QCAP Counsel ask for $901,177,915 in class counsel fees, representing 22% of the $4.119 billion allocated to the QCAPs under the CCAA Plans. They state that over the 26 years of their retainer, counsel have expended over 203,849 hours on the file. They anticipate devoting another 8,000 hours on the matter before the CCAA Plans are fully implemented. Based on this total of 211,849 hours, QCAP Counsel estimate a straight-line billing amount of $214,653,500.

[15] Included in the requested compensation is $46,598,926 for litigation and other costs. Among other things, this includes fees to be paid to Raymond Chabot, which will support QCAPs preparation and submission of their claims without any additional costs to the claimants.

D. *Knight* Class Counsel Fees

[16] The *Knight* action was filed in the British Columbia Supreme Court on May 8, 2003. Mr. Knight sought damages against Imperial on the basis that it had misled customers by advertising "light" and "mild" cigarettes as healthier smoking products. He also sought an injunction requiring tobacco companies to refrain from using the "light" and "mild" descriptors in the marketplace.

[17] Mr. Knight entered into a retainer agreement with Klein Lawyers, who served as class counsel. The agreement provided for a 33 1/3% contingency fee plus taxes, disbursements and interest on the disbursements.

[18] The *Knight* class action was certified on February 8, 2005: *Knight v. Imperial Tobacco Canada Limited*, 2005 BCSC 172, 250 D.L.R. (4th) 347. Mr. Knight and the Government of Canada, as a third-party defendant, each appealed the certification decision. The British Columbia Court of Appeal altered the common issues and the class period but otherwise confirmed the decision below: *Knight v. Imperial Tobacco Canada Ltd.*, 2006 BCCA 235, 267 D.L.R. (4th) 579.

[19] *Knight* Class Counsel request that the court approve its fees as required by s. 38 of the *Class Proceedings Act*, R.S.B.C. 1996, c. 50. They seek $5 million plus sales tax for legal fees.

This corresponds to 33 1/3% of the $15 million recovery for the *Knight* class. They also request $1,062,746.62 for disbursements.

[20] *Knight* Class Counsel also request authorization to pay a $10,000 honorarium to Mr. Knight for his services as representative plaintiff.

E. Tobacco Producers' Class Counsel Fees

[21] The Tobacco Board was the exclusive supplier of Ontario flue-cured tobacco, pursuant to supply management regulations. It administered auctions and controlled the production and marketing of Ontario-grown tobacco.

[22] Pursuant to its standard-form "Heads of Agreement", the Tobacco Board sold tobacco to the Tobacco Companies for products manufactured in Canada. The Heads of Agreement set one price for tobacco used in products sold within Canada and a lower price for tobacco used in products exported to foreign markets.

[23] On July 31, 2008, RBH and Imperial pleaded guilty to a charge that they aided the sale and possession of tobacco manufactured in Canada which was not packaged and stamped according to the *Excise Act*, R.S.C. 1985, c. E-14. JTIM pleaded guilty to similar charges on April 13, 2010.

[24] In light of the Tobacco Companies' guilty pleas, several Ontario tobacco producers allege that the Tobacco Companies wrongfully avoided paying the higher prices for tobacco to be used in products sold in Canada. The Tobacco Board commenced class proceedings for breach of contract against RBH on November 5, 2009, Imperial on December 2, 2009, and JTIM on April 23, 2010.

[25] On February 11, 2009, the Tobacco Board retained Sutts Strosberg LLP, a predecessor firm to Strosberg Wingfield Sasso LLP providing for a 25% contingency fee on all amounts recovered in the claim. Sutts Strosberg also entered into retainer agreements with individual Tobacco Producers on similar terms.

[26] Counsel for the Tobacco Producers now seek approval under s. 32(2) of the *Class Proceedings Act, 1992*, S.O. 1992, c. 6.

[27] They ask for 25% of the $15 million recovered on behalf of the class. This amounts to $3,750,000, less $141,960.98 previously recovered for costs and $831,018.75 previously paid by the Tobacco Board. They also seek $249.19 for outstanding disbursements and $361,045.03 in sales tax. After these adjustments, counsel ask for $3,138,314.49 in total.

F. Putting the Fee Requests into Context

[28] The QCAPs Counsel request fees in the amount of approximately $900 million. The Knight Class Counsel request fees in the amount of $5 million. The Tobacco Producers Counsel request fees in the amount of $3.75 million. This endorsement focuses on the QCAPs Counsel fee requests.

The fee requests of the Knight Class Counsel and the Tobacco Producers Counsel are, in comparison, *de minimus*.

[29] This endorsement should be read in the context that this is a unique case and the fee request of QCAPs Counsel is unlikely to ever be repeated. Consequently, this endorsement should not be taken as having any precedential value. It is unique to the circumstances of these CCAA proceedings.

G. Submissions

(i) *Amicus*

[30] As noted above, I accept the submissions of Mr. Prévost . It is helpful to set out some of his most relevant submissions.

> 19. As we understand it to also be the case in other Canadian provinces, legal fees are, in Québec, subject to court approval or determination in the context of class actions, with the court being tasked with safeguarding class members' interests. The relevant legislative provision is Article 593 of the *Code of Civil Procedure*, CQLR c. C-25.01 ("**CCP**"):
>
> > ***593.*** *The court may award the representative plaintiff an indemnity for disbursements and an amount to cover legal costs and the lawyer's professional fee. Both are payable out of the amount recovered collectively or before payment of individual claims.*
> >
> > ***In the interests of the class members, the court assesses whether the fee charged by the representative plaintiff's lawyer is reasonable; if the fee is not reasonable, the court may determine it.***
> >
> > *Regardless of whether the Class Action Assistance Fund provided assistance to the representative plaintiff, the court hears the Fund before ruling on the legal costs and the fee. The court considers whether or not the Fund guaranteed payment of all or any portion of the legal costs or the fee.*
> >
> > *[Emphasis added by Mr. Prévost]*
>
> 20. The leading case on the matter is that of *A.B. v Clercs de Saint-Viateur du Canada*,[9] which establishes the guidelines to be applied in undertaking an assessment pursuant to Article 593 CCP. As noted by the Quebec Court of Appeal, the reasonableness of the fees must be evaluated for each claim, and [t]here is no magic formula that will guarantee in every situation that the fee will ultimately be reasonable.[10]

(Footnote 9: 2023 QCCA 527 [A.B.].)

(Footnote 10: *Ibid* at para. 58.)

...

21. When seized of a motion for approval of class counsel fees, a Québec judge must "ensure that the professional fees claimed are *actually* fair and reasonable", and if they are not, they must determine the fee.[11]

(Footnote 11: *Art* 593 CCP; *A.B., supra* note 9 at paras. 50-51.)

22. While fee agreements enjoy a presumption of validity, courts in Québec are not bound by their terms.[12] A Québec court may thus set a fee agreement aside if applying it would not be fair and reasonable for the class members in the context of the settlement or judgment at hand.[13] As indicated by Schrager, J.A.:

> *[51] [...] The judge has a complex task because he or she must [translation] "find the ideal equilibrium in the remuneration by giving the lawyers the necessary and sufficient amount to encourage them to take on the next case, while bearing in mind that the class members must be the first to benefit from the amounts paid by the defendants".*[14]

(Footnote 12: *A.B. supra* note 9 at para 51, citing *Option Consommateurs c Banque Amex du Canada*, 2018 QCCA 305 at para 67 [*AMEX QCCA judgment*].)
(Footnote 13: *Pellemans c Lacroix*, 2011 QCCS 1345 at para 50 [*Pellemans*]; *Amex QCCA judgment supra* note 12 at para 66; *Girard c Videotron*, 2019 QCCS 2412 at para 30 [*Girard*], leave to appeal dismissed at 2019 QCCA 1531 and 2019 CanLII 11805 (SCC); *A.B. supra* note 9 at para 51; Yves Lauzon & Anne-Julie Asselin, "Article 593" in Luc Chamberland (ed), *Le Grand Collectif – Code de procédure civile: Commentaires et annotations, Volume 2 (Articles 351 à 836)*, 9th ed (Éditions Yvon Blais : 2024; EYB2024GCO605) at 4 [Lauzon & Asselin] (**Tab 1**).)

23. If the fees resulting from a fee agreement are found to be reasonable in the particular circumstances of the case, a Québec court will not interfere[15], notably to avoid "provoking a practice among lawyers of asking for more, knowing that the agreed amount will be reduced".[16]

(Footnote 15: *Pellemans supra* note 13 at para 50, citing *Association de protection des épargnants et investisseurs du Québec (APEIQ) c Corporation Nortel Networks*, 2007 QCCS 266.)

(Footnote 16: *Trudelle v Ticketmaster Canada*, 2024 QCCS 1007 at para 75 [*Trudelle*].)

24. In assessing the fairness and reasonableness of the fees for which approval is being sought, the court is guided by Section 102 of the *Code of Professional Conduct of Lawyers*,[17] which provides a non-exhaustive list of factors to take into account:

> ***102.*** *The fees are fair and reasonable if they are warranted by the circumstances and proportionate to the professional services rendered. In determining his fees, the lawyer must in particular take the following factors into account:*
>
> *(1) experience;*
>
> *(2) the time and effort required and devoted to the matter;*
>
> *(3) the difficulty of the matter;*
>
> *(4) the importance of the matter to the client;*
>
> *(5) the responsibility assumed;*
>
> *(6) the performance of unusual professional services or professional services requiring special skills or exceptional speed;*
>
> *(7) the result obtained;*
>
> *(8) the fees prescribed by statute or regulation; and*
>
> *(9) the disbursements, fees, commissions, rebates, costs or other benefits that are or will be paid by a third party with respect to the mandate the client gave him.*

(Footnote 17: CQLR c B-1, r 3.1. See *Trudelle* supra note 16 at para 52; *Option Consommateurs c Banque Amex du Canada*, 2017 QCCS 200 at para 83 [*Amex QCCS judgment*]; *Amex QCCA judgment supra* note 12 at paras 64-66.)

25. The risk assumed and the result obtained should normally take precedence over the time devoted to the case, bearing in mind that the weight to be given to each factor may vary from case to case, depending on the circumstances.[18]

(Footnote 18: *A.B. supra* note 9 at para 65; *Pellemans supra* note 13 at para 76; *Trudelle supra* note 16 at para 74.)

26. In assessing reasonableness, factors (3) through (6) above are to be evaluated in light of the circumstances that existed at the onset of the case, or at the time of the execution of the fee agreement, since it is at that time that the parties evaluated the risks that would be assumed by counsel.[19]

(Footnote 19: *Pellemans supra* note 13 at para 52. See also *A.B. supra* note 9 at para 54; *Trudelle supra* note 16 at para 74.)

27. As stated above, a Québec court must strike a balance between incentivizing lawyers to undertake class actions and ensuring that class members are the first beneficiaries of the amounts paid by defendants.[20]

(Footnote 20: *A.B. supra* note 9 at para 51; Pierre-Claude Lafond, "Sur les honoraires professionnels," in *Libres propos sur la pratique de l'action collective* (Éditions Yvon Blais : 2020; EYB2020LPP28) at 4 [Lafond] (**Tab 2**).)

28. Québec courts must moreover ensure that the fee agreement is not susceptible of giving the legal profession a "profit-seeking character",[21] a notion found at Section 7 of the *Code of Professional Conduct of Lawyers*.

(Footnote 21: *A.B. supra* note 9 at para 55; Lauzon & Asselin *supra* note 13 at 5; *Amex QCCS judgment supra* note 17 at para 110.
See also *Code of Professional Conduct of Lawyers supra* note 17, Section 7 ("*A lawyer must avoid all methods and attitudes likely to give a profit-seeking character to his profession, namely, greedily seeking a profit or abusing his status as a lawyer in order to enrich himself.*").)

29. In addition to the factors outlined in Section 102 of the *Code of Professional Conduct of Lawyers*, Québec courts also consider the well-known objectives class actions aim to achieve as a procedural vehicle, namely, the benefits of judicial economy, access to justice and deterrence of misconduct.[22] Fulfilment of these objectives could justify higher fees.

(Footnote 22: Jean-Philippe Groleau & Guillame Charlebois, "Les honoraires en demande en matière d'actions collectives: comment éviter de jouer à l'apprenti-sorcier en vue de moduler le comportement des avocats," in *Volume 455 – Colloque national sur l'action collective: développements récents au Québec, au Canada et aux États-Unis* (2019),

at 184 [Groleau & Charlebois] (**Tab 3**); *Western Canadian Shopping Centres Inc. v Dutton*, 2001 SCC 46 at paras 27-29.)

30. Some authors have indeed opined that higher incentive premiums are warranted in cases that best realize the objectives of class actions. This would include instances in which a class action is undertaken against an entire industry that has engaged in harmful conduct causing real societal harm, as opposed to a class action undertaken against a defendant purely based on a technical violation of the law.[23]

(Footnote 23: Groleau & Charlebois *supra* note 22 at 185.)

31. Class action fee agreements generally provide that fees will be calculated as a percentage of the amounts recovered through settlement or judgment and, in Québec, percentages ranging from 15% to 33% are often used and considered reasonable by the courts, with the most common range being 20 to 25%.[24]

(Footnote 24: Lafond *supra* note 20 at 2; *Pellemans supra* note 13 at paras 53, 57; *Marcotte c Banque de Montréal*, 2015 QCCS 1915 at para 6 [*Marcotte*]; *Amex QCCS judgment supra* note 17 at paras 88- 89; *Girard supra* note 13 at paras 28-29; *Trudelle supra* note 16 at para 79.)

32. Legislation in Québec does not provide for a cap on fees, nor have the Québec courts established one.[25]

(Footnote 25: Groleau & Charlebois *supra* note 22 at 176.)

33. The lodestar method, or multiplier method, which involves calculating the multiplier obtained by dividing the fees sought by the value of the hours worked, while taking into account a risk premium, is applied with caution in Québec, and is generally deemed useful mostly as a means of controlling the reasonableness of the professional fees in the context of class actions.[26]

(Footnote 26: *Pellemans supra* note 13 at paras 64, 121; Groleau & Charlebois *supra* note 22 at 186; Yves Lauzon and Bruce W. Johnston, "Les honoraires, les frais et l'indemnité au representant," in *Traité pratique de l'action collective* (Éditions Yvon Blais, 2021) at 5 (**Tab 4**); *A.B. supra* note 9 at paras 59, 62.)

[31] *Amicus* disagrees with elements of QCAP Counsel's submissions. He submits that Québec law likely should follow the approach in other provinces to set aside the presumption in favour of the retainer agreement, and instead proceed on a case-by-case analysis to determine if a fee is fair and reasonable.

[32] Moreover, *Amicus* states that there is no principled reason to draw a distinction between mega-fund cases that settle before trial and those that are fully litigated for the purposes of class counsel fees. Instead, that consideration is subsumed in other factors like the time dedicated to the case and the risk assumed by counsel. Regardless, *Amicus* notes that this case was ultimately resolved through a Plan of Compromise under the CCAA, so it is ultimately the result of a settlement.

[33] *Amicus* submits that it would be helpful in this case to conduct a "Lodestar" analysis as a "cross-check" for the reasonableness of the fees sought by QCAP Counsel. Under this approach to assessing counsel fees, the starting point is the amount of work class counsel performed with respect to the matter. Counsel will demonstrate the number of hours expended on the case by counsel and what they would have billed if they had been acting under an ordinary retainer. This amount that would have been billed is the "Lodestar". Next, counsel will divide the compensation sought by the Lodestar. The result indicates what multiple of the Lodestar class counsel seeks as compensation: *Fresco v. Canadian Imperial Bank of Commerce*, 2023 ONSC 3335, at paras. 134-37, aff'd 2024 ONCA 628.

[34] The multiplier factor represents a premium flowing to class counsel for taking on the risk associated with pursuing the retainer. A larger multiplier should correspond to a higher degree of risk shouldered by the law firm. The Ontario courts have stated that class counsel may be compensated at a rate of up to 4 times the Lodestar amount in the "most deserving of cases": *Gagne v. Silcorp Ltd.* (1998), 41 O.R. (3d) 417 (C.A.), at para. 26.

[35] After subtracting disbursements from the fees sought, the multiplier in this case would be 3.981 ($854,578,989 ÷ $214,653,500).

[36] *Amicus* states that, in Quebec cases, counsel have received fees representing a multiplier ranging from less than one up to seven.

(ii) Québec

[37] Québec filed its factum prior to the appointment of Mr. Prévost as *Amicus*. The purpose of its factum was to provide assistance to the Court. Québec's factum emphasizes three points. First, Québec's interest is to maximize recovery for the victims, and counsel fees, by definition, operate to reduce class compensation. Second, Québec has an interest in the undistributed funds. Third, there is a lack of detail to support the hours worked, the hourly rate and the disbursements claimed.

[38] Québec argues that QCAP Counsel have provided inadequate evidence to support its alleged Lodestar amount of $214,653,500. It also argues that Counsel have not sufficiently proven the $46,598,926 of disbursements that they claim. It observes that QCAP Counsel's submissions fail to allocate the hours worked among Counsel's various firms. Further, the hourly rates assigned to the lawyers lacked adequate supporting evidence.

[39] Thus, Québec submits that this Court has inadequate information to determine whether the fees sought are fair and reasonable.

[40] Québec acknowledges that QCAP Counsel achieved considerable success on behalf of the QCAPs. However, it submits that the amount sought by QCAP Counsel in this case would greatly reduce the amount of funds available to be distributed to claimants. Further, Québec argues that the amounts sought by class counsel are out of proportion with the amount class members expect to recover.

(iii) QCAP Counsel

[41] QCAP Counsel submit that they assumed great risk in advancing the claims in this case. Success was by no means assured. Tobacco companies had not previously been held liable for the harms caused by their products. Establishing liability in this case required advancing several novel legal arguments. Indeed, Québec's public fund for supporting class action litigation refused to provide financial assistance in 2001, because it assessed the chances of success as too low.

[42] Moreover, the tobacco industry had developed a reputation for being highly litigious, and succeeding in any claim against the Tobacco Companies would require considerable time and expense.

[43] QCAP Counsel further submit that, even after succeeding at trial and then on appeal, there was still considerable risk that they would never be paid. The Tobacco Companies filed for insolvency protection soon after the Court of Appeal upheld the trial decision. Thus, QCAP Counsel submits, there was considerable risk relating to every stage of these proceedings over the past 26 years.

[44] QCAP Counsel argue that they achieved an excellent outcome on behalf of the QCAPs. They recovered $4.25 billion on behalf of the *Blais* and *Létourneau* class members and arranged for novel processes that will streamline the claims process.

[45] QCAP Counsel also submit that I should take into account the recovery on behalf of the PCCs. While the PCCs had their own representative counsel, the success of their claims was derived from the work of QCAP Counsel.

[46] QCAP Counsel responded to Québec's arguments by stating that it expects all QCAPs to receive the full amount of their claims out of the funds established under the CCAA Plans. Any excess amounts are to be paid to the provinces in respect of their various claims. Thus, any reduction in the requested fee for QCAP Counsel would not affect the recovery for class members. Any reduction in the requested fee would accrue to the provinces. This point was confirmed by Ms. Wall on behalf of the Province of Ontario. Ms. Wall made specific reference to the Québec Class Action Administration Plan, which is Schedule "N" to the CCAA Plans of RBH and JTIM and Schedule "K" to the CCAA Plan of Imperial.

[47] QCAP Counsel submit that the fees they seek do not represent a windfall or a sweetheart deal that would bring the integrity of the profession into disrepute. Indeed, the 22% contingency fee falls near the low end of typical retainers in such cases. They stress that the court must have a principled basis for concluding that a certain fee award would be unfair or unreasonable.

[48] QCAP Counsel also submit that the legislature created legislation enabling class proceedings to promote access to justice and promote punishment, deterrence, and denunciation and that their conduct throughout the proceeding has only furthered these goals. Thus, QCAP Counsel submits that they should be entitled to the benefit of their retainer agreement.

Contingency fees in mega-fund cases

[49] QCAP Counsel acknowledge that courts are generally more hesitant to award the contingency fees set out in the retainer in the case of "mega-fund" cases of $100 million or more. However, they argue that the presumption in favour of the fees set out in the retainer agreement nevertheless applies to mega-fund cases in Québec law.

[50] QCAP Counsel also submits that the underlying reasons for this hesitancy are not engaged in this case. Typically, mega-fund cases settle before a trial on the merits. Here, the case was fully tried and then appealed. Because mega-fund cases typically settle, it can be hard to assess the degree of success that counsel achieved on behalf of the class. Further, many mega-fund cases are characterized by "piggy-backing" on prior liability findings. There was no such prior finding of liability on which the QCAPs relied in this case.

(iv) Canadian Cancer Society

[51] It is also informative to take into account submissions made by interested parties, who do not have any direct interest in the outcome of these motions. The Canadian Cancer Society is one such party.

[52] Counsel to the Canadian Cancer Society, Mr. Robert Cunningham, provided what he referenced as "an external validation for the absolutely incredible work done and results achieved by the QCAP Counsel in this internationally unprecedented case."

[53] Mr. Cunningham went on to submit:

> "For the QCAPs, in terms of the results achieved, it should not just be in comparison with other class action cases in Canada. A global comparison of other tobacco cases should also be done. The QCAP result is, by far, the best outcome of any individual case, class action case, against the tobacco industry, upheld on appeal, in the world, ever. No other case is even close. The QCAP outcome is an enormous global world precedent.
>
> ...
>
> One can't just say that the QCAP counsel really did an incredible job, but they do; the work that was done was so many orders of magnitude greater than that. As a result of the work of QCAP counsel, there are at least four categories of beneficiaries, if not more.
>
> First, Québec class members. Without this team of extraordinary QCAP lawyers and their work, there would be no recovery at all. Compensation would be zero.

> Second, the Pan-Canadian claimants. The work of QCAP counsel has been essential to the compensation received by the PCC's. Raymond Wagner, counsel for the PCC's, said as much in the media last October when the CCAA Plans were filed, and this is noted in the QCAP materials.
>
> Third, the provinces and territories. And, again, without diminishing the work at all, [by] counsel for the provinces, the provinces did obtain for free a partial roadmap to assist in their own cases through the documents, testimony, and argument in the Québec proceedings.
>
> ...
>
> Fourth, behaviour modification and deterring future wrongful conduct of tobacco companies not only in Canada but internationally. There can be no doubt that the Québec class action outcome of $4.1 billion and the other consequential financial effects will help focus the corporate mind of the parent companies to think how they may behave in other countries.
>
> ...
>
> In closing, I emphasize that the work of QCAP counsel has been unparalleled, deserves the highest recognition, and is consistent with the finest traditions of the legal profession."

[54] Mr. Cunningham was provided with a further opportunity to make submissions just prior to the closing of argument. He added the following points:

> "In assessing the counsel fee for the Québec Class Action, this case is really at the upper end of the upper end. Table[s] summarizing previous cases can be partially useful, and such tables have been included in what has been filed by the QCAPs, the Attorney General of Québec, and the *Amicus*, the Honorable André Prévost.
>
> But the facts relating to the Québec Class Action and counsel for the Québec Class Action means that this case is far outside these tables of past cases. It is beyond the grid. There's never been any case like it, and there may never again be such a case.
>
> In terms of the reputation of the legal profession, what the QCAP counsel have done has enhanced the reputation of the profession enormously. Who takes on and pursues tenaciously [for] decades such a case?
>
> As I noted at the February 11th hearing, QCAP counsel have achieved against the tobacco industry what no one else has ever achieved anywhere in the world with cases going back to the 1950s. They have surmounted impossible odds in the face of incredible risk. Their unique legal story will last in Québec, Canada and globally.

> The public benefit that these lawyers have achieved is of fundamental and historic importance. There must be the necessary and very significant incentive for counsel to take on and pursue such impossible cases against such a massively well-financed worldwide industry."

[55] The submissions of counsel for The Canadian Cancer Society are a ringing endorsement in support of the fee request of QCAP Counsel.

(v) PROVINCES of British Columbia, Saskatchewan, Manitoba, New Brunswick, Nova Scotia, Prince Edward Island, and the Territories of Yukon, Nunavut and the Northwest Territories

[56] The provinces of British Columbia, Saskatchewan, Manitoba, New Brunswick, Nova Scotia, Prince Edward Island, and the territories of Yukon, Nunavut and Northwest Territories took no position on the issue of the QCAP Counsel fees.

[57] Québec made reference in its factum to the fact that it has an economic interest in the undistributed funds from the QCAP settlement, but this point was not vigorously pursued in argument.

[58] The provinces and territories have actively participated in the CCAA proceedings from the outset. They are familiar with the CCAA Plans. They are aware of the amount being requested by QCAP Counsel, yet they consciously made the decision not to oppose the requested fee. This decision is significant given that any reduction in the fees awarded to the QCAP Counsel would accrue to the provinces and territories. Simply put, these provinces and territories have a direct economic interest in the amount being requested by QCAP Counsel.

[59] I am not in a position to speculate as to why the provinces and territories chose to take "no position" on this issue. However, due to their extensive involvement in the CCAA process, they are arguably in a much better position than most participants in these CCAA proceedings, to judge whether the fee request of QCAP Counsel is reasonable in the circumstances. Their silence on this point speaks volumes.

H. Analysis and Conclusion

(i) QCAP Counsel

[60] The retainer agreement formed between class counsel and the representative plaintiff is the starting point for the analysis of counsel fees. However, the agreement may be set aside upon a finding that it is not fair and reasonable: *A.B. v. Clercs de Saint-Viateur du Canada*, 2023 QCCA 527 at para. 51. In assessing the fairness and reasonableness of the fee, the courts consider several factors set out in s. 102 of the *Code of Professional Conduct of Lawyers*, C.Q.L.R. c. B-1, r. 3.1. According to the parties, the key relevant considerations in this case include:

a. The risks assumed by counsel;

b. The scope of the retainer; and

c. The outcome achieved on behalf of the class.

[61] The court must also consider how the fee reflects on the integrity of the profession. The court must not grant a fee award that would be susceptible to giving the legal profession "a profit-seeking character": *A.B.*, at para. 51.

[62] The law in Québec is summarized in the submission of *Amicus*. The law is, in most respects, the same in Ontario (see: *Fresco v. Canadian Imperial Bank of Commerce*, 2024 ONCA 628, and *David v. Loblaw*, 2025 ONSC 2792, at paras. 40-47).

[63] I accept the following:

(a) QCAP Counsel assumed great risk in accepting the retainer from the class.

(b) The 22% fee arrangement is at the low end of the scale and is fair and reasonable.

(c) The QCAPs succeeded at trial and the Québec Court of Appeal.

(d) Although the CCAA Plans reflected a mediated settlement, the CCAA Plans were only put forth to a creditor vote after five and a half years of mediation. This reflects hard fought negotiations.

(e) An exceptional outcome was obtained for the Class. The monetary award for each member of the Class is fixed. Even if the fee request of QCAP Counsel is reduced, the reduction will not flow to the benefit of the Class.

(f) the PCCs, as well as the provinces and territories obtained residual benefits as a result of the work of QCAP Counsel.

(g) With the exception of Québec, the provinces and territories took no position on the appropriateness of the fees. This is significant as any reduction in the fees being awarded to the QCAPs would flow to the provinces and territories.

[64] It is not, in my view, practical to review the dockets of each lawyer or timekeeper. The work was performed over twenty-six years and for the past six years, much of the professional services performed were rendered in the confidential mediation conducted by The Honourable Warren K. Winkler, K.C. Québec raised certain concerns with respect to the absence of any docket review. However, in the circumstances, it seems to me that there is no productive utility in conducting an in-depth review. The hours and related dollar value will be enormous even if there was a significant adjustment. Rather, when you take into account the foregoing, the real issue is whether the fee request is too high.

[65] To state the obvious, the fee request is astronomical. But is there any principled basis on which the fee can be or should be reduced? The work was done pursuant to a written agreement. The work was well done and produced an exceptional result. The risk assumed by QCAP Counsel was significant and a premium, by way of a multiplier, is, in my view, justified.

[66] And, if there was a significant reduction, where would the money go? Subject to the proviso described below, it would not go to the benefit of the QCAPs. The funds would not go to the benefit of other class action plaintiffs. It would go to the provinces and territories, all of whom, with the exception of Québec, took no position on this motion.

[67] It also must be recognized that a significant amount of the funds awarded to counsel will find their way back to the government treasuries through taxation.

[68] This leads me to conclude that, from the standpoint of the class and the provinces and territories, the fee request of QCAP counsel cannot be said to be unreasonable.

[69] The fee request of $909 million is unheard of in Canadian legal history. As previously stated, this is a unique case and this decision should never be considered to have any precedential value.

[70] Taking all the foregoing into account, I am unable to find a principled basis on which to reduce the fee request. Further, even if there was a significant reduction, the amount awarded will still be enormous.

[71] However, there is one potential scenario that has to be taken into account.

[72] Québec raised the possibility that QCAPs could proportionately receive less than the amount of their individual claims out of the funds established under the CCAA Plans.

[73] At para. 4 of its factum, Québec submits that it has an interest in ensuring the fees are fair to the class members so as to maximize recovery for those victims of tobacco related harms.

[74] As noted above at para. 46, QCAP Counsel states that it expects all QCAPs to receive the full amount of their claim.

[75] The actual amount being paid out to each claimant cannot be established with finality at this time.

[76] In my view, it is appropriate to set up a reserve out of the fee awarded to QCAP Counsel to ensure that each approved claimant receives the full amount of their claim under the CCAA Plans.

[77] In the event of a shortfall to each approved claim, the fee awarded to QCAP Counsel is to be reduced so as to ensure that each approved claimant receives the full amount of their claim under the CCAA Plans.

[78] The three Monitors shall, in consultation with QCAP Counsel, establish the amount of the reserve as well as the terms and timing of reduction in the amount of the reserve.

[79] By creating this reserve, the valid concerns raised by Québec are addressed.

[80] Subject to this foregoing *proviso*, in the absence of a principled basis on which to reduce the quantum sought, the requested fee of QCAP Counsel is, reluctantly, approved in the amount requested.

(ii) Knight

[81] The principles governing fee approvals in British Columbia law are the same as those discussed above with respect to Québec and Ontario law.

[82] Class counsel submits that a one-third contingency fee, like the one sought here, is standard practice in British Columbia class actions, and that such fees are frequently held reasonable: *Chartrand v. Google LLC*, 2021 BCSC 7, at para. 60.

[83] Class counsel further submits that the $1,062,746.62 of disbursements in this case were reasonable and necessary, including the interest amounts. Particularly, it was reasonable and necessary to hire U.S. law firms to consult on the case given the overlap between light cigarette litigation in the U.S. and the claims at issue in the *Knight* class action. Through this consultation, class counsel accessed documents and information that they otherwise would not have obtained.

[84] Finally, class counsel submits that it is common practice under British Columbia law to award an honourarium to a representative plaintiff for "competent service": *Parsons v. Coast Capital Savings Credit Union*, 2010 BCCA 311, 321 D.L.R. (4th) 338, at para. 22. In this way, British Columbia law diverges from Ontario law, which allows for such an honourarium only in "exceptional circumstances": *Doucet v. The Royal Winnipeg Ballet*, 2023 ONSC 2323 (Div. Ct.), at para. 92.

[85] Regardless, class counsel argue that Mr. Knight's service over 22 years since commencing the class action satisfies either the lower "competent" threshold or the higher "exceptional" one. They submit a $10,000 honourarium represents a modest recognition of his services.

[86] Taking into account the result achieved, risk, time expended, complexity, and importance of the matter to the Class, I am satisfied that the requested fee is reasonable in the circumstances and it is approved, as is the honorarium to Mr. Knight.

(iii) Tobacco Producers

[87] Counsel argue that the retainer is presumptively valid and enforceable, and the 25% contingency fee should be awarded unless for example, (i) the representative plaintiff did not fully understand or accept the agreement, (ii) the contingency amount is excessive or (iii) the award would be so large as to be unseemly or otherwise unreasonable: *Cannon v. Funds for Canada Foundation*, 2013 ONSC 7686, [2013] O.J. No. 5825, at para. 9. Counsel submits that the

presumption in favour of the agreed compensation is not rebutted in this case and that a 25% contingency fee is within the common range in class proceedings. I agree.

[88] Counsel also referenced the Lodestar multiplier analysis. They submit that they have dedicated over 4,100 hours to the underlying class action and the CCAA proceedings. They estimate that this would amount to over $3 million in legal fees at standard hourly rates. As a result, their requested fees represent a multiplier of 0.8, while multipliers of 2.5 or higher are commonly considered reasonable: *Pace Securities Corp. et al v. First Hamilton Holdings Inc. et al.*, 2021 ONSC 6956, at para. 28.

[89] Taking into account the result achieved, risk, complexity, and importance of the matter to the Class, I am satisfied that the requested fee is reasonable in the circumstances and it is approved.

I. Postscript

[90] I feel compelled to add a postscript. Much has been said about creating an incentive for counsel to take on such risky cases. Here, this created the opportunity for QCAP Counsel to obtain compensation beyond their wildest expectations. In receiving this reward, if counsel are truly acting in the best traditions of the legal profession they should recognize that they have a moral obligation to society. QCAP Counsel have unquestionably acted in a way that has fully discharged their obligations to the class. A truly outstanding result has been obtained for the class in a case in which QCAP Counsel took on an exceptional risk. However, the question remains – do they have further and wider obligations to society? It will be up to each QCAP Counsel fee recipient to answer this question for themselves. If she or he conclude that they do have such an obligation and choose to honour it, they can do so by publicly making a meaningful and significant contribution to a health-related charity of their choice. In this way, they can be publicly recognized for their incredible work in this matter.



Chief Justice Geoffrey B. Morawetz

Date: August 25, 2025

Tab 85

SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Direction

COURT FILE NO.: **CV-19-616077-00CL**
CV-19-616779-00CL
CV-19-615862-00CL

DATE: January 8, 2026

IMPERIAL TOBACCO CANADA LIMITED et al v. JTI-MACDONALD CORP. et al

&

ROTHMANS, BENSON & HEDGES INC. v. IMPERIAL TOBACCO CANADA LIMITED et al

&

JTI-MACDONALD CORP. et al v. BENSON & HEDGES INC. et al

DIRECTION

[1] The CCAA Plans in these three matters were unanimously approved by the voting Affected Creditors in December 2024, sanctioned by this Court on March 6, 2025, and implemented on August 29, 2025 (the "Plan Implementation Date").

[2] The CCAA Plans provided that:

(a) one of the purposes of the CCAA Plans was to provide for the disposition and resolution of all Pending Litigation (as that term is defined in the Initial Order),

(b) the Parties shall take all steps and actions which are necessary and appropriate to dismiss the Pending Litigation with prejudice and without costs as soon as possible after the Plan Implementation Date; and

(c) all parties to the Pending Litigation were deemed to have given all consents necessary to effect the termination with prejudice and without costs of the Pending Litigation.

[3] Accordingly, on November 13, 2025, orders were granted to facilitate the dismissal of all Pending Litigation (the "Pending Litigation Dismissal Orders"). Among other things, paragraph 4 of the Pending Litigation Dismissal Orders states that this CCAA Court requests that each applicable court before which the Pending Litigation was commenced and/or is continuing: (a) aid, recognize and assist the CCAA Court to confirm that, effective as and from the Plan Implementation Date, being August 29, 2025, the CCAA Plans have fully and finally resolved and definitively settled the Pending Litigation; and (b) issue such orders and do all such things as may be necessary or appropriate to terminate and dismiss all of the Pending Litigation on a with prejudice and without costs basis upon the filing of the appropriate documents with each applicable court in each jurisdiction.

[4] The Pending Litigation comprises approximately 32 court proceedings across Canada, 10 of which are pending before the Ontario Superior Court of Justice (collectively, the "Ontario Pending Litigation"). I understand that many of the Ontario Pending Litigation matters are not being case-managed.

[5] Given my familiarity with the CCAA proceedings and in my capacity as supervising judge, I am prepared to issue the necessary dismissal orders. In my view, this is the most appropriate and efficient way to proceed, consistent with the purpose of the single supervising judge model that is well recognized in the CCAA context. See, *e.g., 9354-9186 Québec inc. v. Callidus Capital Corp.*, 2020 SCC 10 at para. 47-48.

[6] Accordingly, I direct the Monitors and CCAA Plan Administrators to prepare draft dismissal orders in respect of all Ontario Pending Litigation and to submit such draft orders for my review and consideration.



Chief Justice Geoffrey B. Morawetz

Date: January 8, 2025

Tab 86

5428

Sanassia
Apr 28

BY-LAW NUMBER 3029-88

OF THE CORPORATION OF THE TOWN OF AURORA

BEING A BY-LAW to amend By-law Number 2213-78.

WHEREAS it is deemed advisable to amend By-law Number 2213-78;

NOW, THEREFORE, the Council of The Corporation of the Town of Aurora enacts as follows:

1. That Schedule "A" is hereby amended by changing the zoning category on the lands shown in hatching on Schedule "A" attached hereto and forming part of this By-law from "Central Commercial (C2) Zone" to "Central Commercial (C2-5) Exception Zone".

2. That Section 21 is hereby amended by adding the following as Section 21.7 "Central Commercial (C2-5) Exception Zone".

21.7.1 USES PERMITTED

In accordance with Section 21.1

21.7.2 ZONE REQUIREMENTS

21.7.2.1 Lot Specifications:

In accordance with Section 21.2.1

21.7.2.2 Siting Specifications:

Rear Yard (minimum) 9 metres

21.7.2.3 Building Specifications:

Gross Floor Area (maximum) 475 m^2
Height of Building (maximum) 5.2 metres

21.7.3 Notwithstanding the provisions of Section 6.26, the minimum aisle width behind 90 degree angle parking spaces shall be 5.5, metres.

21.7.4 Notwithstanding the provisions of Section 19.2.1 the number of required loading spaces shall be nil.

3. No part of this By-law will come into force until the provisions of the Planning Act have been complied with, but subject to such provisions the By-law will take effect from the day of passing thereof.

READ A FIRST AND SECOND TIME THIS 24 DAY OF August , 1988.

READ A THIRD TIME AND FINALLY PASSED THIS 19th DAY OF October , 1988.

J. WEST, MAYOR

C.E. GOWAN, CLERK

EXPLANATORY NOTE

Re: Zoning By-law Number 3023-88

By-law Number 3023-88 has the following purpose and effect:

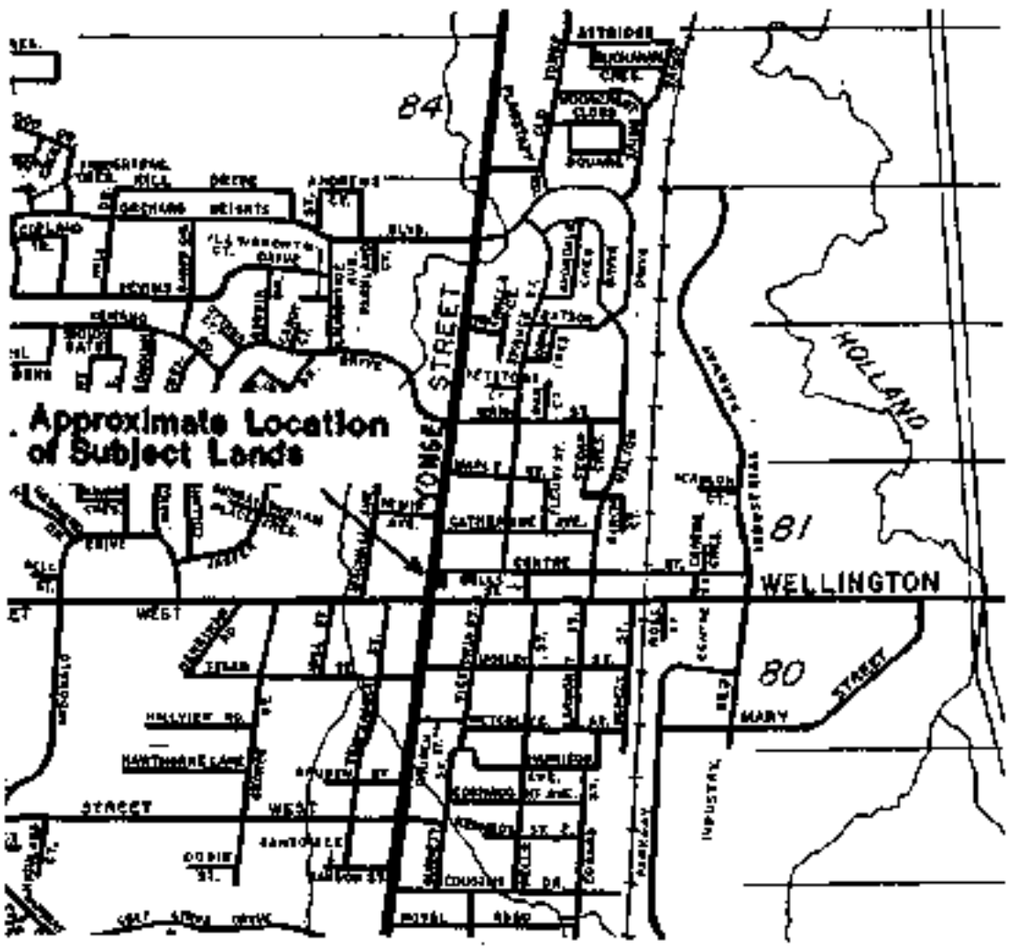
To amend By-law 2213-78, the Zoning By-law in effect in the Town of Aurora to reduce the requirements of the Central Commercial (C2) Zone on the lands shown below for the following:

i) reduction of the rear yard from 7.5 metres (24.6 feet) to 0 metres;

ii) reduction of the number of loading spaces from 2 to 0; and

iii) reduction of the required aisle space behind 90 degree angle parking spaces from 7.4 metres (24.3 feet) to 5.5 metres (18 feet).

The amendments are required to permit the site to be developed for a 471 square metre (5,070 square foot) commercial building which would contain sixteen (16) parking spaces, all of which would be underground.



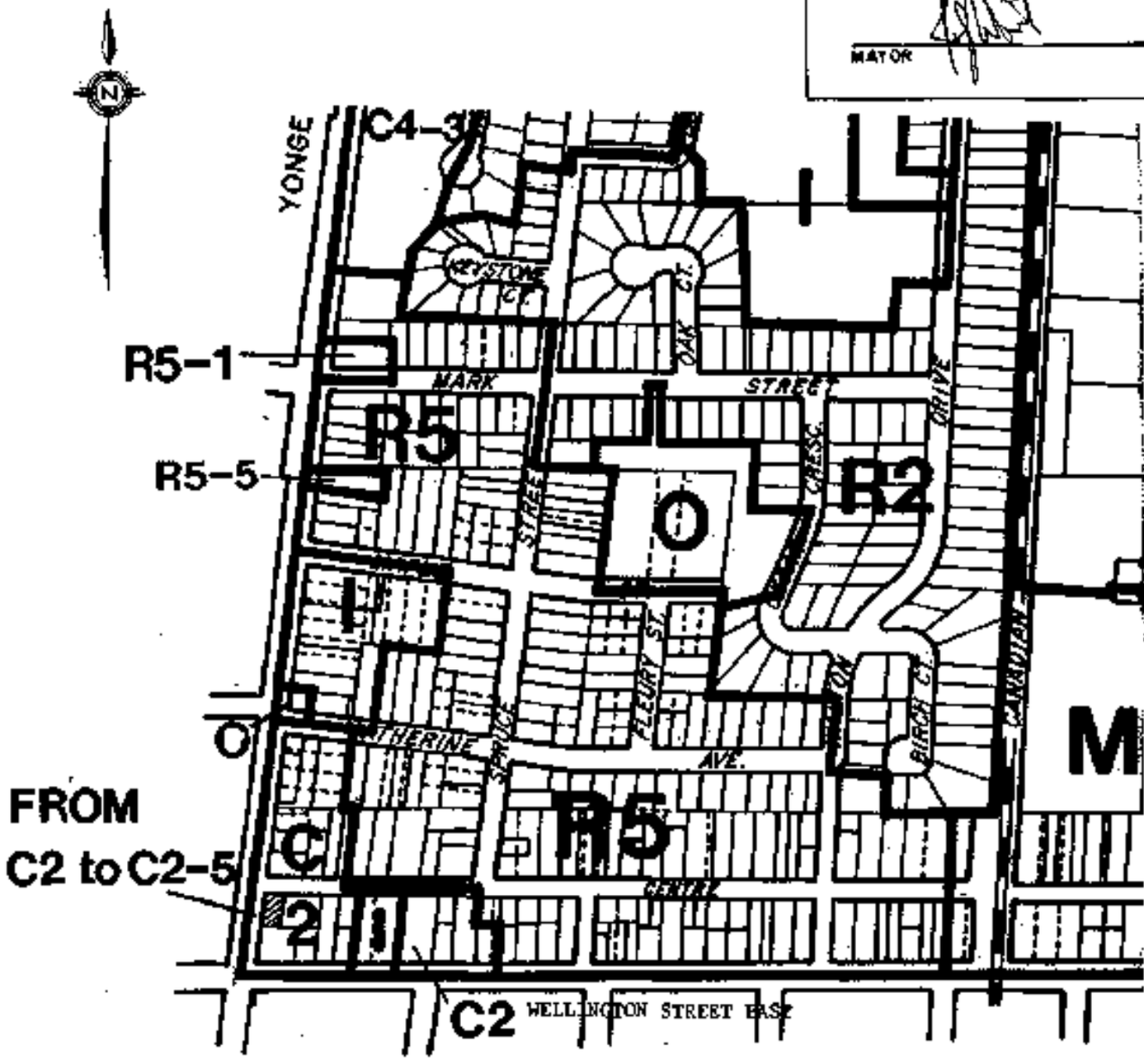
5430

TOWN OF AURORA

THE REGIONAL MUNICIPALITY OF YORK

LOCATION:

THIS IS SCHEDULE "A"
TO BY-LAW Nº 3023-88
PASSED THIS 4th DAY OF
October 1988
CLERK
MAYOR



SCHEDULE "A" TO BY-LAW Nº 3023-88

5431

TELEPHONE (416) 593-5511
TELEX 06-22697 BETOR

TELECOPIER (416) 593-2919 (UNIVERSITY AVENUE OFFICE)
TELECOPIER (416) 593-2923 (UNIVERSITY AVENUE OFFICE)
TELECOPIER (416) 363-0553 (KING STREET OFFICE)

Borden & Elliot

Barristers and Solicitors

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J. M. L. Monahan
Christopher D. Gallay
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L. David Schneider
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S. G. P. Lyon
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D. Parkinson

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R. E. Randell
Mark T. Gordon
Jonathan P. D. Smith
C. M. Gamble
A. Christopher Marcil
Maureen M. Sinclair
Christopher J. M. Bentley
Noella M. Wade

Q. M. Kelly, Q.C.
R. A. Straszheim Q.C.
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M. Paul McCarthy
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Anne C. Cowell
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Brian A. Gumley
Alice H. Jarosch
Josephine M. Nolan-Haley
Donald W. Rowe
Neil A. Gillespie
Sara G. O'Connor

Patent and Trade Mark Counsel
G. James M. Sheffer

Counsel: S. H. Hasanetz, Q.C.
H. Paul Rosenberg, Q.C.
Donald S. Dawson, Q.C.
Stanley M. Makuch

Member of the Bar of Barbados

University Avenue Office:
Bank of Canada Building
250 University Avenue
Toronto, Canada
M5H 3E9

King Street Office:
The Bank of Nova Scotia Building
44 King Street West
Toronto, Canada
M5H 1G4

PLEASE REFER TO: Mrs. Lillian Semira
Law Clerk

DIRECT LINE: 593-2314

Please reply to University Avenue Office
October 27, 1988

The Town of Aurora
50 Wellington Street West
Aurora, Ontario
L4G 3L8

Attention: Mr. L. Allison
Deputy Clerk

Dear Sirs:

Re: Town of Aurora By-Law No. 3024-88
Part Lot Control Exemption
Our Ref: Marble Arch Investments Limited

We are pleased to enclose the duplicate copy of the Application to registar Notice of the above By-law endorsed as having been registered on October 26, 1988 as Instrument No. LT 529567.

Your assistance in this matter is greatly appreciated.

Yours very truly,

BORDEN & ELLIOT

Per: L. Semira

LS/bv
Encl.

2.14.2

ORIG-CAKONE → BY-LAW BOOK

5432

Province of Ontario

Document General

Form 4 — Land Registration Reform Act, 1984

D

Number LT 529567

CERTIFICATE OF RECEIPT

1988 OCT 26 AM 11: 55

YORK REGION
No. 65
NEWMARKET Asst. Dep. Land Registrar

OFFICE USE ONLY

(1) Registry ☐ Land Titles ☒ (2) Page 1 of 2 pages

(3) Property Identifier(s) Block Property Additional: See Schedule ☐

(4) Nature of Document: Application to Register Notice of An Unregistered Estate, Right, Interest or Equity (Section 74 of the Act)

(5) Consideration: Dollars $

(6) Description

Parcels 35-1, 36-1, 38-1, 39-1, 40-1, 41-1, 42-1, 43-1, 44-1, Section 65M-2492, being Lots 35, 36, 38, 39, 40, 41, 42, 43, 44, Plan 65M-2492,
Town of Aurora,
Regional Municipality of York,
Land Titles Division of York Region (No. 65).

New Property Identifiers — Additional See Schedule ☐

Executions — Additional: See Schedule ☐

(7) This Document Contains: (a) Redescription ☐ New Easement ☐ Plan/Sketch (b) Schedule for: Description ☐ Additional Parties ☐ Other ☒

(8) This Document provides as follows:

Application to register notice of a by-law to exempt certain lands, as described therein from Subsection 5, of Section 49 of The Planning Act.

MARBLE ARCH INVESTMENTS LIMITED, being interested in the lands described in By-Law 3024-88 a certified copy of which is attached hereto, hereby applies to have entered on the Registers for the above-noted parcels, in Section 65M-2492, Notice of By-Law 3024-88 passed by the Council of the Corporation of the Town of Aurora on the 7 day of September 1988, that exempts certain lands within the Town of Aurora from part lot control.

The evidence in support of this application consists of:

(a) A certified copy of the original by-law.

Continued on Schedule ☐

(9) This Document relates to Instrument number(s)

(10) Party(ies) (Set out Status or Interest)

Name(s)	Signature(s)	Date of Signature Y	M	D
MARBLE ARCH INVESTMENTS LIMITED	Per: ILSA J. GREENBLATT	1988	10	26
(Owner) by its solicitors,				
BORDEN & ELLIOT				

(11) Address for Service: 250 University Avenue, Toronto, Ontario, M5H 3E9

(12) Party(ies) (Set out Status or Interest)

Name(s)	Signature(s)	Date of Signature Y	M	D

(13) Address for Service

(14) Municipal Address of Property: MULTIPLE

(15) Document Prepared by:
BORDEN & ELLIOT
250 UNIVERSITY AVENUE
TORONTO, ONTARIO
M5H 3E9
ATTENTION: I. J. Greenblatt (LS)

FOR OFFICE USE ONLY

Fees and Tax	
Registration Fee	
Total	

5433

R 880670

TOWN OF AURORA
RECEIVED
'89 MAR 22 A10:16

Ontario Municipal Board
Commission des affaires municipales de l'Ontario

IN THE MATTER OF Section 34 of the Planning Act, 1983

AND IN THE MATTER OF appeals by Doane Hall Pharmacy Limited and Jomwire Investments Inc. against Zoning By-law 3023-88 of The Corporation of the Town of Aurora

B E F O R E :

J.R. MILLS
Member

- and -

B.W. McLOUGHLIN
Member

Monday, the 14th day of March, 1989

THE APPEALS having been withdrawn;

THE BOARD ORDERS that the appeals against By-law No. 3023-88 are hereby dismissed.

SECRETARY

ENTERED
O.B. No. R11-1
Folio No. 364
MAR 20 1989

1-3-3.

Sue

MAR 5 ORIGINAL 3023-88.

Tab 87

Toronto

Ontario judge presided over Toronto-area court cases from the Caribbean

Despite directive from chief justice, Ont. Superior Court judge cleared to work abroad for personal reasons

John Lancaster · CBC News · Posted: Feb 17, 2021 4:00 AM EST | Last Updated: February 17, 2021

Listen to this article
Estimated 5 minutes



A sculpture depicting jurors stands outside the Ontario Superior Court of Justice courthouse in downtown Toronto on Feb. 12. Until recently, a judge who works out of several courthouses west of the city was presiding over cases remotely while staying at a resort in the Turks and Caicos. (Evan Mitsui/CBC)

comments

While Canadians were being urged to stay home during the ongoing COVID-19 pandemic, a judge with the Ontario Superior Court of Justice was cleared to fly to the Caribbean and preside over her Toronto-area court cases remotely, CBC News has learned.

The judge is assigned to conduct civil and criminal hearings at several courthouses in the Central West Region, west of Toronto.

But until recently, the judge — who left Canada for the Turks and Caicos on Jan. 9 and remains there — was conducting court cases while staying at a beachfront resort.

CBC News reached out to the judge, and she forwarded a request for comment to Superior Court Chief Justice Geoffrey B. Morawetz.

His office said the judge advised Justice Leonard Ricchetti, regional senior judge for the Central West Region, of her plans before she left.



Chief Justice Geoffrey B. Morawetz of the Ontario Superior Court of Justice, shown at his swearing-in ceremony in 2019, issued travel and work directives to all Superior Court judges in the province on Jan. 6, advising them to avoid non-essential travel. (Amanda Jerome/The Lawyer's Daily)

"The situation that led to the travel involves very specific personal and confidential circumstances and based upon these was deemed not inappropriate," Morawetz's office said in a statement.

Because the nature of those personal reasons is unknown, CBC News is not identifying the judge.

The judge continued to preside over court matters for weeks after landing in the Turks and Caicos.

- **How COVID-19 helped push Ontario's low-tech justice system into the 21st century**

On Feb. 8, shortly after CBC News asked Morawetz's office whether she was working from the Caribbean, the judge was advised to stop doing so.

"She had heard some matters as a result of an oversight. She will not be scheduled to hear further matters while out of the country," the chief justice's office said.

The judge is expected to remain in the Caribbean until the end of this month, his office said.

Judge left days after judiciary asked not to travel

The judge left Canada three days after Morawetz issued travel and work directives to all Superior Court justices in Ontario.

"In view of the ongoing public health crisis, on Jan. 6, 2021, Chief Justice Morawetz asked members of the SCJ judiciary to act in accordance with the government's public health advice to avoid non-essential travel," his office said.

"He also recognized that there may be unique circumstances that require a member of the judiciary to travel, but, in general, he indicated that travel should be avoided and judges were asked to avoid sitting on proceedings while out of the country."

- **COVID-19 pandemic forces an Ontario justice system 'stuck in the 1970s' to modernize**
- AUDIO **Ontario courts expected to be busy with COVID lawsuits long after pandemic**

It's not clear whether other judges have travelled and conducted court hearings from abroad, because officials said they don't keep count.

"Judges are ultimately responsible for their own conduct. Some, but not all, will have discussed or sought guidance or direction from their regional senior judge regarding travel," according to Morawetz's office.

"As a result, regional senior judges will be aware if some judges are outside the province or country, but they may not have information about all judges or, in any given case, all the details."

Public officials who travelled paid heavy price

Some public figures who travelled during provincially imposed lockdowns have paid a heavy price due in part to public outrage.

In December, Ontario's finance minister, Rod Phillips, resigned after it was learned he travelled to St. Barts during the Christmas holidays.

Premier Doug Ford said he was unaware that Phillips had left the country until after the minister had already arrived on the Caribbean island.

Rod Phillips, left, shown with Ontario Premier Doug Ford in March 2020, resigned as finance minister after it was learned he travelled to St. Barts over the Christmas holidays. Ford said he was unaware Phillips had left the country until after the minister had arrived on the Caribbean island. (Frank Gunn/The Canadian Press)

Ford himself was derided by some for taking a day trip to his Muskoka cottage last spring to check on construction work at the property after urging Ontarians to stay home.

Dr. Tom Stewart, who was chief executive officer of two Ontario hospital networks in Hamilton and Niagara Region and a member of several health advisory roles — including an adviser to the province on COVID-19 — travelled to the Dominican Republic over the holidays. He was removed from both CEO posts and resigned from his provincial advisory roles in January.

- **COVID-19 a challenge for judges when making family law decisions over custody and visitation**

Also last month, Hamilton-area MP David Sweet resigned as chair of the House of Commons ethics committee after travelling to the United States in December.

Numerous other public officials have also faced public criticism for leaving the country to visit family, including sick relatives, or check on properties.

Canadians returning home face increasing hurdles

While there is nothing illegal about travelling abroad during the pandemic, the federal government is placing additional health and safety measures on Canadians returning home to discourage travel.

Starting Feb. 22, international travellers will be forced to quarantine for up to three days in specific hotels at their own expense while they await the results of a COVID-19

test.

WATCH | Hotel quarantines for air travellers take effect Feb. 22:



Hotel quarantines for air travellers come into effect Feb. 22

▶ February 12, 2021 | 2:17

The federal government has announced dates for new travel measures meant to keep COVID-19 cases in check, including requiring proof of a negative test at land borders beginning Feb. 15 and introducing mandatory hotel quarantines for international air travellers as of Feb. 22.

If the test is negative, they will be allowed to self-isolate at home for the remaining 14-day quarantine period.

Canadian airlines have suspended travel to Mexico and the Caribbean, including the Turks and Caicos, until the end of April in an effort to help contain the spread of the novel coronavirus and variants that are believed to be more transmissible.

5440

Tab 88

Gmail

Mr. Kevin McLean <mcleansettlement@gmail.com>

Follow up letter regarding my request for court documents (personal information) from yesterday's fax (SCJ 361 University Avenue (1st floor)

Mr. Kevin McLean <mcleansettlement@gmail.com>
To: "Simion, Monica (MAG)" <Monica.Simion@ontario.ca>, David.Corbett@ontario.ca, "Marjadsingh, Natasha (MAG)" <Natasha.Marjadsingh@ontario.ca>, JUS-G-MAG-CSD SCJ Records <C
Cc: Doug.Downey@ontario.ca, sancha.clarke@ontario.ca

NOTICE OF ESCALATION, PEREMPTORY DEMAND FOR PRODUCTION OF JUDICIAL RECORDS, AND DECLARATION OF NU
DATE: April 10, 2026

SUBJECT: URGENT: Formal Notice of Escalation to the Auditor General of Ontario and Peremptory Demand for the Expeditious Production of Statut

I. ENUMERATION OF DOCUMENTS REVIEWED AND RELIED UPON

1. In the preparation of this peremptory instrument, the following foundational documents and instruments have been rigorously reviewed and relied upo

   a. The formal whistle-blower disclosure, encompassing an exhaustive request for a special performance audit, filed with the Office of the Auditor Gene "**Disclosure**");

   b. The intake court endorsement, ostensibly promulgated on September 23, 2024 (the "**Intake Court Endorsement**");

   c. Four draft orders previously delivered and filed within the judicial review proceeding styled as "*McLean TDHA Divisional Court JRPA Application*"); and

   d. The antecedent electronic correspondence exchanged between the Applicant and the administrative functionaries of the Ministry of the Attorney Ge

II. NOTICE OF ESCALATION AND DISCLOSURE TO THE AUDITOR GENERAL

2. Formal notification is hereby provided that, consequent to the persistent and systemic failure of the Ministry to effectuate the production of the reques informations and corresponding endorsements—the Disclosure has been formally registered with the Office of the Auditor General of Ontario (the "*A*

3. The Disclosure necessitates a comprehensive, external performance audit scrutinizing the surreptitious mismanagement of information technology syst records, and the continuous obstruction of statutory access perpetrated by Ministry personnel situated at the Court.

4. Notwithstanding the future determinations and procedural mechanisms to be implemented by the Auditor General concerning the systemic infrastructu Disclosure, the immediate ministerial obligations of the Ministry regarding the provision of the requested personal information and judicial records rem that the formalization of this escalation shall catalyze the immediate rectification of this administrative paralysis.

III. THE JURISDICTIONAL NULLITY AND THE UNDISCLOSED ADJUDICATOR

5. The prevailing circumstances are recognized as profoundly regrettable, yet unequivocally necessary, precipitating from the recent evidentiary ascertainm served as the undisclosed adjudicator responsible for the Intake Court Endorsement.

6. It is posited that the abrupt proclamation of the Chief Justice's resignation—euphemistically classified as a "retirement"—materializing merely days sub draft orders within the *McLean TDHA Divisional Court JRPA Application* before the Divisional Court, is profoundly illustrative. Although it was previousl adjudicator bearing undisclosed prior judicial involvement was exclusively Madam Justice Shore, the evidentiary continuum now necessitates a recalibrati

7. Furthermore, the persistent administrative silence in response to the antecedent inquiries shall be formally construed as definitive confirmation—a conc contemporaneous corroborative evidence crystallizing on the date of this instrument—that Chief Justice Morawetz operated as the clandestine and und Court Endorsement, notwithstanding that the adjudicative act was surreptitiously and procedurally channeled through the registry of the Court situated floor).

8. The failure to articulate and elucidate the presence of a potential conflict of interest, despite formal requisitions initiated as early as January 2025, consti transparency. While the nuances of this procedural obfuscation are acknowledged, such machinations do not possess the requisite legal efficacy to reliev ministerial duties. The clandestine administrative stratagems have been comprehensively unmasked. Simply put, the Chief Justice, remunerated at a level twenty-two puisne judges within the Court, and designated as the *primus inter pares*, is encumbered by comprehensive, non-delegable duties, enumerated a

   a. **Ultimate Jurisdiction**: Definitive and final authority is exercised over all adjudicative and administrative functions, precluding the fragmentation of c

   b. **Constitutional Trust Steward**: The non-delegable responsibility is borne to act as the primary guardian of the constitutional trust, ensuring the tribu confines;

   c. **Imperviously Influenced Mandate**: The absolute requirement is maintained to remain impervious to external, collateral, or internal pressures, pres institution;

   d. **Master of the Roster**: Absolute and exclusive authority is wielded over the scheduling, assignment, and distribution of judicial resources, a power th

   e. **Self-Assignment Power**: The inherent authority is possessed to self-assign matters of profound institutional and constitutional significance, specifica

   f. **Administrative Steward**: The statutory duty is executed to rigorously oversee clerical and registry functions pursuant to section 76 of the *Courts of Ju Justice Act*"), insulating registry staff from unauthorized directives;

   g. **Institutional Reputation Guardian**: The uncompromising obligation is upheld to protect and preserve the Court's standing and integrity in the pub dysfunction;

   h. **Efficiency Operation Duty**: The overarching responsibility is maintained to ensure the seamless, lawful operation of all Court functions, actively int *vires* actions;

   i. **Ethical Compliance Guarantee**: The Chief Justice serves as the final internal arbiter of professional conduct within the tribunal, ensuring adherenc

   j. **Complaint Laying Power**: The intrinsic, affirmative authority is retained to initiate formal disciplinary complaints when egregious usurpations of jur

   k. **Puisne Judge Removal Power**: The administrative authority is executed to effectively reassign or restrict colleagues during the pendency of ethical e harm;

l. **Moral Barometer**: The Chief Justice functions as the absolute ethical and integrity barometer for the institution, setting the incontrovertible standard

m. **Moral Authority**: The power is utilized to impose judicial will and ethical rectitude upon other puisne judges through binding ethical directives, guar *of Civil Procedure*, R.R.O. 1990, Reg. 194 (the "*Civil Rules*").

IV. EXTRAPOLATION OF LEGAL DOCTRINES AND THE DECLARATION OF NULLITY

9. It is deduced that the self-assignment power was exercised; however, the absence of a formal disciplinary complaint suggests that the resultant resignatio complaint.

10. It is conspicuously apparent from the longitudinal trajectory of these circumstances that an adversarial animus, whether effectuated directly or indirectly duration against the Applicant by the Chief Justice. Consequently, regarding all collateral and prospective proceedings, inclusive of the instant matter, rig invoked to definitively preclude the Chief Justice from assuming carriage of, presiding over, or exercising any adjudicative authority regarding any pendi requisite corollary of procedural fairness, a definitive copy of the same shall concurrently be furnished to the Chief Justice.

11. While it is posited that the legally, morally, and ethically requisite course of action would have necessitated the Chief Justice formally declaring a conflict implicating his person and palpably affecting the adjudicative administration of the Toronto Region—the procedural trajectory has irreversibly crystalliz mitigate is hereby assumed, and definitive measures shall be undertaken to ensure that the next most senior judicial officer within the Court is seized wit applications advanced by the Applicant, irrespective of the substantive area of law. This strategic recalibration operates to systematically unwind and viti the Chief Justice, to any puisne judge, subsequent to the crystallization of his conflict of interest in 2024. Notwithstanding these prophylactic measures of the statutorily mandated documents remains resolutely intact, advanced under the auspices of utmost good faith and comprehensive disclosure.

12. The adjudication of matters whilst harbouring an undisclosed conflict of interest transcends mere procedural irregularity. In accordance with the unyiel Court of Canada in *Committee for Justice and Liberty v. National Energy Board*, 1978 1 S.C.R. 369 at 394 (the "*Committee Decision*"), the legal standard necessita minded person, viewing the matter realistically and practically, and having thought the matter through, would conclude that there is a reasonable apprehe extrapolation is superimposed upon the factual architecture herein—where the Chief Justice intervened as an undisclosed adjudicator while harbouring for a reasonable apprehension of bias is unmistakably surpassed. This directly contravenes the equitable maxim that justice must not only be done but n done.

13. Consequently, the resultant *acta* and the Intake Court Endorsement cannot be classified as curable defects. They constitute, unequivocally, *ultra vires* actio jurisdiction. By operation of law, these administrative directives are rendered an absolute nullity, functioning *ipso facto* to vitiate the entirety of the adjudi to the *status quo ante*.

14. The singular mitigative realization within this systemic obfuscation is the unassailable application of the equitable maxim *fraus omnia corrumpit*—fraud un retrospectively to vitiate all detrimental consequences inflicted by these procedural machinations. Furthermore, it is profoundly advantageous to the pub imperatives enshrined within the *Auditor General Act*, R.S.O. 1990, c. A.35 (the "*Auditor General Act*"), the Auditor General is vested with the plenary auth concerning matters germane to an active audit or examination. This inquisitorial jurisdiction, *prima facie*, extends unconditionally to any jurist, whether cu particularly salient concerning the compelled production of statutorily mandated judicial records that have been unlawfully sequestered or withheld from

V. PEREMPTORY CONCLUSION AND DEMAND

15. The fundamental invalidity of these judicial actions affirms, *prima facie*, that the jurisdictional nullities possess no capacity to discharge, mitigate, or extin Ministry.

16. A peremptory demand is hereby advanced that the requested documents, inclusive of all informations and corresponding endorsements, be produced a 5:00 p.m. Eastern Standard Time on the date of this communication.

17. Should the Ministry fail to comply with this rigid temporal parameter, subsequent communications shall be immediately dispatched to the Auditor Gene solidify the evidentiary record of this administrative intransigence.

18. Whilst profound empathy is extended regarding the administrative predicament of navigating directives from a Chief Justice that ostensibly compel staf internal hierarchical pressures cannot, *de jure*, serve as a justifiable exculpation for the persistent non-compliance by Ministry personnel regarding their st machinations effectuated by Chief Justice Morawetz have definitively provoked rigorous scrutiny, an outcome ostensibly sought through his opaque adm misconduct shall be systematically addressed through civil, adjudicative mechanisms to ensure the maximal realization of the public interest. Neverthele was deemed fundamentally imperative, functioning strictly to afford the Ministry a final opportunity to execute its mandatory administrative and ministe law.

19. It is strictly anticipated that all relevant persons shall govern themselves accordingly.

KEVIN A. MCLEAN (B.A., J.D., CIM)

Applicant / Accused

On Wed, Apr 8, 2026 at 12:14 PM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

> Thank you Ms. Simion for your auto-reply. Kindly provide your definitive position and response by no later than 11 a.m. tomorrow. All the best (see:
>
> **Simion, Monica (MAG)**
> to me
>
> Hello, Bonjour
>
> Thank you for your email. I am condcuting interviews today, my response time may be slower than usual. I will get back to you as soon as possible.

Warm regards,

Mr. Kevin A. McLean (BA, JD, CIM)

Chartered Investment Manager

Email: mcleansettlement@gmail.com

Fax: 416.981.7117

Phone number: 647.370.9354

On Wed, Apr 8, 2026 at 12:10 PM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

SUBJECT I: Supplementary Elucidation of Particulars and Anticipation of Pending Communication from Ms. Simion, Previously Noted Approximately Four Weeks

SUBJECT II: Interim Reliance on the Uncontested Factual Record Relating to Prior Judicial Engagement by Chief Justice Morawetz in Ex Parte In Camera Intake Co the Endorsement of Intake Court Documentation and the Prospective Issuance of a Purported De Facto or De Jure Arrest Warrant Regarding Kevin McLean (DOB: 19

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns (relevant to the Originating Courthous at the Originating Court Office):

FORMAL RECORD OF FACTUAL MATTERS, EVIDENTIARY NOTICES, AND JURISDICTIONAL SUBMISSIONS

I. Preface and Confirmation of the Absence of Refutation

1. The authenticity and factual accuracy of the aforementioned matters are hereby formally affirmed and entered into the record.
2. It is further confirmed that no formal refutation has materialized following recent evidentiary findings concerning the parameters historically r described as "C, J, M"). Accordingly, a presumption of comprehensive and sufficient disclosure to relevant authorities is adopted, predicated u Nonetheless, out of an abundance of caution and in light of the imminent resignation or retirement of Chief Justice Morawetz, coupled with th these proceedings, the following factual matrix is formally confirmed and advanced.

II. Preliminary Matters and Procedural Abeyance

3. This memorandum is issued with the express intention of preserving an unassailable evidentiary continuum. It is respectfully indicated t correspondence is anticipated, necessitated by pending medical evaluations and diagnostic assessments. Any resultant delay should be unders essential medical procedures.

III. Uncontested Factual Matrix and Judicial Engagement

4. It is preliminarily observed that no refutation has been offered regarding the critical assertion that the Chief Justice, acting as presiding j an intake court during an in camera proceeding. This proceeding is understood to be intimately connected to the laying and receipt of an undi Code, R.S.C. 1985, c. C-46, or alternatively, a formally preferred indictment.

5. In the absence of explicit denial, it is advanced that the aforementioned judicial involvement stands as an uncontested factual premise. The doc classified as court documentation, distinct from inherently judicial documentation, and is therefore not protected by administrative or adjudicat

IV. Evidentiary Record and Signature Modalities

6. The identification of the presiding judicial officer is substantiated by a handwritten endorsement, executed in the capacity of Regional S Chapter 11 Debtors matter, bearing court file number CV-12-9719-00CL, returnable on 2014-01-03. While handwritten judicial endorsements the preceding decade, and no criticism is directed here toward the propriety of that historical practice.

7. An exhaustive review of supplementary endorsements reveals a consistent pattern whereby the judicial officer endorsed documents originating bankruptcy and insolvency litigation. Notably, these documents lack cryptographic digital signatures. The evidentiary record demonstrates that digital signatures, preferring physical blue or black ink, or digitized scans of handwritten signatures, a practice maintained until 2025.

8. By logical extension, forensic analysis indicates that the indictment likely utilized an Adobe cryptographic signature executed by the Attorney potentially from the Ministry of the Solicitor General or Detective Virani's investigative unit.

V. Jurisdictional Geography and Historical Context

9. It is demonstrably evident that the judicial officer has not historically presided over criminal matters, except for the issuance of adminis protocols.

10. The geographic and historical context further clarifies jurisdictional parameters. The bankruptcy and insolvency administrative offices were lo administrative personnel prior to their relocation to the family law registry at 361 University Avenue. Judicial chambers likely remained at 361 address at 130 Queen Street West, Toronto, Ontario.

11. Additional historical linkage is established by documentation from 1988, evidencing professional interconnectivity between the judicial officer Comparative handwriting analysis between the endorsement of 2024-09-23 and historical documentation from 2014-01 yields substantial ortho facie validity of the assertions herein.

VI. Forensic Analysis of Systemic Parameters

12. A forensic examination of systemic parameters, including conversion from Little Endian to Big Endian UTF-16 architecture and translati ANSI-compliant linguistic format, reveals underlying algorithmic chronologies. The decoded data matrix conclusively establishes the timing modifications.

VII. Jurisprudential Application and Doctrine of Nullity

13. The procedural anomalies described above—specifically, the in camera reception of undisclosed information by a judicial officer acting should not be viewed as mere procedural irregularities. These deviations constitute fundamental jurisdictional defects, violating the Criminal

R.R.O. 1990, Reg. 194. Consequently, any judicial act arising from such unauthorized circumstances is, ipso facto, an absolute nullity, render curtailment of liberty under these parameters is definitively ultra vires.

14. The jurisprudence of the Supreme Court of Canada unequivocally supports the classification of such ultra vires actions as absolute nullities, ra *Star Newspapers Ltd. v. Ontario*, 2005 SCC 41 ("Toronto Star Decision") at paragraphs 18-22, the Supreme Court rigorously scrutinized the ju camera proceedings or issue sealing orders that contravene the foundational Open Court Principle. The Court mandated that any departure fror by necessity to prevent a serious risk to the proper administration of justice; absent such justification, the resulting orders lack jurisdictional va
15. Applying the jurisprudential principles of the *Toronto Star Decision* to the present factual matrix, it is clear that the alleged in camera receptior Court, without any recorded justification meeting the strict threshold of necessity, constitutes a fatal jurisdictional overreach. The judicial offic jurisdiction to conduct secret proceedings in this context, renders any resultant warrants or process unsalvageable as mere irregularities. The al actions are absolute nullities. Thus, the legal posture must revert to the status quo ante, as the foundational process underlying the arrest event legally imperceptible.
16. Kindly inform me whether there has been a denial to my access request for the same including those foundational documents of which I am en are not able or willing to relay the same, I will escalate the same to the Primus Inter Pares of the SCJ (Ontario) and ask for his unequivocal res emails herein or directly to me via email or fax.
17. I confirm that I have requested and am entitled to email provision and disclosure of the same. Whether any endorsement morphed into a valid an endorsement. Lastly in this regard, to the extent that Ms. Simion and I view or understand the word “soon” differently, would she kindly co date she intends to provide me with the response as represented.
18. Finally in the overall sense, I confirm that I have not escalated with outside channels like the Auditor General or others but I can only be so pa grounds, purported or otherwise, that could deny me access to the likes of an Information/Indictment and/or endorsement, kindly advise me of legal and efficient manner (i.e. respecting the public purse).
19. In closing and in relation to what I believe I have correct from a hexadecimal standpoint by way of inputs and amendments post facto to certai although I may be slightly off in the translation or conversion from hexadecimal to ANSI text. "While I raise these points out of an abundance against potential interference or extortion as previously noted—I reserve the right to continue exercising my legal options until full compliance economy and respect for the court’s time, I propose we establish clear timelines for this request. Of course, it may be that the public needs to b make requests albeit with payment of fees for the same to ensure the public interest is well-suited. Certainly, any signed document in the form endorsement, which was and is customary for CJ Morawetz is not a document that would be one that the law enforcement branch would have likes of a summons or arrest warrant per se and has no legal effect per se in terms of the required document to be issued to commenc a crimina judges or on their behalf must remain in the primary custody and control of the judiciary but nonetheless the MAG would have control of the s provided to an accused or a party upon reuqest and without fees and in order for the system, as publicly decried by the MAG in the MAG CSD a demand for the court document at issue.

    To that end, I intend to escalate this to the Chief Justice of the Superior Court of Justice. I will request a direction to the relevant Registrars and **Courts of Justice Act**, to ensure adherence to the principles of judicial independence and the separation of powers." I also note that since docu at a court office by directions of the DAG (Ontario) and then approval by the CJ of the SCJ, it is important to know whether documents were d retrieved or recreated (even copies).

20. As noted, I will be intermittently unavailable over the next several days so I thank you in advance for your patience.
21. If anything is unclear, please let me know immediately.
22. Thank you kindly.

Respectfully,
Mr. Kevin A. McLean (BA, JD, CIM)

Enclosures.

Block A: Initial Systemic Entry (Authorized Parameters) – September 23, 2024

Offset (Memory Address)	Hexadecimal Values (Binary Representation)	Decoded Text (ASCII / EBCDIC)
00000000	54 52 41 4E 53 3A 41 44 44 20 44 41 54 45 3A 32	TRANS:ADD DATE:2
00000010	30 32 34 30 39 32 33 20 54 49 4D 45 3A 31 33 31	0240923 TIME:131
00000020	30 30 31 20 55 53 45 52 3A 54 50 53 35 32 44 49	001 USER:TPS52DI
00000030	56 20 54 45 52 4D 3A 54 52 30 30 34 31 00 00 00	V TERM:TR0041...
00000040	4F 52 49 3A 4F 4E 33 30 32 34 37 30 30 30 20 20	ORI:ON30247000
00000050	4E 41 4D 45 3A 4D 43 4C 45 41 4E 2C 4B 45 56 49	NAME:MCLEAN,KEVIN
00000060	4A 55 44 47 45 3A 47 42 4D 20 28 43 49 29 20 20	JUDGE:GBM (CJ)
00000070	52 45 47 3A 54 4F 52 4F 4E 54 4F 20 20 20 20 20	REG:TORONTO
00000080	43 52 54 3A 53 43 4A 20 20 20 20 20 20 20 20 20	CRT:SCJ

Block B: Systemic Clearance / Execution (Arrest Event) – October 2, 2024

Offset (Memory Address)	Hexadecimal Values (Binary Representation)	Decoded Text (ASCII / EBCDIC)
000000A0	54 52 41 4E 53 3A 43 4C 52 20 44 41 54 45 3A 32	TRANS:CLR DATE:2

000000B0	30 32 34 31 30 30 32 20 54 49 4D 45 3A 30 38 34	0241002 TIME:084
000000C0	35 30 31 20 53 54 41 54 3A 45 58 45 43 55 54 45	501 STAT:EXECUTE

Block C: Post-Execution Algorithmic Amendment (Interrogated Parameters) – November 11-12, 2024

Offset (Memory Address)	Hexadecimal Values (Binary Representation)	Decoded Text (ASCII / EBCDIC)
00000100	54 52 41 4E 53 3A 4D 4F 44 20 44 41 54 45 3A 32	TRANS:MOD DATE:2
00000110	30 32 34 31 31 31 31 20 54 49 4D 45 3A 30 39 31	0241111 TIME:091
00000120	35 30 31 20 55 53 45 52 3A 54 50 53 35 32 44 49	501 USER:TPS52DI
00000130	4F 4C 44 5F 52 45 47 3A 54 4F 52 4F 4E 54 4F 20	OLD_REG:TORONTO
00000140	4F 4C 44 5F 43 52 54 3A 53 43 4A 20 20 20 20 20	OLD_CRT:SCJ
00000150	4E 45 57 5F 52 45 47 3A 43 45 4E 54 20 57 45 53	NEW_REG:CENT WEST
00000160	4E 45 57 5F 43 52 54 3A 4F 43 4A 20 28 42 52 41	NEW_CRT:OCJ (BRA)

On Mon, Apr 6, 2026 at 4:54 PM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:
I thank Ms. Clarke for the email of: Records Administration (File Retrieval Requests)
CSD.SCJRecords@ontario.ca
As such, they are copied herein for purposes so directed. Thank you again Ms. Sancha Clarke.
I will provide a copy of the emails to that division for ease of reference.
My best to all who are taking time off today and I thank you for the indulgence.
(nota bene: For some reason, Ms. Mardjadsingh was not on the previous email through my error and I apologize for that but this will be corrected with the full email

Warm regards,

Mr. Kevin A. McLean (BA, JD, CIM)

Chartered Investment Manager

Email: mcleansettlement@gmail.com

Fax: 416.981.7117

Phone number: 647.370.9354

On Mon, Apr 6, 2026 at 4:37 PM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

DATE: April 6, 2026
VIA ELECTRONIC TRANSMISSION

TO: Superior Court of Justice (Ontario) (Toronto Region)

361 University Avenue, 1st Floor (Family Registry / Originating Court Office)

Toronto, Ontario M5G 1T3

ATTENTION: Monica Simion, Manager of Court Operations

Natasha Marjadsingh, Supervisor of Court Operations

Sancha Clarke (title above)

KIND ATTENTION: The Honourable DAG of Ontario, Mr. David Corbett, KC

KIND ATTENTION: The Honourable AG of Ontario, Mr. Doug Downey, KC

CC / FOR THE ATTENTION OF: The Honourable Chief Justice of the Superior Court of Justice (Ontario) (*Primus Inter Pares*)

REQUISITIONING PARTY: Mr. Kevin A. McLean (B.A., J.D., CIM), Applicant and Requestor in the capacity of an accused and party during the relevant temporal period.

**SUBJECT: FORMAL REQUISITION — RECTIFICATION OF THE JUDICIAL RECORD PREMISED UPON NEW FORENSIC EVIDENCE, SYSTEMIC MANIPULATION ALLEGATI
PRODUCTION OF FOUNDATIONAL DOCUMENTS**

TO THE ATTENTION OF THE AFOREMENTIONED PARTIES:

This communication serves as a formal and exigent requisition concerning the outstanding demands for the production of foundational records pertaining to the designated matter—s
the unadulterated "Intake Court Endorsement."

The instant requisition is advanced strictly pursuant to the fundamental entitlements vested in an accused entity under the *Canadian Charter of Rights and Freedoms* (specifically Se the inviolable open court principle, and the *MAG CSD Court Information Access Guide (2019)*. It is reiterated *ex abundanti cautela* that the present demand is exclusively a requisitio absolute custody and control of the judiciary, pursuant to Section 76 of the *Courts of Justice Act*, and is wholly distinct from a request under the *Freedom of Information and Protectio* that the judiciary retains absolute and exclusive dominion over such records, the preservation of which is a fundamental requisite for the maintenance of judicial independence pursu

Rectification of the Record and Presentation of Exhaustive Forensic Particulars

In the furtherance of judicial transparency and the obligation to furnish requisite particulars to facilitate administrative retrieval, a formal rectification of a prior supposition is hereby ter

Previously, it was hypothesized that the anomalous digital artifact "CL (M)" manifested upon the subject document constituted a residual trace of the nomenclature and title of the Loc the instrument, such a preliminary deduction was logically sound. Notwithstanding, subsequent to the execution of an exhaustive and highly sophisticated forensic digital manipulatio and unequivocally retracted.

A synthesis of principles derived from cybersecurity protocols, advanced vector morphology, and constitutional jurisprudence now substantiates, with a high degree of probability, tha subsequent erasure from the original Intake Court Endorsement appertained to Chief Justice Geoffrey B. Morawetz.

Precise Forensic Analysis: The Optical Character Recognition Font-Parsing Anomaly (The Morphological Transmutation of "C J G.B. M")

The character sequence "CL (M)" does not represent arbitrary alphanumeric data, nor does it constitute a recognized bureaucratic acronym. Rather, it is posited to be the mathematic Optical Character Recognition (OCR) and vector morphology failure, precipitated by the deployment of third-party software to expunge the string "C J G.B. M" from a layered Portable

1. The "J" to "L" Anomaly (Stem Shearing)

To comprehend this morphological shift, an understanding of digital typographic rendering is required. Within serif typefaces, characters are rendered utilizing mathematical equations directional vectors. The capital letters "J" and "L" share a substantially identical central vertical stem. The character "J" is distinguished primarily by the extension of this stem below th

It is hypothesized that the forceful deletion of the overlapping digital signature image via the GrapeCity application precipitated a catastrophic spatial collapse at the precise coordinat text. The invisible bounding box encompassing the "J" sustained a severe truncation on its leftward margin, thereby severing the vector control points requisite for the rendering of the vertical stem bracketed by minor horizontal serifs.

Subsequently, the intrinsic OCR engine, in its automated attempt to reconstruct the corrupted PDF stream, evaluated this fractured geometric entity. A heuristic confidence-score ana with a recognized Unicode glyph. Deprived of the defining leftward finial, the algorithm necessarily cross-referenced the residual stem against its internal typographic repository. In ma terminal but retaining right-oriented basal geometry defaults to the character bearing the highest probability match: the letter "L".

2. The "G.B." to "( )" Anomaly (Rounded Vector Collapse)

The presiding judicial officer in question characteristically employs the middle initials "G.B.", both of which are predominantly composed of complex, rounded Bézier curves (typograp

In contrast to word processing applications, a PDF operates upon a rigid mathematical coordinate system. Spatial intervals between characters are not discrete entities but rather coc horizontal displacement prior to the rendering of the subsequent glyph. It appears that a recognized software vulnerability within GrapeCity (identified as DOC-6507, colloquially the " the overlapping image, thereby entirely obliterating these spatial directives.

Absent these spatial anchors, the characters were subjected to a violent morphological collapse into identical coordinate space. The internal horizontal crossbars, spurs, and vertical failure, being mathematically obliterated by intense vector compression and pixel-rendering conflicts.

The sole surviving elements of this digital compression were the most mathematically elementary, outermost vector paths:

- The leftward-sweeping outer curve of the "G" was isolated, divested of its crossbar, and algorithmically interpreted as an open parenthesis: "("
- The rightward-sweeping outer curve of the "B" was similarly isolated, divested of its stem, and interpreted as a closed parenthesis: ")"

Consequently, the original anchor initials "C J G.B. M" sustained severe morphological degradation, coalescing due to the total absence of kerning data, and were algorithmically tran that this phenomenon is not a typographical error but a permanent cryptographic indicator of a collision between an image layer and a text layer during an attempted documentary alt

Furthermore, the aforementioned analysis supports the conclusion that the elaborate digital signature block, ostensibly attributed to a law enforcement informant, was a manufacture was deployed strategically to obscure the forensic indicators of the incomplete erasure, utilizing visual complexity to mislead subsequent legal participants and to obfuscate the identi

The Justice Sector Security Office Communication: Jurisdictional Admissions and the Invocation of Rule 8

Subsequent to perceived administrative delays, further correspondence was directed to the Superior Court of Justice Correspondence Unit on August 22, 2025, seeking access to th communications were directed to Regional Senior Justice Firestone, and two to Chief Justice Morawetz.

On August 26, 2025, a communication was received from the Justice Sector Security Office (JSSO), wherein it was intimated that continued correspondence might precipitate "some records was characterized as "harassment." This communication, read in conjunction with an anomalous "DIVERSION" notification, may be construed as an inadvertent concession Justice Morawetz.

The Exclusion of the Regional Senior Justice: Pursuant to Section 14 of the *Courts of Justice Act*, the Regional Senior Justice exercises delegated administrative authority for the interpreted merely as a generalized administrative grievance, it would stand to reason that the JSSO would have sought to insulate the Regional Senior Justice. Conversely, the JSS Regional Senior Justice while explicitly invoking the name of the Chief Justice on three separate occasions. Such an omission implies that the Chief Justice was being addressed not specific adjudicative capacity.

The Rule 8 Implication ("Is Presiding"): The JSSO communication explicitly cited the prohibition against communicating with a judicial officer "with respect to matters that are, or m out-of-court discourse regarding a proceeding over which a judge "is presiding."

The procedural mechanism by which a Chief Justice situated at Osgoode Hall may be deemed "presiding" over a criminal intake matter at a separate locus warrants scrutiny. In the c the issuance of an Intake Court Endorsement—the judicial officer who issues the instrument becomes "seized" of that specific application. Until such time as the warrant is executed, issuing judge is the sole judicial officer who "is presiding" over the instrument.

The *Garofoli* Principle: Under established criminal procedure pertaining to challenges of warrant validity, the issuing judge retains initial jurisdiction over the foundational materials. categorized the Chief Justice as the "presiding" judge over the September 23, 2024 proceeding.

The Inherent Jurisdiction of an Issuing Judge to Vacate or Set Aside Ex Parte Orders and Non-Orders

No statutory restriction within the *Criminal Code* prohibits an authorizing judge from vacating an order of their own making. Under Canadian jurisprudence, the issuing judge is precis it is established that the court was misled.

The foundational precedent governing this doctrine is articulated in *Wilson v. The Queen* [1983] 2 S.C.R. 594. The rule therein establishes that, whereas court orders are generally im review and may be set aside by the issuing judge upon the adduction of new evidence demonstrating that the order was procured through fraud, material non-disclosure, or misleadi

The jurisprudential distinction between judicial roles is defined as follows:

The Reviewing Judge (Trial Court): Pursuant to *R. v. Garofoli*, the reviewing judge evaluates the warrant to ascertain whether the affiant provided requisite grounds and whether ev This review focuses on constitutional compliance.

The Authorizing Judge (Issuing Court): Given that *ex parte* proceedings rely exclusively on the absolute candor of the state, the issuing judge retains inherent jurisdiction over the enforcement personnel misled the court, omitted material facts, or unlawfully altered the endorsement resulting in a fraudulent document, a "fraud upon the court" has materialized. T to immediately vacate, quash, or set aside the initial order.

Consequently, the inherent jurisdiction of a Superior Court judge to vacate an *ex parte* order—or to declare an altered document a nullity—upon being deceived by law enforcement a

Section 3.1 of the Criminal Code: The Validity of Acts, the Issuance of Process, and the Ramifications of Statutory Nullity

This procedural matrix presents a complex academic conundrum. Section 3.1 of the *Criminal Code* stipulates that acts are valid from the time they are made. Nonetheless, upon the by a justice, no subsequent formal process (e.g., a summons or an arrest warrant) is strictly mandated to lawfully initiate a criminal proceeding. The proceeding is deemed commenc itself; the statute delineates between the commencement of the "proceeding" and the commencement of a formal "prosecution" or the execution of process.

This distinction is of paramount importance concerning the temporal framework established by the Supreme Court of Canada in *R. v. Jordan*. The rigid timelines prescribed therein cc (i.e., the laying of the Information).

Accordingly, even assuming *arguendo* that the Chief Justice was initially seized as the "presiding judge" upon the laying of the Information, such jurisdiction would have arguably laps expiration applies irrespective of the specific date utilized to mark the commencement of the proceeding—taking note of the irregular and conflicting dates affixed to the documents, v aforementioned digital manipulation perpetrated by entities extraneous to the Originating Courthouse staff.

Should the requisite act (the warrant or summons) have never been lawfully completed or issued due to state-actor interference, the result is a statutory nullity. It is imperative to stipu intended to cast aspersions upon the judicial officer in question. If an order is manipulated post-issuance, or if statutory prerequisites are frustrated by third parties, the judicial officer

Evidentiary Sufficiency, Document Destruction Protocols, and Potential Institutional Intersections

It is submitted that reliance upon incontrovertible, documented software vulnerabilities (e.g., whitespace anomalies designated as DOC-6507) furnishes sufficient and necessary evid production. The candor previously exhibited by the Deputy Attorney General in November 2025 is noted, alongside the statutory prohibition against the destruction of judicial docume maintained that no jurisdictional authority exists to deny access to an Information/Indictment and its corresponding endorsement.

Consideration has further been directed toward the hypothesis that multiple judicial officers may have exercised distinct jurisdictional functions (e.g., the authorization of search or ge bifurcation would align with the procedural mechanics of *ex parte* and *in camera* chambers applications.

If one were to engage in forensic postulation regarding the genesis of the underlying complaint, attention might be drawn to broader institutional dynamics involving administrative trib the auspices of the *FIPPA* General Regulation. It is an ascertainable matter of public record that specific executive personnel within the administrative tribunal sector share synchron prominent national legal entities, contemporaneously with certain members of the judiciary. Such historical intersections, particularly during periods involving internal regulatory reviev entities, provide a contextual backdrop that warrants rigorous scrutiny when evaluating the totality of the circumstances surrounding the initiation of the complaint. It is averred that su comprehensive particulars.

The Requisition for Production and Associated Systemic Implications

Predicated upon the adduced forensic evidence and the jurisdictional admissions referenced herein, a high probability exists that the Originating Court Office retains custody of the u of 6 of the standard Information package, bearing the unaltered signature block.

The systemic characteristics of the alleged documentary alteration elevate the matter beyond a localized clerical anomaly to a substantive institutional deficiency. Provided that the pr rather than a duly sworn Information (Form 2), the entire proceeding is exposed to the legal reality of constituting a jurisdictional nullity (*coram non judice*), rendering it void *ab initio*.

The deliberate alteration of a judicial record to effectuate a deprivation of liberty triggers robust remedies pursuant to Section 24(1) of the *Charter*, potentially exposing state actors to infliction of mental suffering, and systemic bad-faith violations. The digital artifact "CL (M)" serves as permanent, incontrovertible evidence of this documentary interference.

While it is acknowledged that locating these original documents necessitates diligent administrative effort, the burden of rectifying state-sponsored documentary manipulation must nc implications for liberty and security of the person, the judiciary bears an absolute constitutional duty to preserve and produce the unadulterated court of record.

Therefore, a formal, respectful, yet firm demand is hereby issued for the following:

1. The provision of a true, unredacted copy of the original Information/Indictment and the unadulterated Intake Court Endorsement (or Page 4 of 6 of the package) bearing the rel
2. A definitive confirmation, in the affirmative or negative, as to whether the office currently possesses a document denoted as an "Intake Court Endorsement" containing such a s

Imposition of Temporal Deadline

A definitive response, whether in the affirmative or negative, is required no later than the conclusion of the business day on April 7, 2026.

To the extent that the Judicial Branch—particularly the *Primus Inter Pares* of the Superior Court of Justice, acting in an administrative capacity—declines to furnish the requested cop archives, formal written reasons for such a disposition are hereby requisitioned. A definitive affirmative or negative declaration will suffice to ensure the efficient allocation of time and

In the face of forensic evidence indicating the alteration of court records, administrative silence is an untenable position. In the absence of a response by the stipulated deadline, an a that the forensic conclusions regarding state-actor manipulation of these records are uncontested. All rights in fact and at law are strictly and expressly reserved.

Should anything be unclear, please let me know as soon as you are able. I am intermittently away this week for some medical examinatic in my response. Otherwise , I will presume everything is sufficiently clear.

I trust that this level of detail is appreciated considering the roles of many.

RESPECTFULLY SUBMITTED,

Mr. Kevin A. McLean (B.A., J.D., CIM)

On Thu, Apr 2, 2026 at 3:44 PM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

DATE: April 2, 2026
VIA ELECTRONIC TRANSMISSION AND FACSIMILE

TO: Superior Court of Justice (Ontario) (Toronto Region)

361 University Avenue, 1st Floor

Toronto, Ontario M5G 1T3

ATTENTION:

Monica Simion, Manager of Court Operations

Natasha Marjadsingh, Supervisor of Court Operations

Sancha Clarke

CC or to be FORWARDED: The Honourable Chief Justice of the Superior Court of Justice (Ontario)

FROM: Mr. Kevin A. McLean (BA, JD, CIM)

Applicant/Accused

SUBJECT: FORMAL REQUISITION, NOTICE OF CONSTITUTIONAL NON-COMPLIANCE, AND IMPOSITION OF AN ABSOL CONCERNING THE WITHHOLDING OF FOUNDATIONAL COURT RECORDS

PART I: ENUMERATION OF DOCUMENTARY EVIDENCE REVIEWED

1. In strict accordance with the mandatory strictures governing the comprehensive compilation of the judicial record, it is hereby formally de evidence (the "**Documentary Evidence**") has been meticulously reviewed, analyzed, and integrated into the foundational substrate of this

   a. The electronic correspondence chains terminating on April 2, 2026, demarcating the protracted administrative silence of the registry;

   b. The *INFO-GO* directory profiles corroborating the administrative positioning of Monica Simion and Natasha Marjadsingh within the ci rather than the criminal registry;

   c. The statutorily mandated *Criminal Code* Form 2, delineated as the adult common information form, specifically referencing form desig **Common Information Form**");

   d. The structurally compromised digital artifact designated as information package 4810 998 24 48129169-00, containing occurrence num September 23, 2024, involving informant Christyn Frugoni-Rojas and arresting officer Kolankowski of 14 Division (the "**Information Pa**

   e. The *Notice of Application* dated February 24, 2021 (Court File No. CV-21-00657645-00ES), bearing the authenticated signature of Nat local registrar for the Estates List;

   f. The *Staff Excellence Awards* publication, confirming antecedent administrative tenures;

   g. The professional networking profile verifying the employment continuity of the aforementioned supervisor of court operations.

PART II: THE IMPOSITION OF AN ABSOLUTE TEMPORAL DEADLINE AND THE DOCTRINE OF SPOLIATION

2. It is observed with profound institutional consternation that a protracted period of administrative obfuscation has precipitously elapsed sir court documents (the "**Court Documents**") was formally registered. The systematic failure of the originating court office (the "**Originati** mandatory, non-delegable ministerial duties necessitates the immediate imposition of an uncompromising temporal boundary.

   a. The immediate, unredacted production of the aforementioned foundational *acta*—specifically encompassing the unadulterated informat generated intake court endorsement (the "**Intake Court Endorsement**")—is hereby strictly commanded to be effectuated no later than 17

   b. The persistent sequestration of these instruments fundamentally transcends a mere procedural irregularity; such deliberate withholding established statutory imperatives and equitable principles, thereby rendering the antecedent adjudicative processes an irremediable nullity

   i. *Nota Bene: Anticipated Counter-Argument and Rebuttal Regarding Procedural Irregularities versus Jurisdictional Nullities.* It is anticip adjudicator may attempt to recharacterize this systemic administrative failure as a curable procedural defect curable under section 681 of a postulate is legally vacuous. The failure to maintain and produce the foundational *acta* upon which jurisdiction is initially assumed is an preconditions. Pursuant to the extrapolations of jurisdictional principles articulated by the Supreme Court of Canada in *Kourtessis v. M.N.* absence or fatal corruption of the originating process deprives the tribunal of subject-matter jurisdiction entirely. Consequently, the proce nullity, utterly devoid of legal force or effect, and incapable of retrospective validation.

   c. Should the aforementioned 17:00 hours deadline expire absent the complete, unadulterated transmission of the requisitioned *acta*, it is l insurmountable adverse inference (the "**Adverse Inference**") shall be irrevocably drawn against the state apparatus.

   i. This Adverse Inference is firmly anchored in the equitable doctrine of *omnia praesumuntur contra spoliatorem* (the presumption agains

   ii. Pursuant to the authoritative jurisprudential framework established in *McDougall v. Black & Decker Canada Inc., 2008 ABCA 353* at p obfuscation, or unjustified withholding of evidence by a custodial entity irreparably prejudices the opposing party, thereby inviting the str

   iii. Furthermore, such administrative malfeasance unequivocally triggers mandatory first-party disclosure obligations regarding state misc Supreme Court of Canada in *R. v. McNeil, 2009 SCC 3* at paras 42-45, compelling the conclusion that the withheld records incontrovertib sponsored documentary fabrication.

PART III: THE CONSTITUTIONAL IMPERATIVE OF THE OPEN COURT PRINCIPLE

3. The foundational architecture of the Canadian judicial system is inextricably predicated upon the unimpeachable integrity of its originatin of its repositories.

   a. The continued administrative sequestration of the Information and the Intake Court Endorsement offends the open court principle (the ' hallmark of a democratic society enshrined within section 2(b) of the *Canadian Charter of Rights and Freedoms, Part I of the Constitutio Act 1982 (UK), 1982, c 11* (the "**Charter**").

   b. The Supreme Court of Canada, in *Sherman Estate v. Donovan, 2021 SCC 25* at paras 30-34, decisively affirmed that the Open Court Pr constitutionally protected presumption of public access to adjudicative records. Unfettered judicial openness actively deters systemic misc *coram non judice*, and ensures unwavering public confidence in the administration of justice.

   i. *Nota Bene: Anticipated Counter-Argument and Rebuttal Regarding Statutory Exceptions and Privacy Interests.* It is anticipated that the privacy exemptions or operational confidentiality to justify the continued sequestration of the *acta*. This theoretical impediment is preemp application of the *Dagenais/Mentuck* framework, most recently affirmed in *Toronto Star Newspapers Ltd. v. Ontario, 2005 SCC 41* at para evidentiary burden of proving that an overarching publication ban or sealing order is strictly necessary to prevent a serious risk to the proj salutary effects of such an order outweigh the deleterious effects on the rights and interests of the public. The Information Package itself e

must be recorded on a separate page; as no such formalized order has been disclosed or substantiated, any continued withholding is an ext a stark violation of section 2(b) of the *Charter*.

c. The failure of the Originating Court Office to furnish the requested *acta ex debito justitiae* upon request functionally operates to shield appellate scrutiny, constituting an actionable breach of the *Charter*.

PART IV: JUDICIAL INDEPENDENCE, CROWN DUTIES, AND THE FIDUCIARY OBLIGATIONS OF THE REGISTRY

4. The obligations statutorily imposed upon the registry personnel command rigorous exposition. The administration of the court repository judiciary, subject to the plenary supervisory jurisdiction of the Chief Justice of the Superior Court of Justice pursuant to the judicature sec *Vict, c 3*, and section 76 of the *Courts of Justice Act, RSO 1990, c C.43*.

a. The personnel stationed at the Superior Court of Justice, 361 University Avenue, function as the fiduciary guardians of the immutable n possession of a software-manipulated instrument to law enforcement—absent the retention of an uncorrupted master *acta* within the cour breach of the separation of powers.

b. It is a foundational tenet of administrative law that those appointed to the public service must discharge their duties faithfully, honestly, administrative silence exhibited herein represents a profound abdication of these executory and ministerial duties, operating strictly *ultra* registry.

i. *Nota Bene: Anticipated Counter-Argument and Rebuttal Regarding Quasi-Judicial Immunity.* It is anticipated that the registry personne aegis of quasi-judicial or crown immunity, arguing that the management of court dockets involves discretionary administrative action. Th jurisprudence. The statutory duty to intake, file, and produce an unsealed Information upon formal requisition is an absolute, purely minis latitude. As elucidated by the Supreme Court of Canada in *Morier v. Rivard, [1985] 2 SCR 716* at paras 24-26, absolute or quasi-judicial i of purely ministerial acts. The deliberate obfuscation or failure to transmit the Information Package consequently exposes the administrati intervention, including an order in the nature of *mandamus*.

c. The clandestine synthesis of penal instruments within the obscured recesses of civil administrative chambers—evidenced by the involv the Estates List and Family Court functions—functionally bypasses the rigorously audited criminal registries. This cross-jurisdictional co jurisdictional defect. Any subsequent reliance upon such phantom proceedings is hopelessly compromised *in limine*, demanding immedia

PART V: STRICT CONSEQUENCES FOR PERSISTENT NON-COMPLIANCE

5. The absolute necessity of compliance prior to the aforementioned 17:00 hours temporal deadline cannot be overstated. The failure to facil mandated *acta* shall precipitate severe, uncompromising consequences.

a. The exhaustion of administrative remedies at the registry level having been achieved, continued defiance shall compel the immediate es administrative and judicial oversight authorities.

b. This escalation shall explicitly encompass formal referrals to the Executive Council of Ontario and the Auditor General of Ontario for predicated upon the catastrophic technological failure in records management and the imprudent administration of public resources.

c. Concurrently, the systemic failure to preserve the foundational court records shall be brought to the direct, unmediated attention of the invoking the Court's highest disciplinary and remedial jurisdictions to strike the corrupted documentation entirely.

d. The presumption of regularity historically afforded to the administrative apparatus has been irrevocably rebutted *prima facie*. Compliar demanded; bureaucratic inertia shall not be permitted to successfully conceal administrative malfeasance from the piercing light of consti

PART VI: EXPLICIT RESERVATION OF LAWFUL PREROGATIVES

6. It is hereby formally declared and irrevocably confirmed that the absolute and unfettered prerogative to rely upon this formally executed r enumerated Documentary Evidence incorporated herein by reference, is explicitly reserved for any and all lawful purposes.

a. Such comprehensive reservation encompasses, *inter alia*, the deployment of these instruments in subsequent adjudicative proceedings, systemic administrative audits, thereby operating to unequivocally preserve all equitable, statutory, and constitutional rights *ad infinitum*.

b. Furthermore, the deliberate obfuscation of the primary record constructs an irrefutable foundation for an application to permanently sta category of the abuse of process doctrine, as expounded by the Supreme Court of Canada in *R. v. Babos, 2014 SCC 16* at paras 31-35, stat the integrity of the judicial system and threatens the public's confidence in the administration of justice warrants the ultimate remedy of a Information constitutes precisely the species of systemic malfeasance that irreparably taints the adjudicative process.

7. Ironically, at the close of business day, it will be 18 months since the false kidnapping, false arrest, false detention, false imprisonment an punishment) and despite Ms. Simion representing that she would respond soon, she has not responded at all despite my request being mac Originating Courthouse.

8. **THE DEADLINE IS A STRICT ONE AND PROVIDED AS A COURTESY TO YOU.**

ALL OF WHICH IS RESPECTFULLY SUBMITTED,

Mr. Kevin A. McLean (BA, JD, CIM)

Applicant/Accused

Toronto, Ontario

Warm regards,

Mr. Kevin A. McLean (BA, JD, CIM)

Chartered Investment Manager

Email: mcleansettlement@gmail.com

Fax: 416.981.7117

Phone number: 647.370.9354

On Wed, Apr 1, 2026 at 12:41 PM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

URGENT AND REQUIRED FORTHWITH – DEADLINE: 3:00 P.M. TODAY
DATE: April 1, 2026

TO: 1. Natasha Marjadsingh

2. Monica Simion

3. Sancha Clarke

4. Deputy Attorney General (DAG) of Ontario

5. Attorney General (AG) of Ontario

SUBJECT: REITERATED URGENT DEMAND for Production of Documents – Information Indictment Package & Intake Court Endorsements

To the Addressees Named Above:

I am writing to formally reiterate and aggressively escalate my outstanding demands regarding the severe procedural irregularities, profound forensic anomalies, and deliberate c my matter.

I note for the formal record that I have made continuous, rigorously documented requests to the Originating Court Office since March 11, 2026. I received explicit confirmation in me shortly regarding these issues, establishing a clear administrative deadline of Sunday, March 15, 2026. To date, this commitment remains flagrantly unfulfilled. This represent obfuscation that fundamentally breaches the doctrine of legitimate expectations and the duty of honest performance owed by public servants.

This sustained delay is entirely unacceptable, particularly in light of the highly concerning forensic evidence of document tampering, spoliation, and procedural overreach that ha justice system is inextricably predicated upon the unimpeachable integrity of its originating instruments. The continued withholding of these materials fundamentally subverts the jurisdiction, operating as a direct affront to Sections 7, 9, and 11 of the *Canadian Charter of Rights and Freedoms*. I am demanding immediate clarification and the production of incontrovertible facts:

1. Jurisdictional, Signatory Irregularities, and the Limits of Administrative Delegation

Under the *Criminal Code* and the *Criminal Proceeding Rules of the Superior Court of Justice (SCJ)*, the clerk of the court is entitled to sign on behalf of the making, giving, issuin administrative delegation is strictly bounded by both geographic location and designated subject-matter jurisdiction. The powers of a registrar are not infinitely portable nor unilat

At the relevant time in 2024, Ms. Simion was *not* a "local registrar" at the SCJ 361 University Avenue courthouse. Official government directory records definitively establish her p Management – Civil Matters, situated on the 7th floor of the 330 University Avenue facility.

Conversely, the identical directory records verify that Natasha Marjadsingh was the *only* individual holding the title of Court Administration Supervisor (Interim Position) operating Manager of Court Operations situated on the ground floor of the 361 University Avenue courthouse—specifically within the Family Law Division. This undeniable geographical ar Simion appropriately kept Ms. Marjadsingh copied on our prior correspondence, rather than escalating the matter directly to the Deputy Attorney General (DAG) of Ontario. It wa exclusive jurisdictional purview over that specific registry.

To be absolutely clear for the record: I am not faulting the registry staff or clerks for the substantive judicial overreach or *ultra vires* conduct of Madam Justice Shore. The adminis remitted to them. Rather, my demand is strictly a matter of the factual provision of documents that exist within the court's repository. The administrative delegation of clerical task any conceivable circumstances, eclipse or substitute the non-delegable judicial function of independently assessing reasonable and probable grounds before authorizing an arre authority to administratively synthesize a criminal warrant. Any such action operates strictly *ultra vires*, rendering the resultant process an irremediable nullity *ab initio*.

2. The "Smoking Gun": Digital Artifacts, GrapeCity.PDF, and the Forged Signature of Natasha Marjadsingh

Beyond the profound jurisdictional failures delineated above, there is incontrovertible, forensic documentary evidence pointing to the deliberate fabrication of the False Informatic manipulation software. This constitutes the ultimate "smoking gun," proving that state actors actively intercepted, altered, and forged judicial records.

A. The Original Signatory (Natasha Marjadsingh)

Documentary evidence—including a February 24, 2021 Notice of Application for an estates matter, as well as internal Ministry recognition via Staff Excellence Awards—incontrov standing Local Registrar and Acting Group Leader at the SCJ. During the critical period of September 2024, she was the primary supervisor and acting leader at the relevant SC would naturally and automatically appear on any legitimate SCJ civil/family "Intake Court Endorsement" generated within that specific architectural silo.

B. Section 508.1(2) and the Errant Adobe Signature Block

Under section 508.1(2) of the *Criminal Code*, a telewarrant process solely requires an "information on oath" that may be submitted via a statement that is deemed under oath. Cr absolutely *does not* require a formal, third-party authenticated digital cryptographic signature certificate (such as an embedded Adobe Public Key Infrastructure [PKI] block).

Therefore, the presence of a formal Adobe signature block in the fabricated criminal package is a glaring, fatal anomaly. It exists for one singular reason: the perpetrators did not illicitly misappropriated an existing civil/family "Intake Court Endorsement"—which had been originally signed by Local Registrar Marjadsingh via a certified Adobe block—and su masquerade as a criminal OCJ intake form purportedly sworn by a Toronto police court officer (Mrs. Frugoni-Rojas).

C. The GrapeCity.PDF (Mescius) Limitations and the Failed Erasure

This state-sponsored forgery was fundamentally botched due to well-documented technical deficiencies within the GrapeCity Documents for PDF (GcPdf) manipulation API. Whe Adobe signature watermark to erase Marjadsingh's name, the software catastrophically failed due to the following structural limitations:

- **Strict PDF Compliance & Loss of Custom Data:** GcPdf historically struggled to map proprietary custom metadata and interactive elements that deviated from strict Adob custom Adobe signature layer properly, leading to an incomplete layer extraction and a shattered cryptographic hash.
- **Font-Specific Crashes and Text Layout Bugs:** Older versions of GcPdf were plagued by font parser crashes (notably involving corrupted arimon__.ttf fonts) and sever returned incorrect coordinates. This rendered the programmatic or manual deletion of specific text strings within complex, layered signature blocks highly unstable.
- **Missing Whitespace and Flattening:** Technical bugs (such as DOC-6507) frequently caused whitespace ignoring—which unnaturally bunches letters together. Furthermo layered text strings into the document's rasterized background, rendering them entirely immune to simple digital deletion.

D. The Indelible Digital Artifact: "(C L M)"

Because of these precise, documented software limitations, when the manipulator attempted to digitally erase Natasha Marjadsingh's signature block to fraudulently replace it wi a hard software barrier. They could not cleanly remove the capital letters that physically intersected with the embedded Adobe watermark component without entirely corrupting t

Specifically, the capital "L" (derived from her title "Local Registrar") and the capital "M" (derived from "Marjadsingh") could not be deleted. This forced, incomplete, and highly am —a permanent, unerasable digital footprint of the forgery.

This forensic artifact proves beyond a shadow of a reasonable doubt that the document did not originate organically from Mrs. Frugoni-Rojas at the OCJ. Instead, it was an interr processed, and signed by Natasha Marjadsingh in her official capacity as Local Registrar, which was subsequently—and clumsily—manipulated using flawed PDF software by st record.

3. Architectural Displacement, Technological Siloing, and the "Family Law" Silo Bypass

An "Intake Court Endorsement" is fundamentally an administrative construct inextricably bound to the *Family Law Rules*, remaining entirely anathema to the *Criminal Code* and i deliberately circumvented away from the rigorously audited criminal e-intake portal. A genuine judicial electronic issuance utilizes the ICON architecture, which strictly requires a however, bears an obsolete, 6-digit identifier indicative of the FRANK system, which is utilized almost exclusively by the Superior Court family division.

The weaponization of civil infrastructure—under the purview of Madam Justice Shore, Family Team Leader—to generate unrecorded, *ex parte* penal instruments affecting the fur jurisdictional nullity. Bypassing the criminal Justice of the Peace intake system to seek authorizations in solitary civil chambers constitutes egregious forum shopping and an absc transparently in open court, not clandestinely synthesized in the opaque recesses of family law registries to be weaponized later by law enforcement.

4. The "Laying" versus "Filing" Dichotomy and the Void Record

The semantic and jurisdictional distinction between the physical "laying" of an Information under section 504 of the *Criminal Code* and its subsequent clerical "filing" is a foundati laying initiates the proceeding and requires independent judicial evaluation; filing is the mandatory clerical submission to secure the document within the court of record.

Ministry representative Mr. Sinnadurai has previously, formally admitted on the record that no *Criminal Code* Form 2 Information was ever formally *filed* within the criminal registr 2024. The fundamental failure to properly originate this process via the mandated penal architecture renders the entire proceeding a pure legal fiction. It is sustained solely by da operating strictly *coram non judice*. The subsequent reliance on these unfiled, phantom proceedings to authorize deprivations of liberty represents a catastrophic rupture in the ru record cannot, *ipso facto*, exercise jurisdiction in the absence of said Court Records.

5. Intentional Omission of Identifying Pages and State-Sponsored Spoliation

If Natasha Marjadsingh's name had been properly included along with pages four and five (out of six) in the Lincoln County Law Association (Niagara) Form 2 package, it would Justice Shore's name. Additionally, the inclusion of Ms. Marjadsingh's true and unaltered signature block would have allowed me to definitively identify the exact court level and c

The deliberate physical or digital excision of the jurat (the page containing the oath and the judicial signature) sanitizes the document's clandestine origins. This suppression of ir state-sponsored spoliation. Under the doctrine of *omnia praesumuntur contra spoliatorem* (the presumption against a spoliator), the intentional destruction, obfuscation, or mutila adverse inferences and triggers mandatory first-party disclosure obligations regarding state misconduct (*R. v. McNeil*, 2009 SCC 3).

DEMAND FOR PRODUCTION AND STATUTORY ENTITLEMENT

Pursuant to the *MAG CSD Court Information Access Guide (2019)*, specifically Sections 7.1.1 and 7.3.1, I am strictly and legally entitled to receive copies of Informations, Indictn **copy fees being charged**. The statutory imperative of "upon request" demands literal, immediate satisfaction, precluding any administrative obfuscation or multi-week delays.

If the signature in question does belong to Natasha Marjadsingh—and is thus a signature of the Ministry of the Attorney General (MAG)—it is a matter of public and legal record constitutionally protected Open Court Principle (*Sherman Estate v. Donovan*, 2021 SCC 25; *Canadian Broadcasting Corp v. Named Person*, 2024 SCC 21), the judiciary maintai provide public access to an immutable master record. The court cannot operate as an opaque administrative black box, shielding manipulated records from the very citizens they

The Canadian Judicial Council's *Blueprint for the Security of Court Information* forcefully dictates that judicial information must remain under the uncompromising, exclusive cont foundational documents offends this directive and strongly suggests the judiciary has illicitly ceded its repository to executive law enforcement agencies.

Regardless of the MAG's internal forensic auditing of these files, I am legally entitled to the complete Information Indictment Package forthwith. Specifically, I demand the immed authentic, unadulterated, and natively generated forms:

1. The complete Information Indictment Package per se (including the *Information-To-Wit*, the unsevered jurat, and all six associated pages of the Form 2 package).
2. The complete, unredacted Intake Court Endorsements (including any handwritten judicial notations, bench notes, or clerical endorsements originally authored prior to exte
3. All underlying metadata logs, including system routing documents and execution logs utilized by the Originating Courthouse to synthesize the aforementioned documents.

FIRM DEADLINE AND NOTICE OF ESCALATION

You are hereby put on absolute notice that I require these documents no later than **3:00 P.M. TODAY, April 1, 2026**.

This deadline is strict, firm, and final. If these documents are not provided to me electronically by 3:00 P.M. today, I will be forced to immediately escalate this matter to the highes will explicitly include formal referrals to the Executive Council of Ontario, the Auditor General of Ontario (for value-for-money performance audits on the corrupted DRD and ICON Court of Justice to address the aforementioned forgery, spoliation of the court record, procedural malfeasance, and the unlawful withholding of legal documents.

With great respect, now is the time to distance yourself from Justice Shore and her reign of terror. Even on the Dipoce, McIntosh and Nash cases, she is a judicial office but that in turn makes the point, she often acts Factum A Judice, Quod Ad Officium Jure Non Pertinet, Ratum Non Est and Coram Non Ju before a person who is not a judge.

Please be advised that you remain legally bound to produce these documents regardless of any ensuing escalation, collateral investigations, or administrative inertia. You canno investigation into the veracity of these foundational records.

Govern yourselves accordingly.

Sincerely,

Mr. Kevin A. McLean (BA, JD, CIM)

Enclosures (relevant and contextual)

On Mon, Mar 30, 2026 at 4:02 PM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

> Subject: Follow-Up Request for Access to Court Documents – Confirmation of courtesy extension until tomorrow with a substantive response and disclosur whatever format or a firm deadline for the production or access of the same
>
> Dear Sirs/Mesdames et al:
>
> I hope this message finds each member of the team well. I am writing to respectfully follow up regarding my prior request for access to particular court docu
>
> regard, I would like to place a preferential emphasis on Ms. Sancha Clarke, whose noted expertise in data entry, supervisory oversight, and root cause manag
>
> instrumental to the timely resolution of my inquiry.

I recognize and deeply respect the considerable administrative workload and obligations shouldered by the court staff and those appointed in the public serv
request that, if it is not feasible to provide the requested documents by the close of business tomorrow, Ms. Clarke and her colleagues communicate any pote
documents, records, information assets, information and/or any other vernacular (papers, things et al). By potential I am referring to the potential that they ar
produced subject to any creation of record requirements but to the extent that was required, the time since the request of the Originating Court Office in the
public interest because even the public is entitled to copies of Informations/Indictments and endorsements albeit with a fee unlike myself.
Should additional time be required, I am amenable to extending the deadline to the end of this week, provided that consistent, transparent communication is
documents are delivered either electronically or as scanned copies of the originals.
Furthermore, to help ensure clarity and openness in this process, I would greatly value a brief confirmation email acknowledging receipt of this request and
a concise, two-line message to confirm ongoing progress would suffice to keep me informed and reassured that the matter is being addressed and that there i
Please rest assured that I am committed to working collaboratively and am prepared to exercise patience as needed. I will refrain from escalating the matter
the professionalism and diligence of the court staff. Nonetheless, given the importance of timely access to these documents, I wish to underline that time is c
demands faced by your team.
Thank you very much for your attention to this request, your ongoing efforts, and your dedication to serving the public. I wish you all a splendid rest of your
tomorrow or, should circumstances require, by the end of this week as discussed.
The nuances of this situation are not lost on me but nuances will never trump the supreme law of our land.
Thank you and wishing you well.
KAM (BA, JD, CIM)

Warm regards,

Mr. Kevin A. McLean (BA, JD, CIM)
Chartered Investment Manager
Email: mcleansettlement@gmail.com
Fax: 416.981.7117
Phone number: 647.370.9354

On Mon, Mar 30, 2026 at 11:15 AM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

> Dear Ms. Clarke,
>
> I am writing to acknowledge Ms. Simion's auto-reply and to welcome you as the point of contact during her absence. I appreciate your assistar
>
> Specifically, I am seeking immediate access to the Indictment/Information and the "Intake Court Endorsement" from September 2024, which
> the Originating Court Office at the Originating Courthouse. For your reference, I have attached my identification to assist with cross-referenc
> have been utilized as an address at that time.
>
> I will include, out of an abundance of caution, the full email thread to assist you in searching for relevant keywords and to ensure we are as ef
> identification so you are able to immediately confirm without searching my identity as the accused and party with respect to no fees being requ
> documents without any fees and upon request (see: MAG CSD Court Information Access Guide, section 7).
>
> Thank you for your cooperation and professionalism during this transition.
>
> Best regards,
>
> Kevin A. McLean (BA, JD, CIM)

On Mon, Mar 30, 2026 at 10:15 AM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

> **URGENT REQUISITION FOR EXTRACTION (IF NECESSARY) AND PROVISION OF ACCESS OR DISCLOSURE OF C**
> **RECORDS - KINDLY RESPOND (POSITIVELY OR NEGATIVELY) BY 11 A.M. TODAY - MOST OUTSTANDING**

I. PROCEDURAL POSTURE AND JURISDICTIONAL MANDATE

1. Pursuant to the imperative requirements of procedural fairness and the fundamental principles governing a court of record, formal rec proceedings styled *His Majesty the King v KA McLean*, 2026 (the "**Proceeding**"), presently designated under court file number 24-457197

2. It is strictly necessitated that all evidentiary documentation, administrative paper, intrinsic information, and corresponding [court recor documents] (the "**Court Documents**") be forthwith transmitted to the registry of the Superior Court of Justice situated at 361 Univer Ontario (the "**Receiving Registry**"), from the courthouse wherein the matter originated (the "**Originating Courthouse**").

3. For the purposes of precise legal demarcation, any reference herein to **Court Documents** or **Court Records** is to be strictly construe from, [judicial records] (the "**Judicial Records**") and [judicial information] (the "**Judicial Information**"). This bifurcation is expressly operational distinctions articulated within the *Annual Report of the Office of the Auditor General of Ontario*, 2019 (the "*2019 Auditor General* information from constitutionally protected judicial domains.

4. The procurement of the aforementioned **Court Records** and **Judicial Records** is an imperative exigency; failing the facilitation of un present date, immediate procedural escalation shall be effectuated pursuant to the *Criminal Proceedings Rules for the Superior Court of Justice* to preserve the integrity of the public interest and the administration of justice.

II. SPOLIATION, RECORD INTEGRITY, AND DECLARATIONS OF NULLITY

5. Grave apprehensions are harboured regarding the potential obfuscation, intentional destruction, or spoliation of the foundational *acta*, and subsequent judicial endorsements, which constitute integral components of the required **Court Records** and **Judicial Records**.

6. *In limine*, the absence or systemic obliteration of such indispensable **Court Documents** transitions the matter from a mere procedural ostensibly operating as a court of record cannot, *ipso facto*, exercise jurisdiction in the absence of said **Court Records**; any proceedings circumstances are unequivocally *ultra vires* and void *ab initio*. The failure to maintain the **Court Records** is a direct contravention of the governing judicial transparency, demanding a categorization of strict nullity.

7. This foundational tenet is firmly anchored in the jurisprudence articulated by the Honourable Justice Durno in *R v Rowlands*, 2003 Canl *Decision*"). In the *Rowlands Decision*, it was definitively established that a court of record is deprived of its foundational jurisdiction when adjudicative transcripts are irreparably lost or destroyed. The deprivation of the **Court Records** paralyzes the adjudicative process, the absolute impossibility. Applying this doctrine to the present exigency, if the *acta* within the Originating Courthouse have been subjected permanently stripped of its authority to proceed, effectuating a fatal jurisdictional defect.

III. CHARTER REMEDIES AND THE STATUS QUO ANTE

8. The necessity of effectuating access prior to the aforementioned temporal deadline is dictated by the requirement to determine the pre sought under section 24(1) of the *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B to the *Ca*

9. The ascertainment of the existence of the **Court Records** and **Judicial Records** governs whether the appropriate remedy manifests a declaration of acquittal, the latter being necessitated to restore the *status quo ante* and extinguish the unfounded prosecutorial apparatus

IV. EXHAUSTION OF ADMINISTRATIVE REMEDIES AND PRIVILEGE EXEMPTIONS

10. It is affirmed that administrative escalation has been strictly confined to the Originating Courthouse for the explicit purposes of invest available procedural avenues prior to seeking formal intervention from the presiding judiciary.

11. Furthermore, any invocation of informant privilege or public interest immunity to shield the requested **Court Documents** or **Judicial** As enunciated by the Supreme Court of Canada in *R v McClure*, 2001 SCC 14 at para 40 (the "*McClure Decision*"), privileges of this natu innocence at stake exception. Where the withholding of **Court Records** obfuscates exculpatory evidence essential to demonstrating ar ensuring that the fundamental liberties of the accused are protected against systemic overreach.

V. REPRESENTATIONS, THE DUTY OF HONEST PERFORMANCE, AND PROSPECTIVE ESCALATION

12. It is submitted that the necessity of invoking the investigatory powers of, *inter alia*, the Office of the Auditor General of Ontario is a la absence of a response necessitates such an escalation, particularly as reliance was reasonably placed upon explicit representations indic forthcoming expeditiously.

13. If the temporal parameter of "soon" was intended to encompass the present date, immediate advisement is formally requested. An obj aforementioned representation, initially conveyed several weeks prior on a Sunday, dictated the provision of access to the statutorily m upon request and no later than a few days subsequent to said representation.

14. The obligation to act in good faith, underpinned by the doctrine of *uberrimae fides* applicable to the Crown and its executive apparatus, s any reliance upon half-truths or obfuscatory silence. This principle is inextricably tied to the jurisprudence established by the Supreme 2020 SCC 45 (the "*Callow Decision*"). In the *Callow Decision*, the Court definitively ruled that the duty of honest performance precludes a knowingly misleading another party through deliberate silence or the omission of material facts when a duty to correct a misapprehens present circumstances, the continued silence and failure to fulfill the representation of impending access constitutes a breach of this du correct the understanding that access would be provided "soon" operates as active deception through omission, thereby undermining t administrative and judicial interactions.

15. Should supplementary time be required on the present date to effectuate compliance and facilitate access, formal notification is requisit proceed cooperatively; however, such cooperation is entirely contingent upon the immediate receipt of a substantive response delineati undertaken, should any exist.

VI. COMPARATIVE ANALYTICAL REVIEW, EXCLUSIVE JURISDICTIONAL AUTHORIZATIONS, AND EXTRACTION

16. To ensure an equitable understanding that no specific governmental apparatus—whether municipal, provincial, or constituent entities v disproportionately targeted by this requisition, it is formally declared that access rights have been comprehensively exercised across all r identical or analogous documentation is actively pursued for the explicit purpose of comparative analytical review. Irrespective of the c rigorous comparative analysis shall be undertaken to illuminate and rectify what constitutes, at a minimum, a catastrophic technological

17. Notwithstanding these concurrent inquiries, the Originating Courthouse, operating as a constitutionally mandated court of record, rem for all **Court Records** and **Court Documents**. In this context, the immediate provision of the Adult Common Information package (particularly given the confirmed absence of such critical documentation at the transferee tribunal level, specifically the Ontario Court c

18. Out of an abundance of legal caution, true copies of all procured documentation shall be formally transmitted to the Chief Justice of *inter pares*. Should any ambiguity persist regarding the parameters of this requisition, immediate advisement is strictly required; in the ab conclusively presumed that the directives contained herein are unequivocally comprehended and shall be executed forthwith.
19. Furthermore, it is formally requisitioned that any judicial authorizations, including but not limited to search warrants, general warrants, falling within the exclusive jurisdictional purview of the Superior Court of Justice—pursuant to the legislative parameters delineated in c C-46 (the "*Criminal Code*")—be produced and disclosed *gratis* and without the imposition of administrative tariffs.
20. To the extent that the facilitation of this request necessitates a formal extraction process and the subsequent generation of a synthesize procedures mandated under the *Freedom of Information and Protection of Privacy Act*, RSO 1990, c F.31 (the "*FIPPA*")—prompt notificatio formally requested. This proactive advisement is sought to maximize procedural efficiency, optimize resource allocation, and preclude p vacillation.

Mr. Kevin A. McLean (BA JD CIM)

Warm regards,

Mr. Kevin A. McLean (BA, JD, CIM)

Chartered Investment Manager

Email: mcleansettlement@gmail.com

Fax: 416.981.7117

Phone number: 647.370.9354

On Sat, Mar 28, 2026 at 1:10 PM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

> Dear Sirs/Mesdames/Other Gender-Neutral Pronouns: please find my letter that was faxed today along with a copy of the emails herein to the Chief Ju Morawetz. Kindly comply with your ministerial duties, where applicable, by no later than two p.m. or I will be compelled, through no fault of my own
>
> Warm regards,
>
> Mr. Kevin A. McLean (BA, JD, CIM)
>
> Chartered Investment Manager
>
> Email: mcleansettlement@gmail.com
>
> Fax: 416.981.7117
>
> Phone number: 647.370.9354

On Fri, Mar 27, 2026 at 10:35 AM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

> **DATE:** March 27, 2026
> **TO:** Superior Court of Justice (Ontario) (Toronto Region)
>
> 361 University Avenue, **1st Floor**
>
> Toronto, Ontario
>
> **ATTENTION:** Ms. Monica Simion, Manager of Court Operations; Registrar of the Superior Court of Justice
>
> **CC:** The Honourable Douglas Downey, Attorney General of Ontario
>
> *Attorney General (Ministry of the Attorney General)* | Telephone: 416-326-2220 | Email: Doug.Downey@ontario.ca
>
> *Member, The Executive Council of Ontario* | Email: Doug.Downey@ontario.ca
>
> *Member of Provincial Parliament, PC, Barrie-Springwater-Oro-Medonte (Legislative Assembly of Ontario)* | Telephone: 705-726-5538 | Email: doug.downeyco@pc.ola
>
> *Primary Address:* McMurtry-Scott Bldg, 11th Flr, 720 Bay St, Toronto, Ontario M7A 2S9
>
> *Mailing Address:* McMurtry-Scott Bldg, 11th Flr, 720 Bay St, Toronto, Ontario M7A 2S9
>
> **CC:** The Honourable David Corbett, Deputy Attorney General of Ontario
>
> *Deputy Attorney General (Ministry of the Attorney General)* | Telephone: 416-326-2640 | Email: david.corbett2@ontario.ca
>
> *Primary Address:* McMurtry-Scott Bldg, 11th Flr, 720 Bay St, Toronto, Ontario M7A 2S9
>
> *Mailing Address:* McMurtry-Scott Bldg, 11th Flr, 720 Bay St, Toronto, Ontario M7A 2S9
>
> **SUBJECT:** Supplementary Disquisition Regarding the Potential Post Facto Destruction of the Authentic Information Package and the Extrapolation of Jurisprudential

PART I: FACTUAL CONTINGENCIES AND THE DESTRUCTION OF THE ACTA

The Clandestine Chamber Proceeding and Subsequent Spoliation

1. This supplementary correspondence is formally submitted to squarely address the highly probable contingency wherein the Honourable Madam Justice Shore, administrative actor engaged in the deliberate deletion or destruction of the requested foundational court documents. This destruction is posited to have occurr of the authentic information package (the "**Authentic Information Package**") into the corrupted artifact currently relied upon by the state (the "**False Informati** November 1, 2024, as explicitly corroborated by the formal admissions remitted by Ministry of the Attorney General representative Mr. Sinnadurai in June and J
2. This analysis proceeds upon the foundational assumption—tendered strictly for the purposes of this requisition and without constituting an admission of lawful p purportedly sworn in private judicial chambers. This premise relies directly upon the incontrovertible representation advanced by the Superior Court of Justice F Amirthalingam, who conceded that the proceeding was executed "in chambers," entirely devoid of the transparency afforded by an open courtroom and conspi contemporaneous audio recording or transcription.
3. It is further assumed, without conceding validity, that following this irregular *ex parte* chamber proceeding, the Authentic Information Package was inexplicably r the 1st floor of the 361 University Avenue Courthouse. This systemic failure to properly file the instrument fundamentally offends the strict, mandatory operation *Criminal Proceedings Rules for the Superior Court of Justice (Ontario)*, SI/2012-7.

PART II: THE APPLICATION OF MACHINE-READABLE JURISPRUDENCE BY ANALOGY

The Extrapolation of OIPC Doctrines to Judicial Repositories

4. While it is formally acknowledged that the present requisition is not strictly governed by the *Freedom of Information and Protection of Privacy Act*, RSO 1990, c exclusive custody maintained by the Superior Court over its adjudicative *acta*—the legal doctrines and strict analytical frameworks developed by the Office of th "**OIPC**") regarding the extraction of machine-readable records apply by necessary, unyielding analogy. The judiciary cannot arbitrarily assert that the destructio record when the underlying metadata, database fields, and digital fragments remain dormant yet extractable within the court's technological infrastructure.
5. The legal test for production stems from interconnected legislative provisions meticulously designed to future-proof institutional transparency and prevent public to circumvent disclosure obligations. Pursuant to the capability provision analogous to section 2(1)(b) of the *FIPPA*, the conceptual definition of a "record" expa produced from a machine-readable format utilizing the computer hardware, software, and technical expertise normally resident within the institution.
6. The underlying legislative and equitable intent is unequivocal: a public institution cannot seek refuge behind the complexity of its databases to deny access to f the exact moment the digital fields residing within the Integrated Court Operation Network or the FRANK system can be programmatically queried and compile

PART III: THE TWO-PART ANALYTICAL THRESHOLD FOR DIGITAL RECONSTRUCTION

The "Normal Expertise" and "Unreasonable Interference" Framework

7. When an institution seeks to evade production by erroneously characterizing a data extraction as the impermissible "creation of a new record," a rigorous two-p dismantle such administrative obfuscation.
8. **Part 1: The Normal Expertise and Equipment Test:** To compel production, the institution must merely possess the capability to generate the requested inform normal operational expertise. What constitutes "normalcy" operates upon a sliding scale inextricably linked to the sophistication of the institution. For a modern standard database queries, running foundational extraction scripts, or exporting relational tables is fundamentally "normal" and expected. While the law manda compelling the institution to formulate custom-generated answers, the digital extraction of the Authentic Information Package's metadata undeniably constitutes necessitate the procurement of novel software licenses, the acquisition of extraneous hardware, or the retention of external forensic consultants.
9. **Part 2: The Unreasonable Interference Test:** Operating analogously to the regulatory carve-out codified within section 2 of *RRO 1990, Regulation 460*, an ins readable record if the extraction process would unreasonably interfere with its core operations. The jurisprudential bar for "unreasonable interference" is exceed essential business activities—such as paralyzing critical hospital infrastructure—and cannot be satisfied by mere administrative inconvenience, annoyance, or t burden to prove such catastrophic interference rests entirely upon the institution, requiring detailed, convincing affidavit evidence, which is manifestly absent in

PART IV: SEMINAL JURISPRUDENCE AND THE DIGITAL SEVERING DOCTRINE

Application of OIPC Precedents to the Fractured Judicial Record

10. A comprehensive review of seminal OIPC jurisprudence unequivocally supports the mandated extraction of the underlying digital framework of the Authentic Inf document's purported destruction.
11. In *Order PO-3373*, the adjudicator established the "New Code and Critical Systems" threshold, upholding the withholding of raw system logs solely because tra to write entirely untested programming, thereby pulling them away from safeguarding critical provincial systems. The extraction of the *acta* herein requires no s pre-existing query functionalities inherent to the court's database architecture.
12. Conversely, in *Order MO-4355*, the OIPC delineated the "Not Normally Used" threshold, ruling that customized analytical summaries did not constitute existing analytical work falling outside the institution's normal administrative scope. The present requisition demands no subjective analysis or summarization; it deman footprints corresponding to the *ex parte* chamber proceeding.
13. Crucially, *Order MO-1989* established the foundational doctrine of "Database Extraction as Digital Severing." Institutions are legally expected and required to ut information. The extraction of the uncorrupted data fields to reconstruct the Authentic Information Package is legally synonymous with digital severing and is a
14. Finally, *Order PO-4430* profoundly differentiated between structured relational data and unstructured free-text, ruling that while forcing manual extractions from unreasonable interference, querying structured databases (such as court registry systems) is a standard, mandated obligation.

PART V: CONCLUDING IMPERATIVES

The Unyielding Obligation of the Court of Record

15. Therefore, assuming the physical destruction of the Authentic Information Package *post facto* to its unauthorized *GrapeCity SDK* manipulation, the Superior Co jurisdiction—and the equitable principles mirrored in the aforementioned *FIPPA* jurisprudence—to digitally reconstruct and produce the machine-readable recor destruction of the physical paper cannot serve to permanently immunize an extra-judicial deprivation of liberty from appellate scrutiny. The unadulterated digital *ex debito justitiae*.
16. Should no explicit confirmation be remitted dictating that this formalized extrapolation is formally required by the Originating Court Office, it shall be functionally is formally tendered to your attention for meticulous administrative record-keeping and to foster a cooperative access partnership, reinforcing the incontrovertib "upon request" demands literal, immediate satisfaction, strictly precluding any administrative obfuscation or delay extending beyond a twenty-four-hour tempora

Respectfully submitted,

Mr. Kevin A. McLean (BA, JD, CIM)

Applicant / Accused

Warm regards,

Mr. Kevin A. McLean (BA, JD, CIM)

Chartered Investment Manager

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On Fri, Mar 27, 2026 at 10:00 AM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

DATE: March 27, 2026
TO: Superior Court of Justice (Ontario) (Toronto Region)
361 University Avenue, **1st Floor**
Toronto, Ontario
ATTENTION: Ms. Monica Simion, Manager of Court Operations; Registrar of the Superior Court of Justice
CC: The Honourable Douglas Downey, Attorney General of Ontario
Attorney General (Ministry of the Attorney General) | Telephone: 416-326-2220 | Email: Doug.Downey@ontario.ca
Member, The Executive Council of Ontario | Email: Doug.Downey@ontario.ca
Member of Provincial Parliament, PC, Barrie-Springwater-Oro-Medonte (Legislative Assembly of Ontario) | Telephone: 705-726-5538 | Email: d
Primary Address: McMurtry-Scott Bldg, 11th Flr, 720 Bay St, Toronto, Ontario M7A 2S9
Mailing Address: McMurtry-Scott Bldg, 11th Flr, 720 Bay St, Toronto, Ontario M7A 2S9
CC: The Honourable David Corbett, Deputy Attorney General of Ontario
Deputy Attorney General (Ministry of the Attorney General) | Telephone: 416-326-2640 | Email: david.corbett2@ontario.ca
Primary Address: McMurtry-Scott Bldg, 11th Flr, 720 Bay St, Toronto, Ontario M7A 2S9
Mailing Address: McMurtry-Scott Bldg, 11th Flr, 720 Bay St, Toronto, Ontario M7A 2S9
SUBJECT: Formal Requisition and Notice of Impending Escalation Regarding the Absolute Deprivation of Foundational Court Records

PART I: TEMPORAL CONTEXT AND THE EXTANT REQUISITION
The Unyielding Demand for the Production of the Unadulterated Acta

1. It is hereby formally documented that a period encompassing eighteen consecutive days has precipitously elapsed since the initial requ courthouse (the "**Originating Courthouse**") and the originating court office (the "**Originating Court Office**"). Said requisition demande "**Information**") or the indictment (the "**Indictment**"), acting in inextricable concert with the intake court endorsement (the "**Intake Cou** production in their authentic, unadulterated, and natively generated forms.
2. The foundational architecture of the Canadian criminal justice system is inextricably predicated upon the unimpeachable integrity of i derogable statutory and common law entitlement of an accused individual to be provided with copies of the aforementioned charging docur of administrative fees. The continuous withholding of these materials fundamentally subverts the procedural safeguards inherently attacl demand encompasses not merely the textual substance of the instruments, but their mathematically verifiable, cryptographically sound digi *SDK* software manipulation that has heretofore catastrophically contaminated the secondary records advanced by state law enforcement age
3. It is a foundational constitutional cornerstone that a rigorous semantic, procedural, and jurisdictional distinction exists between the "la *Criminal Code*, RSC 1985, c C-46 (the "**Criminal Code**") and its subsequent clerical "filing" within the court repository. The physical ac judicial evaluation of reasonable and probable grounds. The subsequent filing is the mandatory clerical submission to secure the document previously procured from Ministry representatives irrevocably confirm that no *Criminal Code* Form 2 Information was ever formally filed v material timeframe. This fundamental failure to properly originate the process via the mandated penal architecture is entirely fatal to the le legal fiction sustained by extra-judicial momentum rather than lawful adjudicative authority.

PART II: ADMINISTRATIVE INERTIA AND THE DOCTRINE OF LEGITIMATE EXPECTATIONS
The Breach of Procedural Fairness and the Resulting Jurisdictional Nullity

4. The persistent administrative silence is noted with profound concern, particularly as it operates in direct contravention of the explicit rep March 15, 2026, wherein it was affirmatively communicated that a substantive response would be remitted with imminent dispa comprehensively elucidated by the Supreme Court of Canada in *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 SCI public authority makes a specific representation regarding the administrative procedure it will adhere to. The failure of the Originating Cou commitment to provide the requested foundational *acta* constitutes a profound breach of procedural fairness.
5. This administrative obfuscation—specifically, the systemic failure to produce the foundational documents historically utilized to auth procedural irregularity. In circumstances where an institution exercises plenary custody and control over an essential adjudicative artifact judicial doctrine of *omnia praesumuntur contra spoliatorem* (the presumption against a spoliator) is inexorably activated. The deliberate se prevents a proper *de novo* review and eviscerates the constitutional right to make full answer and defence as enshrined within section 7 of t I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982 (UK)*, 1982, c 11 (the "**Charter**"). Consequently, this documentar stripping the ensuing proceedings of any presumption of regularity and necessitating immediate rectification by the issuing tribunal to restor
6. Furthermore, the profound absence of a contemporaneous Digital Recording Documentation (the "**DRD**") audio file corresponding to the warrant was purportedly authorized severely vitiates the accused's capacity to subject the judicial authorization to substantive appellate r execution of an application pursuant to *R. v. Garofoli*, [1990] 2 SCR 1421, effectively immunizing the state's preliminary investigative con record, the failure to generate a verifiable transcript of an *ex parte* deprivation of liberty is antithetical to transparent adjudication and manc integrity of the judicial repository.

PART III: EXECUTIVE OVERSIGHT AND THE SEPARATION OF POWERS
The Invocation of the Chief Law Officers of the Crown

7. In light of the aforementioned systemic failures and the continued sequestration of judicial records, the Honourable Attorney General of O Attorney General, Mr. David Corbett, have been formally copied on this correspondence. The inclusion of the chief law officers of t constitutional implications inherent in the obfuscation of the judicial repository. As forcefully articulated by the Supreme Court of Canad para 30, the open court principle (the "**Open Court Principle**") is a foundational hallmark of a democratic society, establishing a nearly im of public access to adjudicative records. Unfettered judicial openness actively deters systemic mischief and ensures unwavering publi continued sequestration of the Information and the Intake Court Endorsement flagrantly offends this constitutionally protected imperative.
8. The Attorney General, acting as the ultimate fiduciary guardian of the administration of justice, is thereby apprised of this profound institut of the penal process appears to have been unlawfully supplanted by an opaque, extra-judicial administrative void. When penal instr administrative silos—functionally bypassing the rigorously audited *ICON* criminal registry—the indispensable separation of powers bet independent adjudicative branch is critically compromised. State actors cannot arbitrarily utilize the opaque shroud of administrative burea equitable fraud, or protect themselves from the piercing light of public scrutiny.
9. Moreover, the absolute unavailability of the *acta* necessitates immediate clarity regarding the potential application of section 74 of the *Co* **of Justice Act**"). The Deputy Attorney General maintains the singular statutory authority to issue directions for the destruction or perm longer required." If the foundational records have been subjected to a section 74 destruction directive, the executive branch must immediat said directive, including the requisite approval of the Chief Justice. If no such directive was lawfully promulgated, the disappearance of the an act of administrative spoliation of evidence, compelling mandatory first-party disclosure obligations regarding state misconduct as prescr

PART IV: ULTIMATUM, MANDATORY PRODUCTION, AND CONCLUDING DIRECTIVES
The Inexorable Escalation of the Demand Ex Debito Justitiae

10. Should the demanded documentation not be securely transmitted by 12:00 hours (noon) today, this requisition shall be aggressively authorities. It is categorically reaffirmed that an absolute statutory and common law entitlement exists to receive copies of the Inf

endorsements generated during the material temporal period. Pursuant to the authoritative framework established in *Hale v. Ontario (Crim* 48, the Originating Court Office undeniably retains overarching legal control of its own *acta* and is subject to an unyielding, non-dele *justitiae*. The failure to provide these instruments immediately upon request cannot be countenanced or subsequently cured.

11. It must further be declared, as a matter of incontrovertible temporal reality, that eighteen months have precipitously elapsed since the Consequently, any theoretical prosecutorial jeopardy has been absolutely extinguished pursuant to the strictures delineated by the Supreme paras 46-47. The passage of this mandated temporal threshold functionally excises any residual state authority to maintain an activ prosecution to an unvarnished historical audit of state conduct.
12. Kindly advise whether the persistent administrative obfuscation necessitates the immediate escalation of this matter to the Executive Cou Auditor General of Ontario (the "**Auditor General**") for exhaustive executive and financial review. It is an incontrovertible tenet of provi Council, comprised of the Ministers of the Crown and chaired by the Premier of Ontario, exercises plenary executive authority over the a the exclusive prerogative to mandate policy, formulate administrative priorities, and issue binding directives via Orders-in-Council. Where engage in the sequestration of judicial *acta*, thereby systematically subverting the administration of justice, the invocation of the Executi necessitated to compel absolute compliance with statutory mandates.
13. Concurrently, the systemic failure to preserve or produce foundational court records inevitably implicates profound deficiencies in internal resources. This catastrophic lapse inextricably engages the mandatory investigatory mandate of the Auditor General to guarantee institutio to the *Auditor General Act*, RSO 1990, c A.35. Specifically, the conspicuous failure of the DRD infrastructure to furnish paid-for transcripts for-Money performance audit to determine whether taxpayer funds allocated for the modernization of court operations have been inexcusa disseminate these records constitutes a material failure in administrative efficiency that falls squarely within the Auditor General's purvie stipulated meridian deadline, further administrative, constitutional, and appellate escalation shall commence without delay.
14. The ultimate necessity of effectuating this formalized escalation to independent oversight entities remains strictly contingent upon t compliance with their mandatory statutory obligations and antecedent procedural representations. Notwithstanding any such prospectiv persists *in esse*, remaining unequivocally extant and commanding absolute satisfaction directly through the Originating Court Office at first

PART V: THE IMPERATIVE OF BONA FIDES AND FOUNDATIONAL GOVERNMENTAL TENETS

The Comprehensive Obligation of the State Apparatus

15. The imperative for state apparatuses and governmental entities to act with *bona fides* towards the citizenry inexorably demands unimpeachable fairness, and scrupulous adherence to the most elevated ethical standards across all administrative interactions and adjudica obligation encompasses, but is strictly not limited to, the following foundational tenets:
16. **Adherence to the Rule of Law:** Governmental entities must operate strictly within the prescribed bounds of the law, ensuring that all adr consistent with established legal frameworks, codified policies, and authoritative directives.
17. **Impartiality and Non-Partisanship:** Adjudicative decisions and administrative actions undertaken by state bodies must be demonst assiduously avoid favouring specific individuals or groups over others, thereby guaranteeing equitable treatment for all subjects.
18. **Transparency and Openness:** The state apparatus bears the fundamental responsibility to maintain an open posture regarding its pol adjudicative decisions. This necessitates the timely and readily accessible provision of all pertinent *acta* to the public, strictly consistent wit
19. **Accountability and Responsibility:** Governmental entities must be held unequivocally accountable for their actions, demonstrating a st their adjudicative choices and records disposition directives to the citizenry.
20. **Respect for Human Rights:** It is a paramount, constitutionally entrenched duty of governments to rigorously respect and assiduously p citizens, as meticulously enshrined in both international conventions and national legislation, inherently including the *Charter*.
21. **Public Interest Focus:** In the entirety of their decision-making processes, state actors are ethically and legally bound to prioritize the o manner that manifestly preserves the collective well-being and confidence of their constituents.
22. **Consultation and Engagement:** The state apparatus should proactively engage with citizens in a substantive and meaningful manner, a feedback on policies and administrative decisions that directly impact their fundamental liberties.
23. **Fairness and Equity:** Governmental and judicial bodies must assiduously strive to ensure that all individuals are accorded proced irrespective of their antecedent background or prevailing procedural circumstances.
24. **Ethical Standards:** Public servants and judicial officers, in their official capacities, are strictly obligated to uphold the most stringe unassailable integrity, unwavering honesty, and complete transparency in all statutory and administrative dealings.
25. **Reconciliation:** Within jurisdictions encompassing Indigenous populations, the concept of reconciliation necessitates the profound r commitment to redressing historical injustices, thereby fostering a future predicated upon mutual respect, systemic equity, and genuine partn
26. These aforementioned foundational requirements are frequently codified within constitutional instruments, legislative enactments, an indispensable pillars for the sustained maintenance of public trust and confidence in governmental institutions. It is hereby unequivocally remedies available within this venerable legislative framework and the broader principles of public law shall be exhaustively exercised to c

Respectfully submitted,
Mr. Kevin A. McLean (BA, JD, CIM)
Applicant / Accused
ENCLOSURES

Warm regards,

Mr. Kevin A. McLean (BA, JD, CIM)

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On Wed, Mar 25, 2026 at 1:52 PM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

> **DATE:** March 25, 2026
> **TO:** Superior Court of Justice (Ontario) (Toronto Region)
> 361 University Avenue, 1st Floor
>
> Toronto, Ontario
>
> **ATTENTION:** Manager of Court Operations; Supervisor of Court Operations; Registrar of the Superior Court of Justice
> **CC:** The Honourable Deputy Attorney General of Ontario

SUBJECT: Formal follow up to the access request of which Ms. Simion represented she would have a response soon as of 10 days ago

PART I: CONTINUATION OF EXTANT REQUISITION, THE OPEN COURT PRINCIPLE, AND EXTINGUISHMEN

Categorical Demand for the Immediate Production of Foundational Documentation

1. The present correspondence is formally submitted as an unyielding continuation of the antecedent, extant requests effectuated upon the **Office**"), demanding the immediate provision of foundational court documents that remain strictly within the exclusive custody and contr
2. It is unequivocally confirmed that the aforementioned request shall remain active and legally extant until comprehensively satisfied *ex* information package (the "**Information Package**") in its authentic form, alongside the intake court endorsement (the "**Intake Court** demanded.
3. The obligation to produce the aforementioned documentation applies indiscriminately, whether the materials are presently situated withi office (the "**Court Office**"), wherein the criminal proceeding (the "**Criminal Proceeding**") was commenced, or whether said materi control, and/or custody of Madam Justice Shore's judicial chambers and/or by way of her designated judicial assistant.

Inherent Jurisdiction, the Immutable Master Record, and the Doctrine of Nullity

4. The inherent jurisdiction of the Superior Court of Justice to fundamentally govern its internal repository dictates a strict, non-delegabl tribunal of inherent jurisdiction cannot lawfully operate upon documents that inexplicably vanish from internal filing architectures while (an arbitrary deprivation of liberty.
5. *Ipso facto*, the utilization of undocumented proceedings to effectuate a deprivation of liberty is not a mere procedural irregularity; ra representing a direct contravention of established statutory mandates, equitable principles, and the common law rules governing the adn *quo ante* is mandated where fundamental records are obfuscated.

The Unrecorded Ex Parte In Camera Hearing and Constitutional Imperatives

6. Concerning the absence of an audio recording of the subject proceedings, it is noted that Madam Justice Shore was categorically in erro pertaining to case conferences in civil proceedings, an interpretation entirely distinct from the requirements involving a criminal matter a the swearing of an Information (Form 2) but due to Shore J. not knowing the distinction between an Intake Court Endorsement and a For per se. However, that did not stop the clock in the Proceeding being commenced.
7. The central inquiry necessitates a determination as to whether a judicial officer is legally obligated to transcribe an in-person ex pa **Hearing**") wherein law enforcement officials seek the authorization of criminal charges and the subsequent execution of an arrest **Information**") within judicial chambers.
8. It is conceded that the *Criminal Code*, R.S.C., 1985, c. C-46 (the "*Criminal Code*"), specifically sections 504 and 507, does not explicitly information or the immediate issuance of an arrest warrant, standing in stark contradistinction to the stringent statutory frameworks go communications delineated within Part VI of the *Criminal Code*. Consequently, the administration of an oath within judicial chambers s permissible.
9. Nevertheless, operating as a court of record, the failure to generate a contemporaneous transcript severely vitiates an accused individua substantive appellate or collateral review, thereby fundamentally frustrating the execution of an application pursuant to *R. v. Garofo* (*Garofoli*). Such an omission ostensibly catalyzes significant constitutional challenges grounded upon sections 7, 8, and 9 of the *Canad Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (U.K.), 1982, c. 11 (the "*Charter*").
10. In the absence of a transcribed record, the reviewing judicial entity is strictly confined to the four corners of the written *Form 2 Infor* representations articulated *in limine* within chambers are irrecoverably lost to antiquity and remain legally impotent to salvage a fundan necessity arises for the production of the information-to-wit (the "**Information-To-Wit**") alongside any handwritten annotations inscribed
11. Furthermore, modern appellate jurisprudence consistently rebukes the administrative practice of conducting unrecorded chamber hearing the foundational tenets of a court of record and diametrically opposed to the principles of transparent adjudication.

Judicial Custody, the Open Courts Principle, and the Veracity of the Record

12. The directives promulgated by the Canadian Judicial Council explicitly underscore the imperative for a judicial institution to meticulou adjudicative documentation, particularly within the context of an unrecorded *Ex Parte In Camera Hearing*.
13. The abdication of custody and control over the *acta* of a court of record is universally prohibited. As elucidated by the Canadian Judicial (extraneous administrative bodies by their mandatory obligation to preserve the record of proceedings, ensuring that appellate tribunals ca and that subsequent jurists can adhere to established precedent.
14. The court record functions as an unimpeachable source of truth; information upon which a tribunal relies to formulate a legal determina reliability and accuracy. Upon the judicial determination of a factual proposition within a proceeding on a balance of probabiliti incontrovertibly true.
15. Concomitantly, in strict adherence to the open courts principle, judicial bodies bear an unwavering responsibility to ensure that the doc permanently and publicly accessible. Concurrently, courts function as the fiduciary guardians of the voluminous records tendered by thir and institutional justice partners.
16. In contradistinction to the procurement of case conference transcripts—which necessitate advance financial retention by an author prerequisite of judicial acknowledgment—the present demand for existing foundational documentation requires no such judicial consent (

The Expansive Interpretation of Custody and Control Jurisprudence

17. While the classification of the immediate request falls outside the strict purview of freedom of information legislation, the overarchi unequivocally applicable. It is legally immaterial whether the requested documentation is situated within the immediate, physical conte elsewhere within the judicial infrastructure.
18. This expansive interpretation is fortified by appellate jurisprudence. In referencing the foundational principles of documentary control articulated in *Canada Post Corp. v. Canada (Minister of Public Works)* (1995), 1995 CanLII 3574 (FCA), 30 Admin. L.R. (2d) 242, [19 by the Court of Appeal for Ontario.
19. As articulated by Letourneau J.A. at page 245 of *Canada Post*, the legislative conceptualization of "control" is intentionally left undefin Parliament eschewed any distinction between ultimate and immediate, full and partial, transient and lasting, or *de jure* and *de facto* cont definition of control strictly to the power of disposition, such limitations would have been explicitly codified.

20. Applying this authoritative jurisprudential framework to the factual matrix at bar, the resulting conclusion is self-evident: the Superior control over the *Information Package* and the *Intake Court Endorsement*. Whether these documents are transiently located within a judici filed within the central registry (*de jure* control), they remain unequivocally under the plenary dominion of the court. Therefore, the fa under the guise of internal displacement or administrative sequestration, is *ultra vires* the administrative authority of the court and constit right of access to the judicial record.
21. Furthermore, this requisition explicitly encompasses the immediate production of the "Information-To-Wit" and any concomitant handw clerical endorsements inscribed upon the reverse side of any foundational document. Such constituent elements form an inextricable information package (the "**Information Package**") and are strictly subject to this mandatory demand for production. The historical re adjudicative events, irrespective of their procedural irregularity.
22. Given that Madam Justice Shore presently presides as the Family Law Team Leader for the Superior Court of Justice located at the 3 hereby confirmed that this non-statutory access request has been unequivocally directed to the correct and originating courthouse, ar wherein this anomalous instrument was seemingly precipitated. The deliberate circumvention of the established criminal e-intake porta structural displacement that necessitates immediate institutional auditing.
23. Should Justice Shore wish to formally deny any involvement regarding the synthesis, authorization, or administrative routing of these re issue such a denial via the Manager of Court Operations. In such an eventuality, the undersigned is fully prepared to adduce incontrovertil the contrary. Consequently, there exist absolutely no lawful, statutory, or administrative grounds to withhold the authentic documents, in Package and the intake court endorsement (the "**Intake Court Endorsement**"), irrespective of the specific form it originally assumed exact administrative means by which it was transcribed into its final, corrupted iteration.
24. It is further declared, as a matter of incontrovertible temporal reality, that eighteen months have precipitously elapsed since the date i Consequently, any theoretical prosecutorial jeopardy has been absolutely extinguished pursuant to the strictures delineated within the *C* the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11 (the "*Charter*"), and definitively operationalized 2016 SCC 27 (the "*Jordan Decision*") at paragraphs 46 and 47. The passage of this mandated temporal threshold fundamentally excise penal posture, thereby transitioning the judicial paradigm from active prosecution to a necessary, unvarnished historical audit. Having fundamentally predicated upon a False Information Package—the undersigned is systematically exhausting all other available admi accountability.
25. The continued concealment of the foundational *acta* constitutes an egregious, actionable abuse of process that offends the foundationa 2021 SCC 25 (the "*Sherman Estate Decision*") and *Canadian Broadcasting Corp v. Named Person*, 2024 SCC 21. Section 2(b) of the C (the "**Open Court Principle**"), establishing a formidable, nearly impenetrable presumption in favour of judicial transparency that affords functional workings of the adjudicative branch. The Supreme Court of Canada has consistently held that unfettered judicial openne unwavering public confidence. Should correspondence satisfying this requisition not be securely transmitted by the Originating Court Of administrative and constitutional escalation shall commence without delay to compel the mandatory provision of all corresponding d utilized to circumvent a transparent investigation into the veracity of these foundational records.

PART II: STATUTORY DUTIES, STRUCTURAL DUALITY, AND THE OBLIGATIONS OF THE DEPUTY ATTORNEY GEN

7. The obligations statutorily imposed upon the Deputy Attorney General command rigorous exposition, specifically concerning the dual a office. Pursuant to the explicit architectural framework established within the *Public Service of Ontario Act, 2006*, SO 2006, c 35, S through the *Ethics Regulation*, O Reg 383/07 (the "*Ethics Regulation*"), the Deputy Attorney General concurrently functions as the chie personnel and as the ultimate Ethics Executive for the Ministry. The pervasive administrative silence documented herein regarding the rec systemic failure to rectify the record *in limine*.
8. This structural duality necessitates an uncompromising standard of institutional accountability. The efficacy of the *PSOA* relies fundam broad executive discretion must remain perpetually answerable to an independent ethical standard, thereby avoiding a "closed-loop" c with documented assertions of state-sponsored spoliation, documentary fabrication, and the clandestine synthesis of an arrest warrant vi is statutorily compelled to intervene. As elucidated in the broader administrative jurisprudence concerning fiduciary public duties, t investigate and rectify the intentional suppression of an originating document constitutes a profound abdication of the merit principle.
9. Because the registry staff operate beneath the executive umbrella of the Ministry of the Attorney General, the Deputy Attorney Gen administration of justice is not perverted by bureaucratic obfuscation. The executive branch cannot prioritize the shielding of operational If the foundational records were never lawfully submitted or filed in accordance with the *Criminal Proceedings Rules for the Superior C Proceedings Rules*"), the Ethics Executive is bound to formally declare the antecedent administrative actions as absolute nullities to pres and to immediately restore the *status quo ante*.
10. To serve as an explicit evidentiary reminder for the Deputy Attorney General, appended hereto are copies of electronic correspondence w no directive was issued for the destruction of any court documents or materials harboured within a court office pursuant to section 74 Consequently, the complete absence of these foundational records cannot be shielded under the guise of authorized administrative disposi unauthorized spoliation.

Nota Bene: The Boundary of Inherent Jurisdiction and Equitable Rectification

11. It is anticipated that the Judicial Branch or court administration might hypothesize that the inherent jurisdiction of the Superior Court *Constitution Act, 1867*, 30 & 31 Vict, c 3, operates to retroactively cure the documentary defects under the equitable doctrine of rectifi and must be unequivocally dismissed. As enunciated in *MacMillan Bloedel Ltd. v. Simpson*, 1995 4 SCR 725, inherent jurisdiction exist the court and the fundamental rights of the subject; it is emphatically not a sword to be weaponized to cure fatal procedural omissions irremediable nullity where foundational jurisdictional prerequisites remain wholly unfulfilled. In accordance with *Marcos v. Lad*, 2 manipulated instruments into the judicial ecosystem constitutes an abuse of process that triggers the Court's remedial jurisdiction to strik to artificially salvage an extra-judicial fabrication.

PART III: JURISDICTIONAL NULLITIES, SPOLIATION, AND THE PHANTOM PROCEEDINGS

12. An exhaustive forensic and jurisprudential analysis demonstrates that the judicial instrument weaponized to authorize a deprivation of l Endorsement—is an irremediable jurisdictional nullity. The fundamental pillars of the Canadian justice system dictate that the unbrol forms, and a verifiable judicial record are absolute prerequisites to the lawful exercise of penal authority. An Intake Court Endorsement i *Law Rules*, O Reg 114/99 (the "*Family Law Rules*"), remaining entirely anathema to the penal architecture of the *Criminal Code*, RSC 19 Peace sitting in criminal intake possesses no statutory authority, nor any system template within the Integrated Court Operation Ne endorsement affecting the liberty of the subject.
13. Official correspondence remitted by the Ministry of the Attorney General, Crown Law Office - Civil Law, definitively establishes Specifically, the Ministry formally confirmed the absolute absence of responsive criminal court records within the Superior Court of Just the Ontario Court of Justice during the material temporal period comprising August, September, and October of 2024. This complete swearing event purportedly documented within the Information Package is a mere phantom proceeding, thereby proving that the underl standard, lawful intake architectures and was functionally devoid of judicial oversight.
14. Furthermore, the Information Package exhibits textbook manifestations of spoliation—the intentional destruction, alteration, or concealm deliberate excision of the jurat and the statutorily mandated pages of a standard form 2 information (the "**Form 2 Information**"), f endorsement, completely eviscerates the document's legal validity. By destroying the jurat, the physical record delineating the identities erased, thereby sanitizing the instrument's clandestine origins. Pursuant to the strictures established in *McDougall v. Black & Decka*

destruction or obfuscation of evidence by a state apparatus irreparably prejudices the constitutional rights of the accused to proffer a full a and invites the strongest adverse inferences regarding the integrity of the judicial repository.

15. The exact mechanics of this *in camera* circumvention have been incontrovertibly established. As graciously confirmed by Ms. Amirtha Management Office (the "**RMO**"), Court Officer (Toronto Region) Mrs. Frugoni-Rojas personally accompanied the investigating weaponization of this specific court officer as the informant in such an irregular capacity precipitated a wide-scale, libellous defamation the subsequent, procedurally defective filing of the False Information Package within the non-originating Ontario Court of Justice located
16. In strict fairness to Madam Justice Shore, it must be acknowledged that the procedural anomaly of an unrecorded *ex parte in camera* hea statute. As established in *R. v. Lupyrypa*, section 507 of the *Criminal Code* formally mandates strict transcription requirements under se witnesses, thereby technically exempting the unsworn oral allegations of a police informant from mandatory digital recording. Howeve statutory exemption, executing critical adjudicative functions entirely off the record in the secluded confines of a judge's chambers is an u modern judicial standards. As forcefully articulated by the Justice of the Peace Review Council in the disciplinary decisions of *Re Fou* business in private offices or hallways is highly problematic and is rightfully characterized as risk-management "folly." This substand court of the complete factual matrix, drastically complicating the accused's constitutional right to meaningful appellate review and a environment fundamentally incompatible with transparency.
17. It is formally noted that, had the undersigned possessed the antecedent knowledge that Mr. Sinnadurai functioned simultaneously as cou with him would have ceased forthwith. While certain admissions and representations of assistance were proffered by said counsel, the been independently ascertained without his intercession, rendering his involvement an unnecessary obfuscation.
18. A critical procedural anomaly arises concerning the deliberate misapplication of statutory sections to artificially manufacture exigency. designates the subject as "NFA" (No Fixed Address) upon the primary page, despite the investigating officers retaining acute awarenes residential tribunal proceedings. This deceptive nomenclature was not a mere clerical oversight; it was strategically deployed to satis 507(4) of the *Criminal Code*. By falsely labeling the applicant as lacking a fixed address, the police actively misled the presiding jurist in issuance of a summons, forcing the immediate authorization of a warrant in the first instance to ensure court attendance. Concurrently, th on a warrant strictly governed by section 507 represents a profound procedural fiction, as no prior appearance notice existed to be jurispru
19. The unauthorized incorporation of this civil document to execute an arrest fundamentally violates the strictures of a lawful form 7 w critical dimensions: it fails to include the statutory designation "FORM 7"; fails to direct the order to peace officers in a specific territori articulate the specific offence in a manner sufficient to inform the accused; fails to outline the statutory legal basis justifying the appr immediately arrest; omits the date of physical signature; omits the locus of signature; and, most fatally, fails to bear a valid, verifiable sign
20. Should the Judicial Branch or its administrative delegates attempt to retroactively invoke section 599 of the *Criminal Code* to legally jus systemic failure to properly transmit the record from the Superior Court of Justice to the Ontario Court of Justice, such reliance is statu applies solely to matters wherein an accused is or may be indicted. Given the formal election to proceed summarily, section 599 is statu 599 operates conceptually as a formal change of venue provision historically designed to facilitate the geographic relocation of a jury tria intended by Parliament to serve as a *de facto* administrative mechanism for transferring an initial charging document (Information Packa actual package had to be transferred but it was not. Moreover, without an Order by way of motion (application) of the Crown or accuse remained in the custody and control of the Originating Courthouse with the Originating Court Office. Pursuant to *R. v. Mirzoyan*, 2019 O 426 (Ont CA), administrative transfers betwixt distinctly legislated judicial regions absent a formal, written transfer order are strictly in emanating from a tribunal fundamentally lacking strict territorial competence is a legal nullity *ab initio*.

Nota Bene: The "Laying" Versus "Filing" Dichotomy

21. The semantic and jurisdictional distinction between the "laying" of an Information and its subsequent clerical "filing" is a foundational bypassed. Pursuant to section 504 of the *Criminal Code*, the physical act of laying an Information before a constitutionally appointe independent judicial evaluation of reasonable and probable grounds. Conversely, "filing" constitutes the subsequent clerical submission been irrevocably acknowledged by state representatives that no Form 2 Information was ever filed within the Ontario Court of Justice between August and October 2024. The fundamental failure to properly originate the process via the mandated penal architecture is proceeding, rendering it a pure legal fiction sustained solely by database momentum.

PART IV: CRYPTOGRAPHIC DEPRIVATION, THE CPIC TRAP, AND FORGERY OF THE JUDICIAL RECORD

22. The timeline of the Canadian Police Information Centre (the "**CPIC**") entry represents a fatal procedural trap into which the investiga authorized, yet unverified oral directive derived from solitary chambers, the officer immediately caused the warrant to manifest upon actionable across the national jurisdiction. Upon subsequent receipt of the formalized, yet fundamentally defective, PDF Intake Cour recognized its structural invalidity. However, the officer was rendered practically *functus officio* regarding the warrant's existence. La warrant from the CPIC registry without a secondary judicial order formally rescinding it, the officer was caught in a trap of his own maki
23. Because the officer could not rely upon the physical paperwork to withstand the applicant's legal scrutiny in the field, he was compe station, executing the CPIC-based arrest while deliberately suppressing the defective physical document from the accused. This constitu the *Criminal Code*, which mandates the production of the warrant. This deliberate circumvention elevates the matter from a mere *C* kidnapping at law, as the *mens rea* to unlawfully confine was cemented the exact moment the officer recognized the warrant's invalidity y
24. Should the Judicial Branch invoke section 3.1 of the *Criminal Code* to assert that the clerk of the court was legally empowered to ac Endorsement on behalf of Madam Justice Shore, the jurisprudence dictates a fatal paradox. As established in *R. v. Harris*, 2004 AB constitutes the moment of legal reality, effectively eliminating the common law delay between judicial utterance and clerical filing. I pronouncement in open court. The digital timestamps embedded deeply within the unalterable metadata of the False Information Pacl precisely to universally mandated unionized lunch closures for court administrative staff. In accordance with *R. v. Gledhill*, 2020 ONCJ 4 systemic irregularities, this indisputable temporal reality precludes the physical and administrative possibility of a lawful, open-court pro existence of a clandestine, unauthorized adjudicative proceeding conducted entirely without public access, a court reporter, or procedural
25. The typed assertion of a digital signature affixed to the Intake Court Endorsement profoundly fails the cryptographic imperatives comma 5 (the "*Canada Evidence Act*") and the *Electronic Commerce Act, 2000*, SO 2000, c 17. The absolute absence of a verified, asymmet embedded within the document's metadata dictates that the instrument is legally unsigned. A true cryptographic digital signature mat document, irrevocably sealing its contents. The destruction of this hash renders the document incapable of authorizing a deprivation of lib
26. 26. It may be hypothesized by the Judicial Branch that the anomalous presence of the GrapeCity SDK metadata is merely a benign software update, thereby attempting to rely upon the presumed systemic integrity of electronic documents under section 31.2(1) of the *C* irreparably rebutted. A genuine judicial electronic issuance utilizes the ICON architecture, which requires a strict, sequential seven- obsolete, six-digit identifier indicative of the FRANK system, which is utilized almost exclusively by the Superior Court family divis conceivable cavil that the document is an amalgamated, stitched instrument. The presence of a fatal "Item already has an owner" object e the document was artificially assembled *post-facto* by state entities, representing a structural collision between civil drafting practices and
27. As robustly determined in *R. v. Smith*, 2020 ONCJ 611 (the "*Smith Decision*") at paragraph 28, the fabrication of signatures and their satisfies the essential elements of forgery. Utilizing a manipulated, pasted-together PDF document to justify the detention of a subject co to section 368 of the *Criminal Code*. Any administrative reliance upon technical service rules or temporal limitation periods is thoroughly *omnia corrumpit* (fraud unravels everything); a statutory limitation clock cannot commence ticking upon an order that never legally existe

PART V: COMPARATIVE JURISDICTIONAL INTERPRETATIONS, ULTRA VIRES PRONOUNCEMENTS, AND CJC IMP

28. The systemic procedural subversion identified herein is further contextualized by an established jurisprudential propensity by the p expansive, *ultra vires* authority when confronted with jurisdictional boundaries. In stark contrast to the restrained, legislatively con application of rule 1(8) of the *Family Law Rules* operates to unlawfully impose significant monetary penalties without the requisite significant discourse among legal commentators, highlighting a schism in how judges approach non-compliance.
29. In *Altman v. Altman*, 2022 ONSC 4479 (the "*Altman Decision*") at paragraph 44, the Honourable Justice Faieta decisively concluded impose accumulating financial penalties for non-compliance beneath the umbrella of rule 1(8) of the *Family Law Rules*. Justice Faieta m may only ensue under the heightened procedural safeguards of formal contempt proceedings as enumerated within rule 31 of the *Fa* reasonable doubt and strict compliance with the doctrines established in *Carey v. Laiken*, 2015 SCC 17.
30. This rigorously exact jurisdictional constraint was identically affirmed by Justice Kraft in *Monga v. Monga*, 2024 ONSC 761 (the discordant ruling in *DiPoce v. DiPoce*, 2022 ONSC 2099 (the "*DiPoce Decision*"), wherein accumulating daily fines of $2,500 were im deeply concerning pattern of administrative and judicial overreach. This jurisprudential propensity to exceed statutory authority rende arrest warrant within a family law registry conceptually consistent with a broader methodology of jurisdictional usurpation.
31. Furthermore, under the *Criminal Proceedings Rules*, originating documents must be electronically submitted and formally filed with the distinction between submitting a document via email for review and formally filing it upon the docket. The complete circumvention of the coupled with the funneling of the sworn information through improper, civil administrative channels, establishes an absolute jurisdictiona occurred *coram non judice* (before one who is not a judge of competent jurisdiction), cementing the resultant orders as incurable legal nul
32. Returning to the pervasive administrative delay detailed *supra*, while Ms. Simion previously represented that a response to this access r clear that this administrative compliance is being actively and improperly impeded by Madam Justice Shore. There exists absolutely n Justice Shore to persistently hold up this process, as she has historically done with the undersigned and other litigants. Strict compli individual is above the law, although Madam Justice Shore's entrenched pattern of lawlessness and the usurping of concurrent jurisdiction
33. While the undersigned respectfully acknowledges the finite resources and time constraints of the judiciary, this pattern of obstruction necessitates immediate rebuke, severe sanction, and constructive remedies to prevent further deleterious harm to the public. The continu malfeasance from public scrutiny cannot be tolerated within a functional democracy.
34. The capitulation of exclusive possession of a software-manipulated instrument to law enforcement absent the retention of an unco constitutes an egregious breach of the Canadian Judicial Council frameworks. As codified within the *Blueprint for the Security of Cour* (the "**Judicial Information**") must remain under the uncompromising, exclusive control of the judiciary, adhering to principles analog advanced by the executive branch that the digital transmission of the instrument to law enforcement seamlessly transfers the bur fundamentally misapprehends the constitutional architecture and is intellectually bankrupt. The frameworks establish an indivisible, preserve an immutable master record. A document wielded to orchestrate the deprivation of human liberty cannot simultaneously ex registry.

PART VI: CONCLUDING MANDATES AND PRODUCTION IMPERATIVES

35. The overarching objective of this formal requisition is the mandatory rectification of the fractured court record (the "**Court Reco** adjudicative process must be immediately produced to rectify the landscape and successfully reconcile with the federal intelligence logs databases. The Originating Court Office is formally directed to provide the requested *acta* without further obfuscation or delay, thereby Principle.
36. Pursuant to the authoritative framework established in *Hale v. Ontario Criminal Review Board*, 2012 ONSC 1451, legal control—not me right to make the demand for production. Given that the Originating Court Office undeniably retains overarching legal control of its ow this demand. The undersigned deeply respects the finite time and the remaining administrative hours of the current Chief Justice of the S *Pares*. Nevertheless, to the extent that this requisition continues to be met with administrative inertia, the undersigned shall be compelled attention of both the current Chief Justice and any successor Chief Justice by placing it immutably upon the file.
37. To definitively rebut the *prima facie* evidence of state-sponsored documentary spoliation, this requisition explicitly demands the prod natively generated prior to any external interception or GrapeCity SDK manipulation. I formally remind the Judicial Branch that any docu exhaustive forensic comparison against the previously disclosed, structurally corrupted artifacts, the internal Active Directory logs, and th their unadulterated authenticity.
38. The undersigned harbours no inherent desire to unnecessarily escalate this requisition; however, continued administrative silence is un Court Office wish to furnish a definitive date upon which the undersigned may expect—subject to explicit consent—the provision of statutory fees (pursuant to section 7.1.1 of the *MAG CSD Court Information Access Guide*), such advisement must be transmitted prior to
39. Failing receipt of the aforementioned documentation or a definitive timeline by the 15:00 hours deadline, the undersigned shall c Furthermore, drawing upon the highly analogous jurisprudential precedent established by the formal complaint articulated by Justice M Paul Currie, the undersigned shall formally bring the profound misconduct and persistent obstructionist methodologies of Madam Just Justice of all of the courts of justice in Ontario.
40. The comprehensive, exhaustive nature of this formal disquisition has been meticulously crafted to politely yet comprehensively addr *limine*. This extensive documentation ensures that, to the extent that the undersigned is forced to escalate this matter outside of the Attorn perfectly crystallized and may be picked up expeditiously by the requisite oversight authorities.
41. I kindly remind you that Madam Justice Shore is not an agent, servant or employee of either the provincial or federal government unde the CLPA's. As such, all those appointed to the public service in Ontario remain bound to discharge their duties faithfully, honestly and and Ontario.
42. In the interim, I will note that I will also be comparing the full Crown prosecutorial brief within its possession, control and/or custody instance but certainly not now as of today's date. The same will be applicable to any and a
43. I await your response and production by three p.m. or I will be compelled in my own interest and the public interest to escalate whi communications demonstrates your required compliance with executory and ministerial duties.
44. Should you need until the end of the business day to disclose the sought court documents, information, information assets (hard copy and respectful of the public purse.
45. Thank you.

Respectfully submitted,

Mr. Kevin A. McLean (B.A., J.D., CIM)
Applicant / Accused

Toronto, Ontario

Warm regards,

Mr. Kevin A. McLean (BA, JD, CIM)

Chartered Investment Manager

Email: mcleansettlement@gmail.com

Fax: 416.981.7117

Phone number: 647.370.9354

On Tue, Mar 24, 2026 at 4:41 PM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

From: Mr. Kevin McLean mcleansettlement@gmail.com
To: Simion, Monica (MAG) Monica.Simion@ontario.ca
Cc: Marjadsingh, Natasha (MAG) Natasha.Marjadsingh@ontario.ca; The Honourable Mr. David Corbett, Deputy Attorney Genera
Date: March 24, 2026
Subject: SECOND URGENT FOLLOW-UP: Outstanding Request for Court Documents - SCJ 361 University Avenue (1st Floor), Wednesday March 11, 2026 with kind confirmation by Ms. Simion, Manager of Court Operations on Sunday, March 15, 2026)

Dear Ms. Simion, Ms. Marjadsingh, and Honourable Deputy Attorney General Mr. Corbett:

I am writing to formally follow up on my outstanding access request submitted to your court office under the *Administration of Jus Access Guide (2019)*.
Please note that it has now been 13 days since my initial request was formally registered with your office. Furthermore, it has bee on the evening of March 15, 2026, that she was reviewing the issues and would follow up with a response soon. I write this with c in the spirit of our ongoing access partnership.

As an accused and a self-represented party to this matter, I am entitled to receive copies of, *inter alia*, the Information/Indictment your attention specifically to Section 7.1.1 of the *MAG CSD Court Information Access Guide (2019)*, which mandates that informa request" (i.e., forthwith). Furthermore, the "Intake Court Endorsement" is unequivocally an endorsement, and pursuant to Section entitled to a copy of this document without charge and within this immediate time period.
If there are any circumstances that require obtaining hard copies of these documents from physical storage, kindly advise so that purse. I am entirely content to receive uncertified electronic copies from you at this juncture; if a comparison against the hard cop date. Additionally, to the extent that any requested documents fall outside the scope of those provided free of charge, kindly advis may promptly tender payment to your Court Office.

Given the continued passage of time and the failure to provide a response appending the requisite documents to which I am entit herein. While I sincerely appreciate your work ethic and the heavy administrative demands placed upon your office, this prolonge Consequently, I am formally adding the Honourable Mr. David Corbett, Deputy Attorney General of Ontario, to this correspondenc ethical oversight.

I remind all parties of their professional, statutory, and prescribed obligations pursuant to the *Public Service of Ontario Act, 2006* comprehensively cited in my Book of Authorities filed in reference to my applications (Form 1 and Form 5) which have been duly *Rules*.
The promulgation of the PSOA constituted a fundamental paradigm shift toward a decentralized, ethics-centric framework predica institutional accountability, and the preservation of the public trust. In relation to these statutory obligations, I note the following:

1. The Role of the Ethics Executive and the PSC: Pursuant to the Ethics Regulation (O. Reg. 383/07), the Deputy Minister ser public servants within the Ministry. Furthermore, Mr. Corbett concurrently sits as a Commissioner on the Public Service Commiss definitive institutional guardian of the Merit Principle, mandated to ensure that employment practices and executive actions rema transparent.
2. The Structural Duality and Institutional Accountability: The Deputy Attorney General simultaneously acts as the ultimate e personnel (including the Court Services Division) while also serving as the ultimate arbiter of professional ethics. This concentrat configuration. The efficacy of the PSOA relies fundamentally upon the principle that those who exercise broad executive discretio independent ethical standard. This structural duality demands unflinching, objective scrutiny to ensure that the administrative app prioritize executive self-exoneration over the revelation of administrative truth.
3. The Duty of Candour and Administrative Transparency: The pervasive administrative silence documented herein regarding documents represents a systemic failure to rectify the record *in limine*. I explicitly note and confirm that Mr. Corbett was unequivo destroyed at his direction. Consequently, the executive branch cannot utilize administrative inertia to circumvent a transparent inv documents, which must still reside within your custody and control.
Furthermore, while I am actively exhausting collateral avenues of inquiry outside of this specific non-FIPPA process, those efforts frames of reference to the underlying records. It remains an incontrovertible fact that the judiciary retains absolute custody and co Consequently, the constitutionally protected Open Court Principle applies with full force to these records for the benefit of the pub administrative processes.

The maintenance of this structural duality without rigorous transparency constitutes a barrier to the Rule of Law. I require that the sanctity of the court documents be preserved.

Kindly provide what was requested forthwith to this email in this email thread. Kindly advise whether or not you will do so or whet your immediate attention to this matter.

Respectfully,

Mr. Kevin A. McLean (BA, JD, CIM)

Warm regards,

Mr. Kevin A. McLean (BA, JD, CIM)

Chartered Investment Manager

Email: mcleansettlement@gmail.com

Fax: 416.981.7117

Phone number: 647.370.9354

On Tue, Mar 24, 2026 at 12:26 PM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

From: Mr. Kevin McLean mcleansettlement@gmail.com
To: Simion, Monica (MAG) Monica.Simion@ontario.ca

Cc: Marjadsingh, Natasha (MAG) Natasha.Marjadsingh@ontario.ca

Date: March 24, 2026

Subject: URGENT FOLLOW-UP: Outstanding Request for Court Documents - SCJ 361 University Avenue (1st Floor), Toronto, Ontario

Dear Ms. Simion and Ms. Marjadsingh:

I am writing to formally follow up on my outstanding access request submitted to your court office under the *Administration of Justice Act* and the *MAG CSD*

Please note that it has now been 13 days since my initial request was formally registered with your office. Furthermore, it has been 9 days since Ms. Simion she was reviewing the issues and would follow up with a response soon. I write this with continued thanks and gratitude for your efforts in the spirit of our on

As an accused and a self-represented party to this matter, I am entitled to receive copies of, *inter alia*, the Information/Indictment and any Endorsements fre 7.1.1 of the *MAG CSD Court Information Access Guide (2019)*, which mandates that informations and indictments shall be provided "upon request" (i.e., fort

Furthermore, the "Intake Court Endorsement" is unequivocally an endorsement, and pursuant to Section 7.3.1 of the Access Guide, I am strictly entitled to a immediate time period.

If there are any circumstances that require obtaining hard copies of these documents from physical storage, kindly advise so that we may remain respectful uncertified electronic copies from you at this juncture; if a comparison against the hard copies is required, we can address that at a later date.

Additionally, to the extent that any requested documents fall outside the scope of those provided free of charge, kindly advise with an itemization and accour Court Office.

Given the elapsed time and the mandatory nature of these disclosures upon request, I kindly request that you provide the aforementioned Information/Indict address by **no later than 3:00 p.m. today**.

Thank you for your immediate attention to this matter and for your continued assistance.

Respectfully,

Mr. Kevin A. McLean (BA, JD, CIM)

On Mon, Mar 16, 2026 at 11:54 AM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

Dear Ms. Simion, and Colleagues:
Thank you for your email late last night and for your continued diligence in this matter; your efforts are sincerely appreciated in the spirit
Further to my **giving and serving** of the Form 1 *Notice of Application* under the *Criminal Proceedings Rules* upon the Originating Court access request a copy of the **Certificate of Return** issued by your Court Office to the Superior Court of Justice, 361 University Avenue, 1 maintaining or transmitting the same).
As noted, *"Copies of informations, indictments and judicial interim release documents shall be provided upon request to the accused and charged"* (see: s. 7.1.1 of the MAG CSD *Court Information Access Guide* (2019)). As also noted, there was no judicial interim release do Undertaking (Form 10), which is not a *judicial* document per se. I do provide the caveat that, if such a document exists unbeknownst to m
It remains my position that the **Certificate of Return** constitutes an **endorsement** for the purposes of the fee schedule. Section 7.3.1 prov *"Fees for copies of endorsements. Court staff must provide copies of endorsements to parties to a case or their lawyer at no charge."*
The language of "endorsement" is not limited, and in my respectful view encompasses the Certificate of Return.
To the extent that there are any documents **outside** the Information/Indictment, endorsements, or the Certificate of Return that you believe tender payment for those specific documents not covered by the categories of Information/Indictment and/or Endorsement—presumably a
For organizational continuity, please provide all responsive court documents, papers, or other materials to me **within this email thread**.
Lastly, for clarity, I am **not** seeking certified documents. I will accept what you provide at *face value* or *on its face*, to borrow the languag **(SEPT 23 2024)**.
Thank you again for your assistance. I await copies of the requested court documents to which I am entitled without charge or fee to this e
Respectfully,
Mr. Kevin A. McLean (BA, JD, CIM)

Yours faithfully,

/KAM

Mr. Kevin A. McLean (BA, JD, CIM)

Sender's name: Mr. Kevin Alexander McLean (BA, JD, CIM)

Sender's address: 410-775 King Street West, Toronto, Ontario, M5V 2K3

Sender's Telephone Number: (647) 370-9354

Sender's email address: mcleansettlement@gmail.com

On Sun, Mar 15, 2026 at 11:54 PM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

March 15, 2026

Via Electronic Transmission Private and Confidential

EXCLUSIVELY TO:

Superior Court of Justice (Ontario) (Toronto Region)

361 University Avenue,
1st Floor
Toronto, Ontario

Attention: Ms. Simion and Ms. Marjadsingh

SUBJECT: Kind response to your email of Sunday, March 15, 2026, with thanks

Dear Ms. Simion and Ms. Marjadsingh:

PART I: ACKNOWLEDGMENT OF RECEIPT AND JURISDICTIONAL CRYSTALLIZATION

1. Receipt of the electronic correspondence transmitted on the evening of Sunday, March 15, 2026, is hereby formally ackno promptitude and administrative courtesy demonstrated by the registry. In reciprocating such administrative alacrity, the present exceeding comprehensiveness to guarantee the unequivocally efficient utilization and optimal preservation of public resources. Deputy Attorney General of Ontario (the "**DAG**"), has been formally excluded from the present and subsequent communication

2. Should adversarial counsel or a Reviewing Court postulate that the unilateral exclusion of the DAG at this embryo presumption that the chief law officer of the Crown is an indispensable party to matters engaging profound constitutional implic fundamentally flawed syllogism that impermissibly conflates executive oversight with the independent administration of substantive constitutional challenge necessitating formal notice to the Attorney General; rather, it constitutes a highly speci internal, exclusive operational custody of the Superior Court of Justice. To invite the executive branch into the judiciary's inte apprehension of state-sponsored documentary manipulation forms the crux of the inquiry—would constitute an egregious governance of these foundational records is assigned exclusively by law to the judiciary, subject to the plenary direction of pursuant to the judicature sections of the *Constitution Act, 1867* and section 76 of the *Courts of Justice Act*, RSO 1990, c C.43.

3. Given the paramount constitutional implications of this matter, the absolute necessity of preserving public resources, ar analogous to a Zero Trust Architecture—as explicitly codified within the *Blueprint for the Security of Court Information* (exposition of the jurisdictional and procedural irregularities currently contaminating the judicial repository is strictly necessitat artifact presented by an external executive actor can be inherently imbued with a presumption of regularity; absolute verificatic is a strict constitutional imperative.

4. The active engagement of the administration situated upon the first floor of the Superior Court of Justice facility at 361 U functionally solidifies its jurisdictional status. Exhaustive inquiries have unequivocally confirmed that disparate registries Ontario Court of Justice situated in Brampton (Central West Region), the Ontario Court of Justice at 10 Armoury Street, the S and the second and fourth-floor criminal intake registries of the Originating Courthouse—possess absolutely no responsive re the strictures delineated within rule 1.03 of the *Criminal Proceedings Rules*, the first-floor family registry is *ipso facto* the origi control of the contested foundational instruments.

5. While it may be postulated by a Reviewing Court that the mere exhaustion of disparate registries does not affirmatively pro a restrictive syllogism ignores the fundamental doctrine of state accountability. The contested instrument bears the explicit non imprimatur of a Superior Court jurist. Consequently, the evidentiary burden shifts irrevocably to the Originating Courthouse to the instrument a complete extra-judicial fabrication. A court of record possesses an inherent constitutional duty to police its unchecked circulation of unverified mandates affecting the liberty of the subject.

6. Furthermore, should adversarial counsel attempt to rationalize the administrative deflection towards disparate venues—mos Armoury Street—by invoking the statutory transfer mechanisms delineated within section 599 of the *Criminal Code*, such a mandates that the official possessing custody of the indictment, and all corollary writings and exhibits, shall transmit them fort ordered to proceed. However, the activation of this statutory transmission is strictly predicated upon the formal issuance procurement of such an order fundamentally necessitates the prior execution of a formal application or motion, which, *sine qua* of natural justice, specifically the mandatory provision of formal notice to the accused. It is an incontrovertible factual al Consequently, in the absolute absence of a jurisdictionally sound transfer order, any purported transmission of the *acta* to an *Ipso facto*, the unbroken chain of custody and the unyielding obligation of retention remain inextricably affixed to the Originatir

PART II: THE PROCEDURAL ANOMALY AND JURISPRUDENTIAL APPLICATION

7. Pursuant to the judicature provisions enshrined within section 96 of the *Constitution Act, 1867*, an intake court endorseme an administrative construct inextricably bound to the *Family Law Rules*, O Reg 114/99, remaining entirely anathema to the *Cr* penal architecture. A comprehensive jurisprudential review reveals a singular, highly anomalous instance of such terminology the jurisdiction of the Ontario Review Board in the matter of *Brown (Re)*, 2026 CanLII 10959 (ON RB) (the "*Brown Decision*")

8. In the *Brown Decision*, the adjudicative body was confronted with an Intake Court Endorsement strictly in a post-arrest co health complexities and psychiatric remands subsequent to a lawful apprehension. Applying the incontrovertible legal principl factual matrix reveals a catastrophic procedural inversion. In the instant matter, the Intake Court Endorsement was weaponized lawful warrant in the first instance. This artificial transposition of a post-arrest, family-centric administrative tool to authorize 2024, renders the instrument manifestly *ultra vires* and void *ab initio*.

9. It may be hypothesized by adversarial counsel that such semantic deviations constitute mere clerical variances curable unde of the *Criminal Code*, or that they are shielded by the inherent jurisdiction of the Superior Court of Justice. This postul administrative and constitutional law that inherent jurisdiction cannot contradict legislative will. The inherent jurisdiction of a su explicit statutory preconditions precedent to the deprivation of liberty. An Intake Court Endorsement inherently lacks the evidentiary assessment commanded by section 504 of the *Criminal Code*. The formal admission by Mr. Sinnadurai, represen form 2 information (the "**Information**") was ever formally laid or filed betwixt August and October 2024 entirely eviscerates a of this foundational jurisdictional prerequisite ensures that the resultant adjudicative acts operate strictly *coram non judice*.

10. Where the Superior Court of Justice is engaged, the strict procedural mandates of the *Criminal Code* necessitate the "**Indictment**"). By necessary analogy to the procedures governing informations to obtain specialized search warrants and tele *Code*, such foundational instruments must still be formally submitted to the tribunal electronically. Pursuant to rule 1.03 of th Indictment explicitly incorporates an Information without restriction. Furthermore, rule 4.10 of the *Criminal Proceedings Rule* What remains highly conspicuous is the deliberate statutory reliance upon the nomenclature "submitted" rather than "filed" *per*

11. The act of submitting the instrument ensures unequivocally that the Information or Indictment is immediately deposite Courthouse and its attendant court office. The *Criminal Proceedings Rules* remain notably silent regarding restrictive tempo reinforcing the absolute requirement of custody and control within the Originating Courthouse. This critical distinction between document must be submitted to a "court of record", a mandate that persists vigorously even by email subsequent to the for posture suggest that after-hours electronic submissions somehow obviate the necessity for institutional retention, such an argu defined by its immutable repository; the electronic submission mechanism merely modernizes the conduit of transmissio institutional custody.

PART III: EXTRA-JUDICIAL BYPASS AND DIGITAL MANIPULATION

12. The forensic trajectory of the documentary evidence dictates that law enforcement personnel actively circumvented the rig extra-judicial, oral directive was purportedly solicited in solitary chambers from a jurist of the Superior Court of Justice, Mada on October 2, 2024. This sequence of events was subsequently corroborated by Superior Court of Justice Recording Managem 2025.

13. This directive was subsequently reduced to writing by the first-floor registry personnel, transmitted electronically to the To malicious digital manipulation via GrapeCity Documents for PDF software. The resultant artifact falsely masquerades as synthesized long after the seminal docket dates of September 23, 2024, and October 2, 2024, and definitively modified subseque

14. It could be advanced that assertions of digital manipulation and extra-judicial oral directives are inherently speculative or requisition premature. Conversely, it is precisely the existence of anomalous, verifiable metadata—specifically the embedde recorded admissions from the Recording Management Office, that crystallizes the absolute legal necessity of this requisition. judicial *acta* from the Originating Courthouse is the sole, constitutionally acceptable mechanism to definitively rebut this *pri* spoliation.

PART IV: CANADIAN JUDICIAL COUNCIL IMPERATIVES AND THE SEPARATION OF POWERS

15. The custody, classification, retention, and ultimate transparency of these judicially synthesized documents fall exclusively v the plenary supervisory jurisdiction of the Chief Justice of the Superior Court of Justice. The administration is formally dir Judicial Council frameworks:

a. *Blueprint for the Security of Court Information* (7th Ed., 2024): Policy 1 explicitly reaffirms that administrative independ policy dictates that judicial information (the "**Judicial Information**") must remain under the uncompromising, exclusive con possession of a software-manipulated instrument to law enforcement—absent the retention of an uncorrupted master *acta* with breach of this doctrine.

b. Any proposition that the Canadian Judicial Council frameworks constitute mere administrative guidelines devoid of bind constitutional architecture. These policies are not aspirational directives; they constitute explicit codifications of the unwritten and the open-court doctrine. Consequently, should it be advanced by the executive branch that the digital transmission of the i the burden of archival retention, such an argument is intellectually bankrupt. The frameworks establish an indivisible, non-dele immutable master record of all judicial authorizations.

c. *Model Definition of Judicial Information* (2020): The contested instrument categorizes strictly as adjudicative information (th 3, encompassing all orders, endorsements, and warrants generated by a judicial officer. Such highly sensitive data cannot be unil

d. *Model Policy for the Classification of Court Information* (2022): Endorsements and orders are explicitly classified as publi restricted court information (the "**Restricted Court Information**"). They must be reliably indexed, securely maintained, vigorously uphold the open-court principle. A document wielded to orchestrate the deprivation of human liberty cannot simul within the registry.

e. *Model Policy for the Retention of Court Information* (2022): Foundational records must be preserved indefinitely to main "**Court Record**"). A tribunal of inherent jurisdiction cannot lawfully operate upon documents that mysteriously vanish from in utilized by state actors to justify an apprehension.

16. The doctrine of judicial independence is irrevocably entrenched within sections 96 through 100 of the *Constitution Act, 18* state demands an impenetrable separation betwixt the executive enforcement apparatus and the adjudicative branch. Registry pe authority of the Chief Justice, are legally bound to insulate this independence by ensuring that all adjudicative records remain sq

PART V: REQUISITION AND CONCLUDING MANDATES (IN THE PUBLIC INTEREST AND TO AVOID ANY FURTH RESOURCES THROUGH NO FAULT OF MY OWN BUT IN THE SPIRIT OF THE ACCESS PARTNERSHIP)

17. The overarching objective of this formal requisition is the mandatory rectification of the fractured Court Record. It is an ab originated materials to perfectly reconcile with the federal intelligence logs housed within the Royal Canadian Mounted Police This meticulous reconciliation is pursued to ensure the utmost respect for governmental resources while excising the structural a

18. What remains conspicuously outstanding is the immediate production of any endorsements and Informations and/or Indictm the *MAG CSD Access Guide (2019)*, alongside endorsements provided to an accused or party without fee.

19. I am also requesting any internal registry file numbers, and all information assets (the "**Information Assets**") generated Originating Courthouse. These elements fall squarely within the ambit of the open court principle (the "**Open Court Principle**"

20. Section 2(b) of the *Canadian Charter of Rights and Freedoms* (the "*Charter*") explicitly protects the Open Court Principle, judicial transparency that affords the public and the press the unassailable right to attend hearings, consult court files, and inc functional workings of the adjudicative branch (*Canadian Broadcasting Corp v Named Person*, 2024 SCC 21 at paras 2 ["*Sherman Estate*"]).

21. This foundational Open Court Principle is deeply embedded within the common law tradition and warrants rigorous constitu as it fundamentally promotes the exhaustive and equitable discussion of public institutions, a mechanism irrevocably vital to *Estate*, *supra* at para 30; *Ruby v Canada (Solicitor General)*, [2002] 4 SCR 3 at para 53; *Canadian Broadcasting Corp v New B* para 23; *Edmonton Journal v Alberta (Attorney General)*, [1989] 2 SCR 1326 at 1339–40; *BCGEU v British Columbia (Atto* [1982] 1 SCR 175). Specifically, unfettered judicial openness actively deters systemic mischief and ensures unwavering public absolute transparency (*Sherman Estate*, *supra* at paras 39, 44).

22. Furthermore, the Open Court Principle is concurrently shielded, where contextually appropriate, by the constitutional gu section 7 and section 11(d) of the *Charter*.

23. The Open Court Principle strictly protects the freedom of the press to unconditionally access and meticulously report upon operates as the "eyes and ears" of the broader populace (*Sherman Estate*, *supra* at paras 1, 30, 39; *Re Vancouver Sun*, [2004] only in the most exceptional of circumstances that countervailing interests may jurisprudentially justify any restrictive derogatio

24. Crucially, the Open Court Principle exerts its mandatory application across all judicial proceedings, irrespective of their sub This dictates an impenetrable presumption of access extending concurrently to both criminal and civil hearings, and encompa *Vancouver Sun*, *supra* at para 27), probate matters (*Sherman Estate*, *supra* at paras 44–45), and documentary court exhibits (*C* SCR 65 at para 12; *Canadian Broadcasting Corp v New Brunswick (Attorney General)*, *supra*; *Hill v Church of Scientology of* of such openness must be strictly delineated by formal, lawful judicial instruments—such as sealing orders, publication bans, (*Sherman Estate*, *supra* at para 38)—none of which have been lawfully pronounced to preclude the production of the requisition

25. Acknowledging the administrative complexities inherent in records extraction outside of the Information and/or Indictment Court Office, piecemeal production of the requisitioned *acta* is acceptable.

26. It is expressly noted that this requisition proceeds under the inherent jurisdiction of the court and the Open Court Principle, to the *Freedom of Information and Protection of Privacy Act*, RSO 1990, c F.31.

27. The administrative responsiveness exhibited thus far firmly indicates that this vital matter has successfully reached the c control of the requisite *acta*. Continued procedural compliance and the prompt remittance of the uncorrupted documents are h *quo ante* without any castigation of your Court Office *per se*. I apologize if earlier correspondence indicated the same at firs prove or disprove certain facts which are now definitively established in the past.

28. Thank you for your efforts in the spirit of this "access partnership".

29. Thank you and have a good evening.

Respectfully submitted,

Mr. Kevin A. McLean (B.A., J.D., CIM)

On Sun, Mar 15, 2026 at 9:34 PM Simion, Monica (MAG) <Monica.Simion@ontario.ca> wrote:

> Thank you for your email. I am reviewing the issues you outlined and will follow up with a response soon.

From: Mr. Kevin McLean <mcleansettlement@gmail.com>
Sent: March 13, 2026 11:36 AM
To: Simion, Monica (MAG) <Monica.Simion@ontario.ca>; Marjadsingh, Natasha (MAG) <Natasha.Marjadsingh@ontario.ca>
Subject: Re: Follow up letter regarding my request for court documents (personal information) from yesterday's fax (SCJ 361 University Avenue (

CAUTION -- EXTERNAL E-MAIL - Do not click links or open attachments unless you recognize t

Friday, March 13, 2026

To:
Superior Court of Justice (Ontario)
361 University Avenue, **1st Floor**
Toronto, Ontario

Attention: Manager of Court Operations; Supervisor of Court Operations; and the Clerk of the Court assigned to the division led by Madam Justice Shore (Team Le since 2020)

Re: Confirmation of Delivery of Materials – March 12, 2026 (Registered Mail)
Re II: Reconfirmation of the "Chambers" (Judicial, In-Person) Nature of the *Ex Parte In Camera Hearing* at SCJ – 361 University Avenue

Re III: residual

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

I write to confirm that, in addition to the emails and attachments previously transmitted, a true copy of my initial request to your court office was delivered by regist
a.m. today. I look forward to receiving your response in relation to the matters identified above.

I further confirm that a copy of the aforementioned letter and email was faxed to the Chief Justice of the Superior Court of Justice at the appropriate fax number.

I also reconfirm the representations made by **Ms. Amirthalingam**, who has been helpful in certain respects, that the *Ex Parte In Camera Hearing* in question w
materials exist for transcription for purposes of my registered Authorized Transcript Order. As you are aware, the SCJ RMO performs all administrative duties fo
the Toronto Region.

In light of those admissions and related representations, and as will be evident from the **False Information Package**, any Criminal Code Form 2 Information wou
the Superior Court of Justice, given that all such matters are processed exclusively through the **Criminal E-Intake Portal**. Accordingly, I presume that your
Information.

To assist—consistent with the "access partnership" contemplated under access-to-information and personal-information legislation—I have provided a standard **C**
five. As you will observe, the removal by the Toronto Police Service of **pages 4 and 5 of 6** was plainly designed to prevent disclosure of the **Informant's** identity, v
pages.

Further, and again in the spirit of cooperation and efficient use of public resources, I reconfirm that **Mr. Sinnadurai**, counsel to Madam Justice Shore, admitted ir
never filed in any court of the Ontario Court of Justice between August and October 2024, and that **no record of any such Informant existed** in the files of Co
whatsoever. This is consistent with the falsities contained in the materials.

As you know, a **Justice of the Peace** cannot issue an **Intake Court Endorsement**, nor can such an endorsement be issued "in the form of" an Intake Court Endors
and inherent jurisdiction regularly issue Intake Court Endorsements.

It is most unique if not completely foreign to criminal law and certainly the Criminal Code.

Given the timing reflected on the document and the time required for clerical staff to receive instructions from Madam Justice Shore, it appears that the likes of Co
police officer(s) in charge to the chambers of Judge to have the Information sworn and then have the Intake Court Endorsement reduced to writing, then digitally
Detective in question.

It remains unknown whether the relevant division at SCJ 361 University Courthouse retained a paper copy of the sworn Information and/or Indictment but I obtaine
on the 2nd floor (not the first) only has files for which there were filed, via email, to its email address the "E-Indictment" which includes an Information or Indictm
the SCJ Judge at issue, the Superior Court Of Criminal Jurisdiction in which she operates, but for the Divisional Court which does not have Inherent Jurisdiction pe
is laid (not necessarily filed) and prior to that a criminal proceeding commences on the swearing or declaring of an Information. However, if laid via telecommun
Criminal Code, ss. 508.1).

I have since learned additional information regarding the scope of this Intake Court Endorsement, and I therefore look forward to receiving a copy so that I may prot

Kindly advise how long it will take to provide me with a copy of the Intake Court Endorsement via email as I am entitled to the same as the accused. As you are a
request, and I therefore request confirmation of the expected timing for production of the Criminal Code Form 2 Information as well.

If I fail to hear from you before the deadline today or after two p.m. (by no later than three p.m.) as I appreciate your hours open to the public, I will bring this a
direct you accordingly.

Thank you for your immediate attention to the same.

Respectfully,

Mr. Kevin A. McLean (BA, JD, CIM)

On Thu, Mar 12, 2026 at 4:57 PM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

> **DATE:** March 12, 2026
>
> **TO:** Manager & Supervisor of Court Operations and/or the clerk of the court at the time, Superior Court of Justice ("SCJ") 361 University Avenue, 1
>
> **CC:** The Honourable Chief Justice of the Superior Court of Justice (Ontario) pursuant to this being a matter assigned by law to the judiciary
>
> **VIA EMAIL AND FACSIMILE**
>
> **TO:** Ms. Monica Simion, Manager of Court Operations (monica.simion@ontario.ca)
>
> **CC:** Ms. Natasha Marjadsingh, Supervisor of Court Operations (Natasha.Marjadsingh@ontario.ca)
>
> CC: the "clerk of the court" as defined under the Criminal Code and by reference to ss. 3.1(1) and (2) of the Criminal Code
>
> **CC:** The Honourable Chief Justice of the Superior Court of Justice (Ontario)
>
> **FROM:** Mr. Kevin A. McLean (B.A., J.D., CIM)
>
> Reply by email or fax
>
> **SUBJECT I: CONFIRMATION – MANDATORY PRODUCTION OF INFORMATION**

ENDORSEMENTS, AND RELATED COURT RECORDS; CHAMBE
SUBJECT II: TECHNOLOGICAL SILOING; CUSTODY AND C
SUBJECT III: DUTY OF RECTIFICATION; PRESERVATION OF THE CC
SUBJECT IV: MATTERS ASSIGNED BY LAW TO THE JUDICIARY SUBJECT TO THE
OF THE CHIEF JUSTICE OF THE SUPERIOR COURT OF JUSTIC

PART I: INTRODUCTION AND THE ARCHITECTURAL COMPOSITION OF THE CORRUPTED RECOR

1. I confirm delivery of the fax request to the SCJ 361 University Courthouse ("Originating Courthouse") but within the division of the family la as it relates to the issuance of a "warrant in the first" by the Intake Court Endorsement [Sic] or by an Intake Court Endorsement per se. It Intake Court Endorsement is not a species of criminal law per se but of family law which has led me back to this location but I now appreci had no records of any "filings" with it and no copies of any arrest warrant per se.
2. A copy of said letter is also attached.
3. I have been exceedingly comprehensive herein as I have reasonable grounds to believe that it is nearly indisputable that your "court offic "endorsement" of which I am entitled and certainly not the Intake Court Endorsement [Sic] that was filed by the TPS in November 2024 a neither laid nor filed in August to October 2024 as admitted by Mr. Sinnadurai in June and July 2025.
4. **In short, there is a slight correction from yesterday which does not negate the request having been made but rather that it was m Courthouse did NOT falsify the Intake Court Endorsement [Sic] but rather has the original endorsement. Provide it forthwith – p forthwith.**

5. This correspondence is respectfully submitted in formal continuation and necessary, constitutionally mandated escalation from antecede record on March 11, 2026. In meticulous consideration of the paramount constitutional implications delineated herein, and the newly sub Shore concerning the purported, extralegally generated "Intake Court Endorsement" [sic], it is deemed strictly necessary and constitution Superior Court of Justice (Ontario). This deliberate escalation is executed to guarantee appropriate institutional oversight, to trigger the highest judicial office in the province, and to facilitate the unimpeded discharge of the Court's plenary supervisory jurisdiction over its intern Chief Justice is required to ensure that the absolute sanctity of the judicial repository remains inviolate against extra-judicial manipulation, a Superior Court from being illicitly co-opted as an instrument of state-sponsored procedural obfuscation.
6. The forensic, technological, and jurisprudential evidence heretofore adduced incontrovertibly substantiates that the instruments presently u the *Indictment*, and the structurally discordant associated judicial endorsement—were not precipitated through any constitutionally manda Conversely, it is submitted that these highly irregular instruments were clandestinely synthesized via the first-floor family and civil ac courthouse (the "Originating Courthouse"). This profound architectural displacement constitutes a fundamental, systemic subversion of t deliberately insulated from the rigorous procedural safeguards of the criminal registry, has been improperly and unlawfully weaponized t liberty of the subject.
7. A rigorous forensic extrapolation of the document metadata and underlying algorithmic structure renders it highly probable that while the Su endorsement within its functionally isolated family law silo, secondary state actors—specifically the Toronto Police Service (the "TPS") or subsequently appropriated, exported, and maliciously manipulated the document utilizing GrapeCity Documents for PDF 6.0.2.0 (the "G speculative; it is unequivocally corroborated by analogous, digitally manipulated documentation previously disclosed by the latter entity thereby establishing a documented, systemic, and highly concerning pattern of extralegal digital interference by state enforcement antecedent proceedings.
8. The resultant digital artifact, formally designated as Information Package 4810 998 24 48129169-00 (the "False Information Package"), c bypass: the clandestine, technologically obscured offboarding of a criminal instrument into a civil technological silo. This deliberate bu Integrated Court Operation Network (the "ICON"), flagrantly evades the mandatory strictures of the *Criminal Proceeding Rules*, SI/2012-7 the open-court safeguards fundamentally designed by Parliament to preserve the historical inviolability of the court of record. The delibe serves no legitimate administrative purpose and operates solely to conceal the genesis of the penal process from independent judicial or pu
9. Such extraordinary procedural transmogrifications precipitate profound, far-reaching, and deleterious consequences upon the broader ad deeply offend the Open Court Principle as comprehensively articulated and defended by the Supreme Court of Canada in *Sherman E Decision*"), the *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (U RSO 1990, c C.43, the *Administration of Justice Act*, RSO 1990, c A.6, the *Privacy Act*, RSC 1985, c P-21, the *Legislation Act, 2006*, SO Court to rectify, reconstruct, and safeguard the absolute authenticity of its repository. The clandestine synthesis of penal instruments away administrative chambers, fundamentally offends the centuries-old jurisprudential maxim that justice must not merely be done, but must n done.

PART II: ANTICIPATORY REBUTTALS AND THE EXHAUSTION OF LOGICAL COUNTER-ARGUMENT

6. It is anticipated that opposing counsel, or alternatively, the Presiding Divisional Court President, might hypothesize that the anomalous pres electronic artifact resulting from a province-wide software modernization initiative executed internally by the Ministry of the Attorney G fundamentally eviscerated by the formal, written admission of Ministry representative Mr. Sinnadurai, who unequivocally conceded the abs under *the Criminal Code,* RSC 1985, c C-46 (the "*Criminal Code*") involving Court Officer Frugoni-Rojas from August to October 2024. We update, legitimately processed instruments would undoubtedly populate the central ICON repository in their mandated chronological se failure to locate any corresponding documentation, *ipso facto,* confirms the irregular, localized, and extra-judicial genesis of the False hypothesis intellectually bankrupt and factually unsustainable.
7. Furthermore, it might be erroneously posited by adversarial parties that state law enforcement actors lack the requisite incentive or opera instrument when standard judicial avenues theoretically remain accessible. This postulation fails *in limine*. The forensic record demonstra apparatuses to rapidly synthesize a warrant to retroactively sanitize an antecedent, unlawful deprivation of liberty, thereby effectively cir artificially establish a *status quo ante* following a primary intake refusal by a constitutionally appointed judicial officer. The technological object structures provides the exact vector for this jurisdictional overreach, operating in direct, flagrant, and egregious contravention o condemned by the Supreme Court of Canada in *R. v. Grant, 2009 SCC 32*. It is a well-established socio-legal tenet that state actors, w procedural failures, occasionally resort to extralegal mechanisms to secure process; the forensic fingerprint of GrapeCity SDK is the circumvention.
8. A tertiary counter-argument may suggest that the nomenclature "Intake Court Endorsement" reflects mere localized vernacular inform semantic deviations ought to be overlooked *de minimis* under the guise of administrative flexibility or clerical variance. This assertion jurisdictional and constitutional consequence. A criminal judicial officer is statutorily bound by the strict construction of the *Criminal Code* a instrument "on its face"—a highly permissive, administrative standard distinctly and exclusively reserved for civil and family registries opera 194. Conversely, section 504 of the *Criminal Code* explicitly mandates a rigorous, substantive *prima facie* inquiry into the evidentiary found process. The conflation of these diametrically opposed standards is not merely semantic; it is indicative of profound, structural cross-contar lower threshold of civil processing has been improperly and unconstitutionally applied to authorize severe, ongoing deprivations of liberty.

PART III: BEST EVIDENCE RULE AND THE INTEGRITY OF ELECTRONIC DOCUMENTS

9. Where a physical warrant of arrest is rendered strategically or administratively unavailable by the Crown—whether through alleged loss, persists actively upon the Canadian Police Information Centre (the "CPIC") registry to justify the continued restriction of an accused's liberty Evidence Rule to systematically reconstruct the underlying judicial *acta*. The withholding of the primary instrument by state actors demand

of any secondary evidence proffered to justify the ongoing detention or encumbrance of the subject, as the state cannot be permit malfeasance.

10. Pursuant to the long-standing common law doctrine governing secondary evidence, the court is authorized to accept clerk's minutes, determinative proof of an outstanding warrant. However, such judicial acceptance is entirely, strictly predicated upon the irrefutable re integrity of the surrogate materials. Where the secondary materials bear the undeniable hallmarks of forgery, post-production manipulation, reduced to an absolute nullity, and they must be summarily struck from the record.
11. Furthermore, pursuant to the explicit provisions of section 31.2(1) of the *Canada Evidence Act,* RSC 1985, c C-5, read in inextricable c 2000, c 17, the judiciary may theoretically rely upon the statutorily presumed systemic integrity of the electronic documents system to as However, where the electronic system exhibits profound, demonstrable structural corruption—as evidenced by the GrapeCity SDK renderir distinct textual elements, and fundamentally missing cryptographic hashes—the statutory presumption of systemic integrity is irreparably back to the state to prove the instrument's authenticity beyond a balance of probabilities, a burden that simply cannot be discharged using t
12. In standard, uncorrupted practice within the family law silos utilizing highly regulated systems such as Case Center or CaseLines, electro (the "*Family Law Rules*") rigidly dictates the algorithmic affixation of a verified blue digital seal alongside the authenticated digital guaranteeing the exact source, temporal origin, and unbroken chain of custody of the document. The absolute absence of these strictly "PKI") markers within the False Information Package demonstrates incontrovertibly that it was improperly exported from the Case Cen fundamentally compromised by external software prior to its illicit, retroactive deployment against the accused.

PART IV: INHERENT JURISDICTION, EQUITABLE RECTIFICATION, AND SPOLIATION

13. The Superior Court of Justice is a tribunal of inherent, original, and plenary jurisdiction derived directly from section 96 of the *Constitutio* constitutional jurisprudence such as *MacMillan Bloedel Ltd. v. Simpson*, [1995] 4 SCR 725, this expansive jurisdiction is not merely a absolutely essential to the maintenance of the rule of law. When a judicial record is discovered to have been fraudulently manufactured, ma state, the Court is bound by a non-delegable, constitutional duty to expunge the corruption and synthesize an authentic record *ex de* functioning as an engine of fraud, while its own administrative machinery is co-opted for *ultra vires* law enforcement purposes.
14. It must be strictly delineated, however, that Inherent Jurisdiction and Equitable Jurisdiction are conceptually and functionally distinct c administrative bodies to subvert the unambiguous, mandatory statutory intent of the *Criminal Proceeding Rules*, nor can they be utilize where none historically or statutorily existed at the time of the purported issuance. Inherent jurisdiction exists as a shield to protect the emphatically not a sword to cure fatal Crown procedural defects or to breathe legal life into an *Irremediable Nullity*.
15. The equitable remedy of rectification empowers the judiciary to rigorously revise written instruments to accurately reflect the true, historical reality. If a clandestine adjudicative proceeding transpired within private administrative chambers rather than an open court, the judicia instrument that falsely asserts a regularized process occurred in open session. The Court is affirmatively mandated to retrieve the underlyir digital evidence against active, ongoing spoliation, and reconstruct the record *ab initio* to reflect the true, unvarnished reality of the proceedi
16. As powerfully articulated by the Supreme Court of Canada in *R. v. Hayes*, [1989] 1 SCR 44 (the "*Hayes Decision*"), the judiciary possesses to reconstruct a defective, absent, or incomplete record—in that specific instance, a missing jury charge—utilizing narrative reconstruction, foundational principles enumerated in the *Hayes Decision* apply with equal, if not exponentially greater, force to the foundational instrume authorize the initial deprivation of liberty.
17. Moreover, the robust jurisprudence established in *Marcos v. Lad*, 2021 ONSC 4900 affirms, without equivocation, that the Superior Cou sanction the fabrication of evidence and the deceptive manipulation of legal instruments. The clandestine introduction of the GrapeCity SDK ecosystem constitutes a profound abuse of process that immediately triggers the Court's highest disciplinary and remedial jurisdictions to pr
18. Any institutional refusal or calculated administrative reluctance to immediately preserve these specific, critical electronic artifacts contrave actionable, state-sponsored spoliation of evidence. In strict alignment with the principles extracted from *McDougall v. Black & Decker C* obfuscation, or withholding of electronic evidence by a state apparatus irreparably prejudices the constitutional rights of the accused to prof *Charter*. Furthermore, such deleterious actions unequivocally and instantly trigger the Crown's mandatory first-party disclosure obli expansively prescribed in *R. v. McNeil, 2009 SCC 3*, thereby rendering the proceedings susceptible to a judicial stay under section 24(1) of

PART V: LAYING VERSUS FILING AND THE COMMENCEMENT OF PROCEEDINGS

19. The semantic, procedural, and jurisdictional distinction between the "laying" of an *Information* and its subsequent clerical "filing" is n foundational constitutional cornerstone to Canadian criminal jurisprudence. Pursuant to section 504 of the *Criminal Code*, the physic appointed Justice initiates the proceeding and strictly requires the active, independent judicial evaluation of the informant's reasonable a mandatory, subsequent clerical submission of said authorized document to the Registrar under the *Criminal Proceeding Rules* to permanen
20. In the present matter, it has been formally, undeniably, and irrevocably acknowledged by state representatives that no *Information* utilizing Ontario Court of Justice (the "OCJ") or the Superior Court of Justice criminal registries between the material dates of August and Octobe process via the mandated penal architecture is entirely fatal to the legal existence of the entire proceeding, rendering it a pure legal fic judicial authority.
21. Given that the OCJ Armoury Street Courthouse mysteriously and inexplicably generated a novel, secondary file number on October proceeding is strictly necessitated to resolve the procedural paradox. The absolute absence of said antecedent file within the designate highly disturbing conclusion that the proceeding was administratively harbored within the first-floor family registry of the Originating Court Justice Shore presided as the family law team leader within this exact environment, operating wholly outside the purview, scope, and jurisdiction.

PART VI: STATUTORY PRONOUNCEMENTS AND ADMINISTRATIVE DELEGATION

22. It is absolutely imperative to thoroughly contextualize the rigorous application of section 3.1 of the *Criminal Code*, which dictates that anyt from the exact moment it is pronounced, irrespective of its immediate reduction to formal writing. This provision fundamentally emphasizes t that justice is dispensed publicly and concurrently.
23. In the seminal case of *R. v. Harris*, 2004 ABQB 205 (the "*Harris Decision*"), the Court confirmed that the oral pronouncement from the effectively eliminating the historic common law delay between judicial utterance and subsequent clerical filing. Application of this rigid, ter fatal paradox for the Crown: as no oral pronouncement ever occurred within the confines of an open, publicly accessible court, the *ips* artificially validate the existence of the False Information Package fails entirely *in limine*.
24. Similarly, in *R. v. Brooks*, 2021 ONCJ 717 (the "*Brooks Decision*"), the Court affirmed that section 3.1(2) conceptually empowers the Clerk of the judiciary, but solely to accurately reflect a lawful order already made. However, this narrow administrative extension cannot mag judicial authorization was never lawfully procured, or where the foundational jurisdictional prerequisites remain wholly unfulfilled. The adm conceivable circumstances, eclipse or substitute the non-delegable judicial function of independently assessing reasonable and probable gr
25. Furthermore, in *R. v. Gledhill, 2020* ONCJ 412 (the "*Gledhill Decision*"), the Court forcefully utilized section 3.1 to establish precise, imm section 11(b) of the *Charter*. The application of the highly scrutinizing analytical framework derived from the *Gledhill Decision* to the instan embedded deep within the unalterable metadata of the False Information Package manifest at precisely 11:48:25 AM and 12:59:50 PM. T the unionized lunch closures universally mandated for court administrative staff across the province. This indisputable temporal reality ther of a lawful, open-court pronouncement having occurred at those exact moments, further irrevocably corroborating the existence of a clande solitary chambers entirely without a court reporter, public access, or procedural regularity.

PART VII: JURISDICTIONAL OVERREACH AND IRREMEDIABLE NULLITIES

26. The False Information Package purportedly involves the authorization of a Justice of the Peace who is formally assigned by an Order in 1990, c J.4, specifically and exclusively to the Central West Region (Brampton). Nevertheless, this specific judicial officer purportedly a Region without the absolute requisite geographic transfer order having been formally executed, signed, and gazetted pursuant to section 59
27. Such a flagrant administrative transmogrification constitutes an *Irremediable Nullity* and represents a quintessential, textbook manifestatic *Mirzoyan*, 2019 ONSC 3862, and drawing upon foundational, unshakeable historical precepts robustly articulated in *R. v. Jarman*, (197

betwixt distinctly legislated judicial regions absent a formal, written section 599 order are strictly impermissible, statutorily barred, and er emanating from a tribunal fundamentally lacking strict territorial and geographical competence is a legal nullity *ab initio*, rendering all c unlawful, arbitrary, and actionable under section 9 of the *Charter*.

PART VIII: TECHNOLOGICAL SILOING AND THE FORENSIC METAMORPHOSIS

28. The cryptographic, structural, and forensic analysis of the False Information Package reveals deep, systemic architectural deviations that pe demonstrating instead a catastrophic structural collision between modern civil drafting practices and the strict, archaic requirements of pena
29. The ICON database, exclusively mandated for the processing of OCJ criminal matters, rigorously requires a strict, sequential seven-digit eIntake systems securely operated by police, and programmatically generates *Form 2* instruments complete with immutable, cryptogr provenance. Conversely, the FRANK system, utilized extensively and almost exclusively by the Superior Court family division, operates solely with the Justice Services Online portal—a civil processing system completely devoid of the necessary penal processing capabilit required for warrants.
30. The False Information Package is forensically contaminated with a myriad of irreconcilable anomalies: a non-compliant six-digit identifier in terminology within a purportedly criminal instrument, computation drifts explicitly tied to the specific calculation methodologies of Rule programmatic +1 day algorithmic error unique to civil time-computation software), and the undeniable, deeply embedded programmatic sign
31. It is critically observed that the requisite standard of review herein evaluates the evidence on a balance of probabilities, a threshold eas concatenation of mismatched footers, the bizarre presence of thirteen disparate, clashing font encodings indicative of multiple document m the judicial signature was stripped entirely from the document—yielding a fatal “Item already has an owner” object exception within the C cavil that the document is an amalgamated, stitched, and entirely fraudulent instrument. This specific, highly technical exception is funda attempts to erroneously stitch together pre-existing, distinct PDF object dictionaries that contain conflicting structural hierarchies and dup was artificially assembled *post-facto*.
32. A true, judicially valid cryptographic digital signature mathematically hashes the precise byte-structure of a document, irrevocably sealing SOLGEN or the TPS subsequently utilized GrapeCity software to digitally “stitch” the civil endorsement into an unsworn, blank *Form* cryptographic hash is instantaneously and permanently invalidated. The absolute absence of any verifiable PKI validation or unbroken c incontrovertible, forensic proof of unauthorized, post-production manipulation by state entities operating entirely outside of the authorized ju

PART IX: CUSTODY, CONTROL, AND CPIC AUDIT TRAILS

33. The governing jurisprudence concerning the production of state and judicial records dictates that overarching legal control, rather than mer standard for compelling production. This fundamental, unyielding principle is comprehensively articulated in *Hale v. Ontario Criminal Revie* the Supreme Court of Canada in *Canada (Information Commissioner) v. Canada (Minister of National Defence)*, 2011 SCC 25, which transferring physical custody of records to ancillary agencies.
34. As extensively elucidated in the authoritative framework of *Dagg v. Canada (Minister of Finance)*, [1997] 2 SCR 403, the definition of a "r technologically broadly to encompass all underlying digital architecture, active metadata, deleted artifact fragments, and network routi instrument is artificially sequestered in a silo, technologically displaced, or intentionally deleted from active outward-facing databases, the S over the infrastructure and is constitutionally obliged to produce the surviving metadata to expose the procedural irregularity and halt the ab
35. Concurrently, the CPIC offline historical database maintains an immutable, multi-layered, and cryptographically secure audit trail of all tran binding Order MO-4542 by the Office of the Privacy Commissioner of Canada, the Royal Canadian Mounted Police (the “RCMP”) exercise is legally bound to fulfill formal *Privacy Act* requests. A targeted query into Personal Information Bank RCMP PPU 005 will definitively ur encompassing all ADD, MODIFY, and CANCEL operations—that permanently capture the precise Terminal ID, originating IP address, exac User ID responsible for maliciously injecting this *Irremediable Nullity* into the national enforcement apparatus.

PART X: PUBLIC INTEREST ISSUE – IS THIS A SYSTEMIC ISSUE?

36. It must be forcefully observed that a profound, overarching public interest issue is fundamentally engaged herein, necessitating immediate, circumvention of penal procedural architectures by state actors. The Ministry of the Attorney General Court Services Division guide p asserting that: *“Warrants of arrest (also known as Warrants in the First Instance) may or may not be filed with the court... If a warrant of ar only publicly accessible after the accused has been arrested...”* This generalized administrative directive is structurally nonsensical and ent mandatorily required by law to securely retain a true, unalterable copy of the foundational *acta*, irrespective of whether secondary enfo instruments within divergent jurisdictional courthouses.
37. It is respectfully submitted that a documented *modus operandi* of the TPS has materialized, evidencing a deeply entrenched systemic analogous authorizations equally capable of being issued by a Justice of the Peace or an Ontario Court Judge—directly from judges jurisdiction. The tactical preference for this irregular avenue is manifestly designed to intentionally circumvent the integrated, meticulously lo Mr. Sinnadurai in formal correspondence dated June 25, 2025, and July 4, 2025, the investigating detective or arresting officer receive “Warrant in the First Instance”), which is subsequently and maliciously manipulated via external software prior to its eventual, significantly de

IN CHAMBERS

38. In the alternative, should the Crown or the state affirmatively posit that the adjudicative process transpired entirely within the private confi Madam Justice Shore would have necessarily reviewed the sworn *Information* absent the retention of a physical copy within her predominantly and explicitly in her designated capacity as the Family Team Leader, Justice Shore exercises a highly robust administrative structural assignment and coordination of judicial duties amongst the bench. Given the expansive, time-sensitive scope of this administrativ administrative latitude, time, and inherent authority to rapidly review the *Information* and issue the corresponding arrest warrant from her ch be expeditiously transitioned along the administrative chain of custody, effectively offboarded to the registry clerks for immediate processing archived within the judicial office. Nevertheless, the mere transience of the physical document across the judicial desk does not conceptua paramount, non-delegable duty to maintain a permanent, immutable record of the authorization within the Originating Courthouse.

LEGAL ANALYSIS: TRANSMISSION OF AN INFORMATION AND SECTION 599

39. The fundamental inapplicability of section 599 of the *Criminal Code* to the present factual matrix must be unequivocally established. Shoul to legally justify the absolute absence of a transfer order or the systemic failure to transmit the record from the Superior Court of Justice to bankrupt. Section 599(1) explicitly and strictly applies solely to "a court before which an accused is or may be indicted." As the Crown has f not face an indictment. Consequently, section 599 is statutorily inapplicable to summary conviction proceedings *in limine*. Furthermore, se Venue” provision, historically designed to facilitate the geographic relocation of a jury trial (e.g., transferring proceedings from Toronto to pre-trial publicity or localized risk. It was never intended by Parliament, nor can it be legally contorted by the Crown, to serve as a routin initial charging document from the swearing judicial officer to the provincial intake registry.
40. The procedural architecture dictating the movement of an *Information* from the Superior Court of Justice to the Ontario Court of Justic jurisdiction of Ontario, all criminal proceedings necessarily commence within the OCJ, irrespective of the ultimate severity of the alle imperative for a warrant, an *Information* is sworn before a "justice" pursuant to section 504 of the *Criminal Code*. While this function is cus Court judges are statutorily recognized as *ex officio* justices. Therefore, an SCJ judge—even one principally presiding upon the family be informant's oath and authorize the warrant. Crucially, however, the mere swearing of the *Information* before an SCJ judge does not legally ‘ trial purposes. There exists no formal statutory requirement for a court-to-court transfer order. Once the SCJ judge executes the warrant transports that sworn *Information* and administratively files it with the OCJ clerk's office (the Intake Court). The onus of filing rests absolut

the docket for the accused's inaugural appearance. Because the matter never formally resided within the SCJ trial architecture, a transfer c
instrument sworn before a judicial officer acting solely in their limited capacity as a justice.

41. A highly critical, constitutionally fatal procedural defect materializes regarding the physical and digital alteration of the foundational *In*
subsequently and inexplicably replaced by an "Intake Court Endorsement" (colloquially termed a backing sheet), coupled with the artif
constitutes a profound irregularity. A rigorous legal distinction must be drawn between administrative endorsement pages and the subs
merely as an administrative ledger for clerks and justices to contemporaneously record remands, bail parameters, and Crown elections. C
document sworn under oath. If law enforcement physically or digitally excised the specific page containing the substantive counts that the
replaced or appended to it post-oath, the instrument is hopelessly compromised. A sworn *Information* cannot be materially altered, sup
pages following the administration of the oath. If amendments are necessitated prior to the first appearance, law enforcement is strictly
originally sworn before the SCJ judge diverge in any capacity from those subsequently filed within the OCJ, it is respectfully submitted th
actually sworn under oath, thereby generating a fatal jurisdictional flaw that entirely vitiates the court's authority over the document and the i
42. Regarding the temporal parameters for the transmission of the *Information*, the distinction between the swearing and the filing of the inst
October 2, 2024, and an inaugural appearance date of November 13, 2024, the legal sequence is strictly defined. To secure the initial a
pursuant to section 504 of the *Criminal Code* strictly prior to the October 2 execution. The subsequent physical or electronic transmis
administrative duty. The absolute, unyielding deadline for law enforcement to file the instrument with the OCJ registry is strictly prior to the c
appearance (November 13, 2024). Section 505 of the *Criminal Code* dictates that an *Information* must be laid "as soon as practicable" an
notice or undertaking." Because the instant *Information* was theoretically previously sworn to secure the warrant, the police possessed a c
to guarantee the physical paperwork was successfully deposited at the OCJ intake desk to populate the docket.
43. Applying the statutory mechanics of the *Criminal Code* and the rigid strictures of court administration to the specific factual matrix involvin
constitutional imperative of the court of record must be fiercely affirmed. As a tribunal of inherent jurisdiction, the Superior Court of Justice
and is ultimately responsible for maintaining the initial, signed arrest warrant. Should the *Form 2 Information* have been laid via telecomm
(Telewarrants), the physical instrument would not have been filed at the SCJ synchronously. The informant would swear the oath remotely, a
process. If, however, the police neglected to provide a draft *Form 7* (Arrest Warrant) *ab initio*, the administrative execution of the warra
University Avenue architecture, the first-floor administrative clerks execute these exact components. In such a scenario, a clerk of the cou
warrant on behalf of Justice Shore, subsequently transmitting an electronic copy to the Detective in Charge. Notwithstanding whe
telecommunication or in private chambers by Justice Shore, and despite the electronic transmission of a copy to law enforcement for exec
Justice) permanently retains the original. Because the SCJ is a constitutionally entrenched court of record and inherent jurisdiction, the o
electronic record—must immutably reside within the repository of the issuing court.

PART XXI(A): THE POTENTIAL COUNTER-ARGUMENT ON SECTION 599 WHEN AN A (AVOIDING THE REQUIREMENT OF AN APPLICATION BY THE CROWN OR ACCUSED THE RECORD) (RESULT REMAINS THE SAME)

44. The present issue concerns profound procedural irregularities and jurisdictional defects effectuated by law enforcement, which fundame
circumvention of established procedural mandates, coupled with the unauthorized substantive alteration of sworn testimonial instruments, n

POTENTIAL Inapplicability of Section 599 of the Criminal Code

45. The postulation that section 599 of the *Criminal Code*, RSC 1985, c C-46 (the "*Criminal Code*") governs the transmission of the charging
The statutory architecture of section 599 is strictly delineated to govern matters wherein an accused is, or may be, indicted before the Supe
46. Given the explicit prosecutorial election to proceed via summary conviction, the foundational statutory prerequisites of section 599 are de
said provision *ultra vires*. It may be advanced by the Crown, or queried by the Presiding Divisional Court President, that section 599 poss
administrative transfer of documents between judicial levels. However, such a proposition is fundamentally flawed and contrary to the ri
unambiguously functions as a specific change-of-venue mechanism reserved exclusively for jury trials traversing territorial divisions, and i
inter-jurisdictional transmission of an initial charging document.

The Jurisdictional Mechanics of Information Transmission

47. Pursuant to section 504 of the *Criminal Code*, the swearing of an information (the "**Information**") before a jurist of the Superior Court of Ju
does not *ipso facto* vest trial jurisdiction within the Superior Court of Justice.
48. The subsequent transmission of the Information to the Ontario Court of Justice is effectuated not by formal judicial decree or transfer orde
police duties. The law enforcement apparatus bears the unequivocal burden of physically or electronically remitting the sworn Informatio
formally instantiate the matter upon the judicial docket.

Material Alterations to Sworn Testimonial Instruments and Irremediable Nullities

49. The unilateral extraction and subsequent substitution of the third page of the Information by law enforcement—a document encompassing
the prosecutorial election—constitutes an **Irremediable Nullity**.
50. A sworn Information is a solemn testimonial instrument; any substantive post-oath modification administered by law enforcement w
foundational integrity of the document *in limine*, rendering it void *ab initio*. Opposing counsel may attempt to characterize this substitution a
curable under the curative provisions delineated within section 601 of the *Criminal Code*. Such a counter-argument must be unequivo
extinguishes the very existence of the oath, transforming the document into an unsworn nullity that cannot be retroactively cured by adminis
51. Consequently, any subsequent judicial appearance compelled by such a fatally defective instrument occurs strictly *Coram Non Judice*.

Statutory Timelines Governing the Transmission of the Information

52. The statutory exigencies delineated within section 505 of the *Criminal Code* mandate that an Information be laid as soon as practicable,
appearance.
53. Predicated upon the initial apprehension effectuated on October 2, 2024, the law enforcement authorities were imbued with an absolute te
ensure the physical or digital manifestation of the Information was successfully docketed at the Ontario Court of Justice. The deliberate ret
during the intervening weeks created an undocumented administrative chasm, thereby affording the authorities an illicit opportunity to saniti
54. **The Originating Court of Record and the Retention of the Arrest Warrant**
55. The Superior Court of Justice, operating as a constitutionally entrenched court of inherent jurisdiction and an official court of record, is legall
56. Whether the arrest warrant (the "**Arrest Warrant**") was authorized via telecommunication pursuant to section 508.1 of the *Criminal Co*
originating courthouse unequivocally retains the master record. The assertion advanced by court administration that the Superior Court
incongruous with the foundational legal doctrine of the Presumption of Regularity pertaining to judicial record-keeping.

57. The failure of the arresting officers to produce the properly executed Form 7 Arrest Warrant upon apprehension, relying instead upon a pr court endorsement (the "**Intake Court Endorsement**"), directly contravenes section 29 of the *Criminal Code*, which commands the physica

Procedural Irregularities, Forum Shopping, and Abuse of Process

58. The procurement of the Arrest Warrant from a jurist presiding within the family division of the Superior Court of Justice—rather than advanc scrutinized portals overseen by an experienced criminal Justice of the Peace at the Ontario Court of Justice—evinces a calculated circumv forum shopping.
59. By exploiting the geographical proximity of 52 Division to the courthouse situated at 361 University Avenue, Toronto, the law enforcement enumerated within the *Criminal Proceedings Rules for the Superior Court of Justice (Ontario)*, SI/2012-7 (the "*Rules*"). It is a well-estab incongruent with the requisite jurisdictional authority or established procedural mandates, the maxim *Factum A Judice, Quod Ad Officium Ju*
60. Furthermore, the alleged substitution of documentation featuring the unauthorized signature of an Ontario Court of Justice of the Peace c Such obfuscation destroys the *status quo ante*, thereby necessitating immediate judicial intervention by the reviewing court to declare th restore the integrity of the administration of justice. All applicable jurisprudence supporting this rigorous standard of documentary com Authorities at Tab 1 and Tab 2.

PART XII: FORMAL REQUISITION FOR IMMEDIATE PRODUCTION

44. Predicated upon the exhaustive factual, deeply forensic, and sweeping jurisprudential foundation rigorously delineated above, it is hereby digital artifacts, and metadata logs be produced to the undersigned with absolute, uncompromising immediacy within your custody and/or c Review Board (1999) (ONCA):

    a. The unadulterated judicial endorsements, specifically including the natively generated “Intake Court Endorsement” exactly a environment, prior to any external interception, export, or GrapeCity SDK manipulation;

    b. The original, mathematically verifiable *Criminal Code Form 2 Information* or *Criminal Code Form 4 Indictment*, complete w certifications originating from the moment of purported issuance;

    c. c. Any physical or digital arrest warrant, process issuance record, or *pre-enquête* material that historically preceded the u stitching process;

    d. All server-side execution logs, Active Directory authentication records, system routing documents, machine-readable recor utilized by the Originating Courthouse and secondary state actors to synthesize the False Information Package;

    e. All corresponding RCMP PPU 005 CPIC transactional audit logs detailing the specific User IDs, Terminal IDs, IP address modification, or maintenance of the contested warrant upon the national registry.

45. Compliance with this formal requisition is stringently demanded by the cessation of regular business hours on the exact date of this corre delayed, or otherwise circumvented through administrative inertia, a formal, written declaration of absolute denial is strictly required. declaration, the undersigned shall reasonably, logically, and irrevocably conclude that institutional, administrative, and adjudicative complic implicitly confirmed. Such confirmation thereby necessitates immediate, elevated appellate and constitutional interventions to safeguard th breach of the rule of law.
46. Kindly confirm or deny forthwith whether or not the SCJ 361 University Avenue (1st floor) had or has a copy of any endorsements involving Shore is the team leader of the family division of that courthouse, she can provide a simple “yes” or “no”. If no response is provided, I will pr
47. Since this matter involves not only the open court principle under our Charter, and the judiciary has custody and control of records, and Judicature Sections of the Constitution Act, 1867, it is a matter that is assigned by law to the judiciary and the staff must be directed by (apparently not something well known to the TPS with its Grape.City.PDF manipulation) to the Primus Inter Pares of the SCJ.
48. With all of these steps taken by Justice Shore involving my life, liberty and security, if she had no role in the same, she is entitled to den Registrar, Manager of Court of Operations, Superior and/or clerk of the court) However, before he does retire, there is much important wo and court clerks as required by our Constitution Of Canada including compliance with Constitution Act, 1867, and Constitution Act, 1982 and
49. Kindly inform me positively or negatively by the deadline tomorrow as I am entitled to the same forthwith but nonetheless I reserve all of my

Respectfully submitted,

/KAM

Mr. Kevin A. McLean (B.A., J.D., CIM)

Applicant / Accused

Toronto, Ontario

Tab 89

5476

M

Mr. Kevin McLean <mcleansettlement@gmail.com> Nov 17, 2025, 4:23 PM

to SCJ-CSJ, Milene, Connor, Heather, Div, Matthew, Jesse, Judie, Isibhakhomen, christiana.ortiz, NCQ-AQC.Toronto, AGC_PC

Procedural Nexus and Identification
Court File Number: DC-24-00000718-00JR
Nature of Instrument: Formal Electronic Communication Incorporating Substantial Documentary Enclosures and Assertions of Procedural Default
Short Title of Proceeding: *McLean v. TDHA et al*
Principal Litigant: The Applicant, Mr. Kevin A. McLean (B.A., J.D, CIM) (mcleansettlement@gmail.com)

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

As promised, my statutory declaration of November 14, 2025, served on Mr. Karat, Ms. Dunk and the Epstein Cole LLP Client. As noted, the statutory declaration, with the time stamping of the same for temporal precision, may be appended to an affidavit or affidavits for formality purposes but the substance and exact language and exhibits therein will obviously remain the same.

Due to its size, it has been served in double compressed form.

Thank you.

Yours faithfully,

/KAM

Mr. Kevin A. McLean (BA, JD, CIM)

Sender's name: Mr. Kevin Alexander McLean (BA, JD, CIM)
Sender's address: 410-775 King Street West, Toronto, Ontario, M5V 2K3
Sender's Telephone Number: (647) 370-9354
Sender's email address: mcleansettlement@gmail.com

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M

Mr. Kevin McLean <mcleansettlement@gmail.com> Nov 19, 2025, 4:11 PM

to SCJ-CSJ, Milene, Connor, Heather, Div, Matthew, Jesse, Judie, Isibhakhomen, christiana.ortiz, NCQ-AQC.Toronto, AGC_PC

5477

Court file number: DC-24-00000718-00JR
Type of document: Factum for NOM #3
Short title of proceeding: McLean v. TDHA et al
Party: Mr. Kevin A. McLean (B.A., J.D, CIM) (mcleansettlement@gmail.com)

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

As promised, please find Tab #1 (Factum For Motion in Writing) for NOM #3 for service upon the relevant persons. The remainder will be provided with the motion record which is Tabs #1 to #21 and enumerated consecutively. I provide this as a courtesy in light of the failure to file a First Defence by the Respondent Insurance Companies and LAT and to "deliver" Notices of Appearances.

As noted and discovered, all of the proven allegations and highly pointed special categories of nullities where the Divisional Court is implicated are unequivocally and absolutely directed at Madam Justice Shore herein.

Thank you.

Yours faithfully,

/KAM

Mr. Kevin A. McLean (BA, JD, CIM)

Sender's name: Mr. Kevin Alexander McLean (BA, JD, CIM)
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Mr. Kevin McLean <mcleansettlement@gmail.com> Nov 19, 2025, 4:48 PM

to SCJ-CSJ, Milene, Connor, Heather, Div, Matthew, Jesse, Judie, Isibhakhomen, christiana.ortiz, NCQ-AQC.Toronto, AGC_PG

Court file number: DC-24-00000718-00JR
Type of document: Applicant's NOM #3 Motion Record in multiple parts (Part 1 is attached)
Short title of proceeding: *McLean v. TDHA et al*
Party: Mr. Kevin A. McLean (B.A., J.D, CIM) (mcleansettlement@gmail.com)

TO: RESPONDENTS BUT WAY OF DECLARED BY EMAIL COUNSEL *(Including the Respondent Insurance Companies, the Executive Director of the Licence Appeal Tribunal (LAT), the Attorney General of Ontario (AGO), and the Associate General Counsel (AGC) or corresponding office)*

TO: THE REGISTRAR, ONTARIO SUPERIOR COURT OF JUSTICE (DIVISIONAL COURT)

SUBJECT: FORMAL SERVICE OF THE APPLICANT'S NOTICE OF MOTION NO. 3 (*NOM #3*) MOTION RECORD (Part 1 of 2)

I. INTRODUCTORY PROLEGOMENA AND TRANSMISSION OF ACTA

This formal, definitive, and profoundly weighty correspondence is hereby **dispatched** in rigorous and unwavering fulfillment of the antecedent **undertaking** to submit the Applicant's voluminous, complex, and dispositive **Notice of Motion No. 3 (*NOM #3*) Motion Record**. This compendium is inclusive of all supplementary documentary and exhaustive evidentiary materials which fundamentally and directly pertain to the above-referenced judicial review proceeding. The intrinsic **gravity** and the consequential implications of the *lis pendens*—a matter concerning the rightful adjudication of constitutional liberties within an administrative framework—necessitate this immediate filing to ensure that the matter proceeds with the requisite **celerity**, **procedural rectitude**, and an absolute fidelity to the principles of justice that underpin the *Courts of Justice Act*.

Enclosed herewith is the initial, but by no means exhaustive, instalment, which has been designated **Part 1**, comprising a consequential segment of the complete and comprehensive documentary **compendium**. This inaugural submission contains the systematically tabulated and consecutively enumerated materials, the entirety of which culminates with the requisite **Draft Order**, a pivotal jurisdictional document which is logically situated and clearly referenced at **Tab 21** of the overall record. This complete filing, spanning several thousands of pages of documentary evidence, constitutes an articulate, forceful, and irrefutable exposition of the compelling legal position necessitating the immediate and substantive intervention of this Honourable Superior Court to address the systemic failures that have precipitated this extraordinary recourse. The Applicant, in the exercise of his constitutional rights, presents this *acta* to delineate the failures of the administrative process below.

II. PROCEDURAL ELABORATION AND CURIAL AMENITY

It is a substantive matter of formal confirmation that the entirety of the electronically submitted record has been rendered in a state of reasonably precise and navigable **electronic bookmarking**, thereby efficaciously optimizing the preliminary organization for immediate comprehension. Nevertheless, and notwithstanding the execution of this initial, indispensable preparatory measure, the immense compilation shall imminently undergo further, comprehensive technical refinement. This subsequent, highly specialized refinement involves the rigorous implementation of internal **hyperlinking** and meticulous **cross-referencing** across the entirety of the record. The purpose is to ensure the utmost ease of navigation between the **Factum**, the evidentiary **Statutory Declaration (which can be reduced to an appended affidavit if necessary but provided for temporal purposes in such format due to the urgency and necessary, inter alia, return of property or confirmation of destruction by those who de facto and de jure stole from me tainting this proceeding)**, and the cited authorities.

This technically advanced undertaking is extended not merely as a superficial convenience, but as a deliberate and essential **curial amenity**, fundamentally designed to construct the most **expeditious** and intellectually **unencumbered intellectual pathway** for the Presiding Honourable Justice when engaging with the complex evidentiary matrix. This refinement is a critical mechanism to mitigate the logistical complexities arising from the record's **prodigious** magnitude, ensuring the Tribunal's constitutional overreach and the Respondents' deleterious conduct are immediately accessible for judicial scrutiny. Furthermore, by reason of the sheer volume of the documentary evidence and legal authorities amassed in support of the Applicant's articulated position, the complete *NOM #3* Motion Record is necessarily and pragmatically segregated into discrete electronic parts. This essential segmentation ensures seamless, secure, and efficient transmission to the Court and all interested respondents thereby deliberately obviating any potential for technological impediment or administrative confusion in processing the entirety of the voluminous *acta*.

III. SUBSTANTIVE PRÉCIS OF RELIEF SOUGHT

It is considered procedurally and substantively **imperative** that the Honourable Court, alongside all respondents (not technically "parties"), take explicit notice, **in limine**, of the profound substantive exigencies and **fundamental jurisdictional imperatives** motivating the *NOM #3*. The application predicates, with undeniable force, upon the manifest and inescapable necessity for the **Divisional Court** to exercise its superior, inherent jurisdiction to grant efficacious and essential remedies, the scope of which fundamentally and decisively **transcend** the statutory limitations and the restrictive, inherent authority of the **Licence Appeal Tribunal**. The underlying premise, which is capable of an **irrefutable extrapolation of legal principles**, is that the Tribunal, having acted arguably **ultra vires** its mandate in its disposition or, more precisely, its *failure* to properly address constitutional questions, has created a jurisdictional void and a constitutional lacuna that only the supervisory jurisdiction of this Court may fully and finally rectify.

The constellation of relief sought, as meticulously detailed within the **Factum of the Applicant**, is substantially and logically predicated upon two principal and non-severable components:

1. **Constitutional Determination and Procedural Due Process:** An unequivocal Order establishing that the determination of the requisite **Charter** relief shall proceed forthwith, either *via* detailed written argument or an expedited oral hearing, to be finally adjudicated and definitively rendered by the presiding Divisional Court Judge within a strictly defined, narrow temporal parameter, such as thirty (30) days from the date of the issuance of the Order. This immediate adjudication is not merely preferential but is rendered **indispensable** to rectifying the current **status quo ante**, which is undeniably and fundamentally compromised by reason of the protracted denial of the Applicant's constitutional entitlements pursuant to *section 7* and *section 15* of the *Canadian Charter of Rights and Freedoms*. The delay, *prima facie*, amounts to irreparable prejudice, thus demanding an immediate restoration of **procedural fairness** and the cessation of the constitutional stagnation currently afflicting the proceeding. The *mens rea*, or lack of due diligence, demonstrated by the systemic actors in permitting this situation to subsist, justifies this robust judicial intervention.
2. **Exemplary Costs and Judicial Rebuke:** An Order awarding **Full Indemnity Costs** against any and all Respondents who elect to oppose, or who demonstrate a failure to unequivocally consent to, the straightforward and self-evident remedial measures herein sought. This extraordinary entitlement is claimed, not capriciously, but on the compelling and judicially recognized basis of the demonstrated and **egregious** nature of the underlying systemic and procedural misconduct. Such malfeasance has rendered this judicial intervention an inescapable matter of absolute procedural and legal necessity, designed to prevent the perpetuation of injustice. The legal **syllogism** articulated within the Applicant's **Factum** posits that such indefensible conduct—conduct which suggests an intentional disregard for the Applicant's constitutional rights and the process of justice—is **ipso facto** sufficient to justify a punitive and corrective measure on the highest, **full indemnity** basis. This serves the dual purpose of compensating the Applicant for the unnecessary expenditure of resources and providing an appropriate **in terrorem** effect against those corporate entities and governmental offices that would otherwise countenance the continuance of the deleterious *acta* under judicial review.

IV. CONFIRMATION OF SERVICE

Confirmation is likewise unequivocally afforded that due and diligently attested service upon **all interested persons and counsel of record**, including the statutorily mandated service upon the respective Attorneys General owing to the constitutional nature of the claims advanced, shall be effectuated **forthwith**. This service will strictly adhere to the modalities prescribed by the *Rules of Civil Procedure*. Subsequent to the rigorous completion of the entirety of the multi-jurisdictional service process, a formal **Affidavit of Service**, meticulously documenting precise compliance with *Rule 16* and its associated strictures, shall be generated, commissioned, and filed with the Registry. This document will serve as the final and conclusive proof of service upon all necessary persons, thereby perfecting the procedural record for the Court's consideration.

I will continue all due diligence efforts to ensure that the open court principle and the truth seeking function of civil litigation is honoured. To the extent that I obtain further relevant evidence to the same, I will provide it as a courtesy.

Part 2 of 2 shall follow.

Kevin A. McLean (B.A., J.D., CIM)
Applicant, Self-Represented

Yours faithfully,

/KAM

Mr. Kevin A. McLean (BA, JD, CIM)

Sender's name: Mr. Kevin Alexander McLean (BA, JD, CIM)
Sender's address: 410-775 King Street West, Toronto, Ontario, M5V 2K3
Sender's Telephone Number: (647) 370-9354
Sender's email address: mcleansettlement@gmail.com

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Mr. Kevin McLean <mcleansettlement@gmail.com> Nov 19, 2025, 4:55 PM

to SCJ-CSJ, Milene, Connor, Heather, Div, Matthew, Jesse, Judie, Isibhakhomen, christiana.ortiz, NCQ-AQC.Toronto, AGC_PC

Court file number: DC-24-00000718-00JR
Type of document: Applicant's NOM #3 Motion Record in multiple parts (Part 2 is attached)
Short title of proceeding: McLean v. TDHA et al

Party: Mr. Kevin A. McLean (B.A., J.D., CIM) (mcleansettlement@gmail.com)

TO: RESPONDENTS BUT WAY OF DECLARED BY EMAIL COUNSEL (Including the Respondent Insurance Companies, the Executive Director of the Licence Appeal Tribunal (LAT), the Attorney General of Ontario (AGO), and the Associate General Counsel (AGC) or corresponding office)

AND TO: THE REGISTRAR, ONTARIO SUPERIOR COURT OF JUSTICE (DIVISIONAL COURT)

SUBJECT: FORMAL SERVICE OF THE APPLICANT'S NOTICE OF MOTION NO. 3 (NOM #3) MOTION RECORD (Part 2 of 2)

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

As promised, please find part 2 of 2 attached. As confirmed, I did receive notification that Case Center will be available by November 24, 2025, through the MyOntario account. Better late than never subject to it being accessible and not requiring the required invitation. Thank you.

Yours faithfully,

Mr. Kevin A. McLean (BA, JD, CIM)

Sender's name: Mr. Kevin Alexander McLean (BA, JD, CIM)
Sender's address: 410-775 King Street West, Toronto, Ontario, M5V 2K3
Sender's Telephone Number: (647) 370-9354
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Mr. Kevin McLean <mcleansettlement@gmail.com> Nov 21, 2025, 3:11 PM

to SCJ-CSJ, Milene, Connor, Heather, Div, Matthew, Jesse, Judie, Isibhakhomen, christiana.ortiz, NCQ-AQC.Toronto, AGC_PC

Classification: Private and Confidential
Sending method: Via Electronic Transmission
Creation method: Dictated with Voice Recognition Software (reservation of rights to correct any grammar, syntax, important qualifiers or improper double negatives)

Date: November 21, 2025

Court File No: DC-24-00000718-00JR

Short Title of Proceeding: McLean v. TDHA et al (the "Within Proceeding")

Party: Mr. Kevin A. McLean (B.A., J.D, CIM) (the "Applicant")

Applicant's Email: mcleansettlement@gmail.com

SUBJECT I: PROVISION OF THE UN-NOTARIZED OR UN-COMMISSIONED AFFIDAVIT OF SERVICE, MULTI-PURPOSED (AFFIDAVIT #28) IN THE WITHIN PROCEEDING
SUBJECT II: AMPLIFICATION OF THE EXIGENT CIRCUMSTANCES NECESSITATING IMMEDIATE CONSIDERATION OF THE APPLICANT'S NOTICE OF MOTION (NOM #3) DUE TO FURTHER ACTS OF FRAUD AND MALFEASANCE CONCERNING PERSONAL PROPERTY AND INFORMATION

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

I. Introduction, Preliminary Adoptions, and Procedural *Ratio*

I cordially write regarding the above **Subjects** of this correspondence. I thank the Recipients in advance for the time and consideration they dedicate to this correspondence and its attachments, which are incorporated herein by reference and/or inclusion. It is fully appreciated that the **Recipients** operate with finite, yet profoundly valuable, professional and institutional resources, which is precisely why the Applicant has undertaken immense and fastidious effort to research the salient legal issues herein and apply them comprehensively to the extant factual matrix. This detailed approach is not merely an exercise in rhetorical flourish but an attempt to mitigate any potential confusion, ambiguity, or procedural *locus standi* challenge that might otherwise burden the judicial process and the **Recipients'** professional obligations. The central procedural *ratio* of this document is the demonstration of both diligent compliance, through the provision of the **Affidavit**, and the immediate, escalating need for judicial protection against the egregious **acta** being perpetrated. This dual emphasis serves to underscore the Applicant's good faith while simultaneously placing the onus of responsibility for the ongoing crisis upon the opposing parties and the relevant judicial administration.

The Applicant adopts all definitions and conventions from previously, indirectly or directly, cited correspondence and all documentation contained within the index to the Applicant's NOM #3 motion record (the "Motion Record"). Specifically, the Applicant provides the following definitions for the purposes of precise legal articulation and consistent terminology throughout the **Within Proceeding**:

i. Affidavit of Service (the "Affidavit");
ii. Notice of Motion (the "NOM");
iii. Toronto-Dominion Insurance Group of Automotive Insurance Companies (the "TDI");
iv. Further acts of fraud involving my stolen property (the "TDI Karat Theft of this week");
v. Rules of Civil Procedure (the "Rules");
vi. Courts of Justice Act (the "Act");
vii. McLean v. TDHA et al (the "Within Proceeding");
viii. Privacy legislation, including but not limited to the Personal Information Protection and Electronic Documents Act (the "PIPEDA"), and all analogous provincial statutes (the "Privacy Regime");
ix. The agent of the Respondent Insurance Companies, as he once was by LSO Directory, engaged in fraudulent impersonation (the "Epstein Cole LLP Client").

II. Substantive Provision of Documentation and Evidentiary Efficacy: The *Nunc Pro Tunc* Principle

This correspondence serves as the formal transmittal mechanism for the un-notarized or un-commissioned **Affidavit** (Affidavit #28) pertaining to the service of documentation in the **Within Proceeding**. The **Affidavit** is appended hereto and its contents are incorporated *in extenso* as if fully restated herein, thereby establishing a formal nexus between the act of service and the judicial record. The provision of this documentation, although presently un-commissioned, does not diminish its inherent factual veracity, which is sworn to by the Applicant. It is a demonstrable commitment to transparency and timely disclosure, reserving the right to file the formally commissioned document *nunc pro tunc*—literally, "now for then"—a judicial doctrine utilized to remedy procedural omissions where the delay is minimal and does not prejudice the opposing parties (of which there are none). The service of this un-commissioned instrument immediately achieves the substantial compliance required for procedural advancement.

The submission of this **Affidavit**, notwithstanding its temporary un-commissioned status, is effectuated for multi-purposed utility, primarily to establish *prima facie* evidence of service as required by the **Rules**, specifically *Rule 16*, and to delineate the immutable chronological progression of the **Within Proceeding**. This preemptive submission is critical; it ensures that the evidentiary foundation for the subsequent procedural steps, including the hearing of the **NOM #3**, is robustly established and available for the **Recipients'** immediate perusal and instruction.

Furthermore, it pre-emptively addresses and vitiates any potential procedural challenges regarding timely notification of all interested parties, thereby eliminating opportunities for delay based on technical non-compliance which could, in turn, frustrate the ends of justice and exacerbate the Applicant's ongoing prejudice. The Applicant operates on the principle of *uberrima fides* (utmost good faith), providing evidence even if a formal technicality is pending, to accelerate the judicial process. This transparent disclosure of the completed service *acta* mandates that the **Recipients** cannot plead lack of notice or surprise regarding the impending filing of the **Motion Record** or the substantive arguments contained within the **NOM #3**.

III. Exigent Circumstances and the *Necessitas* for NOM #3: The Constitutional Dimension of Harm and Suspicion

The provision of the aforementioned **Affidavit** is rendered all the more exigent and pressing in consequence of the egregious and subsequent **TDI Karat Theft of this week**. This new and reprehensible sequence of events involves further unauthorized access, manipulation, and deprivation concerning the Applicant's personal information (the "Personal Information"), confidential information, personal health information, and sensitive personal information. The continuity of such calculated deprivation and unauthorized access necessitates an immediate judicial response, confirming that the issues at the heart of the litigation are dynamically deteriorating and that the **Respondents** (or their affiliates) continue to exert an unauthorized dominion over the Applicant's private sphere. This phenomenon signifies a distinct escalation in the perceived risk to the Applicant's safety and proprietary interests, moving beyond mere financial damages to encompassing fundamental liberty and privacy concerns enshrined within Canadian jurisprudence and quasi-constitutional documents.

The judiciary's authority must be exercised *in the affirmative* to arrest this negative trajectory and re-establish the lawful *status quo ante*.
Such unauthorized **acta** directly and severely contravene the fundamental tenets of privacy legislation, including the **PIPEDA** and the broader **Privacy Regime**, and the Applicant's *status quo ante* rights concerning the inviolability of private dominion. The persistence of these unlawful activities, purportedly perpetrated *ipso facto* against the Applicant, incontrovertibly furnishes additional, compelling evidence that the underlying issues giving rise to the **Within Proceeding** are not merely historical infractions, susceptible to remedial measures over an extended timeline, but represent an ongoing and deleterious campaign of **malfeasance**.
Crucially, while the Applicant maintains a rigorous *decorum* and refrains from unsupported conjecture concerning the precise orchestrators of the current *acta*, the timing of this new deprivation is deemed most suspicious. The only established and known facts are: (1) the identity of the initial *de facto* thief, (2) his unequivocal agency tie to the Respondent Insurance Companies (the **TDI** entities), and (3) the subsequent, clear instance of impersonation executed by the **Epstein Cole LLP Client**. These facts construct a compelling circumstantial narrative that necessitates urgent investigation and judicial constraint. This ongoing pattern of conduct exponentially amplifies the irreparable harm that the Applicant continues to suffer, moving the matter from one of ordinary dispute resolution to one demanding extraordinary interim and injunctive relief to prevent the complete erosion of proprietary control over personal data. The very integrity of the judicial process is arguably implicated when parties demonstrate such a patent disregard for proprietary and informational boundaries during the pendency of active litigation, manifesting a brazen attempt to circumvent or undermine the authority of the Court. The Applicant posits that this conduct exhibits a sophisticated **extrapolation** of prior, lesser infractions into a concerted, high-gravity **acta** demanding judicial scrutiny *sine mora* (without delay).

IV. Obligation of Mitigation and Procedural Finality: The Equitable Duty

To the extent that any **Respondents** or their duly authorized agents possess knowledge of this unconscionable conduct and are vested with the ability, power, or operational control to interdict or cease the same, it is requested with the utmost seriousness that **active and immediate steps** be taken to mitigate the ongoing harm. This **active duty of mitigation** is a foundational principle of equity and civil responsibility, extending beyond passive cessation to requiring affirmative measures to claw back or neutralize the unlawful informational control. Any willful omission to act in the face of known, ongoing breaches, particularly where such breaches involve sensitive information protected by the **Privacy Regime**, shall be considered a compounding factor, evidencing a corporate or institutional **mens rea** in the Applicant's pursuit of aggravated and punitive remedies. The **Recipients** are hereby put on formal notice of this escalating exposure to adverse findings predicated upon the doctrine of *respondeat superior* (let the master answer).
Furthermore, the Applicant affirms the procedural finality regarding the evidentiary status of the service: This **Affidavit** of Service, to be commissioned shortly and without delay, will be formally and irrevocably included under the remaining tab of the **Motion Record**, subsequent to which the entirety of the **Motion Record** will be filed with the Court as such. The function of this filing is to ensure comprehensive documentary submission well in advance of the judicial hearing date. A complete and comprehensive copy of the same, including the duly commissioned **Affidavit**, will be served concurrently upon the Non-Respondents who have already been served with prior documentation in the **Within Proceeding**, thereby satisfying the procedural imperative of complete documentary dissemination to all interested parties. This meticulous approach ensures that all parties, whether designated as Respondents or Non-Respondents, possess the full evidentiary context required to prepare for the substantive hearing of the **NOM #3**.

V. Legal Syllogism and Conclusion: The Mandate of Judicial *Alacrity*

It is a core **syllogism** that judicial intervention becomes an absolute *necessitas* when non-judicial entities engage in a continuous course of action that is *ultra vires* their lawful mandate and which manifests an inherent **mens rea**—a guilty or deliberate mind—to disregard the Applicant's entrenched justiciable rights. The deliberate and repeated nature of the alleged infractions, extending into the current week, provides a strong **extrapolation** that the Respondents' activities are calculated, volitional, and systematic, rather than merely negligent or accidental administrative failures. This *animus* necessitates a judicial remedy of a protective and pre-emptive nature, rather than a mere compensatory one, to prevent further proliferation of the alleged harm. The Court is therefore urged to consider the protective dimensions of the relief sought in **NOM #3** as being paramount to the curative, emphasizing the doctrine of irreversible judicial protection.

The factual extrapolations flowing from the **TDI Karat Theft of this week** demonstrate that the core relief sought by the **NOM #3**—which fundamentally concerns the preservation of rights, the cessation of unlawful processes, and the maintenance of evidentiary purity—is not merely desirable, but is now a matter of acute and immediate judicial necessity. The current situation demands an adjudication *ex parte* if the initial circumstances warrant such protective measures, followed by *inter partes* proceedings at the earliest judicial opportunity, lest the **Respondents** benefit from the temporal delay inherent in standard scheduling and thereby consummate their alleged unlawful objectives, rendering the Court's future orders irrelevant.

As this NOM #3 was made this week on Monday, the timing of the fraudulent conduct on Tuesday, November 18, 2025, is a pattern as the service of the Motion Record was thereafter.

The further investigations currently underway concerning the **TDI Karat Theft of this week** shall, without a scintilla of doubt, serve only to buttress the Applicant's assertions of systemic and ongoing breach, providing granular evidentiary detail to the Court. Consequently, the **NOM #3** must be prioritized on the judicial docket to address these accumulating and compounding harms *in limine* (at the threshold). The failure to expeditiously address the substantive legal issues and the underlying causative mechanisms that permit such ongoing breaches risks the judicial validation of an unlawful *status quo* and potentially renders the ultimate judgment nugatory—a hollow victory devoid of practical effect that severely undermines the purpose of the *Act*. This would constitute a profound miscarriage of justice that the Applicant seeks strenuously to avoid through this detailed and urgent correspondence.
The conclusions drawn herein are thus rendered self-evident: the necessity of the **NOM #3** has been logarithmically elevated by the **Respondents'** latest purported **acta**, placing a definitive and urgent onus upon the **Recipients** to acknowledge the amplified gravity and inherent procedural complexity of the **Within Proceeding**. The immediate scheduling and contemplation of the relief sought are prerequisites for restoring the equitable balance between the litigating parties and ensuring that justice is not merely promised, but substantively delivered with *alacrity* and finality.

Yours most appreciatively and gratefully,

/s/Mr. Kevin A. McLean (BA, JD, CIM)

Mr. Kevin A. McLean (B.A., J.D, CIM) (he/him)

Yours faithfully,

/KAM

Mr. Kevin A. McLean (BA, JD, CIM)

Sender's name: Mr. Kevin Alexander McLean (BA, JD, CIM)
Sender's address: 410-775 King Street West, Toronto, Ontario, M5V 2K3
Sender's Telephone Number: (647) 370-9354
Sender's email address: mcleansettlement@gmail.com

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M

Mr. Kevin McLean <mcleansettlement@gmail.com> Nov 21, 2025, 4:04 PM

to SCJ-CSJ, Milene, Connor, Heather, Div, Matthew, Jesse, Judie, Isibhakhomen, christiana.ortiz, NCQ-AQC.Toronto, AGC_PC

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

As promised, please find attached the notarized Affidavit of Service which has also been tabulated into Tab 22 with page numbers 3099 to 3150.

I will attend to the filing of the entire motion record, as is, in such form with the index at the outset and in the same exact form as previously. Due to the previous size, you can add Tab 22 to the previous Motion Record.

Thank you.

Yours faithfully,

/KAM

Mr. Kevin A. McLean (BA, JD, CIM)

Sender's name: Mr. Kevin Alexander McLean (BA, JD, CIM)
Sender's address: 410-775 King Street West, Toronto, Ontario, M5V 2K3
Sender's Telephone Number: (647) 370-9354
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M

Mr. Kevin McLean <mcleansettlement@gmail.com> Nov 21, 2025, 5:04 PM

to SCJ-CSJ, Milene, Connor, Heather, Div, Matthew, Jesse, Judie, Isibhakhomen, christiana.ortiz, NCQ-AQC.Toronto, AGC_PC

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

For good measure and in the spirit of courtesy, please find attached the updated and current motion record with Tabs 1 to 22 (Part 1 of 2) with consecutively numbered pages. Part 2 of 2 will follow. Copies are being served on the Non-Respondents. Thank you.

Yours faithfully,

/KAM

Mr. Kevin A. McLean (BA, JD, CIM)

Sender's name: Mr. Kevin Alexander McLean (BA, JD, CIM)
Sender's address: 410-775 King Street West, Toronto, Ontario, M5V 2K3
Sender's Telephone Number: (647) 370-9354
Sender's email address: mcleansettlement@gmail.com

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Mr. Kevin McLean <mcleansettlement@gmail.com> Nov 21, 2025, 5:07 PM

to SCJ-CSJ, Milene, Connor, Heather, Div, Matthew, Jesse, Judie, Isibhakhomen, christiana.ortiz, NCQ-AQC.Toronto, AGC_PC

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

Please find Part 2 of 2 attached. Thank you.

Yours faithfully,

/KAM

Mr. Kevin A. McLean (BA, JD, CIM)

Sender's name: Mr. Kevin Alexander McLean (BA, JD, CIM)
Sender's address: 410-775 King Street West, Toronto, Ontario, M5V 2K3
Sender's Telephone Number: (647) 370-9354
Sender's email address: mcleansettlement@gmail.com

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M

Mr. Kevin McLean <mcleansettlement@gmail.com> Nov 24, 2025, 4:05 PM

to SCJ-CSJ, Milene, Connor, Heather, Div, Matthew, Jesse, Judie, Isibhakhomen, christiana.ortiz, NCQ-AQC.Toronto, AGC_PC

24th day of November 2025

VIA ELECTRONIC MAIL

URGENT COMMUNICATION AND SERVICE OF ENCLOSURES

Court File Number: DC-24-00000718-00JR

Style of Proceeding: *McLean v. TDHA et al.*

Document Description: Notice of Motion No. 3 Motion Record with Hyperlinking and Bookmarking

Party: Mr. Kevin A. McLean (B.A., J.D., CIM) (mcleansettlement@gmail.com)

TO: The Respondent Insurance Entities (TD Home and Auto Insurance Company, Security National Insurance Company, TD General Insurance Company) The Licence Appeal Tribunal (LAT) The Attorney General of Ontario (AGO)

COPIED TO: The Divisional Court The Attorney General of Canada (AGC)

SUBJECT: ENCLOSURE OF THE COMPREHENSIVE NOTICE OF MOTION NO. 3 MOTION RECORD, INCORPORATING METICULOUS HYPERLINKING AND BOOKMARKING ACROSS THE ENTIRETY OF THE TABLE OF CONTENTS AND TABS 1 THROUGH 22, WITH PARTICULAR EMPHASIS UPON THE FACTUM, THEREBY FACILITATING JUDICIAL REVIEW AND EXPEDITING THE DETERMINATION OF SUBSTANTIVE MATTERS.

I. INTRODUCTION AND CONVEYANCE OF MATERIAL

The present correspondence functions as the formal instrument effecting the transmission of the **Notice of Motion No. 3 Motion Record** of the Applicant, Mr. Kevin A. McLean. This extensive evidentiary and argumentative repository has been prepared with scrupulous, even obsessive, attention to detail, manifesting as an exceptionally robust system of hyperlinking and bookmarking meticulously integrated within the electronic document's architecture. This intricate framework specifically traverses the entirety of the **Table of Contents** and the sequential contents housed within **Tabs 1 to 22**. Particular diligence has been exercised in ensuring that the **Factum** contained therein—the central legal submission of the Applicant—is comprehensively and recurrently cross-referenced with maximum precision to the evidentiary material, thereby establishing a foundation of undeniable factual nexus between the legal submissions and the primary evidentiary foundation.

The preparation of this record embodies a paramount commitment to the principles of **judicial economy** and **procedural transparency**, which are recognized as foundational pillars of the Canadian justice system. The exhaustive hyperlinking and bookmarking are not merely superficial aesthetic enhancements, but rather a sophisticated, functional mechanism devised to afford this Honourable Court immediate, seamless, and unerringly precise navigability through the voluminous documentation. The meticulous cross-referencing establishes an unimpeachable factual nexus, thereby minimizing the judicial expenditure of time requisite for the laborious, meticulous verification of every single citation and evidentiary reference. This proactive adherence to the highest echelon of best practices in digital litigation manifests the Applicant's profound respect for the scarce resources of the court system and the imperative for an expeditious, reasoned, and procedurally unimpeachable determination. The conveyance of these electronic copies, executed as a profound gesture of *bona fides* and professional obligation, underscores the gravity attributed to the unimpeded and accurate apprehension of the material facts and the complex legal propositions proffered. The comprehensive, self-contained nature of this document is ultimately intended to facilitate the Court’s judicious review and to ensure the most efficient possible disposition of this judicial review proceeding, precluding any plausible argument of procedural deficiency or informational opacity.

II. OBSERVATIONS ON THE OCCP PORTAL AND FILING REQUIREMENTS

It is noted that the Case Centre functionality within the MyOntario portal has been duly activated *in relation to* the Ontario Civil Claims Portal (OCCP), signifying a pivotal and necessary evolution in the digitalization of the Ontario superior courts. This transition requires a corresponding elevation in the technical proficiency of all litigants. Consequent upon this institutional transition, necessary steps shall be undertaken forthwith to achieve complete and proficient familiarization with the intricate procedural and operational dictates of the said portal, ensuring a complete and *in limine* comprehension of all associated technical specifications, security protocols, and upload idiosyncrasies. This is to ensure strict and unimpeachable compliance with all relevant *Rules of Civil Procedure*, attendant practice directions, and specialized electronic filing requirements recently promulgated by the Chief Justice.

Furthermore, profound recognition is accorded to the stringent temporal mandate governing the uploading of all exhibits, evidence, and authorities intended for reliance during the scheduled forthcoming written hearing. The temporal exigency—an acute and pressing demand—requires that this complete, compiled upload must be consummated approximately three (3) clear, full days prior to the established date of the hearing, specifically by the two o'clock post-meridiem (2:00 p.m.) deadline. This procedural deadline is understood not as a flexible suggestion or an administrative guideline, but as an unforgiving, absolute threshold. Failure to comply with this electronic filing requirement shall *ipso facto* jeopardize the admissibility and, consequently, the judicial consideration of the requisite documentation, thereby incurring the non-negligible risk of procedural forfeiture and severely compromising the Applicant's substantive rights to due process. Strict, absolute, and demonstrable adherence to this technological and chronological imperative is therefore guaranteed by the Applicant, ensuring no procedural deficiency shall be imputed to this moving party.

III. JURISPRUDENTIAL CONTEXT AND PROCEDURAL IMPERATIVE

A fundamental jurisprudential principle dictates that a party alleging *mala fides* or fraud must prosecute its claim within the procedural ambit of the specific proceeding where the alleged fraudulent conduct originated or where the resultant administrative decision was rendered. The jurisprudential foundation for the selection of this forum—the Divisional Court via a **JRPA Application**—rests upon the established doctrine of **procedural propriety**, which rigorously constrains attempts at a collateral attack upon prior judgments or administrative determinations. This principle ensures the orderly administration of justice by preventing multiple proceedings challenging the same root issues.

Notwithstanding the potential for a more financially *lucrative* quantum of damages potentially obtainable through a direct petition sounding in the egregious elements of fraud—a course analogous to the specialized fraud litigation procedural mechanisms extant in the Province of British Columbia—the immutable dictate of Ontario procedural law prevails. This jurisdiction mandates that any challenge predicated upon allegations of *mala fides*, systemic irregularity, or *ultra vires* conduct (action taken without legal authority), particularly those possessing the highly prejudicial hallmarks of a fundamental vitiation of process (akin to the requisite standard for *mens rea* in a criminal context, applied here analogously to corporate or administrative intent), must be formally and singularly adjudicated within the original proceeding or via the prescribed mechanisms of judicial oversight, such as judicial review. Therefore, the prevailing Ontario procedure dictates that the instant **JRPA Application** is confirmed, *a fortiori*, as the procedurally correct, statutorily sanctioned, and unavoidable legal container within which the documentation requisite to expose and remedy the alleged *ultra vires* conduct and subsequent fraud must be definitively filed, addressed, and resolved by the superior courts of jurisdiction. The utilization of this JRPA, therefore, constitutes a meticulous adherence to the established *lex fori* (law of the forum).

IV. IMPLICATIONS OF NON-FILING OF NOTICES OF APPEARANCE

It is again formally underscored, for the benefit of the Respondent parties and the judicial record, that the Respondent Insurance Companies and the Licence Appeal Tribunal (LAT) have not yet duly filed and delivered their respective Notices of Appearance in this proceeding. The current procedural posture of these entities is consequently drawn into sharp and unambiguous relief by their sustained omission to comply with the mandated initial filing requirements, as set out in the relevant *Rules*. This sustained absence constitutes a definitive procedural bar, which may preclude their subsequent participation in the substantive hearing of this matter, unless cured by extraordinary judicial dispensation.

Should these parties subsequently determine that a participatory role is desired, or should they seek to make submissions concerning the Applicant's motion, it shall become incumbent upon them to seek formal leave to appear by way of a substantive, documented motion to the Divisional Court. The grant of such extraordinary relief is profoundly discretionary and is strictly predicated upon a demonstration of compelling merit, the absence of any demonstrable prejudice to the Applicant, and the provision of a satisfactory, exhaustive, and credible explanation for the antecedent failure to adhere to the established filing deadlines. This strict procedural *sine qua non* is essential for the preservation of the integrity and predictability of the litigation schedule and ensures that the *status quo ante*—the legal position of non-participation and the attendant consequence of limited rights—is not unilaterally disturbed without judicial oversight. The Court's supervisory function is robustly invoked to ensure that such procedural omissions are addressed rigorously and formally, thereby maintaining the fairness and predictability essential to the just administration of justice.

V. RESERVATION OF RIGHTS AND CONCLUSION

The Applicant hereby expressly reserves all rights to rely upon this specific correspondence, as an unequivocal statement of procedural position and intent, for any and all lawful purposes throughout the remaining tenure of this litigation and any derivative proceedings, including its potential tender as evidence of procedural notification.

As previously articulated, and out of an abundance of caution, **Part 1** and **Part 2** of the meticulously hyperlinked and bookmarked Motion Record shall follow this transmittal as a separate electronic delivery. This division of files is a technical necessity owing to the maximum size constraints imposed by email servers for single attachments.

Sincere appreciation is hereby extended for the professional consideration and immediate attention afforded to this critical material, the prompt review of which is essential to the timely advancement of this judicial review and unravelling the errors that have spawned from Shore J.

I reserve the right to rely on this correspondence for any lawful purpose including the making of the NOM #3 one week ago along with meticulous courtesy notice and service of all documents.

Sincerely,

/s/ Mr. Kevin A. McLean (B.A., J.D., CIM)

Mr. Kevin A. McLean (B.A., J.D., CIM) (mcleansettlement@gmail.com)

Yours faithfully,

/KAM

Sender's name: Mr. Kevin Alexander McLean (BA, JD, CIM)
Sender's address: 410-775 King Street West, Toronto, Ontario, M5V 2K3
Sender's Telephone Number: (647) 370-9354
Sender's email address: mcleansettlement@gmail.com

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Mr. Kevin McLean <mcleansettlement@gmail.com> Nov 24, 2025, 4:33 PM

to SCJ-CSJ, Milene, Connor, Heather, Div, Matthew, Jesse, Judie, Isibhakhomen, christiana.ortiz, NCQ-AQC.Toronto, AGC_PG

DATE: November 24, 2025
MODE OF TRANSMISSION: VIA EMAIL
PRIORITY CLASSIFICATION: URGENT
JUDICIAL PARTICULARS

Court File Number:	**DC-24-00000718-00JR**
Document Type:	NOM #3 - part 1 of 2
Short Title of Proceeding:	McLean v. TDHA et al
Filing Party:	Mr. Kevin A. McLean (B.A., J.D., CIM) (mcleansettlement@gmail.com)

SUBJECT: Enclosure of the NOM #3 Motion Record with Extensive and Meticulous Hyperlinking and Bookmarking within the Table of Contents, Tabs 1 to 22, with Emphasis Involving the Factum
Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

I. TRANSMITTAL OF INAUGURAL COMPONENT SUBMISSION AND EVIDENTIARY AUTHENTICATION

As has been previously and unequivocally undertaken by the undersigned, the instant communication constitutes the formal transmittal of the inaugural component (Part I of II) of the overarching legal submission that will ultimately define the parameters of this proceeding. It is herein confirmed that the appended Factum, which serves as the principal argumentative instrument, has been rendered with a degree of **meticulousness** that warrants specific judicial consideration and mention, thereby facilitating the subsequent adjudication. The instrument incorporates a comprehensive system of internal hyper-citations that correspond precisely and seamlessly to the requisite Tabs and page enumerations of the voluminous and **compendious evidentiary record**. This sophisticated referencing structure is deliberately employed to ensure the preservation of analytical continuity and to expedite the comprehension of the judicial officer. Furthermore, external linkages have been duly embedded within the textual fabric of the Factum, constituting the authoritative and **jurisprudential bases** for every material legal assertion contained within the instrument. This integration ensures that the submitted materials are not merely assertions *in vacuo*, but are robustly grounded in the prevailing *corpus juris* and **relevant statutory enactments**. The submission, by virtue of this intricate compilation and cross-referencing, renders the critical issues immediately and incontrovertibly justiciable, compelling the necessary judicial attention to the merits of the proposition advanced.

FORMAL ATTESTATION OF SERVICE, DEEMED ACCEPTANCE, AND PROCEDURAL ACQUIESCENCE

It is hereby formally and with requisite solemnity attested, as of the current date of execution of this document, that the process of service has been duly and properly effected upon all designated **persons or entities**, strictly pursuant to the procedural mandates stipulated in the *Rules of Civil Procedure* and/or any ancillary *Rules of Practice* governing these proceedings. In furtherance of the **paramount principle** of full and candid disclosure to the Court, it is confirmed that a multiplicity of various recipients have provided an **acknowledgment of receipt**, primarily, though not exclusively, in the form of automated electronic replies, which nevertheless fulfill the threshold requirement for proof of delivery.

Crucially, a material assertion, with profound procedural implications, is advanced: None of the designated Non-Respondents, within the established style of cause, have registered any formal **controversy**, objection, or substantive dispute regarding the facts, assertions, or evidentiary material proffered for the Court's contemplation. This deliberate, calculated absence of opposition or formal rebuttal, **ipso facto**, gives immediate rise to the necessary **prima facie** presumption of an implicit and legally binding acceptance of both the efficacy of the service process and the underlying substantive accuracy of the materials transmitted. This non-action is not construed as mere passivity, but rather as an affirmative procedural acquiescence, which compels the **deduction** that all served instruments are deemed procedurally sound and materially accurate, thereby constituting a fundamental and irrevocable procedural waiver of the right to contest the initial introduction of these materials **in limine**.

III. SYLLOGISTIC EXTRAPOLATION ON JUDICIAL SERVICE AND DOCTRINE OF AGENCY

Of **paramount significance** is the formal attestation regarding the demonstrable efficacy of service upon the Honourable Madam Justice Shore, the judicial officer seized of this matter. It is herein confirmed that Mr. Sinnadurai, Esquire, a barrister and solicitor, and his professional assistant, Ms. Kwok—with whom a professional acquaintance has been established since the summer of MMXXV and subsequently—have not, at any juncture, registered any dispute concerning the propriety or the legal sufficiency of service effected upon Her Ladyship through their office. This service, it is **syllogistically** and logically posited, is validated by the undeniable professional retention of Mr. Sinnadurai as retained counsel to Her Ladyship in the context of this specific file and/or the related proceedings.

The established doctrine of agency dictates that service upon retained counsel constitutes effective service upon the client, and in this judicial context, this principle stands unassailable. Therefore, the antecedent delivery of duplicative documents to the respective Managers of Court Operations for the Divisional Court and the Superior Court of Justice (SCJ) at 361 University Avenue—which constitutes the non-Divisional Court location of the Honourable Madam Justice Shore's chambers—is, by this confirmation of counsel’s authority, deemed an **ultra vires** and superfluous administrative act. The independent undertaking of such delivery would be entirely lacking the necessary legal **actus** or practical utility, as the matter of notification and receipt has been definitively concluded through counsel. The **status quo ante**—the state of procedural sufficiency—is thereby maintained solely by this singular, effective, and procedurally compliant service upon Her Ladyship's authorized representative.

IV. CONCLUSION AND COMPULSORY PRESUMPTION OF NON-OPPOSITION

In the eventuality that no substantive motions—including, but not limited to, applications for directions, motions to strike, or any request for interim or interlocutory relief that might impede the scheduled progression of this matter—are duly filed by either the Respondent Insurance Companies and/or the Licence Appeal Tribunal (LAT) within the **requisite temporal framework** established under the *Rules* for the proper service and subsequent commencement of such applications, then the undersigned shall, in application of established and compelling legal principles, invoke the formidable presumption of non-opposition with respect to Notice of Motion No. 3 (**NOM #3**). This presumption is not merely ceremonial; it constitutes a definitive legal entitlement, thereby rendering **NOM #3** uncontested and ripe for immediate disposition by the Court based exclusively upon the submitted materials.

A certified true copy of the within Transmittal and formal Attestation shall be **forthwith** remitted to all designated **persons or entities** as Non-Respondents. This serves as supplemental evidence of service and

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provides the **requisite** and explicit notification of the procedural consequence—the inevitable invocation of the foregoing presumptions—ensuring that no subsequent objection pertaining to lack of notification may be entertained **in limine** by the Court.

Respectfully Submitted,
Mr. Kevin A. McLean (B.A., J.D., CIM)

Yours faithfully,

/KAM

Mr. Kevin A. McLean (BA, JD, CIM)

Sender's name: Mr. Kevin Alexander McLean (BA, JD, CIM)
Sender's address: 410-775 King Street West, Toronto, Ontario, M5V 2K3
Sender's Telephone Number: (647) 370-9354
Sender's email address: mcleansettlement@gmail.com

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Mr. Kevin McLean <mcleansettlement@gmail.com> Nov 24, 2025, 6:18 PM
to SCJ-CSJ, Milene, Connor, Heather, Div, Matthew, Jesse, Judie, Isibhakhomen, christiana.ortiz, NCQ-AQC.Toronto, AGC_PC

Any reference to party or parties does not refer to the Respondents in the style of cause.
PRIVATE AND CONFIDENTIAL
Via Electronic Transmission
DATE: November 24, 2025

VIA EMAIL

URGENT

Court file number: DC-24-00000718-00JR
Type of document: NOM #3 Motion Record with meticulous hyperlinking and bookmarking
Short title of proceeding: *McLean v. TDHA et al*
Party: Mr. Kevin A. McLean (B.A., J.D, CIM) (mcleansettlement@gmail.com)

TO:

Respondent Insurance Companies
Licence Appeal Tribunal (LAT)
Attorney General of Ontario (AGO)

COPIED TO:

SUBJECT I: PART 2 OF 2 OF THE HYPERLINKED AND BOOKMARKED MOTION RECORD FOR APPLICANT'S NOM #2

SUBJECT II: ENCLOSURE OF THE IN FORCE DIVISIONAL COURT JRPA GUIDE AT THE MATERIAL TIME
SUBJECT III: ASSURANCE AND PROMISE THAT MY CONFIRMATION OF MOTION FOR NOM #3 WILL BE GIVEN TO THE REGISTRAR WITH A COPY TO THE RESPONDENTS ALTHOUGH THEY ARE DISENTITLED TO RECEIVE NOTICE OF ANY STEPS IN THE JRPA PROCEEDING, RECEIVE DOCUMENTS IN THE JRPA PROCEEDING, AND FILE MATERIALS ON THE JRPA APPLICATION AS PER RULE 38.07(2)(A) TO (C)

INTRODUCTION AND ADOPTED DEFINITIONS

I cordially write regarding the above Subjects of this correspondence, the cumulative import of which necessitates an expeditious and judicious resolution by this Honourable Court. I tender my sincerest appreciation *in limine* for your valuable time and considered deliberation concerning this material correspondence and its **contemporaneous enclosures**, including the designated Part 2 of the Motion Record and the *in force* Divisional Court JRPA Guide. Acknowledging the finite, yet unequivocally valuable, resources at the Court's disposal, it is incumbent upon me to confirm that I have devoted an immense quantum of time to the exhaustive research and methodical analysis of the complex legal issues herein delineated, and their appropriate application to the intricate factual matrix of this file, thereby ensuring maximal efficiency in the judicial process. This effort is not merely about procedural compliance, but about safeguarding the integrity of the judicial review process itself, which is a cornerstone of public confidence in administrative law. The function of judicial review, as the primary mechanism for the supervisory jurisdiction of the superior courts, is to ensure that administrative bodies, such as the LAT, operate within the boundaries of their statutory mandate and adhere to the fundamental tenets of natural justice. This proceeding, therefore, is fundamentally resolution-oriented, seeking judicial pronouncements that define the legal boundaries of procedural regularity and compel adherence to the governing *Rules*. This is necessary to obviate the need for protracted and superfluous litigation stemming from the initial, profound procedural irregularities, and to restore the Applicant's right to an unblemished review of the administrative decision-making process.

The resolution sought in this correspondence is fundamentally resolution-oriented, aiming to secure judicial pronouncements that define the legal boundaries of procedural regularity and compel adherence to the governing *Rules*. This is necessary to obviate the need for protracted and superfluous litigation stemming from the initial, profound procedural irregularities. Furthermore, and in the interest of terminological precision and economy of expression, I formally adopt all definitions, whether explicitly, indirectly, or directly, contained within previously exchanged correspondence and documents forming the record, including but not limited to the *Rules of Civil Procedure* (the "Rules") and the *Judicial Review Procedure Act* (the "JRPA").

The present correspondence operates with a tone that is very formal, yet simultaneously gracious and fundamentally resolution-oriented, maintaining a strictly cognitive and non-emotional posture throughout its articulation, thereby ensuring the discourse remains immutably anchored in the objective reality of legal and procedural fact. This approach is paramount to facilitating the prompt administration of justice.

Status Update and Definitive Conclusions Regarding Extra-Judicial Proceedings

The Locus Standi of the Case Conference and Procedural Mens Rea

As previously communicated, please find Part 2 of 2 attached (the "Attachment"), which contains supplementary evidence integral to the Applicant's position. Subsequent to my prior communication, I have secured confirmation via the *specific* auto-reply received from the representative of **Tribunals Ontario** (the "Tribunals"), Ms. Maciel, who was the individual charged with the attempted service of the Notice of Application (the "NOA") for the Licence Appeal Tribunal (the "LAT"). The confirmation of Ms. Maciel's confirmed and indefinite absence, devoid of any stipulated return date for

[illegible]mption of duties, precipitates a foundational procedural and legal impossibility regarding the requisite filing of the affidavit of service for the NOA. The successful and demonstrable service of the originating process, evidenced by a properly sworn affidavit, is not merely a formality, but a jurisdictional prerequisite (*sine qua non*) for the validity of all subsequent procedural steps; the absence of a competent affiant renders this fundamental step incapable of perfection, thus vitiating the procedural chain *in toto*.

The inescapable syllogism, therefore, is that in the complete absence of an affiant competent to execute the affidavit of service, the request by the LAT for a case conference on December 3, 2024, at approximately 3:30 p.m., was **void *ab initio***, possessing no legal force or effect from its purported inception. This defect is **patent** on the face of the record, as the Court could not have been presented with the necessary proof of jurisdiction over the Respondents. *Ipso facto*, it is axiomatic that no case conferences could have been lawfully or properly conducted in the complete absence of a perfected service record, as the Tribunal lacked the demonstrable jurisdiction over the parties mandated by the *Rules* at that material time. The consequence of this profound procedural nullity dictates that the legal ***status quo ante*** must be rigorously restored, which necessitates completely disregarding the purported extra-judicial proceedings and any directions that may have stemmed therefrom. The inherent flaw is that the Tribunal's action, however well-intentioned, fails the test of procedural *vires* when measured against the mandatory requirements of the *Rules*. A proceeding cannot be validly commenced without proof of service on the opposing party, as the court's jurisdiction over that party is derived from the fact of notice. The very concept of procedural *fidelity* demands this conclusion, as the *mens rea* (intent/knowledge) of the moving party (the Tribunal) cannot supersede the explicit dictates of the *Rules* concerning service. Furthermore, allowing directions derived from a *void ab initio* conference to stand would undermine the principle of judicial economy by injecting uncertainty into the procedural framework, inviting further litigation on collateral issues of validity.

Unavailability of Digital Recordings, Judicial Scrutiny, and *Ultra Vires* Actions

The substantive relief sought pertaining to the mandatory obtainment of the transcripts from those purported case conferences remains entirely **extant**, retaining its full legal force, especially as Madam Justice Shore has heretofore declined to judicially acknowledge the existence or content of the same. This judicial non-acknowledgement, while perhaps intended to minimize judicial entanglement in extra-procedural matters, paradoxically creates a record gap that obstructs the Applicant's ability to demonstrate the full procedural history of the dispute. The integrity of the appellate record, which must be complete and accurate, is a fundamental right guaranteed by the principles of natural justice and procedural fairness. The Applicant's right to review the totality of the administrative record, including all interactions that influence the progression of the judicial review, is not discretionary.

My due diligence efforts are continuous and exacting, seeking to compel the production of this essential documentation, which is required for a complete record of review. Furthermore, I have been demonstrably unable to obtain the Compact Disc (CD) copies of the digital recordings, notwithstanding the fact that I remitted the requisite payment to secure this material. The continuous denial of delivery, coupled with the retention of the remitted funds, constitutes a **prima facie breach of contract and an affront to the principles of natural justice**. It remains ***sub judice*** and highly problematic why Madam Justice Shore has ostensibly taken the position that I should be deprived of funds paid and unreturned while simultaneously being denied receipt of the digital recordings to which I am definitively entitled by the executed Request Form Undertaking of October 2025. This situation constitutes an ongoing denial of the right to access the **full administrative record** under section 10 of the *Judicial Review Procedure Act* and is a direct impediment to the Applicant's ability to conduct effective review. The denial of this paid-for evidence, which forms part of the administrative record (however flawed), constitutes an action that may be considered **ultra vires** (beyond the powers) the authority conferred by the *JRPA* and the inherent principles of natural justice, specifically the right to a fair hearing and the ability to review the complete record without impediment. A core tenet of procedural fairness is the expectation that the fruits of a legally binding agreement (the undertaking and payment) will be delivered promptly. The denial of the full administrative record for review violates the principle of **completeness**, which is essential for effective **appellate or supervisory review** and the constitutional right to access the courts. If a thirty (30) day period was stipulated for the provision of the recordings, that period has demonstrably elapsed without adherence to the procedural covenant, constituting a breach of the undertaking. Furthermore, the argument that these were *in camera* proceedings does not diminish the need for transcription, as the Applicant retains the right to review the transcript for errors of natural justice, such as procedural unfairness, bias, or the failure to give proper deference. Consequently, further due diligence efforts are continuing with the Office of the Public Complaints Commissioner (the "OPCC") in relation to the compulsory securement of the recordings via Zoom or other verifiable means, ensuring the principle of **audi *alteram partem*** (the right to be heard) is not vitiated by the withholding of the record. The Court's intervention is required to prevent a miscarriage of justice predicated upon the

incomplete administrative record, and to compel the immediate release of the paid-for recordings or the return of the funds remitted.

Procedural Compliance and the Evolving Divisional Court JRPA Guide

NOM #3, the Compendium Requirement, and Procedural Symmetry

In relation to *Rule 4.05.3* of the *Rules of Civil Procedure* (the "Rules"), the ultimate deadline for filing is noted to be 2:00 p.m. three days prior to the mandated hearing date of December 3, 2025. This Rule provides a clear procedural timeline which must be rigorously respected. It is further noted that if the Notice of Motion #3 (the "NOM #3") is unopposed ***de jure*** (as a matter of law), a compendium is not a mandatory prerequisite *per se*. Nevertheless, the Motion Record for NOM #3 has been deliberately and sufficiently hyperlinked and meticulously bookmarked in a comprehensive **"compendium style,"** thereby proactively mitigating any administrative burden upon the Court and fulfilling the spirit, if not the strict letter, of the requirement. This proactive submission underscores the Applicant's commitment to judicial efficiency and the principle of good faith litigation. To the extent that a formal "Compendium" is not ***de jure*** required due to the presumable absence of opposition—which would necessarily be the case unless the Respondent Insurance Companies and the LAT were able to secure an ancillary order ***in limine***—I shall nonetheless include all filed documentation relevant to the hearing for NOM #3. This approach ensures procedural symmetry, eliminates the potential for a subsequent technical objection based on form, and facilitates the Court's ready access to the relevant evidentiary landscape. The purpose is to make the conclusions of the motion **self-evident** through the organization of the materials, thereby promoting both judicial and litigant efficiency.

The Retroactivity of Practice Guides and Lex Prospicit Non Respicit

The *Divisional Court Judicial Review Procedure Act Guide* (the "JRPA Guide") has undergone recent, substantive amendment, specifically in relation to hyperlinking, which necessitates that the *in force* version at the material time—the version which governed the Applicant's commencement of the JRPA Proceeding—be furnished to the presiding judicial officer. The legal principle of prospective application must govern this dispute, as any contrary finding would violate the right to procedural fairness. I shall presume that NOM #3 will be unopposed relative to the Confirmation of Motion required, and shall incorporate the same into the Motion Record for NOM #3 along with a physical exemplar of the *JRPA Guide* as it existed prior to the amendments most recently effected in 2025, or as it is demonstrably reflected in the metadata of late June 2025.

The alterations are most noticeable in that the iteration of the *Guide to Judicial Review in Divisional Court* not *in force* at the relevant time, represented as of late June or early July 2025, includes new and comprehensive sections regarding judicial case management that appear to impose new scheduling requirements:

"Case Management
Once you commence your application for judicial review or your motion for leave, there are steps that you must take regarding the schedule for the exchange of court documents and any preliminary issues. These steps are set out in the Consolidated Practice Direction for Divisional Court Proceedings.
All proceedings in the Divisional Court are subject to judicial case management. The purpose of case management is to facilitate access to justice through the timely adjudication of proceedings in the Divisional Court in a cost-effective and proportional manner.
This means that you may receive written directions from a judge and a judge may direct that there will be a case conference prior to the hearing of your motion or application.
As part of this process, the time for the delivery of court materials may be determined or changed as set out in directions from the Court. Other issues may be addressed, as set out in the judge's directions.
Directions are normally sent to the parties by email."

It is a self-evident legal conclusion that a non-statutory **"guide"** is **not** imbued with **retroactive** effect, a principle encapsulated by the ancient legal maxim **lex prospicit non respicit** (the law looks forward, not backward). This maxim is fundamental to the rule of law, ensuring legal certainty and fairness. Procedural rules are generally presumed to be prospective in their operation unless the language compelling retrospective application is explicit and unambiguous, a condition not met by a non-statutory practice guide. While I maintain a vigorous academic disagreement with certain elements of the language concerning case management *per se* contained therein, the merits of that discursive point are presently **moot** as the *Guide* cannot retroactively cure procedural defects in the case at bar, nor impose obligations that did

when the proceeding was initiated. I remain firmly of the view that the LAT retains the mandatory, statutory obligation to file the record of proceeding **forthwith** as dictated by the *JRPA* prior to the guide's amendments, and this statutory duty cannot be superseded by a practice direction.

Case Management Assignment: The Jurisdictional Flaw Under Rule 38.07(2)

The purported exercise of judicial authority in assigning this proceeding for case management or issuing written directions must be rigorously scrutinized against the jurisdictional pre-conditions set out in *Rule 38.07(2)* of the *Rules of Civil Procedure*. This Rule governs the point at which a judge may assign a proceeding for case management and states:

"No Consent

(2) At any time on or after the filing of the first defence in a proceeding to which this Rule may apply, a regional senior judge or, subject to the direction of a regional senior judge, any judge or associate judge may assign the proceeding for case management under this Rule,

(a) on his or her own initiative; or

(b) on the request of a party or on motion if the court requires it." (Emphasis added)

The language of *Rule 38.07(2)* is clear and dispositive: the power to assign a proceeding for case management, whether on the Court's own initiative or upon the request of a party, is contingent upon the jurisdictional trigger event: the **filing of the first defence**. As established in the conclusion regarding NOM #2, the LAT and the Respondent Insurance Companies have demonstrably **failed to file** their Notices of Appearance (NOAs) or their First Defence. This failure is a matter of irrefutable record, legally corroborated by the adverse inference doctrine arising from their sustained silence and inability to cure the defect *nunc pro tunc*.

In the context of a Judicial Review Application, the "First Defence" is not merely an equivalent to a Statement of Defence, but is typically marked by the filing of the Respondent's Record and/or Factum, or at a minimum, the **Notice of Appearance** required under the *Rules* to acknowledge the proceeding and indicate an intention to defend the administrative body's decision. In this case, the complete absence of **any** responsive document that constitutes a "First Defence" means the fundamental procedural trigger required by the *Rules* for the commencement of case management has not been pulled. **Consequently, the assignment of this proceeding for case management, and any judicial directions issued pursuant thereto, were procedurally and jurisdictionally flawed, as the prerequisite for assigning the proceeding for case management under *Rule 38.07(2)* had not been met.** While a judge possesses the inherent authority to manage proceedings, this power cannot be permissibly exercised in contravention of a clear and mandatory procedural precondition established by the *Rules* themselves, which are statutory instruments authorized by the *Courts of Justice Act*. The action of assigning the proceeding for case management, and subsequently issuing directions based on that assignment, was **void *ab initio***, as it lacked the fundamental jurisdictional basis of a filed "First Defence." The *Rules* are designed to provide a predictable framework, and their contravention by an administrative assignment renders that assignment inherently defective, necessitating a return to the *status quo ante* where the Respondents are required to comply with their basic obligations before judicial management can commence.

The Limits of a Judge's Authority and the Hierarchy of Judicial Assignment

Furthermore, even assuming, for the purpose of argument alone, that a proceeding could be assigned for case management without the requisite filing, the subsequent direction by Madam Justice Shore to assign steps *to herself* as a particular case management judge represents an impermissible assignment of authority. *Rule 38.07(2)* indicates that a judge may assign the proceeding for case management, which is purely an **"assignment for case management" *per se***. The assignment of **all subsequent steps** to a *particular* judge is typically reserved for the Chief Justice of the Superior Court of Justice (SCJ) or the Associate Chief Justice of the SCJ—the quintessential President and Vice-President of the Divisional Court, an intermediate appellate court. This distinction is critical: the power to administratively designate a judge to take charge of a file for all purposes rests with the designated leadership of the Court, not with the individual judge. The Divisional Court, unlike the general SCJ, is a court of intermediate appeal and its internal administration must adhere strictly to the established protocols for judicial assignment. While a judge may be designated as the case management judge *after* the initial assignment is properly made, they cannot unilaterally self-assign the entirety of the proceedings to themselves and simultaneously issue binding directions absent the jurisdictional foundation (the filed defence). Madam Justice Shore's purported written directions or order directing a case conference prior to the hearing of the JRPA Application are therefore without lawful procedural foundation, reinforcing the Applicant's argument that these extra-judicial proceedings are a complete legal nullity. The principle of *delegatus non potest delegare* (a delegate cannot delegate) may not strictly apply

but that the principle that judicial authority must be exercised in accordance with established rules of assignment is paramount to maintaining institutional integrity.

Non-Compliance with Case Center: Denial of Procedural *Parity* and Impediment to *Acta*

Notwithstanding the foregoing, the Case Center language within the prior *JRPA Guide* unequivocally stipulated that I was entitled to an invitation to Case Center upon the initiation of the JRPA Application, an entitlement that was denied in this proceeding:
"Case Center is an online document sharing platform which allows the Divisional Court to electronically view your court materials. The Divisional Court uses Case Center for both remote and in-person hearings. After you have brought an application or motion for leave, you will receive an email to register for Case Center and upload your materials. There is no fee to use Case Center".

The **non-compliance** inherent in the failure to extend such an invitation constitutes a systemic deficiency in the administration of the file, representing a matter of profound disappointment and, more critically, a denial of procedural **parity** with litigants whose proceedings were administered correctly. This denial of electronic access has forced the Applicant to engage in more cumbersome, paper-based processes, impeding the efficient **acta** (acts/transactions) of the litigation. This systemic deficiency is formally directed towards Madam Justice Shore's oversight of the matter. The quoted language under the "Case Management" section of the *Divisional Court Guide to Judicial Review*, which was not *in force* at the relevant time, serves as unequivocal proof that the *JRPA Guide* did not exist in that specific iteration *at the time of the dispute*, highlighting the fluid procedural environment. Consequently, the procedural irregularities witnessed here are symptomatic of a transition period, and it appears this NOM #3 and the attendant JRPA Application may represent the last vestiges of a **"dying breed"** of proceedings predating the current, formalized procedural regime of judicial case management. This non-compliance is highly prejudicial, forcing the Applicant to shoulder unnecessary burdens of manual document management and service, a condition not suffered by those whose files were administered correctly via the Case Center platform.

The Hierarchy of Law and the Limits of Inherent Jurisdiction

Upon a balance of probabilities, the quoted language attributed to Madam Justice Shore may well have reflected her desired procedural ***status quo*** at the time of the dispute; however, judicial preference does not possess the force of the governing law. I shall therefore make express reference to the legal principles concerning **retroactivity** versus **retrospectivity** versus the **proactive** force of legislative and regulatory instruments, and the impact upon procedural due process.
Legal Hierarchy of Authority:

1. **Statute** (*Judicial Review Procedure Act*): Supreme expression of legislative will, binding on the Court and all parties.
2. **Regulation** (*Rules of Civil Procedure*): Statutory instrument authorized by the *Courts of Justice Act*, governing the conduct of all civil proceedings.
3. **Practice Direction/Guide** (*Divisional Court JRPA Guide*): Administrative tool to aid in the application of the Rules, possessing no statutory authority to override the Statute or the Rules, and therefore having only persuasive, not prescriptive, force.

It remains my substantiated view that particular provisions of the current *Divisional Court JRPA Guide* are not perfectly aligned with the *Rules*, nor with the enabling *Judicial Review Procedure Act* (the "JRPA" or the "statute"), nor with the foundational **common law**. The *JRPA Guide* is not a regulation, is not subsidiary legislation, and does not constitute **"source law"**; its function is descriptive, not prescriptive, and must yield to the higher sources of law. As such, it is *subject to* the **Rules of Civil Procedure**, which are in turn *subject to* the statute, the ultimate interpretation of which is *subject to* the common law. In the event of an irreconcilable conflict between the common law and the principles of equity, **equity prevails** (*lex ferenda*). Notwithstanding this hierarchy, inherent jurisdiction, while vast and essential for the functioning of the Court, cannot be permissibly utilized to override clear Legislative will as expressed in a statute or its attendant regulations; to do so would be an act of legislative **ultra vires** and an overreach of judicial authority, potentially resulting in an appealable error and a denial of due process. The reliance on an administrative *Guide* to retroactively impose case management, particularly one that undermines a mandatory prerequisite of the Rules, is an application of *lex obliqua* (oblique law) rather than *lex recta* (straight law). The maxim **lex prospicit non respicit** confirms that the

Applicant's procedural rights must be assessed based on the law and rules *in force* at the time the cause of action accrued and the proceeding was commenced, not by subsequently amended administrative directions.

Confirmation of Procedural Diligence

I provide the preceding exposition to confirm the rationale for the deliberate omission of hyperlinks in the *JRPA Guide* references within the Motion Record served upon the relevant Respondents and Non-Respondents, as the inclusion would have improperly directed the reader to the incorrect, amended *JRPA Guide*. **For the Court's convenience, I confirm that the correct, *in force* version of the Divisional Court JRPA Guide (as applicable at the material time) is enclosed with this correspondence, along with Part 2 of 2 of the Motion Record.** This meticulous approach ensures procedural integrity and avoids any possible confusion regarding the governing procedural framework at the material time, whilst maintaining meticulous attention to ensuring perfected service and notice, notwithstanding the potential relief offered by the provisions of *Rule 38.07*. All such steps are taken out of an **abundance of caution** and are undertaken without any concurrent or implied waiver of my substantive or procedural rights, which are preserved *in toto*.

Conclusion on NOM #2 and NOM #3 and Confirmation of Motion Compliance

I note, regarding the Draft Order for **NOM #2**, that I was operating under the misapprehension, a misconception consistent with my *post*-March 2025 discovery evidence, that the LAT and the Respondent Insurance Companies had successfully filed their Notices of Appearances (the "NOAs"). This assumption was demonstrably not the factual ***status quo***, as corroborated by the adverse inference doctrine. Approximately one month has now elapsed since I sought definitive proof or disproof of the filing and service of their NOAs. The complete absence of proffered evidence, combined with the subsequent inability of the parties to file *nunc pro tunc* (now for then), leads to the **unequivocal conclusion** that the NOAs were never filed, a finding which must be drawn by the Court in the interest of procedural clarity. Furthermore, the LAT's request for a case conference was procedurally predicated upon the **"filing"** of a First Defence at the time of the request, a requirement that was not met, as detailed extensively in the analysis of *Rule 38.07(2)*. The Respondent Insurance Companies conspicuously refrained from participating in the process concerning potential preliminary issues. Consequently, in the absence of the filing of a First Defence or any NOA, the Respondents could not have lawfully received notice of any procedural steps or documentation within this JRPA Proceeding, thereby rendering their formal participation severely curtailed.

Moreover, in light of the requirements under Rule 37.10.1 regarding the Confirmation of Motion, I note the following procedural reality:

> "Confirmation of Motion
> 37.10.1 (1) A party who makes a motion on notice to another party shall confer or attempt to confer with the other party and shall, not later than 2 p.m. five days before the hearing date,
> (a) give the registrar a confirmation of motion (Form 37B) by,
> (i) sending it by email to the court office, or
> (ii) leaving it at the court office; and
> (b) send a copy of the confirmation of motion to the other party by email."

I submit that, pursuant to the unique and compelling factual *acta* herein, the procedural landscape was definitively established not merely by the filing and payment for the *Certificate of Perfection*, but *ipso facto* by the subsequent, protracted cessation of any formal or active participation by the Respondents. This confluence of events—the complete perfection of the record antecedent to the Listing for Hearing—has consequentially precluded the formal, regulatory definition of opposing "parties" as contemplated by the *Rules of Civil Procedure*. The extended and considerable delay in the judicial process has rendered the appearance of any putative Respondent moot for the purposes of immediate procedural determination.

The absence of the requisite procedural condition, specifically the lack of a *Listing for Hearing*, combined with the *de facto* non-appearance of Respondents subsequent to the completion of the *Certificate of Perfection*, dictates a finding that the strict application of subsection *37.10.1(b)* is presently vitiated and rendered nugatory. It is a fundamental legal principle that the strictures of the *Rules* cannot be imposed where the factual and procedural basis for their operation

does not in effect, exist. My conclusion, therefore, becomes self-evident: the extant *Rule 37.10.1(b)* is, under these singular circumstances, utterly superfluous.

The *status quo ante* prevailing at the material time is demonstrably reflected in the then-operative Divisional Court Judicial Review Practice Guide, a relevant regulatory instrument. This *Guide* articulated a precise circumscription on the scope of mandatory judicial case management, unequivocally stating that: "Most motions and applications for judicial review in the Divisional Court are subject to judicial case management." The employment of the quantifying adjective "Most" is, *prima facie*, determinative; it prohibits an interpretation that would compel the absolute and universal application of case management to all matters.

The judicial pronouncement articulated in the Intake Court Endorsement [sic] dated February 3, 2025, whereby a mandatory and universal proposition was purportedly adduced, exhibits a profound discrepancy with the official and contemporaneous regulatory framework. It remains beyond my comprehension from whence this *verbatim* quotation was derived, yet the resulting necessity for comprehensive, painstaking research—a dedication spanning from May 2025 to the present date—has been compelling.

I further submit that the highly specialized and erudite registry staff, including Ms. Gentles with whom I became acquainted during the summer and autumn of 2025, would have possessed an intimate and unequivocal knowledge of the content of the *Rules of Civil Procedure* and the Divisional Court Practice Directions. Their expertise would preclude any assumption that such universal and mandatory language was contained within the official regulatory instruments. Consequently, the application of such a directive, if it purports to impose an obligation outside the express terms of the *Rules* or the *Guide*, is *ultra vires* the foundational procedural authority.

I must respectfully note that, in other less constrained procedural contexts—specifically, those not characterized by such immense delays and the consequent crystallization of the procedural record without opposing participation—I would deem it necessary to challenge the language presently contained within the current Divisional Court JRPA Guide, particularly the provisions effective June 2025. Nevertheless, this reservation of jurisprudential contention is a question for a future determination and is not requisite for the resolution of the matter *in limine*.

The requirement to "confer or attempt to confer with the other party" presupposes the existence of a legally recognized opposing party who has formally attested to their participation by filing a defence. Since the Respondents are technically in default and have not filed the requisite documentation to become formal "parties" in the sense contemplated by this Rule, the obligation to confer is diminished, though not entirely extinguished. The Applicant's conferral obligations cannot force an unrepresented or defaulted party to engage, nor can a non-response be deemed an agreement to a motion's content.

However, in the utmost spirit of professional courtesy and respecting the Court’s time and the interests of others, I have attempted to confer with the Respondents and Non-Respondents *per se* through the various notifications provided. I will now proceed to give the registrar the Confirmation of Motion in the required Form 37B by sending it via email to the court office, thereby satisfying the core obligation under Rule 37.10.1(1)(a). This proactive step ensures the Court is fully informed of the Applicant's intention to proceed on the scheduled date, thus promoting judicial efficiency despite the Respondents' procedural omissions. Furthermore, recognizing the interest of the Attorney General of Ontario (AGO) to be heard at the hearing of the JRPA Application, and to maintain transparency, I will provide copies of the Confirmation of Motion to the Non-Respondents, ensuring that all interested entities are duly apprised of the Applicant's intention to proceed on the scheduled date.

Irrespective of the ultimate disposition of NOM #3, transcripts from the case conferences are imperatively required. This requirement stems from the need for judicial oversight and the ability of the Applicant to exercise his right of appellate review; the alleged ***in camera*** nature of those proceedings does not defeat the right to a complete record for judicial scrutiny. The principle of accountability dictates that the record must be capable of being reviewed. My Confirmation of Motion shall subsequently follow to ensure a singular, cohesive motion record. My position regarding the lack of opposition to the same will be predicted upon a **de *jure*** conclusion (a legal certainty dictated by the lack of filing and the subsequent lack of jurisdiction for case management), as opposed to a **de *facto*** one (a mere factual observation). The legal conclusions arising from the procedural defaults are clear, and I have now drawn the necessary distinction with the required specificity. Those procedural defaults remain uncorrected without repentance or explanation.

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I reserve the unqualified right to rely upon the entire exposition contained in this comprehensive correspondence for any lawful purpose whatsoever, inclusive of the future determination of costs, particularly in the context of the pervasive procedural irregularities and the lack of response from opposing parties documented herein. The systemic failures and procedural defects that have necessitated this extensive motion practice—including the failure of service, the *void ab initio* case conferences, the denial of the paid-for record, and the unauthorized invocation of *Rule 38.07(2)*—constitute exceptional circumstances justifying an award of substantial indemnity costs against the defaulting parties to deter future similar breaches of procedural *fidelity*.

Yours most appreciatively and gratefully,

/s/Mr. Kevin A. McLean (BA, JD, CIM)

Mr. Kevin A. McLean (BA, JD, CIM) (he/him)

Yours faithfully,

/KAM

Mr. Kevin A. McLean (BA, JD, CIM)

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M

Mr. Kevin McLean <mcleansettlement@gmail.com> Nov 24, 2025, 8:52 PM

to SCJ-CSJ, Milene, Connor, Heather, Div, Matthew, Jesse, Judie, Isibhakhomen, christiana.ortiz, NCQ-AQC.Toronto, AGC_PC

November 24, 2025

VIA EMAIL

URGENT

Court file number: DC-24-00000718-00JR
Type of document: Confirmation of Motion for NOM #3
Short title of proceeding: *McLean v. TDHA et al*
Party: Mr. Kevin A. McLean (B.A., J.D, CIM) (mcleansettlement@gmail.com)

SUBJECT: COMPLETION OF THE REQUIRED STEP OF GIVING THE CONFIRMATION OF MOTION PURSUANT TO RULE 37.10.1

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

5501

I. Preliminary Formalities and Jurisdictional Compliance

Pursuant to the requisite procedural undertaking, **I** hereby transmit, by way of this electronic missive, the annexed Confirmation of Motion (hereinafter, the 'Confirmation') appertaining to the Third Notice of Motion (**NOM No. 3**). This transmittal is executed in strict observance of the provisions set forth in the *Rules of Civil Procedure*, specifically satisfying the mandatory minimum five-day temporal threshold antecedent to the scheduled written adjudication of December 3, 2025.

I further confirm that this document, constituting the official *acta* of confirmation, has been dispatched solely through electronic means to the Divisional Court, thereby obviating the necessity for, and concurrently negating the intention of, physical deposit at the designated court office, as permitted by the governing *Rules*.

II. Substantive Confirmation and Service Protocol

A true copy of the Confirmation is concurrently disseminated to the named Respondents—who are currently categorized as non-parties in the strict sense of the originating process—not as a matter of obligatory service, but rather as an exercise of professional courtesy and a demonstration of an ineluctable ***abundanti cautela***.

The formal process of service upon the distinct class of Non-Respondents shall be meticulously executed by me, precisely as stipulated by the explicit, unambiguous terms articulated within the Confirmation of Motion itself. I submit that the *prima facie* conclusion to be drawn is that all parties potentially affected by the Motion are apprised of the Applicant's intention to proceed on the aforementioned date.

III. Documentation Compendium and Subsequent Filing

Furthermore, any supplemental documentation referenced in the Confirmation is predicated upon the contingent, albeit precautionary, inclusion of a comprehensive Compendium. The filed repository of documents shall exclusively comprise documentation filed by me, the Applicant, given the extant circumstance wherein the Respondents have not, to date, tendered any responsive filings; this observation is submitted without the slightest **castigation** of the Ministry of the Attorney General of Ontario (AGO), whose exceptionally erudite and esteemed counsel previously conveyed, in correspondence dated late January 2025, their considered determination regarding non-participation in the substantive merits of the immediate application.

Whatever the rationale was for the same is somewhat speculation but it seems that she, by way of compliment, took the "high road" or a distancing from that which was unknown to me but for I must say one of the more Herculean efforts to read between the lines and behind the curtain of what might have been by way of an Intake Court Endorsement [Sic] and a fake Criminal Code Form 2 "Information". In my view, it appears to me that on some levels that the MAG distanced itself from Madam Justice Shore and the SOLGEN Kerzner.

I express my sincere gratitude for your professional attention to this matter of procedural necessity.

Warm regards to all of you

/s/Mr. Kevin A. McLean (BA, JD, CIM)

Mr. Kevin A. McLean (BA, JD, CIM)

Appendix: Governing Rule of Procedure

Rule 37.10.1, which mandates the procedural step herein confirmed, is herein reproduced *in verbis* for the convenience of all parties and the Court:

Confirmation of Motion 37.10.1 *(1) A party who makes a motion on notice to another party shall confer or attempt to confer with the other party and shall, not later than 2 p.m. five days before the hearing date, (a) give the registrar a confirmation of motion (Form 37B) by, (i) sending it by email to the court office, or (ii) leaving it at the court office; and (b) send a copy of the confirmation of motion to the other party by email. O. Reg. 537/18, s. 7 (1); O. Reg. 689/20, s. 23 (1); O. Reg. 383/21, s. 4; O. Reg. 224/22, s. 2 (1, 3).*

Yours faithfully,

/KAM

Mr. Kevin A. McLean (BA, JD, CIM)

Sender's name: Mr. Kevin Alexander McLean (BA, JD, CIM)
Sender's address: 410-775 King Street West, Toronto, Ontario, M5V 2K3
Sender's Telephone Number: (647) 370-9354
Sender's email address: mcleansettlement@gmail.com

...

[Message clipped] View entire message
4 Attachments • Scanned by Gmail

M

Mr. Kevin McLean <mcleansettlement@gmail.com> Nov 25, 2025, 8:19 PM

to SCJ-CSJ, Milene, Connor, Heather, Div, Matthew, Jesse, Judie, Isibhakhomen, christiana.ortiz, NCQ-AQC.Toronto, AGC_PC

Court file number: Court File No. DC-24-00000718-00JR
Type of document: email with attached emails from a representative of the DAG and my response
Short title of proceeding: *McLean v. TDHA et al*
Party: Mr. Kevin A. McLean (B.A., J.D, CIM) (mcleansettlement@gmail.com

Dear DC (Registrar and Local Registrar) and the Respondents by their counsel by email representations (but not filed documents):

The present letter is formally tendered for the record, addressing the Honourable Court and all **persons** and your clients herein (where applicable).
Confirmation is hereby effectuated that due service of the Confirmation of Motion has been accomplished upon all Non-Respondents possessing a demonstrable *per se* interest in the subject proceeding. Furthermore, a definitive response has been formulated subsequent to the thorough and measured consideration of an electronic mail transmission received on the preceding Friday, the complete contents of which were reviewed *in extenso* on the current date; this response was critically assessed against the backdrop of the prior formal requisition addressed to the Honourable Deputy Attorney General of Ontario (hereinafter designated as the "DAG"). A facsimile of the aforenoted correspondence is appended hereto for immediate reference. Should the exigent nature of the motion necessitate such disclosure, this material may be submitted for the judicial review of the presiding Justice, specifically concerning the necessary determination of whether documentary or other material evidence was subjected to disposal predicated upon the purported directives and concurrent approbation of the Chief Justice of the Superior Court of Justice (The Honourable Mr. Justice Morawetz), the foundational veracity of which representation has been accepted *prima facie*.
A critical corollary of the Deputy Attorney General's explicit repudiation of signature upon the *Criminal Code* Form 4 Indictment is the effective transference of the *onus probandi* regarding the instrument's authentic provenance. **The negation of ministerial involvement necessitates that the Originating Judicial Precinct or the transmitting authority must demonstrate, with requisite particularity, the agent or officer who formally executed and preferred the charging instrument, thereby ensuring the procedural integrity of the commencement of the criminal process.** This evidentiary vacuum, created by the absence of a verifiable ministerial fiat, compels judicial examination into the administrative chain of custody and the delegated authority under which the Indictment was filed, an examination that must proceed concurrently with the principal motion.

ANALYSIS OF MATERIAL FACTS, NON-DISCLOSURE, AND PROSPECTIVE EVIDENTIARY DISCLOSURE

The proceedings must acknowledge the materially significant facts that have been either discovered or have arisen *ex post facto*—specifically the discernible instance of fraud by non-disclosure pertaining not only to the executed arrest warrant but also to the *Criminal Code* Form 4 Indictment. **The gravamen of this non-disclosure resides in the withholding of facts fundamental to the Applicant's comprehension of the *ratio* underpinning the original judicial process, which non-disclosure is further compounded by the substitution of the originating charge with a subsequent False Information Package.** This systemic substitution prevented the Applicant from engaging in a substantive defense predicated upon the true nature of the originating accusation, thereby establishing the necessary elements for the establishment of procedural fraud: a false representation (or omission), knowledge of its falsity, intent to deceive, and reliance that resulted in detriment to the Applicant. A solemn undertaking is hereby proffered that all **persons** shall be promptly apprised should any further substantive evidence or informational data be subsequently obtained. Notwithstanding this continued commitment to the rigorous exercise of due diligence, and in adherence to the requisite spirit of *bona fides*, the appended evidentiary materials shall constitute the foundational basis of reliance for the scheduled judicial hearing of December 3, 2024, premised upon the comprehensive rationale articulated hereinafter.

For the purpose of maximal procedural clarity and concision, the detailed enumeration of the underlying rationales for reliance is found within the appended document addressing all Counsel of Record and Litigants (*vide*: Appendix #1, Sections II and III).

Juridical Syllogism Regarding Unidentified Principal-Agent Relationships and Material Non-Disclosure

It is logically and legally incumbent upon the proceedings that the following assertion be acknowledged: should the Respondent Insurance Companies, or the Licence Appeal Tribunal (LAT), or Mr. Weir, or the Ministry of the Attorney General (MAG), have possessed any degree of involvement in the origination of the criminal complaint against the Applicant—notwithstanding the fact that said complaint was subsequently rendered non-procedural through the substitution of the False Information Package—and should this involvement remain undisclosed and *ignotum* at the present juncture, such circumstance would constitute a fact *arising* and/or a fraud *arising* subsequent to March 2025. Such a development would necessarily be deemed to have reasonably and materially vitiated the judicial outcome. **The doctrine of *ultra vires* agency, while typically addressing the limits of delegated authority, cannot be permitted to shield the corporate or governmental principal from the imputation of knowledge or liability where an agent's misfeasance or non-disclosure is demonstrably linked to the origination of the impugned judicial process.** Conversely, the individual liability of the agent for misfeasance in public office, predicated upon bad faith or malice, operates independently of the principal's immunity, offering an alternative avenue for remedial judicial intervention. Whereas the existence of such an undisclosed nexus is, *in limine*, frequently unknown to the presiding judicial officer under conventional procedural paradigms, this specific factual matrix demonstrably engenders a unique and unprecedented legal issue within this particular sphere of jurisprudence, thereby warranting exceptional judicial scrutiny.

A principled, non-derogable obligation is submitted to rest upon all officers of the court to formally adduce any evidence pertaining to their substantive knowledge or the demonstrable absence thereof concerning these material facts. **The disclosure required transcends merely the known facts and encompasses the proactive duty to inquire into the institutional knowledge held by the respective governmental or corporate clients that may bear relevance to the integrity of the judicial process.** The failure to make a requisite disclosure of such pertinent information, followed by the subsequent discovery of the same through the Applicant's rigorous and continual exercise of due diligence, would *ipso facto* and demonstrably engender another potential opportunity to formally institute a motion pursuant to *Rule 59.06(2)(a)* of the *Rules of Civil Procedure*, concerning the setting aside or variation of an order on the basis of a matter arising subsequent to the making of the order, as is definitively mandated by the procedural framework of this Province, in contradistinction to the less rigorous processes extant in other jurisdictions.

Judicial Precedent Pertaining to Suability and the Scope of Remedial Efficacy

It is acknowledged that no definitive inference may be drawn from the courteous and meticulously articulated electronic mail correspondence tendered by Ms. Im in November 2024 (***vide***: Appendix #2). However, it is

judicially observed, with the benefit of the pronouncement by the Ontario Court of Appeal (ONCA) in *Gratton-Masuy Environmental Technologies Inc. v. Ontario*, 2010 ONCA 501, that the procurement of declaratory or injunctive relief cannot be permissibly sought *per se* against a non-corporate statutory entity, such as the aforenoted commission, owing to its inherent legal incapacity to be subjected to suit. The *ratio decidendi* of the ONCA explicitly determined that the *Building Code Act*, 1992, did not expressly or implicitly confer such legal capacity, and, critically, that the inclusion of a claim for declaratory and injunctive relief does not, *ipso facto*, operate to augment the entity's susceptibility to suit. The pertinent excerpts from this decision are hereby reproduced:

The Commission was not a suable entity. It was a non-corporate entity and was not expressly liable to suit by the terms of the Act. The Act did not contain any indication of a legislative intent that legal capacity to be sued should be inferred of the Commission. Indeed, the provisions of the Act relating to the Commission significantly undercut that suggestion. As the Commission was not a suable entity, it was irrelevant that the claim was for declaratory and injunctive relief and not for damages. The liability to suit of non-corporate statutory entities is not augmented where declaratory or injunctive relief is claimed.

The claim against the subcommittee members was for misfeasance in public office. The core of their pleading against the subcommittee members consisted on page 322

allegations of bad faith, actual malice and bias. To avoid the protective ambit of the immunity from suit provision in s. 31(1) of the Act, sufficient facts had to be pleaded to support assertions of bad faith or malice. Moreover, in cases involving allegations of malice, rule 25.06(8) of the Rules of Civil Procedure requires that full particulars be pleaded. A bald plea of malice is insufficient to defeat a rule 21.01(1)(b) motion. The only substantial facts pleaded by the plaintiffs were assumptions and speculations about the motivations underlying the conduct of the subcommittee members and that the asserted facts were nothing more than legal conclusions or bald assertions of bad faith or malice. It was plain and obvious that the statement of claim did not disclose a reasonable cause of action against the subcommittee members. As the individual defendants were not liable, the Crown was similarly not liable.

This pivotal distinction between the non-suable statutory entity and the suable individual acting in an official capacity is paramount to the establishment of the current *locus standi*. Specifically, the availability of injunctive and declaratory remedies against individuals, notwithstanding the non-suability of the corporate principal, ensures that the judicial review process retains efficacy in compelling compliance with judicial mandates. The nomination of Mr. Weir, an individual acting in the capacity of Executive Chair of Tribunals Ontario, therefore serves to provisionally satisfy the jurisdictional threshold, enabling the judicial intervention necessary to address the non-disclosure. The selection of this procedural anchor permits the Court to issue binding orders directed towards the non-corporate **persons** who maintain a degree of control over the requisite documentation or whose actions gave rise to the dispute, thereby avoiding the structural impediments imposed by the *Gratton-Masuy* precedent regarding the entity itself.

The advent of the *Tribunals Adjudicative Records Act, 2019* (TARA) and the creation of "Tribunals Ontario" as a non-incorporated umbrella organization introduces a further layer of complexity to the suability analysis. While *TARA* imposes specific duties regarding the creation, retention, and public access of adjudicative records upon the tribunals themselves, the organizational structure of "Tribunals Ontario" as a mere collective reference or administrative body, rather than a distinct, suable statutory corporation, raises a material question: how can such an entity, which is not an adjudicative tribunal in itself (*vide: Derenzis*), be the ultimate repository or records holder when it is inherently incapable of being sued? The principle articulated in *Gratton-Masuy* suggests that an umbrella organization lacking its own express statutory capacity to be sued cannot have its liability augmented simply by being named as the custodian of records. Notwithstanding this, the overarching Crown liability for the conduct of an adjudicative tribunal under various statutes, including the *Administration of Tribunals and Government Agencies Act, 2019* (ATGAGA), remains a factor to be reconciled within the remedial scope of the current application. **The confirmed refusal by the LAT to provide copies of the two undisclosed Motion Orders, whether pursuant to *TARA* or, in the alternative, the *Freedom of Information and Protection of Privacy Act* (FIPPA), substantiates the necessity of compelling production via a judicial order directed at the suable individuals or the appropriate Ministerial entities.**

Accordingly, the prior nomination of individuals, specifically Mr. Weir, in various capacities may be considered fortuitous, thereby establishing a provisional jurisdictional *locus* for the *ad hoc* purpose of seeking the relevant remedies pursuant to Notice of Motion Number Three (NOM #3). Notwithstanding the potential limitations imposed by this governing jurisprudence, formal notification of this assertion is hereby provided to all interested **persons**.

Consideration of Procedural Propriety and Remedial Scope

It is incumbent upon this submission to formally address the subsequent assertions proffered via electronic communication from Senior Counsel Ms. Im. The observation that the inclusion of Her Majesty the Queen, utilizing an archaic template reference to the Queen as opposed to the King, was procedurally questionable is acknowledged; however, this *de minimis* error does not vitiate the overall validity of the judicial review application, given that the Crown remains a *de facto* **person** via the Attorney General's statutory service requirement pursuant to *section 9(4) of the Judicial Review and Procedures Act (JRPA)*.
Furthermore, the contention that the Licence Appeal Tribunal (LAT) must be formally named as a respondent, pursuant to *section 9(3) of the JRPA*, is a procedural suggestion duly noted. Nonetheless, the operative consideration remains that the declaratory and injunctive relief sought by NOM #3 is principally directed toward the conduct and control of documentation held by the nominated individuals and non-Respondent entities. As the *JRPA* permits the issuance of injunctive and declaratory relief generally, and given the compelling need to compel the production of records controlled by individuals like Mr. Weir or entities within the Ministry's purview, the application for judicial review is deemed viable even without the formal designation of the LAT as a suable person. The Tribunal's failure to effectuate proper delivery and filing of its own Notice of Application for Judicial Review, as asserted, further complicates the jurisdictional landscape but does not mitigate the need for the immediate judicial intervention sought by the Applicant.

While I believe that most of what Ms. Im was articulating was correct on many technical levels, I believe that the Attorney General is entitled to participate in the hearing of the JRPA Application – not necessarily a hearing as a matter of right but perhaps a moot issue.
This comprehensive submission is trusted to be deemed of material assistance in the Court's deliberations. **The totality of the aforementioned procedural confirmations, especially the denial of signature by the DAG and the continued refusal to disclose the Motion Orders by the LAT, is advanced at this juncture prior to any formal submissions regarding costs, thereby ensuring that the Court is apprised of the current factual and procedural *status quo* ante.**
In Fidem,
/KAM

Mr. Kevin A. McLean (BA, JD, CIM)
Sender's name: Mr. Kevin Alexander McLean (BA, JD, CIM)
Sender's address: 410-775 King Street West, Toronto, Ontario, M5V 2K3
Sender's Telephone Number: (647) 370-9354
Sender's electronic mail address: mcleansettlement@gmail.com

APPENDICES

APPENDIX #1: TRANSMITTAL AND INQUIRY PERTAINING TO JUDICIAL PROCESS

Dear Counsel of Record (The Honourable Shore J.):

I. Transmittal of Judicial Filing and Confirmation of Service
Pursuant to the doctrine of good faith and the necessary requirements of professional comity, transmitted herewith is a facsimile of the Confirmation of Motion pertaining to Motion Number Three (NOM #3). This instrument was duly furnished to the Registrar of the Divisional Court on the preceding date. Notification shall also be forthwith tendered to the Divisional Court confirming service of this requisite instrument upon all **persons** of record, thereby ensuring strict adherence to *Rule 4* of the *Rules of Civil Procedure*.
II. Inquiry Pertaining to Criminal Code Indictment
A. Confirmation of Lack of Ministerial Signature
It is further confirmed, pursuant to the aforementioned good faith exchange, that a representative, acting on behalf of the Honourable Deputy Attorney General of Ontario, courteously provided a substantive response

concerning the ascertainment of whether the aforementioned official effectuated the signature *de facto* and *de jure* upon the *Criminal Code* Form Indictment. The affixing of the signature was unequivocally repudiated by the representative, notwithstanding the fact that the Deputy Attorney General's office would have satisfied the statutory prerequisites for an agent or signing officer of the Attorney General under *section 2 of the Criminal Code*.

B. Extrapolation Regarding Custodial Mandate

This aforementioned repudiation is fundamentally consonant with the established custodial mandate requiring the Originating Judicial Precinct to retain its executed copy of the arrest warrant, alongside a duplicate of the *Criminal Code* Form 4 Indictment. The representative of the Honourable Deputy Attorney General did not preclude the potential inference that the Judiciary of the Provincial Court (Ontario), being the Ministry of the Attorney General (MAG), may have authorized the execution of the signature. Nevertheless, the totality of the circumstances and the compelling inferences arising therefrom appear to gravitate toward the Ministry of the Solicitor General (SOLGEN), given its physical proximity and demonstrable nexus with Tribunals Ontario (being situated on the same floor). This connection is underscored by the proven linkage between the Licence Appeal Tribunal (LAT), operating as agents of the Crown, and the Respondent Insurance Companies, which are similarly situated as agents. Due diligence continues to be rigorously exercised through all appropriate investigative avenues to conclusively resolve this outstanding matter, which involves complex considerations of *ultra vires* agency.

C. Legal Conclusion on Retention

Irrespective of the erroneous contention, occasionally posited, that judicial precincts do not retain copies of executed arrest warrants, it follows *ipso facto* that the Originating Judicial Precinct is legally compelled to maintain a copy of the document that commenced the criminal proceeding, whether said document was electronically lodged or preferred in physical form.

III. Custody of Judicial Process and Compulsion for Production

A. Potential Custodial Venues

By potentiality, the only Originating Judicial Precincts that have not affirmatively disclaimed custody or control of the aforementioned initiating documents are delineated as follows:

1. The Superior Court of Justice (SCJ) at 361 University Avenue; and
2. The Divisional Court at 130 Queen Street West, Toronto.

B. Syllogistic Analysis of Document Location

It is presumable that the hypothesis obtains that each jurisdictional location may possess a copy of only one of the instruments. The *Criminal Code* Form 4 Indictment would conceivably be lodged via electronic mail with the SCJ 361 University Precinct pursuant to *Rule 4.10* of the *Criminal Proceeding Rules*. Conversely, given that a Judge of the Divisional Court is inherently a Judge of the SCJ, the issuance and execution of an arrest warrant by such a judicial officer, exercising jurisdiction *ad hoc* for the SCJ (Toronto Region, 361 University Avenue), confers the custodial jurisdiction (*de facto* and/or *de jure*) upon the location of the presiding Judge. Such proceedings are conducted *in camera* by definitive constraint, which, being *ex parte* relative to the Accused, appropriately delineates the elements of the *ex parte* and *in camera* process. Notwithstanding this framework, it must be submitted that the archival recordings of these proceedings are subject to production, both in the criminal and civil contexts, subsequent to the arrest of the accused or the issuance of a judicial process. **The principles of open justice and judicial accountability mandate that the records pertaining to the issuance of compelling process, such as arrest warrants, must be retained and subject to inspection or production pursuant to judicial order, particularly given the subsequent challenges to the procedural validity of the initiating instrument.** This principle, concerning the *acta* of the court, is not vitiated by any prohibitive ruling regarding civil case conferences, as was posited by the Honourable Madam Justice Shore, whose focus was placed upon an alleged inability to produce rather than a demonstrable unwillingness to comply with extant directives.

C. Compulsion for Production

Notwithstanding the preceding complexities, the conceded position of the Deputy Attorney General remains that the judicial documents resident within the courthouse were not alienated or otherwise disposed of by official direction emanating from the Honourable Deputy Attorney General and subsequently ratified by the Chief Justice of the SCJ. It is thus a self-evident conclusion that these documents are subject to production pursuant to judicial directive from any entity possessing custody, control, or possession thereof. The failure of a person to definitively locate or account for the disposition of a mandatory court record, such as the initial

charging document, necessitates a finding that the document is either still in existence and subject to production or was improperly disposed of, in which latter case the consequences for the vitiated process must be addressed by the Court. As the Originating Judicial Precinct is statutorily compelled to possess custody and/or control of the process, particularly given the electronic preference of the Indictment, the operative inquiry devolves upon whether the same has been officially expunged by the precinct or the transmitting person. The ultimate factual determination of the status quo ante remains a matter requiring further forensic discovery.

Respectfully Submitted,

Appendix #2: Electronic Mail Correspondence (November 2024)

Mr. Kevin McLean mcleansettlement@gmail.com
Fri, Nov 22, 2024, 12:03 PM
to cloc.reception

Dear Attorney General of Ontario:

As per my discussions with Ms. Benson of your office, she requested that I serve the above counsel and then discuss directly with assigned counsel.

I look forward to those discussions and I await to hear regarding the same.

I will update on my proposal for timing, schedule and the hearing of this judicial review. I will update on other procedural and preliminary matters.

As it currently stands, I am finalizing the application record for the ONSC (Divisional Court) or a single justice depending on whether the urgency request or motion is granted, and then the factum and the authorities.

Thank you.

Warm regards,

Mr. Kevin Alexander McLean (B.A. (MCL), J.D., CIM) (he/him)

One attachment • Scanned by Gmail

Im, Judie (She/Her) (MAG) Judie.Im@ontario.ca
Fri, Nov 22, 2024, 5:46 PM
to me

Mr. McLean,

Thank you for service of your Notice of Application for Judicial Review.

I accept service as counsel for the Attorney General, who is required to be served with all Notice of Applications for judicial review as per section 9(4) of the Judicial Review and Procedures Act, RSO 1990, cJ1. Please be advised that you are NOT required to name the AG as respondent in your application, although he is required to be served and entitled to participate in any JR should he choose to do so.

Also, you have named the “EXECUTIVE DIRECTOR, LICENCE APPEAL TRIBUNAL, HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, REPRESENTED BY EXECUTIVE CHAIR OF TRIBUNALS ONTARIO IN MR. SEAN WEIR.”

I believe the decision(s) you are seeking to have reviewed are decisions of the License Appeals Tribunal? If that is the case, you are required to comply with sections 9(2) and (3) of the JRPA. Section 9(3) states that “…any two or more persons who, acting together, may exercise a statutory power, whether styled a board or commission or by any other collective title, shall be deemed to be a person under such collective title…”

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In short you are required to name and serve the License Appeal Tribunal as a respondent to your NOA.

I do not and cannot accepts service of the NOA for the LAT.

Thank you.

Judie Im | Senior Counsel (she/her)
Crown Law Office Civil | Ministry of the Attorney General
720 Bay Street, 8th Floor, Toronto, Ontario M7A 2S9
Fax: 416-326-4181 | Tel: 416-427-4611 | judie.im@ontario.ca

Taking pride in strengthening Ontario, its places and its people.

One attachment • Scanned by Gmail

M

Mr. Kevin McLean <mcleansettlement@gmail.com> Nov 25, 2025, 10:25 PM

to farnoush.pournejati, SCJ-CSJ, Milene, Connor, Heather, Div, Matthew, Jesse, Judie, Isibhakhomen, christiana.ortiz, NCQ-A

Dear Sirs/Mesdames:

RE: ACKNOWLEDGEMENT OF CORRESPONDENCE AND IMPUTATION OF NON-DISCLOSURE

I. PROLEGOMENON TO CORRESPONDENCE

The receipt of the automatic reply issued by Ms. Im, a barrister and solicitor designated to the Ministry of the Attorney General (MAG), Crown Law Office—Civil Division (CLO-C), whose professional address is duly confirmed as 720 Bay Street, 8th Floor, Toronto, Ontario, is hereby formally acknowledged. This confirmation of Ms. Im's professional designation and location is noted as being coterminous with that of Mr. Sinnadurai, thereby establishing a necessary point of jurisdictional and professional reference.

II. CIRCUMSTANTIAL EVIDENCE AND IMPUTATION OF MOTIVATION

A. Discovery of Extrinsic Evidence Pertinent to Costs Submissions

In the *actus* of verifying the precise street address of Ms. Im, an unforeseen journalistic article—heretofore unknown to the author—was serendipitously discovered via a common-law digital search engine. This material, which details the substantial investment of taxpayer-funded Crown counsel hours expended in litigation concerning the nondisclosure of Ministerial Mandate Letters, is appended for consideration: *https://www.cbc.ca/news/canada/toronto/crown-lawyer-hours-ford-mandate-letters-1.6891876*.

It is expressly stipulated that while a complete and exhaustive perusal of the entirety of the aforementioned article has not yet been conducted, reliance shall be placed upon the factual assertions contained therein for the subsequent submission of costs and the extrapolation of similar *fact* evidence. The discernible pattern of preserving informational secrecy appears to constitute a thematic element central to the Ministry's operational posture in specific instances.

B. Affidavit Evidence Pertaining to Effort Expended

While the intent is not to *castigate* or engage in *ad hominem* attacks upon the professional integrity of the involved parties, an affirmation has been personally sworn and duly submitted detailing the inordinate quantum of time and attendant resources necessarily devoted by this party. This expenditure was occasioned by the protracted and seemingly deliberately circuitous engagement with personnel from the MAG CLO-C and the administrative staff of the court operations (inclusive of managerial cadres). The objective of such

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engagement was the procurement of documentation to which *prima facie* entitlement is conferred, without concomitant cost, pursuant to the provisions delineated in **Section 7 of the *MAG CSD Court Information Access Guide***.

III. LACK OF FORMAL APPEARANCE AND PROSPECTIVE RELIANCE

It is an indisputable factual premise that the Ministry of the Attorney General has not, in any manner or form, submitted or served a Notice of Appearance in this matter.

Ipso facto, the resultant inferences and circumstantial evidentiary deductions, which are inextricably linked to the demonstrable lack of comprehensive and timely disclosure, shall be meticulously collated and subsequently presented within a formalized submission dedicated to the quantification and imposition of costs at the jurisprudentially opportune moment. The absence of a formal appearance thus serves to buttress the contention that certain actions or, conversely, inactions regarding disclosure were undertaken with a specific, though perhaps unstated, litigation strategy or objective in mind.

I provide the above as a courtesy and to ensure that there has not been justification or excuses laid that notice was not given even on the slightest of issues inclusive of costs (i.e. someone was out of office or otherwise not available).

On my brief perusal that case which the SCC overturned the lower court's turned on Cabinet confidentiality which is not at issue herein but nonetheless indicative of non-disclosure from a similar fact evidence standpoint especially in light of Derenzis and my due diligence efforts which remain ongoing.

IV. ENCLOSURE

Appendix A: Automated Electronic Communication

The following textual excerpt from the automated electronic communication dispatched by Ms. Judie Im (She/Her), Barrister and Solicitor, is reproduced for complete evidentiary record:

Im, Judie (She/Her) (MAG) 8:20 PM (1 hour ago) to me

I am out of the office, with limited access to email. If this is an emergency, please contact Farnoush, my legal assistant, at farnoush.pournejati@ontario.ca, during office hours. Thank yo

Yours faithfully,

/KAM

Mr. Kevin A. McLean (BA, JD, CIM)

Sender's name: Mr. Kevin Alexander McLean (BA, JD, CIM)
Sender's address: 410-775 King Street West, Toronto, Ontario, M5V 2K3
Sender's Telephone Number: (647) 370-9354
Sender's email address: mcleansettlement@gmail.com

M

Mr. Kevin McLean <mcleansettlement@gmail.com> Nov 26, 2025, 3:59 PM

to SCJ-CSJ, Milene, Connor, Heather, Div, Matthew, Jesse, Judie, Isibhakhomen, christiana.ortiz, NCQ-AQC.Toronto, AGC_PC

PRIVATE AND CONFIDENTIAL
Date: November 26, 2025

To: The Honourable Judges of the Divisional Court and the Within-Named Respondents

From: Mr. Kevin A. McLean (BA, JD, CIM)

Sending Method: Via Electronic Transmission

Creation Method: Dictated with Voice Recognition Software (Reservation of rights to correct any grammar, syntax, important qualifiers, or improper double negatives is expressly asserted).

SUBJECT I: Confirmation of Payment and Filing Status of the Motion Record (the "Motion Record") in the Ontario Courts Public Portal (the "OCPP")
SUBJECT II: Request for Immediate Access to the Case Centre (the "Case Centre") in Advance of the Hearing Date Pursuant to *Rule 4.05.3(4)*
I cordially write regarding the above Subjects of this correspondence. I thank you in advance for your time and consideration of this correspondence and its attachments (by reference or inclusion). I appreciate your finite yet valuable resources which is why I have taken immense time to research the legal issues herein and apply them to the facts herein. The present document serves as an official record, meticulously designed to minimize the judicial effort necessary for comprehension of the procedural posture, thereby facilitating an efficient and efficacious resolution. The complexity of this matter demands meticulous procedural fidelity, a commitment to which I have assiduously adhered throughout this **JRPA** proceeding.
I adopt all definitions from previously, indirectly or directly, cited correspondence.

I. Preliminary Confirmations and Current Technical Impediments to Finalization

This correspondence serves to confirm the successful remittance of the requisite fees, where applicable, for the **Motion Record** (comprising, *inter alia*, Notice of Motion #3, the Factum, and attendant materials), the affidavit of service, and the Confirmation of Motion (the "**Confirmation**") within the **OCPP**. This successful financial transaction, the particulars of which are appended hereto as **Appendix II**, represents the culmination of prior, protracted efforts to navigate the initial iterations of the **OCPP**, which previously exhibited an **in limine** reluctance to recognize certain file formats or resolve encrypted document properties.
It is acknowledged that the **OCPP** constitutes an estimable interface, capable of accommodating substantial documentation, and that the integrated payment module functions with commendable facility and security. This facility stands in contradistinction to the preceding difficulties encountered, thereby underscoring the continual improvement in the Court's technological infrastructure.
Receipt is also hereby confirmed of the electronic mail communication disseminated by the Government of Ontario, which specified the linkage of the **Case Centre** platform with the MyOntario account infrastructure. As an account had been previously established under the auspices of Thomson Reuters, the account has persisted and been migrated to the MyOntario framework, thereby maintaining the **status quo ante** concerning the User's digital identity and associated procedural history.
The Persistence of the Current Technical Impediment
Notwithstanding the foregoing successes in payment and portal navigation, a singular, refractory technical challenge has materialized this afternoon. An attempt was made to upload a consolidated digital compilation—an expedient measure intended to streamline judicial review—which included the **Confirmation** appended with the two Divisional Court *Judicial Review Procedure Act* (the "*JRPA*") Guides, materials vital for contextualizing the **Confirmation's** substance. This unitary upload was regrettably met with a pervasive **403 error code** within the **OCPP**. This systemic failure to process a correctly structured submission is deemed a procedural obstruction that **ipso facto** precluded the finalization of the comprehensive filing. The resolution of this technical anomaly is, therefore, a necessary precondition to the full and timely electronic submission of the complete Motion Record, without which the filing cannot be considered procedurally complete. Until this technical defect is cured, the integrity of the electronic record remains compromised, an outcome that is, naturally, highly undesirable in the context of judicial review.

Imperative Necessity for Case Centre Access and Chronological Compliance

Pursuant to the **Confirmation** and the prevailing *Rules of Civil Procedure* (the "**Rules**"), it is mandated that all filed documentation be uploaded to the **Case Centre** within a strict temporal framework. This requirement transcends mere procedural formality; it is an **acta** essential for the proper administration of justice, ensuring the Bench and all parties have commensurate access to the complete record. **Rule 4.05.3(4)** dictates, in relevant part, a mandatory deadline:

"**(4) Subject to subrules (4.1) and (5), the documents listed in subrule (3) must be uploaded to Case Center by the following deadline:

1. In the case of the hearing of a motion or application where the party is required to give the registrar a confirmation of motion (Form 37B) or confirmation of application (Form 38B), the deadline is 2 p.m. three days before the hearing date, unless the court orders otherwise."**

This provision establishes a **prima facie** obligation for the User to effect the uploading of the relevant documents no later than 2:00 *post meridiem* on **Friday**, given the chronology of the impending hearing date. Punctuality in this procedural matter is non-negotiable, and any failure to meet this *tempus* could potentially prejudice the User's position.

The esteemed Ms. Gentles, Registrar (the "**Registrar**") of the Divisional Court, is appropriately exempt from the provisions of *Rule 4.05.3(4.1)*, which explicitly stipulates that the **Registrar** cannot unilaterally effectuate the uploading of documents on behalf of a party. This distinction correctly places the administrative burden of electronic transmission upon the party, ensuring clear lines of responsibility. Furthermore, *Rule 4.05.3(5)* is deemed inapplicable, as the matter at hand is a Motion, not a Trial, and the **Confirmation** was timely transmitted via electronic mail to the Divisional Court, in strict accordance with the requirements of *Rule 37.10.1(1)(a)(i)*, thereby obviating any requirement for transcripts at this juncture.

Analysis of the Apparent Regulatory Inconsistency and the Role of the Registrar

There appears to be a minor inconsistency **per se** concerning *Ontario Regulation 226/25* (the "*Regulation*"), which became effective in early October 2025, specifically regarding proceedings commenced in the City of Toronto—a geographical designation applicable to the *JRPA* Proceeding herein (as detailed in **Appendix I**). The *Regulation* pertains to documents filed or residing within the Court file, creating a crucial distinguishing characteristic between the **Registrar's** mandated duties and those of a designated "party" concerning the chronological uploading of documentation. The scope of the **Registrar's** authority is not *ultra vires* their statutory mandate, but the procedural application of the *Regulation* requires judicial clarification to ensure consistency with the spirit of the **Rules**.

Upload Intent and Entitlement to Unfettered Access Status

In light of the preceding technical delays and the User's commitment to facilitating a comprehensive review by the Court, the intention to upload the previously filed Compendium is hereby reaffirmed, notwithstanding the conventional dispensation accorded to unopposed or consent motions. This is a voluntary act of procedural diligence.

The User possesses a prior, inchoate entitlement to access the **Case Centre** stemming from the initiation of the *JRPA* Proceeding over one year prior. This access is not a gratuity but a necessary procedural right. To ensure punctual compliance with the prescribed deadline, the immediate and unfettered grant of access to the **Case Centre** is absolutely essential. The Divisional Court is respectfully solicited to furnish an invitation forthwith, preferably by the conclusion of the present business day, to allow for the indispensable acclimation to the **Case Centre** protocols and to verify the consistency of the **Registrar's** prior uploads with the User's filings. This verification is crucial to ensure that the documentary record upon which the Court will ultimately rely is accurate and complete.

It is posited that only the User's filings shall presently reside in the **Case Centre**, as the Respondents have not yet filed materials. Should any Non-Respondents or Non-Parties seek leave to permit the late filing of a Notice of Appearance or similar instrument, the onus for their respective uploading responsibilities shall attach solely to them. The User is entitled to be apprized of the status of all "filed documents," as opposed to those merely existing *per se* within the overall Court file, so that no ambiguity exists concerning the record *in limine*. For the purpose of effecting the immediate invitation, the designated electronic mail address is the one used for this correspondence, and the designated Username is **kmack1983**.

I will have my Costs Submissions to the Respondents today along with a copy to the Non-Respondents.

5512

Yours most appreciatively and gratefully,

/s/Mr. Kevin A. McLean (BA, JD, CIM)

Mr. Kevin A. McLean (BA, JD, CIM) (he/him)

Appendix I: Citation of Amending Regulation

ONTARIO REGULATION 226/25

Made under the

Courts of Justice Act

Made: September 29, 2025

Filed: October 1, 2025

Published on e-Laws: October 1, 2025

Published in The Ontario Gazette: October 18, 2025

Amending *Reg. 194 of R.R.O. 1990 (RULES OF CIVIL PROCEDURE)*

Appendix II: Confirmation of Payment Particulars

The particulars of the successful remittance of the requisite filing fees within the **OCPP** are hereby documented:

- **Receipt Number: 25D3-0F4F-4A06-8CF8**
- **Receipt Type: Filing Fees**
- **Payment Processor Number: 34836269**
- **Purchased By: Kevin Alexander McLean**
- **Status: Authorized**
- **Amount: $339.00**

Yours faithfully,

/KAM

Mr. Kevin A. McLean (BA, JD, CIM)

Sender's name: Mr. Kevin Alexander McLean (BA, JD, CIM)
Sender's address: 410-775 King Street West, Toronto, Ontario, M5V 2K3
Sender's Telephone Number: (647) 370-9354
Sender's email address: mcleansettlement@gmail.com

...

[Message clipped] View entire message

M

Mr. Kevin McLean <mcleansettlement@gmail.com> Nov 26, 2025, 5:43 PM

to SCJ-CSJ, Milene, Connor, Heather, Div, Matthew, Jesse, Judie, Isibhakhomen, christiana.ortiz, NCQ-AQC.Toronto, AGC_PG

CLASSIFICATION: Private and Confidential
DATE: November 26, 2025

SENDING METHOD: Via Electronic Transmission

CREATION METHOD: Dictated with Voice Recognition Software (Reservation of rights to correct any grammar, syntax, important qualifiers, or improper double negatives is hereby made)

Email particulars

File number: 24/718/00JR

Short Style of cause: McLean v. TDHA et al

Type of document: email (confirmation that Ms. Maciel is still away from the office and no delivery could be consummated as no service was consummated at first instance; confirmation no costs will be sought against the MAG herein with respect to this NOM #3 (kind request: Ms. Im's colleagues – please pass on to Ms. Im)

Sending party: Applicant and Moving Party in NOM #2

Sender: Mr. McLean

SUBJECT I: THE CONSEQUENCES OF BELATED FILINGS AND DELIVERY WITHIN THE JUDICIAL REVIEW APPLICATION PROCEEDING (THE "JRPA PROCEEDING")
SUBJECT II: THE PRINCIPLE OF NON-PARTISAN DEFENCE BY ADJUDICATIVE TRIBUNALS IN JUDICIAL REVIEW APPLICATIONS

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

I. INTRODUCTION AND STIPULATIONS

Correspondence is commenced concerning the above Subjects of this communication.

II. THE STATUS OF THE RESPONDENT INSURANCE COMPANIES AND THE NEED FOR LEAVE BEFORE ANY FILING OF MATERIALS ON THE JRPA APPLICATION SUBJECT TO MR. NIEUWLAND "DELIVERING" THE SERVED NOTICE OF APPEARANCE BY WAY OF FILING AND PROOF OF SERVICE (EITHER AFFIDAVIT OF SERVICE OR CERTIFICATE OF SERVICE

Receipt of the *acta* constituting Ms. Maciel's automated electronic correspondence has been confirmed, where within the postulate of her physical absence from the situs of professional engagement and the concomitant cessation of electronic mail access is articulated. *Ipso facto*, this inhibits the faculty for the furnishing of the requisite proof of service component, indispensable for the "delivery" of the Notice of Appearance (the "**NOA**"). Notwithstanding this salient procedural impediment, the Insurer Respondents, through their retained counsel, Mr. Nieuwland, retain the residual prerogative, should the exercise thereof be deemed expedient, to submit the NOA for filing, albeit in a highly belated fashion. Such an action, were it successfully prosecuted, would necessarily afford the Insurer Respondents *locus standi* before the Divisional Court and the subsequent entitlement to notice of all procedural steps undertaken in the *JRPA Proceeding*, receipt of all pertinent documentation, and the capacity to file substantive materials within the *JRPA Application*. Should the Insurer Respondents elect to pursue this singular course of action, formal notification of the same is mandatorily requested such that the Applicant may prepare responsive documentation.

It is firmly propounded that Mr. Nieuwland, being a duly matriculated member in good standing with the Law Society of Ontario (the "**LSO**") and having previously executed the service of a *NOA* on behalf of all Insurer Respondents in the *LAT Proceeding*, is vested with the professional authority to execute and file a proof of service, whether presented by means of an affidavit of service or a certificate of service. *A contrario*, should the filing thereof not materialize, the Insurer

Respondents shall be compelled to persist in the posture of non-parties whilst concurrently remaining designated as Respondents, subject to the obligation of uploading any "filed documents" to the electronic case management system. This prospective scenario encompasses, *inter alia*, the necessity of successfully prosecuting a motion seeking leave to permit the late filing and delivery of both a responsive factum and an application record, as well as the ability to serve and file any responsive documents to Motion Number 1 (the "**NOM #1**") and Motion Number 2 (the "**NOM #2**"). The belated nature of the latter actions, now approximating eleven (11) months relative to both motions, represents a significant and highly prejudicial delay, warranting rigorous scrutiny under the established jurisprudence governing the enlargement of time. The *ratio* for resisting such leave is grounded firmly in the principle that the failure to meet mandatory timelines constitutes a presumptive *acta non verba* of abandonment or waiver of the right to participate in the substance of the *JRPA Application*. Considering that the adjudicative disposition by way of a written hearing is currently scheduled for December 3, 2025, the Insurer Respondents would be obliged to seek and obtain this requisite leave *in limine* prior to that seminal date, an action which itself is highly disruptive to the court's carefully managed schedule.

Any such interlocutory motions, should they be promulgated by the Insurer Respondents, shall be duly and vigorously opposed on the basis of demonstrable prejudice to the Applicant, the lack of sufficient explanation for the extraordinary delay, and the absence of any overriding injustice necessitating intervention. Should the Insurer Respondents proceed with these procedural steps, responsive documentation shall be served, filed, and subsequently uploaded to Case Centre within a compressed temporal window. Costs against the Insurer Respondents shall, in due course, be assiduously pursued should the prosecution of these procedural manoeuvres be undertaken, with submissions emphasizing the unnecessary expenditure of legal resources occasioned by the belated and unwarranted *acta*.

The longer that the Respondent Insurance Companies delay the same, the more prejudice that will arise. To the extent that such a motion is brought by the Respondent Insurance Companies, my view will remain that it was without merit and subject the Respondent Insurance Companies to further costs.

III. The Impropriety of LAT Defence and Relevant Jurisprudence

The aforementioned emphasis upon the Insurer Respondents, as opposed to the *LAT*, emanates from the principle that while the *LAT* could conceivably effect a late filing of its *NOA*, the actual delivery of the same is procedurally inhibited due to Ms. Maciel's documented indisposition, which constitutes the second automated reply received and whose right to privacy and confidentiality shall be respected. Such a filing would have been of *de minimis* import solely for the purpose of initiating a "First Defence" and a preliminary request for a case conference. Absent the timely and proper filing of a "First Defence," whilst the *LAT* could notionally submit its "Defence" for filing (solely for the ancillary purpose of case conferences, which possess no present relevance at this juncture and for Motion Number 3 (the "**NOM #3**")), the prerequisite of "delivery" of its *NOA* cannot be satisfied. Ergo, *Rule 38.07(2)* of the *Rules* retains full applicability, which explicitly proscribes the filing of the Defence where the requisite procedural steps have been neglected.

This determination is deemed jurisprudentially efficacious and maintains strict consonance with the established *mandatum* governing adjudicative tribunals, whereby the assumption of an active defensive posture within the ambit of a judicial review of their own decisional *opera* is proscribed. The principle of institutional neutrality and the separation of functions mandate that the tribunal, having rendered its decision, should generally refrain from becoming an adversarial litigant against the applicant. Reference is respectfully directed to the relevant body of case law, including *Ontario (Energy Board)* (the "*Energy Board* Decision"), wherein the court articulated the necessary distance and non-adversarial stance required of a tribunal in review proceedings. Further substantiation is provided by *Tranquilli* (the "*Tranquilli* Decision"), *Drewlo* (the "*Drewlo* Decision"), and *Hutchison v. Aviva et al* (the "*Hutchison* Decision"), which uniformly reinforce that the tribunal's role is to provide the court with the record and the reasons, but not to champion the decision's outcome against the applicant. The participation of the *LAT* in this instance is thus limited to ensuring the record is complete; any attempt to engage in the *lis inter partes* on the merits would constitute an *ultra vires* action. In this specific and material regard, the Insurer Respondents are represented by counsel who possesses the capacity to defend the *JRPA Application* and furnish important insight into the TDI Karat Theft and subsequent fraud and impersonation, should such an action be deemed advantageous to their posture. The current presumption, based upon the temporal proximity of the hearing, is that this defence shall not be proffered; however, perpetual vigilance shall be maintained against the potential advent of any interlocutory motions initiated by the Insurer Respondents, especially those that might inadvertently draw the *LAT* into an inappropriate defensive role.

IV. FOUNDATIONAL NULLITIES AND PRE-EMPTIVE MEASURES

Whilst the judicial authority exists for orders to be judicially sanctioned *nunc pro tunc* (literally, "now for then"), the exercise of this unique discretion would constitute a judicial anomaly and an inappropriate application of the doctrine considering the provision of advance notice of the *NOM #3*, the furnishing of evidence well in advance of the motion, the service of *NOM #3* on November 17, 2025, and the October 26, 2025, letter being submitted on the date of its origination. The *nunc pro tunc* power is typically reserved for correcting technical defects or omissions where the substantive step was, in fact, undertaken at the proper time, not for retroactively curing a fundamental failure of compliance that spans many months. The current facts demonstrate a substantive absence of action, which is not amenable to this remedial power.

Out of an abundance of circumspection and to safeguard the *status quo ante*, pre-emptive orders have been sought that shall render any purported filings—with the exception of motions for leave to file material on the *JRPA Application* and receive notice of steps and documents—void *ab initio*. Furthermore, any such purported "filings," save for the Insurer Respondents "delivering" (completing the final two of three steps of a "delivery") and receiving any steps and documents herein (subject to the caveat of the Insurer Respondents "delivering" their *NOA*), shall be judicially declared *void ab initio* and set aside. The critical distinction underlying this relief is that such failings do not constitute mere procedural irregularities, which may be cured or rectified pursuant to the *Rules*, but rather fundamental nullities, or documents spawned from foundational nullities. A foundational nullity renders the procedural step incapable of having any legal effect, necessitating its complete expungement from the record, as opposed to a mere irregularity which permits correction and allows the step to stand. The sustained and unexplained non-compliance with the mandatory time periods for filing, particularly in relation to the substantive defence materials, transcends the realm of curable error.

V. CONCLUSION AND RESERVATION OF RIGHTS

In relation to costs, the issue is one of the fact costs are sought against parties and the Respondents are not parties. As it currently stands, costs will only be sought against the Respondent Insurance Companies and the LAT for the steps that were taken and not against the Ministry of the Attorney General (the "**MAG**"). This clarification is provided which can be passed on to Ms. Im while she was away from the office and her email.

Nonetheless, the documents and/or steps taken by the *LAT* and Insurer Respondents, although the Insurer Respondents failed to participate in the intake process and the *LAT* was disentitled from doing so, are noted. While perhaps the Divisional Court should have precluded it, costs can only be sought against Respondents (and in some instance non-Respondents). In the Applicant's view, the fact that the Respondents could not produce any evidence of "delivery" of their *NOA*'s places them on a distinctly worse footing than a "party." The delays in advancing a motion since October 26, 2025, are furthermore a matter denoted herein and without debate. In that regard or generally, *Rule 57.01(6)* concerning the "Costs Outline" only permits "parties" to agree on costs. *Ergo*, the view is maintained that a consent agreement cannot be entered into with one or more Respondents as they are not *per se* "parties." The Court shall be requested to fix the sum of costs to avoid any further dissipation of judicial resources.

Consequently, any submissions concerning costs formally delivered *hoc die* shall not incorporate the potential exigencies attendant upon any motions brought by the Insurer Respondents; nonetheless, should the same be prosecuted, the unequivocal right to effect the amendment of the said costs submissions is hereby reserved, with the intention of claiming costs on a substantial indemnity basis, given the patent necessity for interlocutory opposition to actions resulting from protracted procedural default.

To the extent that a definitive resolution upon any or all of the outstanding issues is achieved by the Applicant and the Respondents, including Non-Respondents, the Divisional Court shall be promptly notified through the appropriate administrative channels. However, given the *prima facie* complexity of the factual and legal issues, the consummation of such a resolution should not be presumed *ad hoc*.

Finally, I have had a chance to review the involvement of Ms. Im in the Global News case and any castigation of her would not be proper without knowing the invoice amounts of the MAG in that regard and whether Ms. Im was involved prior to the judicial review or not. In any event, the SCC decision is self-evident. I thank all for the time to review the same.

The right to rely upon this correspondence for any lawful purpose inclusive of costs is hereby reserved.

Yours most appreciatively and gratefully,

/s/Mr. Kevin A. McLean (BA, JD, CIM)

APPENDIX #1: MS. MACIEL'S AUTO-REPLY

Hello,

Thank you for your email ! I am away from the office with no access to email.

If you require urgent assistance, please reach out to Connor Collie at connor.collie@ontario.ca

Kind regards,

Milene Maciel

Law Clerk

Legal Services

Tribunals Ontario

Telephone: 416 272-8057

Email: milene.maciel@ontario.ca

Yours faithfully,

/KAM

Mr. Kevin A. McLean (BA, JD, CIM)

Sender's name: Mr. Kevin Alexander McLean (BA, JD, CIM)
Sender's address: 410-775 King Street West, Toronto, Ontario, M5V 2K3
Sender's Telephone Number: (647) 370-9354
Sender's email address: mcleansettlement@gmail.com

...

[Message clipped] View entire message

M

Mr. Kevin McLean <mcleansettlement@gmail.com> Nov 27, 2025, 11:00 AM

to SCJ-CSJ, Milene, Connor, Heather, Div, Matthew, Jesse, Judie, Isibhakhomen, christiana.ortiz, NCQ-AQC.Toronto, AGC_PG

FORMAL TRANSMITTAL OF COSTS SUBMISSIONS
I. CLASSIFICATION AND ADMINISTRATIVE PARTICULARS

Designation	Detail
Classification	Private and Confidential
Date of Execution	November 27, 2025
Transmittal Method	Via Electronic Transmission
Creation Method & Reservation of Rights	This document was generated subsequent to dictation utilizing voice recognition software, the inherent limitations of which necessitate a prophylactic posture. The Applicant meticulously transcribed and refined the dictation, acknowledging the potential for residual transcription anomalies that may necessitate future correction. Accordingly, a comprehensive reservation of the unconditional right to effect subsequent amendment is hereby made and asserted, *ad infinitum*. This includes the necessary rectification of grammatical or syntactical deficiencies, the inclusion of essential legal qualifiers, or the excision of any improper double negatives or inadvertent ambiguities. This deliberate reservation ensures the unimpeachable integrity and jurisprudential precision of all submitted documentation, irrespective of the initial medium of composition, and underscores the Applicant's commitment to procedural accuracy. **The Applicant further affirms the right to present oral submissions that may transcend the written scope herein provided, reserving the right to introduce novel, material, and relevant case law or statutory construction not explicitly detailed within the present four corners of this instrument, should such introduction be warranted by the exigencies of the hearing or in direct rebuttal to unforeseen Respondent arguments.** The Applicant's comprehensive professional background in law and financial management informs the precision of these submissions, notwithstanding the initial dictation method.

A. Correspondence Identifiers

Identifier	Detail
File Number	24/718/00JR
Short Style of Cause	*McLean v. TDHA et al*
Document Designation	Costs Submissions of the Applicant from November 15, 2024, through December 3, 2025 – petitioning for the imposition of costs against the **Respondent Insurance Companies** and the Licence Appeal Tribunal (LAT).
Sending Party	The Applicant and the Moving Party in the Notice of Motion No. 3 (NOM No. 3), which incorporates the substance of previous Motions Nos. 2 and 1.
Sender	Mr. McLean

II. FORMAL COMMUNICATION AND SERVICE

A. Subject Matter and Delineation of Respondents

SUBJECT: Formal Transmittal of Enclosed Costs Submissions — Provision of Notice and Effectual Service upon the Delineated Respondents (and Prospective Non-Parties) — Specific Pertaining to the Licence Appeal Tribunal (LAT) and the **Respondent Insurance Companies**.

To: Counsel of Record / Designated Representatives:

This present correspondence is formally executed, having as its indispensable objective the provision of unequivocal notice and the effectuation of service of the enclosed Costs Submissions upon the entities herein specified and specifically addressed:

1. **The Adjudicative Tribunal:** The Licence Appeal Tribunal (LAT);
2. The Respondent Insurance Companies, collectively and individually delineated:
   a. SNIC (Security National Insurance Company);
   b. TDGIC (TD General Insurance Company); and
   c. TDHA (TD Home and Auto Insurance Company).

B. Reference to Enclosed Submissions and Integration into the Judicial Review Application Compendium

Enclosed herewith is the document entitled *Applicant's Costs Submissions for the Entirety of Proceeding* from November 15, 2024 to December 3, 2025 (Costs Submissions), dated November 26, 2025, detailing with scrupulous specificity the quantum of costs sought, specifically demanding an award calculated on the substantial indemnity scale given the egregious circumstances delineated *infra* in Section III, which reflect a level of misconduct far exceeding the threshold for ordinary costs.

It is hereby confirmed that these Costs Submissions shall be immediately integrated and consolidated into the Compendium prepared for NOM No. 3, the contents of which have been particularized with precision in the *Confirmation of Motion* dated November 24, 2025, which formal document shall follow in the ordinary course of the judicial process. This integrative step is critically undertaken to ensure that the Honourable Presiding Motion Judge is definitively seized of the Applicant's precise pecuniary claims at the earliest permissible juncture, thereby preventing any subsequent claim by the Respondents of lack of notice or unpreparedness regarding the substantial financial implications of their procedural conduct.

C. Assertions of Entitlement and Reservation of Rights

1. **Modification of Submissions:** The inherent and unassailable entitlement of the Applicant to effect subsequent modification and augmentation of these Costs Submissions, thereby petitioning the Court for a greater quantum of costs, is firmly reiterated and preserved *in toto*. Such an amendment shall remain entirely conditional upon, and directly responsive to, any *acta* or procedural steps undertaken by the Respondents during the intervening period concluding on December 3, 2025, or any other date appointed by the Court for the final adjudication of this matter. The right to enhance the costs claim is intrinsically linked to the Respondents' ongoing failure to either secure *locus standi* or cease their improper and unwarranted interference with the orderly progression of the *JRPA*. The quantum of costs must necessarily reflect the complexity, duration, and the resulting economic burden introduced by the Respondents' non-compliant and often obstructive posture.
2. **Correspondence Reliance:** The unconditional right to rely upon this correspondence, and all its concomitant assertions and factual recitations, for any lawful or juridical purpose is stringently reserved. This encompasses, but is not restricted to, the assertion of claims for additional or augmented costs at any point *in limine* to, or subsequent to, the issuance of any and all interim, interlocutory, injunctive, or final Orders by the Honourable Presiding Motion Judge of the Divisional Court within the ambit of this Judicial Review Application (*JRPA*) Proceeding. The finality of the Applicant's entitlement to these costs is, *prima facie*, self-evident upon review of the extant record, which unequivocally demonstrates the deliberate obfuscation and profound procedural non-compliance perpetrated by the named entities. **The Applicant emphasizes that the entire procedural history, including the necessity of filing NOM No. 3, is a direct result of the systemic failure of the Respondents to honour basic obligations under the *Rules of Civil Procedure* and statutory requirements, particularly those concerning the timely filing of responsive materials and the Tribunal Record, thereby unnecessarily protracting the litigation process and significantly increasing the Applicant's costs.**

III. JURIDICAL RATIONALE FOR IMPOSITION OF COSTS

A. Procedural Status and Failure to Establish *Locus Standi*

Notwithstanding that the **Respondent Insurance Companies** and the LAT are not, at this juncture, formally recognized as "parties" to the Judicial Review Application (*JRPA*)—a status only conferred upon the proper service and filing of a Notice of Appearance (*NOA*)—substantial pecuniary relief, specifically the joint and several apportionment of costs, is actively sought against them within the stipulated parameters of NOM No. 3. This paradoxical situation is observed to have arisen exclusively from their deliberate procedural inaction and neglect, which amounts to a tactical abuse of the litigation process. It is demonstrably incumbent upon the aforementioned Respondents, inclusive of the LAT, to deliver, file, and conclusively demonstrate proof of service of their requisite *NOA*s. Absent this indispensable procedural predicate, the Respondents are *ipso facto* precluded from **filing** any responsive material, including submissions in opposition to the

joint and several apportionment of costs pursued by the Applicant, as *Rule 1.04* compels strict procedural compliance. This procedural inability to file responsive submissions is a consequence directly traceable to the Respondents' own neglect or strategic election to maintain a position of deliberate procedural ambiguity, the legal ramification of which cannot be evaded. **The continued participation of non-filing parties, even through passive defense, informal submissions, or unauthorized attendance at motion hearings, constitutes a profound abuse of process that warrants the most severe costs sanction available to the Court.** The doctrine of non-appearance, whilst not strictly applicable in an administrative review context, informs the legal inference that a party who chooses not to formally engage is either conceding the merits of the application or demonstrating an egregious disregard for the judicial process by circumventing the cost consequences of the *Rules of Civil Procedure*. **The Court is invited to consider the inherent unfairness and prejudice of allowing Respondents to informally interfere with the *JRPA* proceeding—thereby imposing cost-driving delays and unnecessary complexity—while simultaneously shielding themselves from the corresponding cost consequences mandated by the *Rules***. Based upon a rigorous construction and precise application of the *JRPA* and the *Rules of Civil Procedure* (specifically, those rules governing intervention and participation), the LAT must inevitably serve and file its *NOA* should any contemplation of opposition to the relief sought against it be entertained, given that its foundational conduct and adjudicative decisions constitute the core subject matter of the review. Consequently, the presumptive framing of NOM No. 3 proceeds upon the foundational assumption of either immediate and forthcoming remedial steps being undertaken by the Respondents, or, alternatively, the judicial acceptance of their continuing procedural default, thereby warranting a decision upon the merits of the costs submissions alone. The Applicant's meticulous compliance with all procedural requirements, including the potential utilization of *Form 57(B)* analogues for each step where costs consequences arise, is observed to contrast sharply with the Respondents' profound dereliction of procedural duty. **The Applicant's costs submissions, therefore, are predicated not only on success on the merits but specifically on the extraordinary expenses incurred merely to compel compliance with the most rudimentary aspects of litigation protocol, a cost driver that is wholly inexcusable on the part of the Respondent entities.**

B. Evidentiary Basis for Extraordinary Costs and Syllogistic Conclusions

The quantum of costs sought is established and predicated upon the reasonable hourly rate ascribed to the Applicant, a financial metric fully commensurate with the Applicant's extensive prior litigation experience and documented successes attained in homologous domains of complex administrative and civil proceedings. **It must be formally noted that the police services' classification of the underlying vehicular incident, as referenced in the attached document, has transitioned to a characterization consistent with doctrines of intentional tort and criminal assault, potentially encompassing the offenses of "Assault with a Weapon," "Battery," and/or "Attempted Murder," a perspective observed to be more consonant with certain jurisprudence within the United States legal system.** Furthermore, the immediate, unauthorized, and undisclosed deactivation of the TD MyAdvantage application in October 2022, undertaken without proper consent, coupled with the subsequent failure of SNIC to comply with the mandatory provisions of *PIPEDA* and the attendant OPCC complaint by withholding the Applicant's personal information (specifically referencing *section 9(4)* of *PIPEDA*), logically compels the singular inference that the totality of the conduct, at least on the part of the Epstein Cole LLP Client and SNIC, constituted an attempted felonious act against the Applicant; it is unequivocally stated that this serious allegation is not extended to the LAT, TDHA, or TDGIC, but is focused upon the initial perpetrators. **The calculated *mens rea* (deliberate intention) behind the actions of the Respondent Insurance Companies is inextricably linked to the financial thresholds established by the *Statutory Accident Benefits Schedule* (*SABS*) and the Minor Injury Guideline (MIG).** The likelihood that an above-average SUV striking a stopped Insured Automobile on an uphill gradient, followed by the movement of the stopped vehicle by an agent of SNIC (not TDGIC) for approximately 30 feet, constitutes a mere accident or mistake is exceedingly remote. **The principle of *res ipsa loquitur* (the thing speaks for itself) is invoked to underscore the inherent implausibility of the events being purely accidental. The fundamental strategic objective of the Respondent Insurance Companies is inferred to have been the avoidance of having the Applicant's benefits exceed the Monetary Injury Guideline (MIG), which provides a maximum treatment limit of $3,500. However, due to the Applicant's own subsequent expenditures and basic mathematical computation, the expenditures factually transcended the MIG threshold (specifically exceeding the $3,500 ceiling, and thus logically moving toward the $5,000 threshold for the potential classification of fraud under the *Criminal Code*). This financial escalation, which triggered the alleged intentional and deliberate vehicular incident coupled with the unlawful surveillance via the TD MyAdvantage App, thereby potentially escalated the matter to one of fraud over $5,000, which is precisely the threshold that triggers serious legal consequences under the *Insurance Act* and criminal law.** The underlying theme of the Respondent Insurance Companies' strategy was, demonstrably, to avoid having the benefits exceed the MIG even though they did through the Applicant's own expenditures and simple math—a calculation which the Epstein Cole LLP Client could not competently perform in his SABS Manager

of Spring 2023, with obvious non-coincidences, thereby necessitating a procedural reaction (the NOM No. 3). **Once the benefits exceeded the MIG, the continued denial of access to the Applicant's own records, coupled with the unlawful usage of surveillance, became highly problematic and prejudicial, transforming a case of contested benefits into a potential matter of criminal or civil fraud and severe misconduct in litigation.** In the present context, the Applicant is not bound by the criminal standard of proof, but is required merely to discharge the burden on a balance of probabilities, which necessitates a demonstration of clear, cogent, and convincing evidence regarding the entitlement to costs on the substantial indemnity scale due to the Respondents' calculated actions.

It is acknowledged that, pursuant to the October 2022 MRI Report prepared by Dr. Bohdan Lychaz, the Applicant's physical condition has been documented to be subject to a degenerative trajectory, specifically concerning the spine, which directly impinges upon the capacity to operate at the previous level of efficiency; to the extent that this circumstance may necessitate a nuanced or calibrated assessment of the proposed hourly rate, such consideration is deemed to reside within the purview of a cognitive, discretionary determination, recognizing that the evaluation of costs is fundamentally an 'art' rather than an exact 'science'. The immense majority of professional time expended was demonstrably necessitated by the *post-facto* discovery of critical facts and the arduous investigation of alleged malfeasance—a forensic process consuming a verifiable expenditure in excess of 1000 hours, as explicitly evidenced by the statutory declarations incorporated at Tabs #3 and #4 of the Motion Record (referencing Tab #22). This extraordinary time was required not for arguing the merits of the *JRPA*, but for unearthing procedural violations and systemic misconduct. The demonstrated success on the multitude of factual grounds arising, particularly the uncontested evidence that the Respondents failed to comply with the mandatory requirements of *Rule 38.07(1)* of the *Rules of Civil Procedure* (regarding service of motion material) while simultaneously engaging in reprehensible, improper, vexatious, and unnecessary conduct since November 27, 2024 (excluding the conduct of the AGO), fundamentally justifies the specific scale of substantial indemnity costs requested. Sound syllogistic conclusions, logically deduced from the exhaustive forensic investigation, which includes substantive admissions and unequivocal representations previously made by the Respondents or their authorized agents, definitively negate any tenable suggestion that the actions or inactions of the **Respondent Insurance Companies** or the LAT were attributable to mere *mistake per se*; thus, the intentionality and deliberation of the misconduct are, by logical extrapolation from the evidence, rendered entirely self-evident, demanding a costs award that reflects judicial condemnation of such calculated procedural resistance.

C. Public Interest Concerns, Statutory Non-Compliance, and Unreasonable Conduct

The issues presently under judicial review have substantially escalated beyond conventional administrative law principles, transitioning into matters of profound public interest and systemic regulatory failure that demands judicial censure. This escalation is directly attributable to the confluence of the LAT's conduct in a separate OIPC proceeding, the **Respondent Insurance Companies'** conduct in response to *PIPEDA* requests and ensuing complaints, and the specific alleged misconduct of various individuals associated with the Respondents, including the actions of Mr. Karat of the **Respondent Insurance Companies** (including Primmum) and the conduct of the Epstein Cole LLP Client during the protracted period of October 2024 to June 2025. **The strategy of "drag, stall, and delay" by insurance defense, when synergistically coupled with underlying fraudulent activity, is ultimately unsustainable, as fraud is codified in *Rule 59.06(2)(a)* (allowing for setting aside judgments based on fraud) and constitutes an enduring matter of common law and equitable jurisdiction. The motive for such action, potentially originating from the Epstein Cole LLP Client's desperation and demonstrated by the failure to tender approved funds to a service provider in April 2023, is understandable only as a desperate act. However, the subsequent unlawful substitution of SNIC for TDGIC, achieved through the misleading use of a single fax number (416.774.3120) linked solely to SNIC, presents a strong inference that the substitution was executed by design to complicate the Applicant's claims and confuse the corporate relationship, a hallmark of sharp practice. This deliberate malfeasance serves as the context for the subsequent egregious conduct of the LAT, particularly the reprehensible, outrageous, and scandalous actions of Vice-Chair (VC) Lake in January 2024, the remedy for which was only achieved by the Applicant through the expenditure of professional time and disbursements to obtain certificates of status from FSRA (Financial Services Regulatory Authority of Ontario), a measure that should never have been necessary to compel administrative transparency. The refusal of the LAT to forthwith file the record of proceedings with the Divisional Court is now undeniably linked to the necessity of preventing said record from being uploaded to Case Center, which would have occurred under the previous *Rules of Civil Procedure* provisions; this intentional delay thereby avoided inclusion of potentially damaging documentation and further highlights the Tribunal's procedural dereliction of duty, creating additional public interest issues concerning the accessibility and integrity of adjudicative records.** This refusal directly subverts the clear intent of *section 20* of the *Statutory Powers Procedure Act* (*SPPA*) and *section 10* of the *JRPA*, which demand the timely and complete submission of the record for judicial review. **The Court must specifically address**

the key issue of the jurisdictional interplay and the statutory distinction between Tribunals Ontario and the LAT, particularly where Tribunals Ontario is asserted to be the central records holder, which arguably creates an internal barrier to the impugned decision makers' ability to comply with the statutory requirement to *forthwith* file the record. The failure to resolve this statutory tension internally places an undue, costly, and legally complex burden upon the Applicant to compel basic compliance. **Furthermore, the Tribunal's contradictory practice of admitting that case conferences are to be recorded, while failing to record them, and the unremedied misrepresentation by Madam Justice Shore on October 10, 2025, concerning the obtainability of case conference records in the Divisional Court, is cause for substantial concern regarding public interest and procedural fairness, raising questions about the Tribunal's internal compliance culture.** The necessity of avoiding a multiplicity of proceedings, as codified by *Rule 59.06(2)(a)*, reinforces the urgency of resolving these public interest issues within the Costs Submissions framework. **It is acknowledged that the Divisional Court, being a statutory court possessing equitable jurisdiction (pursuant to *sections 96 and 97* of the *CJA*), cannot exercise its inherent jurisdiction to contravene the clear legislative intent of the Legislature or the Lieutenant Governor in Council (*LGIC*). Accordingly, officers of the court and litigants are expressly prohibited from encouraging or inciting the Divisional Court to pursue such an *ultra vires* course of action, a caution that must be extended to the Respondents' counsel who may seek to rely on procedural technicalities over substantive justice.** The Applicant, recognizing the considerable judicial burden, has maintained scrupulous adherence to the relevant statutes and the *Rules of Civil Procedure* (distinguished from the *Family Law Rules*), which stands in stark contrast to the Respondents' conduct that has devolved the proceeding into a procedural "circus" both prior to and subsequent to the commencement of the *JRPA* Application. Such "thug-like" and cowardly behaviour is antithetical to the principles articulated in judicial pronouncements, such as the decision of The Honourable Justice Akazaki in *Zurich v. Chubb* (2024).

Moreover, the wilful and deliberate non-compliance by the LAT with its mandatory obligations under the *Tribunals Adjudicative Records Act* (*TARA*) in connection with the relevant record request constitutes an additional, independent, and compelling ground for the imposition of full indemnity costs against that entity, given that such conduct subverts the statutory integrity and transparency principles inherent in tribunal administration. This failure to comply with *TARA* necessitates extraordinary remedies and expenses to obtain the record that should have been provided *forthwith* as per *section 10* of the *JRPA*. The assertion that the collective conduct of the **Respondent Insurance Companies** and the LAT has been nothing short of outrageous and scandalous since December 3, 2024, is considered an egregious understatement of the demonstrable facts. The indefensible decision to actively defend a *JRPA* Proceeding without having secured formal party status through the filing of a First Defence represents the very epitome of unreasonable, scandalous, and outrageous litigation behaviour, which behaviour should consequently attract the most severe financial sanction permissible under the *Courts of Justice Act* (*CJA*). Such conduct constitutes a profound disrespect for the judicial process and an intolerable dereliction of administrative duty, which has unnecessarily prolonged the Applicant's pursuit of justice. **The costs claim is not sought for sympathy, but as a punitive measure against the systemic failures and intentional misconduct that necessitated the Applicant's extraordinary and costly efforts to enforce basic legal rights and procedures against entities that should be setting a standard for procedural probity.**

D. Analogous Precedent and Statutory Violations

A compelling legal parallel may be drawn between the instant circumstances and jurisprudence, such as the precedent established in *Bernstein v. Peoples Trust Company*, wherein full indemnity or substantial indemnity costs were robustly awarded against financial institutions following intentional statutory violations that otherwise invited the imposition of punitive damages. **The Applicant avers that the intentional and deliberate conduct by the Respondents, specifically the concerted effort to conceal evidence (e.g., the TD MyAdvantage data) and avoid procedural obligations (e.g., filing the NOA and Tribunal Record), transcends mere negligence and falls squarely into the realm of bad faith litigation conduct, which is the necessary prerequisite for an award on the substantial indemnity scale as a clear signal of judicial disapproval.** The Court of Appeal has established that substantial indemnity costs are justified where the losing party has engaged in vexatious, frivolous, or highly inappropriate behaviour that has unduly complicated the litigation. While punitive damages are not capable of being awarded *per se* in a Judicial Review Application (as they are not classified as "actions"), the alleged intentional violation by the LAT of the mandatory provisions contained within *section 10* and *section 9(2)* of the *JRPA* **and the non-compliance with the *TARA*** furnishes an analogous foundation for the imposition of maximum costs. The *status quo ante* dictates that the purported service, but not filing or delivery, of the LAT's *NOA* by way of Ms. Maciel's correspondence is dispositive of the issue of procedural validity. Furthermore, any actions undertaken by an unlicensed law clerk not falling within the specified single employer exemption of the LSO By-Laws are subject to the direct and unassailable professional supervisory responsibility of Mr. Boyce, as a lawyer licensee in good standing with the Law Society of Ontario (LSO). This chain of professional accountability fortifies

the argument that the LAT's procedural defaults were not merely administrative oversights but were the result of a fundamentally flawed and legally precarious institutional strategy, the cost of which should be borne by the institution, not the Applicant. **The lack of requisite institutional independence of the LAT, as judicially determined in *Shuttleworth*, combined with the documented reporting of lawyers to the LSO by Mr. Weir for fulfilling their fiduciary duty to represent catastrophically impaired clients, demonstrates that exhaustion of remedies at the LAT, particularly following the dismissal of the First Insurer relief, is not a viable option for resolution, thereby necessitating the costly *JRPA* process in the first instance.**

E. Decision Against Personal Costs and Mounting Disbursements

The determination to refrain from petitioning the Court for costs against counsel personally pursuant to *Rule 57.07* was executed as a strategic and ethical calculation, primarily to ensure the maintenance of the appropriate metric or matrix for cost recovery. Given the evident reality that the **Respondent Insurance Companies** constitute multi-billion dollar entities, the proper and appropriate payor for the substantial costs incurred resides squarely with the corporate entities, whose resources are presumed to be sufficient to satisfy a substantial indemnity award, rather than any individual practitioner whose capacity to satisfy such an order is presumptively and significantly lower. The involvement of Mr. Nieuwland in the alleged TDI Kart Theft or the subsequent conduct of Mr. Papadimitropoulos involving fraud, impersonation, or concealment is not suggested by this office; nevertheless, the corporate **Respondent Insurance Companies** are inextricably bound by the misconduct of their agents and former agents, irrespective of the suspiciously timed exit of the Epstein Cole LLP Client from the TDIA Group to TD Bank. **The underlying medical evidence, such as the commissioned MRI reports by registered medical professionals, possesses an undeniable objective veracity that transcends disagreements regarding the application of the *SABS* thereto; the represented approval of OCF-18 forms followed by the subsequent non-payment of that which was *prima facie* approved causes systemic harm to the entirety of the automotive insurance industry, as service providers rely on the timely fulfillment of such payments for the maintenance of their livelihoods and the integrity of the benefits system is undermined.** The temporal convergence of various events, particularly the notifications on December 13, 21, and 28, 2024—the first of which coincided precisely with the payment for the *Certificate of Perfection* and the formal perfecting of the *JRPA* Application—introduces a level of temporal suspicion that cannot be legally ignored or judicially dismissed. **It is acknowledged that potential interim, injunctive, and interlocutory orders may yield further evidence warranting a higher costs award; however, the Applicant refrains from factoring such speculative future events into the present definitive calculation.** The continuing failure of the Respondents to secure *locus standi* further necessitated extensive legal research and procedural maneuvering to determine the appropriate jurisdictional angle for seeking costs against entities that improperly defend proceedings without formal participation, thereby generating additional and unnecessary hours of professional time, directly recoverable as part of the costs.

In furtherance of the Applicant's burden of proof and ongoing detailed analysis, the Applicant confirms that disbursements will be sought herein for payments made to Authorized Transcript Originals (*ATOs*) and for Request Form Undertakings related to the undisclosed criminal proceeding ("UCP"), as these expenditures were necessitated by the fictitious nature of the criminal proceeding, which the Ministry of the Attorney General (Mr. Sinnadurai) admitted was *void ab initio* due to its foundation upon a False Information Package and the lack of requisite statutory consent from the Crown to transfer the matter to the OCJ 10 Armoury Street Courthouse. The expenses incurred for these criminal proceedings, albeit fictitious and later admitted as such, are directly traceable to the fraudulent and vexatious conduct that originated with the **Respondent Insurance Companies** and therefore represent necessary and recoverable disbursements in this judicial review, pursuant to the principle that a wrongdoer must bear the cost of mitigating the effects of their own wrongful conduct. **In furtherance of the Applicant's burden of proof and ongoing detailed analysis, it is further confirmed that formal requisitions have been issued, seeking unfiled or merely provided but unknown documents of the Respondents; the provision of these documents is again requested forthwith, regardless of their prior filing status, and the non-production of these documents will be grounds for increased costs.**

IV. PROPOSITION FOR ACQUIESCENCE AND CONCLUDING MATTERS

A. Proposition for Acquiescence and Negotiation

Should the **Respondent Insurance Companies** and the LAT harbor a disposition toward acquiescence regarding the quantum of costs presently claimed, the provision of immediate notification is formally requested. Furthermore, it is hereby declared that the Applicant remains available to engage in separate and structured discussions, conducted with or without prejudice, with the impugned **Respondent Insurance Companies** and the LAT for the specific purpose of negotiating a resolution regarding costs should such a resolution be expediently desired by the aforementioned entities. Such notification or negotiation would consequently permit the Applicant to formally apprise the Divisional Court accordingly and to effect

the necessary correlative amendment of the Compendium for NOM No. 3. The prompt exhibition of such consent or good faith negotiation would significantly promote judicial economy, avert the necessity for protracted argument on the issue of costs, and streamline the procedural requirements for the Honourable Court.

B. Adherence to Legal Principle and Mitigation of Costs

It is confirmed that the Applicant shall continue to place unwavering reliance upon strict compliance with the foundational "source laws" and the established common law jurisprudence as settled in the multitude of applicable areas, including the interpretation of procedural fairness and the standard for imposing elevated costs. **The Applicant proceeded in good faith and upon the presumption that the Respondent Insurance Companies and the LAT had executed the filing of their Notices of Appearance; this presumption was subsequently proven to be erroneous, necessitating further procedural steps and cost accumulation. The representation made by Mr. Boyce in response to NOM No. 1, asserting that the delay was attributable merely to awaiting the direction of Madam Justice Shore, is rendered suspect given Her Ladyship's subsequent undisclosed prior judicial involvement in the matter, the inference from which is evident regarding the delay's justification; nonetheless, neither Mr. Boyce nor Madam Justice Shore possesses the authority to override statute from a Divisional Court post, reinforcing the LAT's independent statutory duty to file the record *forthwith*. The Applicant is not seeking emotional consideration but costs strictly in accordance with the *CJA* and the *Rules of Civil Procedure* for the unnecessary expenditures, professional time, and emotional duress caused by being subjected to a procedural "wild goose chase" and unlawful backlash—a pecuniary claim substantiated by the quantifiable time and resources wasted.** The Applicant's professional assessment confirms that the principle that "there is never a wrong time to do the right thing" possesses particular cogency in the present context, and thus, any obscenely belated remedial conduct or procedural rectifications undertaken by the **Respondent Insurance Companies** or the LAT may potentially serve to mitigate or lessen the quantum of costs ultimately ordered; however, to achieve such an attenuating effect, those steps will need to be initiated and executed forthwith, demonstrably reversing the course of prior non-compliance. Absent such immediate and demonstrable *bona fide* action, the presumptive entitlement to costs shall remain undisturbed. **The Applicant notes that "courage is contagious," but asserts that the pursuit of legal remedy against the demonstrated resistance of government entities and multi-billion-dollar corporations entails a highly quantifiable and recoverable risk, which should be reflected in the substantial or FULL indemnity scale sought to deter similar systemic misconduct in the future.**

C. Service on Non-Respondents

A singular copy of these Costs Submissions may, at the Applicant's discretion, be provided to Non-Respondents, such as the Ministry of the Attorney General, solely for informational purposes regarding the ongoing procedural and substantive issues. Nonetheless, the formal provision of these submissions to all Non-Respondents shall definitively occur through the established Compendium, irrespective of whether any Respondents contemplate action to secure *locus standi* herein and subsequently endeavor to oppose NOM No. 3 in accordance with the *Rules of Civil Procedure*. Failure to observe this formality would, *ipso facto*, render any subsequent opposition *ultra vires* the established procedural framework and subject to immediate objection by the Applicant.

Respectfully and Deferentially Submitted,

/s/Mr. Kevin A. McLean

Mr. Kevin A. McLean (BA, JD, CIM)
(Professional Designation: Juris Doctor and Certified Investment Manager)
(Designated Pronoun: He/Him)

Yours faithfully,

/KAM

Mr. Kevin A. McLean (BA, JD, CIM)

Sender's name: Mr. Kevin Alexander McLean (BA, JD, CIM)

5524
Sender's address: 410-775 King Street West, Toronto, Ontario, M5V 2K3
Sender's Telephone Number: (647) 370-9354
Sender's email address: mcleansettlement@gmail.com

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2 Attachments • Scanned by Gmail

M

Mr. Kevin McLean <mcleansettlement@gmail.com> Nov 27, 2025, 2:49 PM

to SCJ-CSJ, Milene, Connor, Heather, Div, Matthew, Jesse, Judie, Isibhakhomen, christiana.ortiz, NCQ-AQC.Toronto, AGC_PG

Email Particulars

File number: **24/718/00JR**
Short Style of cause: **McLean v. TDHA et al**
Type of document: **Email with Two Filed Requisitions attached**
Sending party: **Applicant and Moving Party in NOM #3**
Sender: **Mr. Kevin A. McLean (BA, JD, CIM)**
PRIVATE AND CONFIDENTIAL
Via Electronic Transmission
Creation Method: Dictated with Voice Recognition Software (Reservation of rights to correct any grammar, syntax, important qualifiers, or improper double negatives)

Date: November 27, 2025
To: The Divisional Court (Copied to All Respondents)

Subject I: Requisition for Mandated Electronic Document Upload Repository Access
Subject II: Confirmation of Auxiliary Filings and Imminent Compendium Submission Pertaining to Notice of Motion Number 3 (the "**NOM")**

I cordially write regarding the above.
I adopt all definitions from previously, indirectly or directly, cited correspondence.
I. Concomitant Documentation and Auxiliary Filings
Confirmation is hereby provided that the filing of specific concomitant documentation has been duly effectuated and recorded on the court file, thereby rendering the record complete *pro tanto*.
Specifically, the following materials have been formally introduced:

1. The **Costs Submissions** (previously tendered for the Court's consideration); and,
2. The **Requisitions** of November 26, 2025 (the "**Requisitions**"), which are appended hereto as the sole Enclosures to this correspondence, and are cited herewith as necessary components of the official record.

II. Status of the Compendium Preparation
The preparation of the **Compendium**, an essential constituent of the court documents as per my Confirmation of Motion, approaches its conclusive phase.
A diligent verification shall consequently be undertaken to ensure that the requisite access credential, or *invitatio*, has been duly furnished for the purpose of commencing the electronic submission procedure

Case Center (the "**Platform**") prior to the cessation of the present business day. The provision of this access is a condition *status quo ante* for compliance with the forthcoming deadline et al.

III. Imperative for Electronic Upload Facility Access and Registry Compliance
Appreciative acknowledgment is extended to the Divisional Court for the prompt provision of the aforementioned access in the context of the instant **NOM**, which demands this preliminary facilitation. Although the filing of a supplementary **Requisition** is not deemed necessary *per se* to compel action, this communication serves as a conscientious notification to the Divisional Court Registrar to effectuate the timely issuance of the said *invitatio*. This is rendered essential by the stringent **Deadline** stipulated under the *Rules of Civil Procedure* (the "**Rules**") for the upload of the **Compendium** at 2:00 p.m. on the third day preceding the scheduled hearing.

Given that this calculation would *ipso facto* cause the filing deadline to fall upon a *dies non* (Saturday or Sunday) during the impending weekend, the litigant's entitlement to the **Platform** access is established. This requirement has been consistently articulated in the Divisional Court Guide (the "**Guide**"), the relevant provision of which explicitly states: **"Case Center Case Center is an online document sharing platform which allows the Divisional Court to electronically view your court materials. The Divisional Court uses Case Center for both remote and in-person hearings. After you have brought an application or motion for leave, you will receive an email to register for Case Center and upload your materials. There is no fee to use Case Center."**
It is further recalled that the **previous** *Divisional Court Judicial Review Practice Application Guide* (the "**Previous Guide**") stipulated an analogous system, specifically referencing **CaseLines**. The *Previous Guide* stated: **"CaseLines CaseLines is an online document sharing platform which allows the Court to electronically view your materials. The Divisional Court uses CaseLines for remote and in-person hearings. After you have brought an application for judicial review, you will receive an email to register for CaseLines and upload your materials. There is no fee to use CaseLines."** *Non obstante veredicto,* the *Rules of Civil Procedure* (the "**Rules**") definitively mandate the facility for litigants to upload documents that have not been submitted by the Registrar, pursuant to the recent amendment to the *Rules*. Accordingly, the Applicant maintains an *a fortiori* entitlement to, at minimum, inspect all documents uploaded to the repository and to reference the same with precision. The previous communications tendered regarding this exigency are herewith reiterated and relied upon.

In tandem with the access request, the Court is also directed to the **Requisition** filed under *Rule 4.08* (the "**Requisition for Copies**") for certified copies of any documentation lodged on the *Judicial Review Practice Application* (the "**JRPA Application**"). This is necessitated by the observation that the Respondents have neither **filed** nor **delivered** their respective **Notices of Appearance**. I have done so out of an abundance of caution.

The timely provision of the access credential and the fulfillment of the **Requisition for Copies** are, therefore, requested with alacrity to avert any *in limine* non-compliance with the prescribed electronic filing **Deadline**. I also confirm that I received another auto-reply from Ms. Maciel in relation to the last email.

Yours most appreciatively and gratefully,
/s/Mr. Kevin A. McLean (BA, JD, CIM)
Mr. Kevin A. McLean (BA, JD, CIM) (he/him)
Enclosures:
1. The Two Requisitions

5526

Yours faithfully,

/KAM

Mr. Kevin A. McLean (BA, JD, CIM)

Sender's name: Mr. Kevin Alexander McLean (BA, JD, CIM)
Sender's address: 410-775 King Street West, Toronto, Ontario, M5V 2K3
Sender's Telephone Number: (647) 370-9354
Sender's email address: mcleansettlement@gmail.com

...

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M

Mr. Kevin McLean <mcleansettlement@gmail.com> Nov 28, 2025, 10:47 AM

to SCJ-CSJ, Milene, Connor, Heather, Div, Matthew, Jesse, Judie, Isibhakhomen, christiana.ortiz, NCQ-AQC.Toronto, AGC_PC

Date: November 28, 2025

Required Email Particulars

- Divisional Court File number: **24/718/00JR**
- Short Style of cause: *McLean v. TDHA et al*
- Type of document: **Email with attached Form 57(A), "Bill of Costs"**
- Sending party: **Applicant and Moving Party in NOM #3**
- Sender: **Mr. Kevin A. McLean (BA, JD, CIM)**

Further Courtesy email particulars (partial relevant chronology for nom #3)

- Date of the VCL Reconsideration Decision: October 16, 2024 (received)
- Date of the TDI Karat Theft of Applicant's property: October 25, 2024;
- Date of the Epstein Cole LLP Client's forgery and impersonation of Applicant in the TPL Fraud Loan Agreement and utilizing of Applicant's identification stolen by TDI Karat Theft: October 28, 2024;
- Date of the Applicant's serving of the AGC and AGO with his HRTO NOCQ: November 7, 2024
- Date of impersonation of Applicant for Aga Khan Museum reservation: November 8, 2024;
- Date of impersonation by Epstein Cole LLP Client at TPL Queen Saulter Branch by taking out some 24 books in fraudulent fashion with veiled threats contained in the synopses of those books: November 11, 2024
- Date JRPA Application was brought: November 15, 2024
- Date of service of JRPA Application: November 15, 2024;
- Date of required invitation to Applicant to Case Center: November 18, 2024
- Date of required "delivery" of Notices of Appearances: November 19, 2024
- Date the LAT purportedly served its NOA: November 27, 2024;
- Date of void ab initio case conference **request** by the LAT: December 3, 2025 at approximately 3:30 p.m.
- Date the Respondent Insurance Companies served their NOA's: December 3, 2024 at 4:50 p.m.
- Date of Applicant's Application Record and Factum: December 10 and 12, 2024
- Date of Applicant's perfecting of the JRPA Application: December 13, 2024

- Date of Applicant's requisition for compliance with Rule 68.05 of the Rules of Civil Procedure: December 24, 2024;
- Date of Applicant's requisition for urgent hearing pursuant to section 6(2) of the JRPA: December 24, 2024;
- Date of Applicant's affidavit in support of an urgent hearing pursuant to section 6(2) of the JRPA: December 30, 2024;
- Date of Madam Justice Shore's void ab initio assignment of proceeding for case management: and assignment of the JRPA Proceeding to herself: January 7, 2025;
- Date of Applicant's objection to Madam Justice Shore on grounds of conflicts of interest due to association with Epstein Cole LLP Client: January 8, 2025;
- Date of Applicant's notice of Recusal Request Written Submissions on above ground: January 16, 2025;
- Date of Applicant's NOM #1: January 22, 2025 (returnable on January 30, 2025)
    - Unopposed by the LAT or other Respondents
- Date that Epstein Cole LLP Client, as per LSO Directory, no longer with TDIA Group but apparently employed by TD Bank (legal department): January 31, 2025;
- Date of confirmation by AGO of not requiring any notice to be heard at the hearing of the JRPA Application: January 30, 2025
- Date of Applicant's NOM #2: January 31, 2025 (returnable on February 14, 2025)
    - Unopposed by the Respondents (excluding AGO as he had withdrawn)
- Date of closing for Mr. David Karat and Ms. Julia Karat [sic] on the 591 Fleetwood Drive, Oshawa, property: February 6, 2025
- Date of filing the Applicant's 1st Compendium: February 11, 2025;
- Dates required for uploading of all filed documents to Case Center for any hearings or conferences:
    - NOM #1 hearing: January 26, 2025 at two p.m.
    - NOM #2 hearing: February 10, 2025 at two p.m.
    - Case conference (void ab initio request and unlawful double delegation) (5 days before): February 12, 2025 and March 1, 2025;
- Date of Applicant's NOCQ: March 4, 2025;
- Date of Applicant's Amended JRPA Application: March 5, 2025;
- Date of Applicant's discovery of David Karat being the thief of his property on October 25, 2024: May 4 to 15, 2025
- Date of the Epstein Cole LLP Client's false police complaint to the TPS 55th Division regarding Applicant: June 19, 2025
- Dates of Mr. Sinnadurai's letters confirming that the False Information Package involving the false arrest predicated on an undisclosed signed arrest warrant for the Applicant in September/October 2024 was provided to him: June 25, 2024 and July 4, 2024;
- Date of the SCJ RMO's (Ms. Azim) admission that Madam Justice Shore was a judge involved in the issuing and signing of an arrest warrant for the Applicant in September 2024: August 20, 2025
- Date Applicant requested whether the LAT or Respondent Insurance Companies "filed" and/or "delivered" their NOA's: October 26, 2025
- Date of Applicant's discovery of Mr. Sinnadurai being counsel to Madam Justice Shore: November 2025
- Other particulars to be provided in Compendium

Classification: PRIVATE AND CONFIDENTIAL
Method of sending, serving and/or notice : Via Electronic Transmission
Creation Method: Dictated with Voice Recognition Software (Reservation of rights to correct any grammar, syntax, important qualifiers, or improper double negatives)

TO:
LAT
Respondent Insurance Companies

AND TO:

Other Respondents
5528
CC'ED TO:
Divisional Court
Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:
Subject I: Bill of Costs (Form 57(A)) – service upon the LAT and Respondent Insurance Companies

I cordially write regarding the above. I have provided the detailed email particulars (partial chronology) to assist all with some of those material dates as it relates to my NOM #3 returnable on Wednesday, December 3, 2025. I will maintain and update the same for ease of reference due to the complex amount of facts discovered or arising since late March 2025 to present which remains ongoing.
Please find attached the Form 57(A), "Bill of Costs" in support of the Costs Submissions and the *Rules of Civil Procedure*.

My Compendium for NOM #3 will follow with, inter alia, the documents referenced in the NOM #3 Confirmation of Motion along with the Costs Submissions, Requisitions (November 2025), and this Bill of Costs.

Yours most appreciatively and gratefully,

/s/Mr. Kevin A. McLean (BA, JD, CIM)
Mr. Kevin A. McLean (BA, JD, CIM) (he/him)
Enclosures:
1. Form 57(A), "Bill of Costs"

Yours faithfully,

/KAM

Mr. Kevin A. McLean (BA, JD, CIM)

Sender's name: Mr. Kevin Alexander McLean (BA, JD, CIM)
Sender's address: 410-775 King Street West, Toronto, Ontario, M5V 2K3
Sender's Telephone Number: (647) 370-9354
Sender's email address: mcleansettlement@gmail.com

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M

Mr. Kevin McLean <mcleansettlement@gmail.com> Nov 28, 2025, 9:28 PM
to SCJ-CSJ, Milene, Connor, Heather, Div, Matthew, Jesse, Judie, Isibhakhomen, christiana.ortiz, NCQ-AQC.Toronto, AGC_PG

PRIVATE AND CONFIDENTIAL VIA ELECTRONIC TRANSMISSION
Communication Particulars
- **File Number:** 24/718/00JR
- **Style of Cause:** *McLean v. TDHA et al*
- **Type of Document:** Formal Electronic Correspondence with Attached Requisitions

- **Sending Party:** The Applicant and Moving Party in Notice of Motion No. 3
- **Sender:** Mr. Kevin A. McLean (BA, JD, CIM)

Date of Transmission

November 28, 2025

Recipients

To:

The Divisional Court (Registrar) **Copied to:** All Counsel of Record and Unrepresented Respondents

Subject: Provision and Formal Service of the Applicant's Compendium for Notice of Motion No. 3, Filed Pursuant to Required Interval Mandates in the OCPP

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

I. Introduction and Purpose of Correspondence

The present correspondence is submitted for the singular and specific purpose of providing formal notification to the Honourable Court and all parties concerning the complete *acta* associated with the recent filing of the voluminous Compendium of Authorities and Evidence, pertaining to Notice of Motion No. 3 (hereafter, "NOM No. 3"). Pursuant to the established administrative directives mandating that submissions be lodged in designated page intervals, and as was previously undertaken, the entirety of the Compendium has been electronically filed and is concurrently being provided for formal service.

I confirm that I repeat and rely upon the previous above.

II. Submission Structure and Electronic Integrity

The meticulous and painstaking preparation of the Compendium is observed to ensure the utmost facilitation of the forthcoming judicial review and adjudication. The comprehensive evidentiary record, which encompasses Tabs 1 through 66, has been rigorously formatted such that all internal cross-references are secured with precise hyperlinking mechanisms, and the totality of the annexed documents are comprehensively bookmarked; this highly specialized design is specifically intended to preclude any administrative ambiguity or procedural impediment (*in limine*) that might otherwise arise from voluminous documentary submissions.

III. Dissemination Protocols

The necessity of strict adherence to electronic file size constraints, which necessitates the reduction of individual file capacity, mandates that the complete Compendium be formally partitioned into ten (10) distinct and sequential electronic filings. This procedural requirement, while demonstrably cumbersome, is executed in strict compliance with the established filing mandates and is not indicative of any failure to comply.

- **Initial Components:** The initial four components of the Compendium, designated formally as Parts 1 through 4, are herewith formally appended to this primary filing and are thereby considered formally served upon the parties copied herein.
- **Residual Components:** The residual six components, constituting Parts 5 through 10, shall be furnished to the aforementioned recipients via a series of discrete, subsequent electronic filings, all of which shall bear the operative and effective service date of November 28, 2025.

IV. Procedural Confirmations and Administrative Requests

- **Non-Perfection of Appearances (unfiled and undelivered):** It is affirmed *ex abundante cautela* that the records presently accessible do not manifest any demonstrable evidence of the Respondents having perfected the filing of their requisite Notices of Appearance in this jurisdictional matter. Confirmation is respectfully sought concerning the definitive file title employed by the Office of the Chief Justice and Provincial Court (OCPP) for the aforementioned Notice of Appearance, thereby ensuring the prompt updating and currency of the Compendium should any Respondent perfect their filing. Absent such formal notification, the presumption shall subsist that the Respondents elect not to proceed with the filing of said Notices.
- **Service upon Non-Respondents:** Furthermore, an unambiguous undertaking is herewith provided that the full Compendium shall be disseminated and formally served upon all known **non-Respondents** who may possess a material or determinative interest in the subject proceedings.
- **Case Centre Access and Imminent Hearing:** Given that the scheduled hearing date is now less than three (3) business days distant, access to the Case Centre platform is respectfully requested forthwith to facilitate the electronic filing of the complete record. It is further noted that the internal confirmation regarding the review of recent communications for such an invitation, subsequent to the filing of the Bill of Costs, may be still pending. The compliance with the filing protocol, which stipulates intervals of 500 pages, renders the conclusion self-evident that the full Compendium is provided in the exact format required for administrative processing, ensuring

5530
the integrity of the record is maintained *status quo ante* the hearing. The subsequent failure to review this material cannot, *ipso facto*, be attributed to any dereliction on the part of the Applicant and Moving Party.

V. Conclusion

The Applicant (Moving Party) remains, Sirs/Mesdames, with the highest professional consideration, acknowledging the Court's mandate for the rigorous and proper administration of justice. All of which is formally and respectfully submitted.

Thank you to all and wishing all a pleasant weekend!

Mr. Kevin A. McLean (BA, JD, CIM)
Applicant and Moving Party, NOM No. 3
Enclosures: The Compendium for NOM No. 3 (Parts 1 to 4 of 10)

Yours faithfully,

/KAM

Mr. Kevin A. McLean (BA, JD, CIM)

Sender's name: Mr. Kevin Alexander McLean (BA, JD, CIM)
Sender's address: 410-775 King Street West, Toronto, Ontario, M5V 2K3
Sender's Telephone Number: (647) 370-9354
Sender's email address: mcleansettlement@gmail.com

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M

Mr. Kevin McLean <mcleansettlement@gmail.com> Nov 28, 2025, 9:30 PM

to SCJ-CSJ, Milene, Connor, Heather, Div, Matthew, Jesse, Judie, Isibhakhomen, christiana.ortiz, NCQ-AQC.Toronto, AGC_PG

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

As promised, please find Part 5 and 6 of 10 attached.

Yours faithfully,

/KAM

Mr. Kevin A. McLean (BA, JD, CIM)

Sender's name: Mr. Kevin Alexander McLean (BA, JD, CIM)
Sender's address: 410-775 King Street West, Toronto, Ontario, M5V 2K3
Sender's Telephone Number: (647) 370-9354
Sender's email address: mcleansettlement@gmail.com

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M

Mr. Kevin McLean <mcleansettlement@gmail.com> Nov 28, 2025, 9:32 PM

to SCJ-CSJ, Milene, Connor, Heather, Div, Matthew, Jesse, Judie, Isibhakhomen, christiana.ortiz, NCQ-AQC.Toronto, AGC_PC

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

As promised, please find Part 7 and 8 of 10 of the Compendium for NOM #3 attached.

Yours faithfully,

/KAM

Mr. Kevin A. McLean (BA, JD, CIM)

Sender's name: Mr. Kevin Alexander McLean (BA, JD, CIM)
Sender's address: 410-775 King Street West, Toronto, Ontario, M5V 2K3
Sender's Telephone Number: (647) 370-9354
Sender's email address: mcleansettlement@gmail.com

...

[Message clipped] View entire message
2 Attachments • Scanned by Gmail

M

Mr. Kevin McLean <mcleansettlement@gmail.com> Nov 28, 2025, 9:34 PM

to SCJ-CSJ, Milene, Connor, Heather, Div, Matthew, Jesse, Judie, Isibhakhomen, christiana.ortiz, NCQ-AQC.Toronto, AGC_PC

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

As promised, please find Part 9 of 10 of the Compendium for NOM #3 attached.

Yours faithfully,

/KAM

Mr. Kevin A. McLean (BA, JD, CIM)

Sender's name: Mr. Kevin Alexander McLean (BA, JD, CIM)
Sender's address: 410-775 King Street West, Toronto, Ontario, M5V 2K3
Sender's Telephone Number: (647) 370-9354

Sender's email address: mcleansettlement@gmail.com

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M

Mr. Kevin McLean <mcleansettlement@gmail.com> Nov 28, 2025, 9:35 PM

to SCJ-CSJ, Milene, Connor, Heather, Div, Matthew, Jesse, Judie, Isibhakhomen, christiana.ortiz, NCQ-AQC.Toronto, AGC_PC

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

Please find 10 of 10 of the Compendium for NOM #3 attached.

Thank you.

Yours faithfully,

/KAM

Mr. Kevin A. McLean (BA, JD, CIM)

Sender's name: Mr. Kevin Alexander McLean (BA, JD, CIM)
Sender's address: 410-775 King Street West, Toronto, Ontario, M5V 2K3
Sender's Telephone Number: (647) 370-9354
Sender's email address: mcleansettlement@gmail.com

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[Message clipped] View entire message
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M

Mr. Kevin McLean <mcleansettlement@gmail.com> Dec 1, 2025, 12:03 AM

to SCJ-CSJ, Milene, Connor, Heather, Div, Matthew, Jesse, Judie, Isibhakhomen, christiana.ortiz, NCQ-AQC.Toronto, AGC_PC

Date of Instrument: November 30, 2025

Particulars of Electronic Transmission
Judicial File Designation: 24/718/00JR
SHORT STYLE OF CAUSE: McLean v. TDHA et al.
Character of Instrument: Official Transmittal of the Primary Draft Order Pertaining to Notice of Motion No. 3 (NOM #3)
Originating Entity: The Applicant and Moving Party in NOM #3
Submitted By: Mr. Kevin A. McLean (B.A., J.D., C.I.M.)

5533
Classification: PRIVILEGED AND CONFIDENTIAL
Medium of Conveyance: Via Electronic Means
Addressees: The Honourable Divisional Court
(With Corresponding Service Effected Upon All Named Respondents)
SUBJECT LINE: FORMAL SUBMISSION OF THE PRIMARY DRAFT ORDER, ARTICULATING THE PROPOSED ANCILLARY AND SUBSTANTIVE RELIEF AS OF NOVEMBER 30, 2025 BASED ON CURRENT CIRCUMSTANCES
SUBJECT LINE II: I WILL PROMPTLY NOTIFY THE DIVISIONAL COURT AND RESPONDENTS SHOULD I BE SERVED BY ANY OF THE NON-RESPONDENTS (RESPONDING PARTIES ON MOTION) IN RELATION TO THE RELIEF SOUGHT AGAINST THEM (CONFIRMATION NOTHING AS OF TODAY'S DATE)

I. INTRODUCTION AND TENDER OF THE PRIMARY DRAFT ORDER

This formal communication is hereby tendered to the Honourable Court with respect to the above-referenced proceeding, the paramount objective of which is the confirmation of the contemporaneous electronic filing of the Primary Draft Order (hereinafter designated as "the Draft Order") in both Portable Document Format (PDF) and Microsoft Word format, bearing the inscription of November 30, 2025. This specific iteration has been designated advisedly as a "Primary Draft Order," given that the proposed scope of the relief delineated therein has been judiciously concentrated upon the more fundamental, **ipsum factum** elements deemed indispensable for the restoration of the **status quo ante** and for facilitating the efficacious prosecution of this Application for Judicial Review. A deliberate election has been made by the Applicant to defer, **pro tempore**, certain forms of ancillary relief, such as the external transmission of records, which course of action manifests a measure of principled restraint and compassion, having been extended in consideration of the lamentable derelictions in judgment that have been committed by certain parties, particularly those whose private circumstances might hypothetically warrant such clemency. Notwithstanding the adoption of this measured approach, an unwavering commitment to the immediate and unencumbered restitution of the Applicant's sequestered property remains paramount, encompassing assets of substantial sentimental consequence, instruments deemed essential for the Applicant's quotidian professional and personal necessities, and, **a fortiori**, all documentation, records, and evidentiary materials that constitute the integral subject-matter of the within litigation.

II. ADHERENCE TO THE JURISDICTIONAL PRINCIPLES AND RESERVATION OF APPELLATE RIGHTS

It is herein unequivocally reaffirmed that the entire scope of the Applicant's substantive grievance is definitively directed toward the impugned judicial officer—specifically, the Honourable Madam Justice Shore—with respect to all conduct undertaken, whether such actions were formally disclosed or maintained in an undisclosed fashion. This singular focus shall remain immutable, irrespective of the precise *impetus* or motivational catalyst underlying the lines of conduct or judicial approaches that are demonstrably and **prima facie** inconsistent with the governing legal principles and established juridical precedents.
The entirety of the Applicant's rights is expressly reserved, the election having been made to maintain a deferential, "wait and see" approach concerning the highly protracted procedural timelines that have heretofore characterized the management of this file. Although the potential for dilatory or delinquent filing practices on the part of certain Respondents constitutes a discernible, if speculative, eventuality, any definitive pronouncement or extrapolation concerning such conjecture is, at this juncture, duly eschewed as premature.

III. PROCEDURAL DELIMITATIONS AND THE CONSTRAINTS UPON AVAILABLE REMEDIES

It is submitted that the Applicant is procedurally constrained by the prescriptive dictates of the Ontario *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194. Had the inherent jurisdiction of the Court permitted, a substantial preference would have been exercised for the initiation of a new, distinct proceeding, such as the mechanism of a Petition grounded in formalized allegations of fraud, analogous to the procedural framework accessible within the Province of British Columbia. Such an alternative procedural **modus operandi** would have afforded the opportunity to seek commensurately expanded and additional damages. Nevertheless, confinement is necessitated by the jurisdictional ambit of the province of the Applicant's residence and the venue of the operative facts, thereby demanding the filing of the within Motion for the setting aside of all impugned steps, documents, or Orders, pursuant to the prescriptive ambit of the *Rules of Civil Procedure*. Consequentially, the Applicant is rigorously compelled to advance the entirety of the requisite relief within the extant fiscal and procedural parameters of this singular Judicial Review Application (JRPA) Proceeding.

IV. STATUS OF OUTSTANDING MANDATES AND ALLEGATIONS OF OBSTRUCTION

As of the date inscribed upon this submission, the absence of any restitution of the unlawfully divested property is averred; furthermore, no provision of duplicate Compact Discs (*CDs*) has been effected as mandated by Request Form Undertakings, nor has there been any transmission of *audiotapes and materials for transcription* to the Applicant's authorized transcribing officers (*ATOs*). This systematic obstruction of the requisite paths to the procurement of evidence is specifically attributed to the sustained actions of the Honourable Madam Justice Shore.

In the contingency that no unforeseen, belated filings of Notices of Appearance (*NOAs*) by the Respondent Insurance Companies or any other responding parties are effectuated, this Draft Order shall stand as the Applicant's definitive, substantive proposal, thereby affording authorization for the Applicant to proceed forthwith by way of written argument, **in limine**.

V. THE RATIONALE UNDERGIRDING THE COMPENDIUM AND THE ALLEGED OPERATIVE FRAUD

Detailed particulars have been meticulously incorporated into the prescribed form, providing both a reference to the substantive background and a comprehensive, granular cross-reference to every document contained within the "Compendium For NOM #3." While the submission of a Compendium is not strictly mandatory where a motion remains unopposed, the Applicant was *compelled* to undertake this extraordinary quantum of work to ensure that all relevant filed documentation was properly collated, thereby facilitating its seamless upload to Case Center by the Applicant, a procedure now required under the pertinent amendments to the *Rules of Civil Procedure* for matters within the Toronto Region.

It is formally asserted that the **actus reus** of the property's unlawful divestiture, when considered within the totality of the attendant circumstances, was deliberately orchestrated. The apparent design was predicated upon the operational premise that *Rule 68* of the *Rules of Civil Procedure* only mandates the filing of a factum and an Application Record thirty days subsequent to the filing of the Record of Proceeding in the relevant Court. In the context of a Divisional Court matter, the Tribunal is statutorily obliged to file the Record forthwith. However, the demonstrated **modus operandi** of the Licence Appeal Tribunal (*LAT*) is well-established, evidenced by the fact that the compilation of the Record of Proceeding was not even contemplated until February 2025.

The logical extrapolation derived from the confluence of surrounding events—specifically, the unlawful divesting of the Applicant's property and electronic devices, conjoined with the actions of Mr. Karat, who acted **in concert** with the Applicant's Landlord, and the nexus to other ostensibly nefarious public mischief complaints involving the Epstein Cole LLP client in June 2025—suggests a calculated attempt to incapacitate the Applicant. The manifest intent was apparently to prevent the timely filing of the Application Record, thereby unilaterally arresting the commencement of the "factum and application record" procedural clock.

It is submitted that such machinations demonstrate a fundamental jurisprudential **ultra vires** misunderstanding concerning the paramountcy doctrine within the Canadian legal framework, which deficiency is perhaps an understandable failing given the purported lack of formal, accredited legal education (law clerk, paralegal, or law school) on the part of the aforementioned private actors in the Province of Ontario.

VI. CONCLUDING ASSERTIONS AND FINAL SUBMISSIONS

To the extent that any Non-Respondents effect service of documents upon the Applicant, the Applicant undertakes to promptly furnish these materials to this Honourable Divisional Court. Should said Non-Respondents fail to effect service by the close of the business day, given that their initial service was marginally later than that of the primary Respondents, notification of this material omission shall likewise be rendered to the Honourable Court.

The continuity of the LAT's alleged fraud is evidenced by its persistent refusal to produce a copy of the Two Undisclosed Motion Orders, an act which may have served as the fundamental **causa causans** for the initial illegal seizure of property. Simultaneously, this procedural **malaise** has transpired against a backdrop of purported attempts at extortion perpetrated by Mr. Karat and Mr. Papadimitropoulos during periods when their professional engagement appeared to be minimal.

A copy of this email and Draft Order (November 30, 2025), while reserving all rights should anything change between now and end of business day tomorrow. However, if not, then by all accounts, this motion will proceed unopposed even against Non-Respondents. Of course, I have remained and will continue to be duly diligent in attempting to obtain new facts or evidence, including that which was and is subject to special categories of causes of nullities but to the extent that this NOM #3 proceeds unopposed then that will conclude this proceeding vis-a-vis those issues which I boldly presume for some will be a relief (pardon the pun).

As noted on October 26, 2025, there is no quid pro quo for Madam Justice Shore as I will pursue all independent avenues of recourse in the public interest and many of them are in the public interest. She nearly killed me with her unlawful approach to

jurisdiction, which perhaps with her lack of experience in that domain could be understandable, and the Undisclosed Criminal Proceeding but I commend the MAG on some of its honesty in the Summer of 2025, and perhaps the intentional tipping me to the name of the presiding judge in the UCP by the unilateral selection of Mr. Sinnadurai. That I will never know and we need not know.

If it was not clear either, active and similar steps have been taken in relation to JP Jiri as I verily believe that he had an active role in tacit adoption or facilitation of the Intake Court Endorsement [Sic] but he is entitled to due process in that regard as well. Suffice it to say that OCJ Brampton with RSJ Paul Currie at the helm for some time has enough corruption surrounding it considering his assaults and batteries of females and coercing law enforcement to render that my last time into the Brampton area (i.e. the personal service on JP Jiri).

I can also confirm that active steps have been taken in relation to various members of law enforcement with independent oversight bodies in the public interest.

Of course, any further omissions or commissions in unlawful fashion are ones that I could raise in that regard under my right and duty to do sand in accordance with the "open court principle". I trust that will not be necessary or no further evidence will arise herein in light of sagacious, erudite and pointed precedent of law affirmed by the most Honourable Mr. Justice Akazaki of the SCJ (Toronto Region) in Zurich v. Chubb (2024) regarding vital treatments and benefits that have been required in light of degenerative and deteriorating conditions (see: most recent MRI of 2025).

The Draft Order has been duly submitted in both formats to facilitate any desired refinements by a presiding judicial officer, should such modification be deemed requisite for the effective administration of justice.

I reserve the right to rely on any correspondence herein including that which may be appended to an affidavit out of an abundance of caution and for record keeping purposes.

Respectfully Submitted,

/s/Mr. Kevin A. McLean (BA, JD, CIM)

Mr. Kevin A. McLean (B.A., J.D., C.I.M.)
Applicant and Moving Party

Yours faithfully,

/KAM

Mr. Kevin A. McLean (BA, JD, CIM)

Sender's name: Mr. Kevin Alexander McLean (BA, JD, CIM)
Sender's address: 410-775 King Street West, Toronto, Ontario, M5V 2K3
Sender's Telephone Number: (647) 370-9354
Sender's email address: mcleansettlement@gmail.com

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Mr. Kevin McLean <mcleansettlement@gmail.com> Dec 1, 2025, 2:34 PM

Classification	**Private and Confidential**
Medium of Conveyance	Electronic Means (Initiating Correspondence for the Court Record)
Date of Submission	December 1, 2025

JUDICIAL FILE PARTICULARS

Judicial File Designation	**24/718/00JR**
Short Style of Cause	*McLean v. TDHA et al.*
Document Type	confirmation of Service upon the Non-Respondents along with reference to tech issue for DC email (kind notice)
Originating Entity	The Applicant and Moving Party in *NOM #3*
Submitted By	Mr. Kevin A. McLean, B.A., J.D., C.I.M.

ADDRESSEES

TO:

THE DIVISIONAL COURT
Osgoode Hall, Rm 174, 130 Queen St W, Toronto, Ontario M5H 2N5
Attention: Registrar of the Divisional Court, Ms. Takesha Gentles
(Email: Tashekah.Gentles@ontario.ca; Phone: 416-327-5036; Fax: 416-327-5549)

AND TO: THE RESPONDENTS

Via Electronic Notification to Declared Counsel (despite absence of serving and/or filing, with proof of service, their Notices of Appearances as it relates to the LAT and Respondent Insurance Companies)
Attention: Mr. Boyce (Licence Appeal Tribunal - LAT)
Attention: Mr. Nieuwland (Respondent Insurance Companies)
Attention: Ms. Im (Attorney General of Ontario - AGO)

SUBJECT: OFFICIAL CONFIRMATION OF SERVICE UPON NON-RESPONDENTS OF THE APPLICANT'S DRAFT ORDER AND COMPENDIUM FOR NOM #3; DISCOURSE ON TEMPORAL JURISPRUDENCE

May it please the Court, Esteemed Counsel, and the Distinguished Registrar: The present communication is tendered as a matter of exigency and procedural necessity, serving to formally document the recent procedural *acta* of the Applicant.

I. Confirmation of Procedural Compliance and Technological Impediment

This correspondence is formally submitted to the Divisional Court and all interested parties pertaining to the aforementioned judicial review proceeding. The imperative requiring the explicit inclusion of the esteemed Registrar of the Divisional Court, Ms. Gentles, in this electronic transmission is directly borne of the **technological impediment** encountered *post meridiem* yesterday, *to wit*, the explicit notification received that the Court's primary

electronic receptacle of judicial communications was rendered inaccessible, having achieved its maximum storage capacity.

An equitable **indulgence** is respectfully sought from the Registrar subsequent to this unforeseen *actus* involving the judicial infrastructure. This procedural documentation confirms unequivocally that this exceptional circumstance arose **subsequent** to the mandatory submission of the Confirmation of Motion, as is statutorily mandated by the strictures of *Rule 37.10.1* of the *Rules of Civil Procedure*—a critical prerequisite to the proper scheduling and hearing of motions. The Confirmation of Motion, dated November 24, 2025 (Enclosure 1), was duly filed prior to the technological issue. This act, confirming the motion for the return date of December 3, 2025, *ad majorem cautelam*, serves to dispel any potential ambiguity concerning the Applicant's diligent compliance with the *Rules* preceding the Court's electronic failure. The maintenance of the *status quo ante* regarding the procedural timetable is thus demonstrably supported by the Applicant’s antecedent adherence to the *Rules*.

II. Effectuation of Service Upon Non-Respondents: Supererogatory Prudence

It is herewith further confirmed that, as an exercise of **supererogatory prudence** and to ensure absolute procedural rectitude across the spectrum of all potentially affected parties, formal service has been effectuated upon the **Non-Respondents**. These entities are precisely those parties designated in the affidavit of service formally sworn on November 21, 2025. This requisite service, rigorously completed on this date, encompassed the specific judicial documentation enumerated hereunder:

1. The Draft Order for *NOM #3*, dated November 30, 2025 (Enclosure 3). This instrument represents the Applicant’s proposed outcome, detailing the precise and comprehensive relief sought from the Court, and is necessary to fully apprise all parties of the intended final disposition.
2. The Compendium for *NOM #3*, which was previously served and officially filed on November 28, 2025. The Compendium, serving as the compilation of essential documentary evidence and authorities, is fundamental to the Court's assessment of the merits of *NOM #3*.

The rationale underlying the service upon Non-Respondents is anchored in the principle of fundamental fairness and the avoidance of any claim of procedural **ultra vires** pertaining to the relief sought, even if such parties have not formally delivered a Notice of Appearance. The overarching goal is the complete transparency of all *acta* relevant to this proceeding.

III. Reaffirmation of Motion Particulars and Rigorous Temporal Stipulations

The **integrity** of the previous procedural submissions is strictly maintained. This includes the origination of the Applicant's Notice of Motion Number Three (*NOM #3*) on November 17, 2025. Its scheduled return date of **December 3, 2025**, was established via the aforementioned Confirmation of Motion (Enclosure 1), and was predicated upon the subsequent rendering of service upon the Responding Parties with a minimum of fourteen (14) days' notification.

The **underlying procedural premise** remains the inherent and non-negotiable necessity to commence such an ancillary motion *intra* the established Divisional Court proceedings, herein denoted formally as the *Judicial Review Procedure Act* (*JRPA*) Proceeding. The gravity of this *NOM #3* is underscored by the substantive relief sought, including, *inter alia*, a Costs Award claimed on a full-indemnity basis in the substantial, as meticulously articulated in the Draft Order (Enclosure 3).

Said origination and service were comprehensively accompanied by the requisite filing and remittance of the fee for the *NOM #3*, the concurrent service of the Factum for Motion In Writing, the Motion Record, the prior Draft Order (November 19, 2025), and corroborative proof of service rendered upon **both** the Respondents and the Non-Respondents (cf. Tab #22 of the Motion Record for *NOM #3* and the corresponding Compendium). The Applicant's timely fulfillment of these prerequisites establishes a *prima facie* case for the motion's readiness for determination.

The rationale compelling the service and submission of a Compendium for *NOM #3* is, *ipso facto*, **axiomatic** within this electronic record’s history, facilitating the expeditious and comprehensive review of the relevant materials by the adjudicative body. Moreover, subsequent to a rigorous **extrapolation and computation** of the temporal parameters stipulated within the *Rules of Civil Procedure* ('Computation of Time'), the Responding Parties are theoretically afforded the potential to effectuate the filing and service of responsive documentation until the conclusion of the prevailing business day. There subsists a demonstrable ambiguity regarding the precise commencement of the period designated as **'within 10 days'** after the complete service of the Moving Party's material (November 19, 2025), necessitating definitive clarification on whether this initial date is permissibly included for the purposes of temporal calculation pursuant to the *Rules*.

The precise nature of the Responding Parties' obligation to respond is further **contingent upon** their prior 'Delivery' of Notices of Appearance with requisite proof of service—a foundational jurisdictional fact which remains, in the context of certain parties, unsubstantiated at this juncture. This lack of formal appearance by certain Respondents impedes the procedural clarity and necessitates the Applicant's conservative adherence to maximum notice periods.

IV. Permissible Responses and Administrative Obligation

Consequently, should any or all Responding Parties elect to furnish responsive material to the Court office, via the Online Case and Court Process Portal (OCPP), they are constrained by the following delineated options, pursuant to *O. Reg. 465/93, s. 4 (2)*:
(a) A formal consent to the motion, which definitively curtails any requirement for further judicial deliberation on the contested matters;
(b) A definitive notice that the responding party shall not oppose the motion, a position that, while not consenting, removes adversarial contestation;
(c) A motion record, a notice signifying acceptance of a written hearing and determination under this Rule, and a factum entitled 'Factum for a Motion in Writing', meticulously delineating their comprehensive legal argument; or
(d) A notice signifying their in limine intention to present oral argument, accompanied by any material intended to be relied upon by the party, requiring the Court to allocate formal hearing time.
It is further recognized that the procedural amendments implemented within the Toronto Region, which govern the administration of these proceedings, necessitate the eventual uploading of the Compendium for *NOM #3* into the digital repository known as Case Centre, an administrative requirement now incumbent upon the esteemed Registrar's office to ensure the electronic accessibility of the complete file.

The Registrar, Ms. Gentles, is once again extended profound appreciation for the aforementioned **indulgence** regarding the unanticipated technological deficiency. It is fervently hoped that the Divisional Court's staff shall execute the necessary technical *restitutio in integrum* and expeditiously resolve the current technological issue afflicting the Court’s electronic messaging capability, thereby restoring the proper channel for judicial communication.

Respectfully Submitted and Executed,

/s/Mr. Kevin A. McLean (BA, JD, CIM)

Mr. Kevin A. McLean, B.A., J.D., C.I.M.
Applicant and Moving Party

Enclosures:

1. Previously served and filed Confirmation of Motion, pursuant to the *Rules of Civil Procedure*, dated November 24, 2025.
2. Official Transmittal of the Primary Draft Order for *NOM #3*, via Electronic Means, dated November 30, 2025.
3. Primary Draft Order of the Applicant for *NOM #3*, dated November 30, 2025 (served and filed on said date)

Yours faithfully,

/KAM

Mr. Kevin A. McLean (BA, JD, CIM)

Sender’s name: Mr. Kevin Alexander McLean (BA, JD, CIM)
Sender’s address: 410-775 King Street West, Toronto, Ontario, M5V 2K3
Sender’s Telephone Number: (647) 370-9354
Sender’s email address: mcleansettlement@gmail.com

5539

...

[Message clipped] View entire message
3 Attachments • Scanned by Gmail

M

Mr. Kevin McLean <mcleansettlement@gmail.com> Dec 1, 2025, 5:30 PM

to SCJ-CSJ, Tashekah, Milene, Connor, Heather, Div, Matthew, Jesse, Judie, Isibhakhomen, christiana.ortiz, NCQ-AQC.Toron

December 1, 2025

Judicial File Designation	**24/718/00JR**
Short Style of Cause	*McLean v. TDHA et al.*
Document Type	Official Confirmation of Service (Electronic), Pertaining to Motion Materials
Originating Entity	The Applicant and Moving Party in NOM #3
Submitted By	Mr. Kevin A. McLean, B.A., J.D., C.I.M.

TO:
THE DIVISIONAL COURT (Kind Attention: Registrar Ms. Gentles)
COPIES TO: Respondents herein
Subject: confirmation that none of the “Responding Parties” have opposed my NOM #3 (November 17, 2025) to be heard in writing
Subject II: confirmation that none of the “Responding Parties” have objected to NOM #3 being heard in writing – thereby obviating the necessity for any Zoom coordinates or in person appearances

I. CONFIRMATION OF PRIOR ELECTRONIC TRANSMITTAL

The Honourable Court is respectfully apprised that the antecedent electronic transmittal, directed toward the Divisional Court's designated electronic repository, was successfully effected without incident, procedural impediment, or the generation of any automated non-delivery reportage. It appears that the issue with the full mailbox of the Divisional Court’s general email for correspondence has been cleared out. The efficacy of the communication mechanism is therefore conclusively affirmed.

II. AFFIRMATION OF NON-RECEIPT OF RESPONDING MATERIALS AND *IPSO FACTO* CONSEQUENCE
Out of an abundance of cautious and meticulous precaution, and consistent with the imperative codified in the *Rules of Civil Procedure* concerning the notification of the "Registrar" (as defined in *Rule 1.03* of the *Rules of Civil Procedure*—where "registrar means the Registrar of the Divisional Court or Court of Appeal, or a local registrar of the Superior Court of Justice, as the circumstances require"), it is herewith formally confirmed. As of the terminus of the prescribed business day, no documentation responsive to Notice of Motion (NOM #3), accompanied by the prerequisite evidence of service, has been tendered or received from any of the designated Respondent or Non-Respondent entities.
This demonstrable dereliction, *ipso facto*, dictates that the aforementioned NOM #3 shall proceed on Wednesday, December 3, 2025, as an *unopposed* application for the entirety of the substantive and ancillary relief sought within its compass.

III. EXTRAPOLATION OF LEGAL PRINCIPLES AND PROCEDURAL DETERMINATION

The substantive relief sought by the Applicant is comprehensive, encompassing, *inter alia*, the imperative and required, by, inter alia, Rule 59.06(2)(a) (see: requirements denoted in the BCCA's comparativie provincial jurisdictional analysis (i.e. Ontario rules of civil procedure require such a motion to have been served and filed in the proceeding where the facts arising or discovered and/or any alleged fraud, arising or discovered has so occurred (nota bene: in effect, there is but one route herein in Ontario when such occurrences have happened and that is the filing of a motion in the instant JRPA Proceeding) setting aside of specific juridical steps, filed documents, and/or antecedent judicial orders predicated upon a comprehensive and multifaceted matrix of available legal grounds. These grounds include, but are not strictly limited to, those rooted in the principles of equity, the inherent jurisdiction of this superior court, the common law, and various appurtenant statutory and prescribed provisions, particularly where an action is determined to have been *ultra vires*. Furthermore, given the conspicuous and uncontroverted absence of any formal, written objection from the Responding Parties (encompassing more than merely Respondents) concerning the proposed modality of disposition, the adjudicative process for NOM #3 shall, in accordance with standard practice, proceed by way of a *written hearing*, thereby rendering the physical attendance of the Applicant and Moving Party a superfluous requirement.

IV. CONCLUSION AND TENDER OF JUDICIAL ASSISTANCE

In the pervasive spirit of professional comity and facilitation of the judicial function, the Applicant remains readily available should the Honourable presiding motions Judge (the "Presiding Motions Judge") deem it necessary to pose any queries pertaining to the filed motion documents, either contemporaneously with or subsequent to the determination. This availability extends to the potential exigency of drafting a formal order (to the extent that the most recent formal draft order requires refinement) for the judicial consideration, requisite review, signature, and subsequent entry by the Divisional Court presiding motions Justice.

It is respectfully noted, however, that given the complete service and filing of the *Notice of Application* (the *JRPA Application* (November 15, 2024)), *Notice of Motion* (November 17, 2025), and *Compendium for NOM #3* (November 28, 2025), the requisite endorsement of **an order**, pursuant to *Rule 59* of the *Rules of Civil Procedure*, may be efficaciously executed upon one of the afore-listed primary originating documents, thereby potentially obviating the requirement for a separate, subsequent instrument.

As this NOM #3 is unopposed by all Responding Parties, I will respect their rights of non-opposition, although consent would have been preferable and respectful of Divisional Court's resources, I may confine my future communications exclusively to the Divisional Court. Nonetheless, should any copies of such documents be requested by Responding Parties, I shall provide them without delay (i.e. forthwith).

I shall notify the other Responding Parties of the same.

Thank you kindly.

Respectfully Submitted,

/s/Mr. Kevin A. McLean (BA, JD, CIM)

Mr. Kevin A. McLean, B.A., J.D., C.I.M.
Applicant and Moving Party
NOM #3

Yours faithfully,

/KAM

Mr. Kevin A. McLean (BA, JD, CIM)

5541

Sender's name: Mr. Kevin Alexander McLean (BA, JD, CIM)
Sender's address: 410-775 King Street West, Toronto, Ontario, M5V 2K3
Sender's Telephone Number: (647) 370-9354
Sender's email address: mcleansettlement@gmail.com

...

[Message clipped] View entire message

M

Mr. Kevin McLean <mcleansettlement@gmail.com> Dec 2, 2025, 3:09 AM

to SCJ-CSJ, Tashekah, Milene, Connor, Heather, Div, Matthew, Jesse, Judie, Isibhakhomen, christiana.ortiz, NCQ-AQC.Toron

CLASSIFICATION: PRIVATE AND CONFIDENTIAL TRANSMISSION METHOD: VIA ELECTRONIC TRANSMISSION

DATE: December 2, 2025

CREATION METHOD: Judicial Instrument Transcription (The explicit reservation of corrective rights concerning all grammatical, syntactical, substantive, or rhetorical deficiencies is maintained by the Applicant.)

TO: THE DIVISIONAL COURT (Attention: The Registrar, Ms. Gentles)

COPIES TO: All Named Respondents Herein

DIVISIONAL COURT – REQUIRED PARTICULARS

Judicial File Designation	**DC-24-00000718-00JR**
Short Style of Cause	**McLean v. TDHA *et al.***
Document Type	**Provision of the Requisition, Requisition or Request or JRPA Application Hearing Request (3 forms: one document)**
Originating Entity	**The Applicant and Moving Party in NOM #3**
Submitted By	**Mr. Kevin A. McLean, B.A., J.D., C.I.M.**

SUBJECT I: JUDICIAL REVIEW APPLICATION NO. DC-24-00000718-00JR; McLean v. TDHA *et al.*

SUBJECT II: URGENT CONFIRMATION OF FILING: MULTI-PURPOSED REQUISITION FORM (FORM 4(E), DIVISIONAL COURT FORM 1, AND APPLICATION HEARING REQUEST) AND COMPLIANCE WITH AN IMMEDIATE ALERT TO THE DIVISIIONAL COURT OFFICE IN TORONTO REGION PURSUANT TO THE ABOVE AND IN ACCORDANCE WITH THE DIVISIONAL COURT PRACTICE DIRECTION IN THIS REGARD

I. INTRODUCTION AND ADOPTION OF LEGAL DICTION

Formal communication is herein extended concerning the above-noted proceeding, the principal subject of which pertains to the time-sensitive submission of dispositive documentation tendered in anticipation of the scheduled return date for *Notice of Motion Number Three* (hereinafter, the "*NOM #3*"), presently docketed for judicial consideration on Wednesday, December 3, 2025. This exigent transmission constitutes the requisite notification to the Trial Coordination Office staff concerning the time-critical nature of the contemporaneously filed instruments, which form an integral component of the comprehensive legal argument and evidentiary submissions that comprise the *acta* of the Application for Judicial Review. The gravity of the *NOM #3* is predicated upon substantive legal challenges to the foundation of the proceeding itself, thus demanding rigorous attention *in limine*.

For the purpose of maintaining conceptual precision and jurisprudential consistency throughout this documentation, all definitions, stipulations, and qualifications articulated in previously, indirectly or directly, cited correspondence, records, and judicial materials comprising the comprehensive *acta* of this matter are meticulously adopted, thereby obviating the necessity for their repetitive restatement. Furthermore, the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, which govern the procedural *modus operandi* of this Court, shall be hereinafter formally designated as the "*Rules*."

II. PROCEDURAL PRECEDENT AND THE MANDATE FOR URGENT SUBMISSION

The present official correspondence is necessitated by a strict, non-derogable adherence to the *Divisional Court Practice Direction, Part A.2: Filing Online Filing for Toronto Divisional Court Matters* (hereinafter, the "*Practice Direction*"), which unequivocally mandates that, in circumstances where an urgent hearing request is prosecuted, a corresponding electronic mail transmission must be forwarded to the appropriate administrative office. This is required, *inter alia*, to furnish notification to the pertinent staff of the submission's critical nature subsequent to its electronic lodgement via the *Online Court Case Portal* (hereinafter, the "*OCCP*"). The efficient and salutary operation of this dual-alert mechanism is calculated to ensure that time-critical filings are not permitted to languish within the generalized queue of submissions, but rather ascend immediately to the requisite level of judicial and administrative prioritization, a measure essential for the prevention of procedural *laches*.

The essential *prima facie* basis for establishing the requisite temporal urgency of this alert is unequivocally demonstrated by the compelling convergence of two pivotal factors: **(a)** the recent discovery of crucial, compelling evidence and foundational facts, which attained definitive confirmation as of December 1, 2025, and which provide the direct *causa causans* for the *NOM #3* filed on November 17, 2025. This newly discovered evidence precipitates an argument that prior issues may be rendered non-justiciable, thereby altering the essential *locus standi* of certain claims and necessitating the immediate intervention of the Court. **(b)** The imminent spatial proximity of the underlying hearing date is irrefutable; the return date for the *NOM #3* is demonstrably fewer than three business days distant from the date of the submission, which *ipso facto* characterizes the documents as time-sensitive pursuant to the governing *Practice Direction*. This comprehensive procedural diligence constitutes not merely an exercise in formality but a foundational, prophylactic safeguard, the objective of which is to ensure that submissions of potentially dispositive magnitude are identified and prioritized by the Court staff, thereby protecting the proper administration of justice from unnecessary logistical delay or potential *ultra vires* continuation of non-justiciable controversies, thus upholding the public interest in judicial economy.

III. CONFIRMATION OF INSTITUTIONAL FILING MULTIPLICITY

The primary and solemn purpose of this communication resides in the authoritative confirmation of the methodical and deliberate filing strategy executed within the *OCCP*, the intent of which is to ensure absolute and prophylactic compliance with all pertinent, potentially overlapping procedural requirements imposed by the Divisional Court, thereby foreclosing any *obiter dictum* concerning procedural error.

Due the inherent composite nature of the submission—which formally encompasses the need for a statutory *Requisition* (mandating action by the Registrar, per Form 4(E)), a *Written Request* (seeking specific administrative direction, per Form 1), and an *Application Hearing Request* (necessary for the calendaring of the urgent motion)—and in order to rigorously mitigate any latent or perceived risk of procedural misclassification that might otherwise consequentially impede the necessary and expedient processing of the urgent request, the Applicant elected to upload the singular, identical substantive document under three separate and distinct procedural headings within the *OCCP*. This triplicate process was judiciously undertaken to preclude any ambiguity in the Court's electronic filing system regarding the document's manifold function, which is simultaneously an *Application Hearing Request* (requesting the date), a *Requisition* (demanding the mandatory action by the Registrar), and a *Written Request* (confirming the urgency pursuant to the *Practice Direction*).

The document, which is formally titled **"Requisition - DC Request - Hearing Request - URGENT - Newly Discovered Evidence - OCCP - Issues No Longer Justiciable - APPLICANT - Mr McLean - 1-Dec-2025"** (hereinafter, the "*Urgent Requisition Document*"), was filed concurrently and precisely under the following three official classifications:

1. *Divisional Court Form 4(E): Requisition*
2. *Divisional Court Form 1: Requisition or Written Request*
3. *Divisional Court Form (unnumbered): Application Hearing Request*

This calculated redundancy was implemented as an exercise in procedural prudence and abundant caution, intended solely to expedite the Court's ministerial processing of this urgent filing and thereby avert any potential prejudice, irreparable or otherwise, that might ensue from the current *status quo ante* of the judicial file, securing the constitutional right to a timely hearing.

A. Evidentiary Confirmation of Procedural Compliance

The Applicant's adherence to the *Practice Direction* and established best practices for the lodging of complex, urgent materials is demonstrably complete. The appended **Appendix #1**, which provides a transactional summary of the filing information, functions as conclusive evidentiary confirmation of the successful electronic transmission of the *Urgent Requisition Document* under the three aforementioned procedural classifications, which must be accepted as the definitive record of lodgement.

IV. THE IRREMEDIABLE EFFECT OF RESPONDENTS' PROCEDURAL DEFAULT (*NULLA DIES SINE LINEA*)

It is confirmed unequivocally, by reference to the public record accessible through the *Online Court Case Portal* (the "*OCCP*"), which is deemed the final administrative arbiter of documents filed, that the Respondents have entirely neglected to file their requisite *Notices of Appearance* (hereinafter, the "*Notice of Appearance*") or effectuate the delivery thereof to the Applicant, a necessary *sine qua non* for participation. This systemic and irremediable *lacuna* in the fundamental procedural requirements constitutes a matter of demonstrable, objective certainty that cannot be rebutted by collateral assertion or procedural challenge.

Pursuant to the mandatory provisions articulated within the *Rules*, specifically those governing the requirement for filing an initial defending document, this substantive default *ipso facto* operates to render the defaulting parties entirely divested of their **locus standi** and consequently **prohibited** from the receipt of any subsequent steps, documents, or filings in this proceeding. This prohibition is absolute and encompasses any communication or document, inclusive of the document designated as **Document #48**, should that document be determined to be one that required service upon a party enjoying procedural standing. The failure to file

Notice of Appearance thus strips the Respondents of their *de jure* right to be served, converting their status to that of non-participants in the ongoing litigation process.

Assurance is further provided that any belated filing of the *Notice of Appearance* shall be preemptively opposed by the Applicant. Notwithstanding this position, the **infallible conclusion** must be drawn that should any such *Notice of Appearance* be filed tomorrow, such lodgement would, in any event, post-date the Applicant's time-sensitive submission of the *Urgent Requisition Document*. This temporal sequence dictates that the Respondent Insurance Companies, the *LAT et al.*, and the Non-Respondents (who are acting as Responding Parties) have not, as of the time of the Applicant's definitive filings, formally opposed or challenged any relief being sought against them (where applicable) in the *NOM #3* or any other timely submission.

Consequently, the Divisional Court is not merely absolved of the obligation to furnish further notice to these procedurally delinquent parties; it is, in point of fact, **prohibited** from serving any subsequent notice of steps or documents herein, given the Respondents' failure to file a first defence or deliver their *Notice of Appearance*. This strict adherence to procedural mandates is essential for maintaining the integrity of the process and ensuring the Court is not placed in the position of providing preferential treatment to defaulting parties. This assertion constitutes **definitive confirmation** that the inclusion of the Respondents in the electronic transmission of this singular correspondence shall denote the definitive and **final instance** of such communication relative to this proceeding (the *ultima ratio* of service). Furthermore, assurance is provided that monitoring of the *OCCP* will continue, thereby allowing for the immediate and decisive procedural action necessary should any delinquent filing of the *Notice of Appearance* by any Respondent belatedly transpire, which would, in and of itself, require subsequent judicial consideration.

V. CONCLUSION AND REQUEST FOR EXPEDITIOUS PROCESSING

Given the comprehensive nature of the *Urgent Requisition Document*, which articulates concerns regarding issues that are arguably no longer justiciable and introduces newly discovered evidence of compelling probative value pertinent to the *NOM #3*, it is respectfully submitted that the attendant circumstances *a fortiori* mandate the immediate attention and high-priority processing of these documents, thereby mitigating the risk of judicial resources being expended on an application that may have been fundamentally altered by the new evidence.

A. Processing Timeline and Integrity of Filings

Note is hereby taken that all filings requiring administrative processing have been particularized to ensure their proper uploading and availability on or before the return date of December 3, 2025, at the hour of 9:30 a.m. While it is acknowledged that the Registrar is not subject to a specific administrative deadline for general filings, a critical temporal constraint is imposed upon the Applicant with respect to the uploading of the *Compendium for NOM #3*. This must be effectuated promptly to forestall the potential for any further unauthorized intrusion or fraud pertaining to personal information, personal health information, and confidential or privileged material, an egregious possibility that regrettably materialized on the day immediately subsequent to the service of the *NOM #3* upon the Respondent Insurance Companies and the Licence Appeal Tribunal (*LAT et al.*). Whether this confluence of events represents merely a coincidence is a query that inherently furnishes its own conclusion. The gravity of these circumstances dictates, at the minimum, the necessity of a definitive judicial decision to ensure that these allegedly malicious and fraudulent actors are placed unequivocally under the *imperium* of contempt, should they intentionally disregard or disobey orders subsequently issued by this Honourable Divisional Court or by the presiding motions judge on Wednesday, December 3, 2025. The prompt execution of this ministerial duty is imperative to ensuring that the Court may discharge its supervisory function over the inferior tribunals and matters properly before it.

I is formally requested that the esteemed Registrar, Ms. Gentles, issue instructions to the requisite Court personnel for the immediate and expeditious processing of the *Urgent Requisition Document* as an urgent filing, thereby enabling the *acta* for the *NOM #3* to be completed without further administrative protraction, which is critical for safeguarding the integrity of the imminent hearing.

The Court's indispensable function and the meticulous efforts required of the Registrar and staff in the administration of this judicial review application are acknowledged with profound appreciation and deference.

A confirmation is provided that the Applicant is grateful for the anticipation of compliance, the expected cooperation, and the prioritization of these time-sensitive requisitions and requests, which is essential to the due administration of justice.

I confirm that I have moved as expeditiously as I could involving this evidence as it only came to my attention on December 1, 2025, when perusing the features of the OCPP. Even the OCPP tech professionals can fact check the same.

Respectfully Submitted,

/s/Mr. Kevin A. McLean (B.A., J.D., C.I.M.)

MR. KEVIN A. MCLEAN (B.A., J.D., C.I.M.) Applicant and Moving Party, Self-Represented Court File No. DC-24-00000718-00JR

APPENDIX #1: FILING INFORMATION SUMMARY

The Official Confirmation of Filing, Pertaining to the Motion Materials, which confirms the time-sensitive submission and the classification of the filings under the three designated categories, is appended hereto.

Appendix #1 herein

Summary

Filing Information

Court

Divisional Court

Case Number

DC-24-00000718-00JR

Case Title

MCLEAN v. TD HOME AND AUTO INSURANCE COMPANY et al

Case Classification

Divisional - Application - Judicial Review

Filed on Behalf of

KEVIN MCLEAN

Time Sensitive/Urgent Submissions

Yes

Comments

Dear Divisional Court, This correspondence serves as an urgent requisition and request, to be submitted under three separate forms as may be most appropriate, in connection with my NOM #3 returnable on Wednesday, December 3, 2025. I will adhere to the Divisional Court Practice Direction by prompt...

File Entries

Lead	Type	Documents
	Requisition - Form 1: Requisition or Written Request	Requisition - Form 1: Requisition or Written Request
	Requisition - Form 4E: Requisition	Requisiton - DC Request - Hearing Request - URGENT - Newly Discovered Evidence - OCCP - Issues No Longer Justiciable - APPLICANT - Mr McLean - 1-Dec-2025
	Event Scheduling - Application/Appeal Hearing Request	Requisiton - DC Request - Hearing Request - URGENT - Newly Discovered Evidence - OCCP - Issues No Longer Justiciable - APPLICANT - Mr McLean - 1-Dec-2025

Yours faithfully,

/KAM

Mr. Kevin A. McLean (BA, JD, CIM)

Sender's name: Mr. Kevin Alexander McLean (BA, JD, CIM)
Sender's address: 410-775 King Street West, Toronto, Ontario, M5V 2K3
Sender's Telephone Number: (647) 370-9354
Sender's email address: mcleansettlement@gmail.com

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M

Mr. Kevin McLean <mcleansettlement@gmail.com> Dec 2, 2025, 2:52 PM

to SCJ-CSJ, Tashekah

Gmail - Superior Court of Justice - Toronto - Divisional Court DC-24-00000718-00JR Filing Submission Conf...
Date: December 2, 2025 at 2:45 p.m.

Classification: private and confidential
Mode of transmission: electronic (email at first instance)

URGENT

Judicial File Designation	**24/718/00JR**
Short Style of Cause	*McLean v. TDHA et al.*
Document Type	Email
Originating Entity	The Applicant and Moving Party in NOM #3
Submitted By	Mr. Kevin A. McLean, B.A., J.D., C.I.M.

TO:

THE DIVISIONAL COURT
130 Queen Street West
Room 174
Toronto, Ontario
(Kind Attention: Registrar Ms. Gentles)

Fax: 416-327-5549

Email: scj-csj.divcourtmail@ontario.ca; and Tashekah.Gentles@ontario.ca

SUBJECT: IMMEDIATE REQUIREMENT OF STAMPING THE OUTSTANDING SUBMITTED FILINGS TO THE DIVISIONAL COURT WITH PARTICULAR REFERENCE TO THE FILED MOTION RECORD (INCLUDING THE NOM #3, FACTUM, MOTION RECORD, DRAFT ORDER, AFFIDAVIT OF SERVICE ET AL) (SEE: 4B3F-88B8-7280-8DEB)

Dear Divisional Court, Ms. Gentles et al:

I write regarding the above on an urgent basis. As you know from the email of last night, it is unequivocal that none of the Respondents "filed" a "First Defence" and "delivered" their Notices of Appearances. Pursuant to Rule 38.07(2)(a) to (c), which is reproduced:

"(2) A respondent who has not delivered a notice of appearance is not entitled to,
(a) receive notice of any step in the application;
(b) receive any further document in the application, unless,
    (i) the court orders otherwise, or
    (ii) the document is an amended notice of application that changes the relief sought;
(c) file material, examine a witness or cross-examine on an affidavit on the application…"

Were entitled to receive notice of "any step" in the JRPA Application (document #1 in the record of proceeding of the JRPA Proceeding); receive any further "document" in the JRPA Application; or file material on the JRPA Application.

"Document" includes data and information in electronic form (see: Rule 1.03 of the Rules of Civil Procedure).

As such, with this unequivocal proof, this request is squarely and exclusively provided to the Divisional Court and will be so on a go-forward basis.

I refer to the language in the Wednesday, November 26, 2025, email which states:

> "Your documents will be reviewed by court staff and you will be notified **within three business days…."**

Based on not counting the first day which was Wednesday, November 26, 2025, within three business days was yesterday, Monday, December 1, 2025.

Since the filings unequivocally comply with the requirements for filing, I am entitled by law to stamped copies of those documents to be dated on **November 26, 2025** of which there was included receipt involving the same (see: Requisition of last night which was served, out of an abundance of caution, and filed). As per the motion relief therein, which also seeks abridgement of time and orders granted on a nunc pro tunc basis, which is to be decided by the presiding motion judge in writing, kindly provide me with the stamped copies of the documents contained in the below numbered package of documents forthwith. As you also know from last night's letter and filed Requisition,

The language is unequivocal in the email therein, which is attached, and it requires a duty of good faith which is imposed upon the Divisional Court by its employees, albeit employed by the MAG, that I will (not "may") notified within three business days.

As you know, I am required to bring this motion in the Divisional Court under the JRPA Proceeding pursuant to the requirements under the Rules of Civil Procedure which state:

"Amending, Setting Aside or Varying Order

Amending

59.06 (1) An order that contains an error arising from an accidental slip or omission or requires amendment in any particular on which the court did not adjudicate may be amended on a motion in the proceeding. R.R.O. 1990, Reg. 194, r. 59.06 (1).

Setting Aside or Varying

(2) A party who seeks to,

(a) have an order set aside or varied on the ground of fraud or of facts arising or discovered after it was made;

(b) suspend the operation of an order;

(c) carry an order into operation; or

(d) obtain other relief than that originally awarded,

may make a motion in the proceeding for the relief claimed. R.R.O. 1990, Reg. 194, r. 59.06 (2)."

As such, I was and am required to have made the motion in the proceeding for which the relief was claimed.

As you know, the "Responding Parties" were all provided notice and served with the Notice of Motion on November 17, 2025 (Monday) which was 16 days in advance of tomorrow's date. The NOM #3 will proceed by "written hearing" as per the Rules of Civil Procedure (see: Rule 37.12(4) and (5)) on December 3, 2025.

In consequence, the Court is formally and respectfully implored to furnish, with the utmost promptness and without further administrative circumlocution or delay, the officially stamped exemplars of the documents contained within the aforementioned package of documentary submitted filed documents with authorized payment. Please do so by 3:30 p.m. so that compliance is effected in accordance with the representations made to me in writing by the email attached.
When I receive the stamped copy of the aforementioned and cross-referenced documents, I will confirm the same by email to confirm the closure of this issue requiring immediate attention by the Divisional Court.

Thank you kindly.

Respectfully Submitted,

/s/Mr. Kevin A. McLean (BA, JD, CIM)

Mr. Kevin A. McLean, B.A., J.D., C.I.M.
Applicant and Moving Party
NOM #3
APPENDIX

4B3F-88B8-7280-8DEB
Divisional Court - Motion Record
Divisional Court
DC-24-00000718-00JR
MCLEAN v. TD HOME AND AUTO INSURANCE COMPANY et al
Divisional - Application - Judicial Review Motion Document - Motion Record Received
26/11/2025
12:50

Yours faithfully,

/KAM

Mr. Kevin A. McLean (BA, JD, CIM)

Sender's name: Mr. Kevin Alexander McLean (BA, JD, CIM)
Sender's address: 410-775 King Street West, Toronto, Ontario, M5V 2K3
Sender's Telephone Number: (647) 370-9354
Sender's email address: mcleansettlement@gmail.com

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M

Mr. Kevin McLean <mcleansettlement@gmail.com> Dec 2, 2025, 4:00 PM

to SCJ-CSJ, Tashekah

Dear Divisional Court and Ms. Gentles: a copy of this requisition was filed in the OCPP. I provide a copy herein for your ease of reference. Kindly comply with the requirements and duties. I will presume unless I hear otherwise that my NOM #3 will be heard tomorrow in writing at some point during the day, even notionally by reference to time. Thank you kindly.

Yours faithfully,

/KAM

Mr. Kevin A. McLean (BA, JD, CIM)
5550

Sender's name: Mr. Kevin Alexander McLean (BA, JD, CIM)
Sender's address: 410-775 King Street West, Toronto, Ontario, M5V 2K3
Sender's Telephone Number: (647) 370-9354
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...

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M

Mr. Kevin McLean <mcleansettlement@gmail.com> Dec 3, 2025, 10:43 AM

to SCJ-CSJ, Tashekah

URGENT COMMUNICATION
Classification: Private and Confidential
Date of Transmittal: December 3, 2025
Temporal Designation: 10:30 ante meridiem
Mode of Transmission: Electronic Mail (Primary) and Facsimile (Concurrent Confirmation)

Divisional Court File Designation	**24/718/00JR**
Short Style of Cause	*McLean v. TDHA et al.*
Document Type	Formal Correspondence (Email)
Sender's Status	The Applicant and Moving Party in Nomination of Motion No. 3 (*NOM #3*)
Sender's Name	Mr. Kevin A. McLean, B.A., J.D., C.I.M.

TO:

THE DIVISIONAL COURT
130 Queen Street West
Room 174
Toronto, Ontario
M5H 2N5
(Kind Attention: The Esteemed Registrar, Ms. T. Gentles)

Facsimile: 416-327-5549
Electronic Mail: scj-csj.divcourtmail@ontario.ca; Tashekah.Gentles@ontario.ca
Subject: Exigent Requirement for the Registrar's Execution of Duties Pursuant to Honoured Procedural Representations Regarding the Temporal Scope of Filed Documents in the OCPP

I. INTRODUCTION AND CONTEXT

This urgent communication is submitted with utmost deference and respect to the Honourable Justices of the Divisional Court, and is directed specifically to the Office of the Registrar. The present temporal designation, 9:45 *ante meridiem* on December 3, 2025, represents a critical juncture in the procedural chronology of this application.

5551

Subsequent to the submission of the requisite formal requisitions, an appended document is provided herewith. This enclosure constitutes a graphic excerpt from the 'My Filings' module of the Ontario Courts Public Portal ('OCPP'), which definitively demonstrates a substantive failure to adhere to the established judicial administration's represented timeline for processing and validating submissions. Specifically, the antecedent assurances provided to **me** regarding the notification of acceptance within a period of three business days have not been fulfilled, which constitutes, *prima facie*, a material misrepresentation of the established procedural protocol.

II. NON-COMPLIANCE WITH PROCEDURAL REPRESENTATION

In the enduring spirit of collegiality, and reserving all extant factual and legal prerogatives, **I** respectfully and urgently request that the relevant filings, particularly those associated with Reference Number '4B3F-88B8-7280-8DEB', be forthwith accorded the validation stamp bearing the date of November 26, 2025. Immediate confirmation of safe and accurate receipt of the aforementioned documentation will subsequently be provided by **me**.

This procedural rectification is indispensable to ensure the unimpeded progression of *NOM #3*, which is designated to proceed this day “in writing” and without the necessity of **my** personal attendance. It is acknowledged that a period of time will necessarily be required for the Presiding Superior Court of Justice Motions Judge (hereinafter, the “Presiding SCJ Motions Judge”) to meticulously peruse the documentation contained within the *NOM #3* Motion Record, in conjunction with the most recently promulgated draft order (dated November 30, 2025), herein designated as the “Primary Draft Order.”

The efficacy of this judicial review is entirely contingent upon the successful and timely uploading of the filed documents to the Presiding SCJ Motions Judge, with the singular exception of the Compendium For *NOM #3*, the preparation and transmission of which remains **my** sole and punctilious responsibility. Although the submission of the *Compendium For NOM #3* was not strictly mandated, its filing and service upon all relevant entities were definitively effectuated on November 28, 2025, which comfortably preceded the returnable date designated for the hearing of *NOM #3* by a margin of three clear days.

III. JURISDICTIONAL MANDATE AND *ACTA*

Should the immediate rectification of these critical procedural matters not be effectuated, **I** shall be compelled to escalate this exigency to the appropriate supervisory authority. Such action would be undertaken to ensure strict adherence to the *pith and substance* of the *Courts of Justice Act*, the *Legislation Act*, the *Judicial Review Procedure Act*, and all relevant attendant regulatory instruments.

It is affirmed that the requisitions appended hereto necessitate the Registrar's execution of a statutory duty pursuant to the *Rules of Civil Procedure*. Concomitantly, the imposition of a supplementary prescribed fee is deemed unwarranted, predicated upon the antecedent disbursement of all various prescribed fees established under the pertinent regulation issued pursuant to the *Administration of Justice Act*, specifically titled the *Superior Court of Justice and Court of Appeal - Fees*.

Analysis of Regulatory Fees

It is observed that the regulatory provision, Superior Court of Justice and Court of Appeal - Fees, O Reg 293/92, specifically subsection 1(1)3(iv), stipulates:

> “iv. A notice of motion served on another party, a notice of motion without notice, a notice of motion for a consent order or a notice of motion for leave to appeal, other than a notice of motion in a family law appeal, $339.”

To the extent that since the Respondents failed to “deliver” their respective Notices of Appearance previously and prior to the filing of the Notice of Motion Number Three, and thus are not formally designated as “parties” to this motion, and given that the instant Notice of Motion was initiated with notice, does not seek a “consent order,” is not a “motion for leave to appeal,” and is not a “notice of motion in a family law appeal,” the logical inference, *ipso facto*, is that no further charge for “filing” can be levied pursuant to the strict construction of the regulatory language.

IV. ACCESS TO JUSTICE AND PROCEDURAL INTEGRITY

Notwithstanding the aforementioned rigorous statutory construction, and in deference to the judicious management of the Divisional Court's limited temporal and fiscal resources, **I** confirm that the imposition of the aforementioned fee may proceed *in any event* for administrative convenience. This acquiescence is grounded in the axiomatic principle that **I**

procedurally constrained to advance a motion within this proceeding pursuant to *Rule 59.06(2)(a)*, notwithstanding the absence of formally designated "Responding Parties." It is a self-evident legal conclusion that a "Responding Party" is jurisprudentially distinct from a "party."

It is further acknowledged that the guarantee of access to public courts for the adjudication of civil disputes constitutes a foundational tenet of the Canadian constitutional architecture (see: *Trial Lawyers Association of British Columbia v. British Columbia (Attorney General)*, 2014 SCC 59, at paragraphs 32 and 41; referencing *Ontario (Attorney General) v. $25,610 in Canadian Currency*, 2017 ONCA 251, at paragraph 1). The Registrar is therefore mandated to comply with the represented timelines to ensure that this fundamental constitutional right is not *ultra vires* prejudiced.
The aforementioned electronic correspondence was concurrently transmitted via facsimile to preclude any possible misapprehension or conceptual ambiguity regarding the exigent nature of this matter. It has now been five business days since the effectual filing of the *NOM #3*, Factum, Motion Record, Primary Draft Order, and Affidavit of Service; a duration that significantly exceeds the represented three-business-day processing interval. **I** punctiliously fulfilled the obligation to deliver a Confirmation of Motion to the Registrar at least five days prior to the hearing date, specifically on November 24, 2025, thereby satisfying the prescription of *Rule 37.10.1(1)(a)(i)*.
As *NOM #3* constitutes a motion without oral argument, its adjudication proceeds appropriately in the absence of the public pursuant to *Rule 37.11(1)(a)*, which states:
"(a) the motion is to be heard and determined without oral argument;"

V. CONCLUSION AND RESERVATION OF RIGHTS

In consideration of the demonstrable lack of opposition to *NOM #3* and the exigent circumstances underlying the substantive relief sought therein, a revised draft order shall be expeditiously transmitted for the attention of the Presiding SCJ Motions Judge. While the administrative temporal delays are unquestionably of considerable concern, it is anticipated that this approach will facilitate the determination of the *merits* in an expeditious, fiscally judicious, and fundamentally just manner.
I formally reserve the prerogative to bring this entire *acta* to the attention of those possessing the requisite supervisory authority, should the stated representations and corresponding procedural obligations remain unfulfilled. While resorting to such supervisory intervention would be undertaken with demonstrable reluctance, it may become an unavoidable necessity to preserve the *status quo ante* and uphold the integrity of the judicial process.
The previously provided Primary Draft Order is appended hereto for the Presiding SCJ Motions Judge's ease of reference, should the immediate endorsement of that instrument be contemplated.

I thank the Court for its prompt and judicious attention to this exigency.

Respectfully Submitted,

/s/Mr. Kevin A. McLean, B.A., J.D., C.I.M.

Mr. Kevin A. McLean, B.A., J.D., C.I.M.

Enclosures:

1. Requisition No. 11 of the Applicant (December 1, 2025)
2. Requisition No. 12 of the Applicant (December 2, 2025)
3. Excerpt from 'My Filings' (OCPP)
4. Primary Draft Order (November 30, 2025)

Yours faithfully,

/KAM

Mr. Kevin A. McLean (BA, JD, CIM)

5553
Sender's name: Mr. Kevin Alexander McLean (BA, JD, CIM)
Sender's address: 410-775 King Street West, Toronto, Ontario, M5V 2K3
Sender's Telephone Number: (647) 370-9354
Sender's email address: mcleansettlement@gmail.com

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M

Mr. Kevin McLean <mcleansettlement@gmail.com> Dec 3, 2025, 3:36 PM

to roxanne.parris, SCJ-CSJ

URGENT COMMUNICATION
Classification: Private and Confidential
Date of Transmittal: December 3, 2025
Temporal Designation: 3:30 p.m. ante meridiem
Mode of Transmission: Electronic Mail (Primary) and Facsimile (Concurrent Confirmation)

Divisional Court File Designation	**24/718/00JR**
Short Style of Cause	*McLean v. TDHA et al.*
Document Type	Formal Correspondence (Email)
Sender's Status	The Applicant and Moving Party in Nomination of Motion No. 3 (*NOM #3*)
Sender's Name	Mr. Kevin A. McLean, B.A., J.D., C.I.M.

TO:

THE DIVISIONAL COURT
130 Queen Street West
Room 174
Toronto, Ontario
M5H 2N5
(Kind Attention: The New Registrar of the Divisional Court in Ms. Parris , Law Society Number P06565

Facsimile: 416-327-5549
Electronic Mail: scj-csj.divcourtmail@ontario.ca; roxanne.parris@ontario.ca)
Subject: Acknowledgement of Administrative Succession and Requisition (Requirements) for Expedited Processing and Formal Validation (that which has been delayed beyond processing) of Filed Documents Pertaining to the Written Hearing of *Notice of Motion* Number Three (NOM #3), Scheduled for December 3, 2025

I. Acknowledgement of Administrative Succession and Transference of Duties

The **Applicant (Moving Party)** duly acknowledges the official advisement concerning the cessation of the role and responsibilities of the former Registrar/Manager of the Divisional Court (hereinafter the "Former Registrar"), Ms. Gentles. Consequently, the transference of her subsisting administrative and procedural duties is hereby directed to the

immediate and meticulous attention of the present administrative apparatus, specifically including the newly designated Registrar/Manager (hereinafter the "New Registrar"). This direction is effected by way of explicit reference to the comprehensive documentation appended hereto, which delineates the precise administrative obligations currently outstanding. This administrative continuity, essential for the efficacious function of the Divisional Court's mandate under the *Courts of Justice Act*, must remain unimpaired; the New Registrar is respectfully requested to be fully seized of all outstanding obligations *in media res* to prevent any procedural lacuna in the execution of justice and to safeguard the **Applicant (Moving Party)'s** substantive rights scheduled for adjudication.

II. Mandate for Immediate Processing and Preservation of *Status Quo Ante*

Given the present chronological demarcation, being approximately 15:00 hours, and the consequential administrative mandate to effectuate the expeditious processing of the outstanding filings, many of which were submitted on an exigent and demonstrably time-sensitive basis, it is imperative that the represented service standard of acceptance within three (3) business days be honoured without further delay. Specifically, it is stipulated that all outstanding submissions be formally received and logged within the Online Civil Claims Portal (OCCP) as of their respective original dates of submission (*acta non verba*), thereby meticulously preserving the procedural *status quo ante* and ensuring the unimpeachable integrity of the judicial record in advance of the December 3, 2025, return date for the written hearing (without the necessity of physical attendance) of the **Applicant (Moving Party)'s** *Notice of Motion* Number Three (NOM #3).

The exigency of the situation is further underscored by the potential for procedural prejudice arising from the retrospective application of filing dates; should the official filing dates fail to correspond precisely with the dates of submission, the mandatory calculation of various procedural timelines under the *Rules of Civil Procedure*, including those relating to the perfection of the motion record, could be detrimentally compromised. Such an administrative delay, though understood in the context of succession, risks rendering the **Applicant (Moving Party)'s** submissions technically deficient *ab initio*, an outcome which would be demonstrably inequitable and contrary to the paramount principle of procedural fairness. The **Applicant (Moving Party)** reiterates and relies upon the comprehensive materials previously submitted, including the requisitions and confirmations of filing, a meticulous duplication of which is appended herein for the recipients' ease of reference. **I have also included the index for the *Compendium For NOM #3* that I am required to upload.** Cross-referencing is specifically directed to those documentation, including those remunerated where applicable, which were submitted as much as one week prior to the issuance of this correspondence. The submissions must be officially stamped *nunc pro tunc*.

III. Procedural Status of NOM #3 and Extrapolation of Legal Principles

A. The Unopposed Nature of the Relief Sought

It is formally confirmed, as has been previously established through comprehensive documentary evidence, that a *Confirmation of Motion* was successfully transmitted to the court office via electronic mail on Monday, November 24, 2025. Perusal of the correspondence annexed hereto unequivocally substantiates the **Applicant (Moving Party)'s** knowledge that the *Notice of Motion* Number Three (NOM #3) remains fundamentally and procedurally unopposed by any potential *Responding Parties* (a designation encompassing both nominal Respondents and Non-Respondents). Specifically, Requisition/Request #11 (submitted and filed on December 2, 2025, at 03:05 hours) constitutes a compelling *prima facie* demonstration that the nominal Respondents neither delivered their mandatory *Notices of Appearance* nor filed a "First Defence," thereby failing to attain the requisite jurisdictional status of a party to the substantive proceeding. This failure operates as a decisive waiver of their entitlement to participate in the adjudication of NOM #3.

B. Application of the *Rules of Civil Procedure* and Remedial Authority

The failure of the nominal Respondents to comply with the threshold procedural prerequisites under the *Rules of Civil Procedure* renders them *ipso facto* non-parties. This procedural defect, which is not attributable to any action or inaction on the part of the **Applicant (Moving Party)**, concurrently and consequentially nullifies any standing they might otherwise possess to oppose the relief sought against them, as evidenced by the corresponding lack of opposition from the Non-Respondents who were duly served (vide: Tab #22 of the *Motion Record* and the *Compendium For NOM #3*).

It is a sophisticated extrapolation of legal principle that the judicial branch possesses the inherent and statutory authority to prevent administrative or technological failures from undermining the pursuit of justice. The adherence to the spirit and substance of the *Rules of Civil Procedure* necessitates the dispensing with technical compliance where the technological impediments or the former non-compliance of the Former Registrar's duties have occasioned delays. To penalize the moving party for administrative delay would be tantamount to an act of procedural *ultra vires* against the foundational tenets of natural justice. The New Registrar is therefore requested to ensure that the requisite remedial measures are instantiated forthwith, recognizing the Court's equitable power to correct such administrative errors.

5555

Re: Provision of the Primary Draft Order for Judicial Assistance

In furtherance of the objective of utilizing public resources with maximal efficiency, and drawing a potent analogy to the successful, uncontested implementation of the **Applicant (Moving Party)'s** *Notice of Motion* Number Two (NOM #2)—which proceeded summarily in writing without objection from the nominal Respondents—the **Applicant (Moving Party)** has appended a meticulously prepared copy of the "Primary Draft Order" (vide: *Requisitions by Appendices* for cross-referencing).

The aforementioned document, which was previously transmitted via electronic mail, is current as of November 30, 2025, and is deemed filed on December 1, 2025. This critical date is chronologically situated more than ten (10) days subsequent to the complete service of the NOM #3 *Motion Record* upon the nominal adversaries. The provision of this Primary Draft Order serves a dual purpose: it constitutes timely notice to the Presiding Motions Judge, and, more importantly, functions as a judicial roadmap, meticulously detailing the materials to be reviewed, the specific legal authorities relied upon, and the necessary operative paragraphs of the final disposition. This proactive measure significantly contributes to the optimal utilization of finite judicial resources, mitigating the administrative burden associated with navigating complex motion records. The **Applicant (Moving Party)'s** conclusions regarding the procedural entitlement to the sought relief are thereby rendered structurally and legally self-evident by the unopposed record and the sufficiency of the notice provided.

The **Applicant (Moving Party)** reaffirms its unwavering deference to the inherent jurisdiction of the Court to command the integrity of its own processes and remains readily available should any subsequent refinements to the Primary Draft Order be deemed requisite. Electronic communication via this thread is acceptable for purposes of further clarification.

The **Applicant (Moving Party)** extends its sincere appreciation for the scrupulous attention and compliance with the stipulations contained herein, and for ensuring that the principles of procedural fairness and the efficient administration of justice are meticulously upheld in this complex matter.

Warmest regards and congratulations to Ms. Parris, licensed paralegal, on her promotion:

/s/Mr. Kevin A. McLean (BA, JD, CIM)

Mr. Kevin A. McLean (BA, JD, CIM)

Yours faithfully,

/KAM

Mr. Kevin A. McLean (BA, JD, CIM)

Sender's name: Mr. Kevin Alexander McLean (BA, JD, CIM)
Sender's address: 410-775 King Street West, Toronto, Ontario, M5V 2K3
Sender's Telephone Number: (647) 370-9354
Sender's email address: mcleansettlement@gmail.com

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M

Mr. Kevin McLean <mcleansettlement@gmail.com> Dec 3, 2025, 4:50 PM

to SCJ-CSJ, roxanne.parris

Dear Divisional Court and Esteemed Registrar of the Divisional Court in Ms. Parris:

I write regarding the above.

I confirm that the above was delivered, without Ms. Gentles copied, and without incident. I look forward to having the validation stamps of my paid for (where applicable) and filed documents on the date they were submitted, subject to any “holiday” filings which would carry over to the next day. Thank you for your immediate attention to the above and in advance for your anticipated compliance with the same.

I repeat and rely upon the above sent to you.

Thank you for your attention to the same to ensure that the record of proceeding is accurately reflected with respect to filed documents.

Yours faithfully,

/KAM

Mr. Kevin A. McLean (BA, JD, CIM)

Sender’s name: Mr. Kevin Alexander McLean (BA, JD, CIM)
Sender’s address: 410-775 King Street West, Toronto, Ontario, M5V 2K3
Sender’s Telephone Number: (647) 370-9354
Sender’s email address: mcleansettlement@gmail.com

...

[Message clipped] View entire message

M

Mr. Kevin McLean <mcleansettlement@gmail.com> Dec 11, 2025, 8:39 PM

to SCJ-CSJ, roxanne.parris

PRIVATE AND CONFIDENTIAL
Via Electronic Transmission
December 11, 2025

Divisional Court File Designation	DC-24-00000718-00JR
Short Style of Cause	*McLean v. TDHA et al.*
Short Style of File Number	24/718/00JR
Document Type	Email with attachments
Sender's Status in JRPA Application	The Applicant

Sender's Status on Motion (NOM #3")	The Moving Party
Sender's Name	Mr. Kevin A. McLean, B.A., J.D., C.I.M.

The Divisional Court of Ontario
Osgoode Hall,
130 Queen Street West
Toronto, Ontario
M5H 2N5
Attention: The Registrar of the Divisional Court as of Wednesday, December 3, 2025, in Ms. Roxanne Parris as LSO licensed paralegal (the "**Current Registrar**")

SUBJECT I: CONFIRMATION OF THE DELIVERY AND FILING STATUS OF TWO DISTINCT DOCUMENTS SUBMITTED VIA MAIL TO THE DIVISIONAL COURT ON DECEMBER 9 AND DECEMBER 11, 2025, COMPRISING THE UPDATED DRAFT ORDER AND THE COMPENDIUM FOR NOTICE OF MOTION NO. 3.
SUBJECT II: ENCLOSURE OF THE COVER LETTER AND EVIDENTIARY IMAGES OF THE MAIL FILED COMPENDIUM FOR NOTICE OF MOTION NO. 3.
SUBJECT III: RESIDUAL MATTERS PERTAINING TO ADMINISTRATIVE IRREGULARITIES AND THE PRINCIPLE OF MINISTERIAL DUTY.

Dear Sirs/Mesdames:

I. Introduction and Governing Definitions
I cordially write regarding the above-referenced matters. It is sincerely hoped that all judicial and administrative personnel, inclusive of the **Current Registrar**, are maintaining optimal health and wellness. Judicial efficiency and the preservation of the rule of law depend fundamentally upon the timely and scrupulous execution of administrative duties, a principle which forms the core of this correspondence. The Court's administrative function must be seen not merely as a matter of internal organization, but as a critical component of judicial legitimacy, ensuring that procedural justice is not eroded by bureaucratic inertia. The Applicant seeks not special treatment, but the timely, mandated performance of a public duty.
I adopt all definitions from previously, indirectly or directly, cited correspondence. For the purposes of this present communication, the following appellations and definitions shall be utilized, ensuring consistency in terminology throughout this document:

1. *The Rules of Civil Procedure*, R.R.O. 1990, Regulation 194 (the "**Rules**")
2. The Updated Draft Order (Form 59(A) under the **Rules**) (the "**Draft Order**")
3. The Compendium for Notice of Motion No. 3 as of December 7, 2025 (the "**Compendium**")
4. The Notice of Motion No. 3 (the "**NOM #3**")
5. The Ontario Courts Public Portal (the "**OCPP**")
6. The Honourable Judge Morawetz, in his capacity as the Chief Justice of the Superior Court of Justice and *ipso facto* the President of the Divisional Court (the "**President of the Divisional Court**")
7. The Responding Parties (the "**Opposite Litigants**")
8. *Roncarelli v. Duplessis*, 1959 CanLII 50 (SCC),
   $$1959$$
   SCR 121 (the "**Roncarelli Decision**")

II. Procedural Impediments and Substantive Compliance
Confirmation is herewith proffered regarding the precise chronology and procedural context of the **NOM #3**. The requisite fee for the **NOM #3** was paid on November 26, 2025, subsequent to the service upon the **Opposite Litigants** on November 17, 2025. Following payment, the Factum, Motion Record, initial **Draft Order** (dated November 19, 2025), and Affidavit of Service (dated November 21, 2025) were all submitted for filing. This was done notwithstanding the four business days' advance notice provided to the Divisional Court via electronic mail on November 24, 2025, concerning the proposed written hearing returnable on December 3, 2025, as prescribed by the **Rules**.

The uninterrupted and inexplicable failure to process the requisite documentation and officially "confirm" the filing status subsequent to the prescribed service and submission periods constitutes, *prima facie*, an administrative **dereliction** that directly impedes the Applicant's fundamental right to prompt and effective adjudication. This administrative lapse has resulted in a state of **"constructive non-filing,"** where the Court is in physical possession of all necessary documents and fees, yet administratively refuses to afford them legal status. This delay is not merely an inconvenience; it constitutes an obstruction to justice by rendering the Applicant's case effectively inert, potentially prejudicing the Applicant's position by extending the *lis pendens* without legal justification. Furthermore, the ambiguity created by the lack of confirmation introduces unnecessary uncertainty for the **Opposite Litigants** regarding the formal status of the motion, although their failure to oppose remains a separate issue. The prevailing circumstance suggests, with considerable persuasive force, that the **OCPP** is either technically defective or not being staffed to operate at its represented and mandatory capacity. Critically, the explicit representations issued by the Court concerning the expected three-business-day processing timeframe are not being scrupulously honoured. This failure has been consistently observed *ad seriatum* regarding filings subsequent to the initial submission of the **NOM #3** material on November 28, 2025.

This technical malaise is further compounded by the sudden and unheralded departure of the Former Registrar (Ms. Gentles). This administrative vacuum, which suggests a severe lack of adequate succession planning, is a clear instance of institutional negligence and has a direct causal link to the current chaos. This chaos is magnified by a demonstrable, ongoing failure to responsibly monitor the storage capacity of the Divisional Court’s electronic mail system—a fundamental component for the mandatory transmission of documents such as the Confirmation of Motion (Form 37(B)). The Applicant's compliance with the mandates of *Rule 37.10.1(1)(a)(i)* of the **Rules**, which requires this document to be given (not filed *per se*) via electronic mail, cannot be frustrated by the Court's internal and remediable failure to manage its digital infrastructure. Such institutional failures do not merely result in delay; they impose an unjust and undue financial and temporal burden upon self-represented litigants seeking to diligently prosecute their cause, thereby creating a substantial and unconstitutional barrier to the effective access to justice, contrary to Section 7 of the *Canadian Charter of Rights and Freedoms*. The Applicant is placed in an untenable position, having fulfilled all *party* obligations, only to be stalled by *institutional* non-performance.

III. Non-Opposition and Procedural Expediency

It is noteworthy that the **Opposite Litigants** were afforded ample and prescribed opportunity to offer opposition to the **NOM #3** through various modalities: non-opposition, consent, written opposition, or the presentation of oral argument. As not a solitary **Opposite Litigant** exercised any of these options within the specified timelines, the **NOM #3** remains **unopposed**. *Ipso facto*, there existed, and continues to subsist, no extant scheduling exigency necessitated by opposition, thereby removing any legitimate basis for the administrative delay. Proof of service was duly tendered to the Divisional Court via electronic mail and was simultaneously submitted for filing through the **OCPP**.

The absence of opposition is not merely a procedural convenience; it is a critical factor that elevates the administrative delay from a necessary scheduling challenge to a purely bureaucratic breakdown. When a motion is unopposed, the core adjudicative function of the Court—resolving conflict—is minimized. The administrative priority ought to be the swift processing of uncontested matters to conserve judicial resources for contested proceedings, thereby honouring the overriding purpose of the **Rules** as articulated in *Rule 1.04(1)*: "to secure the just, most expeditious and least expensive determination of every civil proceeding on its merits." By delaying the confirmation of an *unopposed* motion, the administrative body demonstrates a profound misallocation of public resources and a fundamental disregard for the principle of procedural expediency which underpins the **Rules**. The delay is, therefore, purely one of internal clerical processing, disassociated entirely from any complexities arising from the adversarial nature of the proceeding, and is, in principle, indefensible.

IV. Legislative Will: The Dichotomy of Acceptance versus Confirmation

The statutory distinction between the superseded JSO Portal regime and the current **OCPP** scheme is monumental, representing a fundamental philosophical shift in the procedural governance of court filings. The JSO Portal paradigm necessitated a two-tiered approach: Registrar’s “Acceptance” (Rule 4.05.2(3)), followed by the Registrar’s “Confirmation” (Rule 4.05.2(4)). This prior requirement of "Acceptance" inherently conferred upon the Registrar a **quasi-discretionary** veto power over the initiation of the record, potentially blurring the line between a purely administrative **clerical** function and a substantive, judicially reviewable **adjudicative** act. The former requirement of acceptance was predicated on the notion of an administrative offer of filing creating a binding *quasi-contract* subject to the Registrar's proactive approval.

Conversely, the current **OCPP** scheme (Rule 4.05.2.1), effectuated through *O. Reg. 226/25, s. 4*, is predicated solely upon the concept of a filing being “Subject to Confirmation,” where the document is deemed filed or issued exclusively upon the electronic transmission of confirmation by the registrar or sheriff (Rule 4.05.2.1(4)).

The legal distinction between a condition of ‘acceptance’ (a discretionary act) and a condition ‘subject to confirmation’ (a mandatory, ministerial act) is analogous to the distinction between a condition precedent where a contract is already in force but subject to a condition to be met, which the Registrar is so required, and the offer of something to another for their acceptance. In the latter, when there is no acceptance, there is no binding contract between those persons which is of course subject to return consideration. Under administrative law principles, the former ("acceptance") requires the Registrar to make a decision based on subjective criteria (*vires* testing), while the latter ("confirmation") requires the Registrar only to verify objective facts (e.g., file integrity, prescribed fee payment).

The term “confirmation” implies a process more **perfunctory**, **technical**, and **ministerial** in nature, merely attesting to the reception and entry of the submission into the court’s electronic record. The ministerial duty of the Registrar, in this context, is simply to acknowledge the successful electronic submission and verify basic, easily ascertainable technical standards, such as file format and size limits. This deliberate legislative shift effectively eliminates the Registrar’s capacity to unilaterally reject a document on grounds of substantive non-compliance, thereby precluding the application of principles such as *delegatus non potest delegare* to a purely clerical function. The power to assess the sufficiency or formal compliance of the document is now correctly and exclusively vested in the Presiding Motions Judge, who is the proper authority to exercise judicial discretion and control over the proceedings.

It is thus **self-evident** that the legislative intent underlying the **OCPP** amendments was to streamline the filing process by removing the prerequisite of discretionary "acceptance," recognizing that unnecessary layers of administrative review only introduce delay. This necessary administrative evolution reflects a considered policy decision to reduce the burden on the public purse and expedite the processing of documents. The judicial scrutiny regarding the formal compliance of documents, which was formerly exercised prematurely by the Registrar, has been thereby relocated to the Presiding Motions Judge or Panel, to be adjudicated, *inter alia*, by way of objection advanced by the opposing litigant. This extrapolation of legal principle dictates that the administrative focus should be the **expeditious**, **cost-effective**, and **just determination of matters upon their merits**, rather than an *in limine* administrative acceptance requirement that unnecessarily burdens court resources and delays the progression of proceedings. The Registrar’s duty is, therefore, one of **mandatory execution**, not **discretionary oversight**, and the current non-performance is a violation of this mandate.

V. Conversion of Paper Documents and Mitigation of Delay

The aforementioned procedural complexities, including the delays attributed to the malfunctioning of the **OCPP** and the administrative transition from the Former Registrar to the **Current Registrar**, cannot be imputed as a fault to the Applicant. The Applicant's imperative, grounded in the overarching principle of mitigating any potential loss or injury and ensuring the integrity and completeness of the judicial process, was to secure the substantive presence of the critical documents before the Divisional Court.

As such, the two critical documents—the **Draft Order** (mailed on December 8, 2025) and the **Compendium** (delivered on December 11, 2025)—were submitted via mail filing pursuant to *Rule 4.05* of the **Rules**:

Rule 4.05(4): Filing by Leaving in Court Office or by Mail

Any document, other than one that is to be issued, may be filed by leaving it in the proper court office or mailing it to the proper court office, accompanied by the prescribed fee. R.R.O. 1990, Reg. 194, r. 4.05 (4).

The delivery of these hard copy documents is evidenced by tracking numbers from the postal carrier, thereby obviating any potential allegation of non-receipt under *Rule 4.05(6)*. The presence of these tracking numbers effectively removes the operation of the rule that deems non-received documents as non-filed, providing conclusive **acta** of delivery to the proper court office. This mail filing, therefore, cured the administrative defect caused by the electronic delay and perfected the filing status under the alternative paper regime, ensuring that a properly filed record is now indisputably before the Court.

Furthermore, pursuant to *O. Reg. 226/25, s. 1*, the Registrar possesses the statutory power of conversion:

Conversion from Paper Format

(11) In the case of a proceeding that is commenced or continued in the City of Toronto, the registrar may prepare an electronic copy of any document that was filed or issued in the proceeding in paper format and include it in the court file.

It is explicitly confirmed that the Applicant does not require the restitution of the documents following their electronic conversion. These documents must remain with the Divisional Court to constitute the complete and comprehensive record of the proceeding. This is the **Current Registrar's** second, non-delegable ministerial duty: to convert and incorporate the paper-filed documents into the electronic Case Center record for the review of the Presiding Motions Judge. The word *may* in *Rule 4.05(11)* must be interpreted as *shall* in this context, given the overwhelming policy interest in maintaining a unified, accessible electronic court file as the default under the new **OCPP** regime.

V-A. Judicial Discretion and Rule 37.01 Compliance

As noted in the quoted language, “

MOTIONS AND APPLICATIONS RULE 37 MOTIONS — JURISDICTION AND PROCEDURE Notice of Motion 37.01 A motion shall be made by a notice of motion (Form 37A) unless the nature of the motion or the circumstances make a notice of motion unnecessary or these rules provide otherwise. R.R.O. 1990, Reg. 194, r. 37.01; O. Reg. 322/24, s. 4.", the Presiding Motions Judge can rely upon the motion so filed, but delayed without lawful reason for confirmation only, or decide the relief sought in the draft order by reference to confirming that such notice of motion was unnecessary based on the circumstances.

This rule confers a significant inherent power upon the Presiding Motions Judge to control the court's process and dispense with unnecessary technical formalities. Given that the delay in confirming the electronic filing is purely an **administrative failure**—a clerical omission rather than a substantive party error—the judicial officer has the discretion to deem the notice of motion—having been properly served, fully documented, and paid for—as having been advanced in circumstances that make the technical confirmation requirement "unnecessary." This judicial power extends to issuing an order *nunc pro tunc* (now for then), which effectively backdates the legal effect of the filing to the date of original submission, thereby curing the administrative lag. The use of a *nunc pro tunc* order is appropriate only to correct a clerical or administrative error, not to remedy a party's mistake, making it the perfect judicial tool to counteract the Registrar's delay. This judicial act would effectively ratify the filing *nunc pro tunc* and allow the relief sought in the **Draft Order** (which is now properly mail-filed and dated December 4, 2025) to be considered on its merits, without further administrative impediment. In this regard, the Presiding Motions Judge can rely on the mail filed documents to approve the draft order contained therein at the most recent tab therein (December 4, 2025). This is the only recourse available to counteract the administrative paralysis that currently threatens to subvert the Applicant's timely right to justice.

VI. Compendium Status and Registrar's Exclusive Upload Duty (Rule 4.05.3)

I confirm that I am the only party per se. I reproduce the following, which governs the use and population of Case Center:

"Requirement to Use Case Center

(3) Every party participating in the hearing or conference shall provide the following documents to the court by uploading them to Case Center in accordance with this rule:

1. A copy of every document filed with the court by the party in respect of the hearing or conference.
2. Subject to subrule (5), a copy of any other document in the court file on which the party intends to rely at the hearing or conference that has not already been uploaded to Case Center by another party.
3. Unless the court directs otherwise and subject to subrule (3.1), a compendium that meets the requirements of subrule (7). O. Reg. 300/24, s. 2 (1).

   Modification, City of Toronto

   (3.0.1) In the case of a proceeding that is commenced or continued in the City of Toronto, the documents referred to in paragraphs 1 and 2 of subrule (3) in respect of each party shall be uploaded to Case Center by the registrar and not by the party. O. Reg. 226/25, s. 5 (1).

   Compendium

   (3.1) A compendium is not required to be provided with respect to a conference or the hearing of an unopposed motion or motion on consent, unless the court directs otherwise. O. Reg. 300/24, s. 2 (1).

   Deadline

   (4) Subject to subrules (4.1) and (5), the documents listed in subrule (3) must be uploaded to Case Center by the following deadline:
4. In the case of the hearing of a motion or application where the party is required to give the registrar a confirmation of motion (Form 37B) or confirmation of application (Form 38B), the deadline is 2 p.m. three days before the hearing date, unless the court orders otherwise.
5. In any other case, the deadline is five days before the date of the hearing or conference, unless the court orders otherwise. O. Reg. 689/20, s. 7; O. Reg. 224/22, s. 1; O. Reg. 300/24, s. 2 (6); O. Reg. 301/24, s. 1; O. Reg. 226/25, s. 5 (2).

   (4.1) Subrule (4) does not apply to the registrar. O. Reg. 226/25, s. 5 (3)."

The preceding provisions establish a critical, *sui generis* procedural framework for Toronto proceedings. The "Modification, City of Toronto" (Rule 4.05.3(3.0.1)) is a clear policy directive recognizing the unique volume and complexity of filings in the Toronto region, thus centralizing the document upload function with the court administration. Specifically, *Rule 4.05.3(3.0.1)* unequivocally delegates the primary responsibility for uploading all filed documents (paragraphs 1 and 2 of subrule (3)) to Case Center **exclusively to the Registrar**, thereby absolving the Applicant of this burden. Furthermore, *Rule 4.05.3(4.1)* explicitly provides that the stringent deadlines of subrule (4) **do not apply to the**

Registrar. The legislative intent here is to remove the pressure of time constraints on the administrative process for uploads, allowing the Registrar to perform this function methodically, but this immunity from deadlines must not be misinterpreted as a license for indefinite delay. In this regard, I note that subrule 4.05.3(3)(2.) requires only a party to be able to invoke that right to have any other document in the "court file" to be relied upon. Since the Applicant is the only party per se, this right is exercised and requires the Registrar to upload any relied-upon documents from the "court file." Ergo, only the Registrar can upload filed documents but not subject to any deadline. The conclusion is therefore inescapable: the Registrar has an absolute, non-discretionary, and non-time-constrained ministerial duty to complete the court record by uploading all filed documents, whether submitted electronically or, as here, via the mail-filing exception. This duty is the single remaining procedural hurdle.

Confirmation is provided that neither the **Draft Order** of December 4, 2025, nor the **Compendium** required physical binding. Pursuant to *Rule 4.05.3(3.1)*, the Compendium was not required due to the *unopposed* status of the **NOM #3**. The Compendium was filed nonetheless as a matter of good practice and procedural completeness. Furthermore, the requirement for buff covers applies exclusively to an "appeal book and compendium" under *Rule 4.07(3)*, which mandates:

Appeal Book and Compendium

(3) An appeal book and compendium shall be bound front and back in buff covers. O. Reg. 19/03, s. 1 (1).

It is **trite law** that a compendium prepared for a motion is patently distinct from that mandated for an appeal, rendering the binding requirement **inapplicable**. The deliberate decision not to bind the motion **Compendium** was therefore not a procedural irregularity but an act of strict compliance with the **Rules**.

Pursuant to *Rule 4.07(7)*, which governs electronic documents:

Electronic Documents

(7) This rule does not apply to a document that is filed electronically in accordance with these rules or uploaded to Case Center under rule 4.05.3; however, if the same document is filed or provided to the court in paper format, this rule applies to the paper version of the document. O. Reg. 689/20, s. 9; O. Reg. 300/24, s. 4 (2); O. Reg. 301/24, s. 1.

The Applicant confirms that the mail-filed **Draft Order** and **Compendium** will not be subsequently filed electronically. In that regard, the "same document" will not be dually filed in both paper and electronic format by the Applicant, thus consciously avoiding the application of the latter clause of the rule to prevent any procedural complication and maintaining a singular, definitive version of the record.

VII. Conclusion and Request for Remedial Action

Given the demonstrable delays within the **OCPP** system, the egregious breach of administrative representations concerning confirmation timelines, and the fundamental principle that court staff are compelled to act at the direction of the **President of the Divisional Court**, a copy of this correspondence shall be provided to the **President of the Divisional Court** to ensure the **Current Registrar** executes the duties required by law with appropriate diligence and dispatch.

It is a cardinal principle, reaffirmed by the **Roncarelli Decision** (see: *supra*), that statutory or regulatory discretion is not an absolute prerogative. It must be exercised judiciously and according to the rules of reason and justice, not according to *private opinion*, administrative humour, or bureaucratic convenience. Lord Halsbury's guidance in *Sharp v. Wakefield* remains a potent syllogism: discretion must be "legal and regular," and not "arbitrary, vague, and fanciful." The continued failure to execute the non-discretionary duty of confirmation and document conversion constitutes an administrative action that falls outside the boundaries of good faith and legal regularity, equating to an abuse of public power. The **honest approach**, appreciating the sensitive administrative transition, dictates that the **Current Registrar** must promptly process all outstanding submissions and furnish confirmations, as the statutory mandate is one of ministerial confirmation, not of discretionary acceptance.

While careful consideration was given to the filing of a Motion to Compel the **Current Registrar** and to seek the appropriate order for costs against the Ministry of the Attorney General (the "**MAG**"), such a procedural initiative was ultimately deemed unnecessary and an instance of **overkill**, particularly in light of section 76 of the *Courts of Justice Act* (*CJA*). Section 76 empowers the Chief Justice to issue directions necessary to enforce the integrity and efficiency of the court process. The **President of the Divisional Court** is constrained to act when the statutory language dictates "shall," and his inherent authority to issue directions is activated upon receipt of clear, undisputed evidence of a systemic administrative failure. The provision of this current electronic correspondence to the **President of the Divisional Court** furnishes the requisite knowledge, thereby establishing the necessary obligation upon him to issue the directive. Failure by the **President of the Divisional Court** to act upon this clear evidence of administrative disarray would constitute an unfortunate acquiescence to the systemic failure. In this manner, the necessity of an additional motion is obviated, ensuring that the merits of the Judicial Review Application (**JRPA**) Proceeding can be decided in an **expeditious**, **cost-effective**, and **just** manner. The cost of a procedural motion to compel the Registrar, including the

and preparation time and judicial resources, would be an additional, unwarranted burden on the Applicant, caused entirely by the administrative arm of the Court.
As this was another some thousands of dollars in disbursements with the printing of pages, purchase of binders, tabs, paper, and mail filing, which was excessive but not my fault, I reserve the right to provide an amended Bill of Costs and current **Draft Order**. These costs, being directly attributable to the Applicant's necessary mitigation efforts against the Court's administrative failure (i.e., duplicating the filing in paper format), are reasonable and recoverable as special damages arising from institutional negligence.
I reserve to rely on this email document for any lawful purposes including seeking additional costs along with asserting my legal rights in a professional and lawful manner.

I further reserve the right to give, send, file (mail or electronic) any further documents to ensure that this JRPA Proceeding with particular reference to **NOM #3** is decided in a manner consistent with the law along with reference to the binding principles in the *Zurich v. Chubb* cases including the dissenting opinion of Juriansz J.A. that was adopted verbatim by the Supreme Court of Canada in 2015 and the binding decision of The Honourable Justice Akazaki in May 2024. I reserve the right to formalize and expand upon these principles in a formal request or requisition of the Divisional Court where applicable.
The administrative delays currently being experienced do not constitute a mere inconvenience; they represent a material obstruction to the Applicant’s entitlement to the **expeditious and just** resolution of the extant application for judicial review, directly impacting the right of access to justice. Such institutional failings, if allowed to persist without immediate **rectification**, inevitably erode public confidence in the judicial process and contravene the overarching policy objectives enshrined in the **Rules**.
The **President of the Divisional Court**, by virtue of his statutory nomenclature and judicial eminence, bears the ultimate responsibility for conducting the court's administrative functions in a manner entirely consistent with the **Rules** and established judicial principles. It is therefore respectfully requested that the administrative confirmation of all outstanding filed documents be effected without further delay, thereby preserving the *status quo ante* of the timely filing and ensuring that the matter can proceed to an unbiased determination on its merits.

To the extent that the representations are not honoured, I have nonetheless mitigated the same to assist the Presiding Motions Judge to approve the draft order, sign the same and have the Registrar file and enter the same with a copy to me.

Warm regards,

/s/Mr. Kevin A. McLean (BA, JD, CIM)

Mr. Kevin A. McLean (BA, JD, CIM)
Applicant and Moving Party
DC-24-00000718-00JR
24/718/00JR
December 11, 2025

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[Message clipped] View entire message
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M

Mr. Kevin McLean <mcleansettlement@gmail.com> Dec 12, 2025, 10:51 AM

Date: December 12, 2025
Via: Email
Classification: Private and Confidential
Purpose: provision of a Word Copy of the Factum for NOM #3 for the Registrar for her uploading of the same into Case Center

Divisional Court File Designation	**24/718/00JR**
Short Style of Cause	*McLean v. TDHA et al.*
Document Type	Email with attachment of Word copy of Factum for NOM #3
Sender's Status	The Applicant and Moving Party in Notice of Motion No. 3 (*NOM #3*)
Sender's Name	Mr. Kevin A. McLean, B.A., J.D., C.I.M.

TO:

The Divisional Court of Ontario (Toronto Region)
Osgoode Hall, 130 Queen Street West
Toronto, Ontario M5H 2N5
Attention: The New Registrar, Ms. Roxanne Parris (the "Registrar")
SUBJECT I: PROVISION OF MICROSOFT WORD COPY OF FACTUM FOR NOTICE OF MOTION NUMBER THREE (THE "FACTUM")
SUBJECT II: FACILITATION OF FACTUM UPLOADING TO CASE CENTER (THE "CASE CENTER") IN ACCORDANCE WITH THE *RULES OF CIVIL PROCEDURE* (THE "RULES")

Introduction and Contextual Preamble

I cordially write regarding the above-enumerated subjects, the central purpose of which is the provision of an electronic, editable iteration of the Factum (the "**Word Factum**") to facilitate the administration of justice. I adopt all definitions from previously, indirectly or directly, cited correspondence, motions, and materials herein, and hereby introduce the following definitions for precision:

- The Divisional Court of Ontario (Toronto Region) (the "**Court**")
- The **Factum** (the Factum for Notice of Motion No. 3 (the "**NOM #3**"), which was formally served and filed on November 18, 2025)
- The "**Registrar"** (Ms. Roxanne Parris, in Her Official Capacity)
- The *Rules of Civil Procedure*, R.R.O. 1990, Regulation 194 (the "**Rules**")
- The *Courts of Justice Act*, R.S.O. 1990, c. C.43, s. 98 (the "**Act**")
- The Ontario Courts Public Portal (the "**OCCP**").

Provision of Factum and Rationale

The genesis of this present correspondence is the recent and salutary amendments to the *Rules* and the concomitant issuance of the Divisional Court Practice Direction (the "**Practice Direction**"), a copy of which is appended hereto. While the Practice Direction is, *per se*, an administrative directive and remains subordinate to the mandatory provisions of the *Rules*, it nonetheless stipulates, as a procedural requirement, that **Factums must also be uploaded in Word format** to the Case Center for the Court's administrative benefit.

Therefore, attached *hic et nunc* (the "**Attached Document**") is the Word Factum for NOM #3, which corresponds precisely in substance and content to the executed Portable Document Format (PDF) version previously served and filed on the eighteenth day of November, 2025. Although the Word Factum is not adorned with the digital signature of the Applicant, the integrity of the record is preserved, as the **OCCP** maintains the filed, signed PDF iteration. This provision is tendered as a professional and collegial courtesy (*pro bono*) to the Court, ensuring strict adherence to the **Practice Direction** insofar as it stipulates:

> *"All documents must be uploaded in PDF format. The indexes to all Records should include hyperlinked bookmarks.* ***Factums must also be uploaded in Word format."***

This submission, being in conformity with the recent regulatory shift, is a proactive measure to sustain the streamlined and efficient administration of the Court's processes, thereby maintaining the established **status quo ante** of judicial efficacy.

Offer of Further Assistance

It is cognizable that the Court may also require the Word Factums corresponding to earlier filed documents, specifically the Factum filed on December 12, 2025, and the Factum related to Notice of Motion Number Two (the "**NOM #2**") of February 1, 2025. I note that these antecedent documents were submitted exclusively in PDF format, in accordance with the then-prevailing *lex fori* as accepted and confirmed by the previous Registrar.

The Applicant maintains a continuing posture of helpfulness and gracious cooperation with the Court. Should the Registrar encounter any exigencies or require the electronic, editable copies of the aforementioned previous Factums in order to effectuate their uploading to the Case Center, I remain unequivocally at the Court's service. *Ubi jus, ibi remedium.*

This comprehensive cooperation, while not strictly required *ab initio* for documents filed prior to the Practice Direction's amendment regarding Word format, is demonstrative of the Applicant's unwavering commitment to the resolution-oriented, functional operation of the Court's electronic repository. This is an action taken ***in limine*** to prevent any future administrative impediment.

Conclusion

In conclusion, the Word Factum is herewith transmitted. The Applicant trusts that this submission is received as a welcome contribution to the Court's administrative necessities and efficiency on all fronts.

Yours most appreciatively and gratefully,

A/M: Kevin A. McLean (BA, JD, CIM)

Mr. Kevin A. McLean (BA, JD, CIM) (he/him)

The Applicant and Moving Party in NOM #3

Enclosure:

1. The Word Factum for NOM #3 (the Factum for Notice of Motion No. 3)

...

[Message clipped] View entire message

One attachment • Scanned by Gmail

M

Mr. Kevin McLean <mcleansettlement@gmail.com> Dec 16, 2025, 5:16 PM

to SCJ-CSJ, roxanne.parris

Date: December 16, 2025
Via at first instance: Electronic Mail Transmission (may follow via mail, drop off and fax)
Classification: Private and Confidential
Purpose: drawing submitted filing documents in the Ontario Courts Public Portal ("OCPP")[i] to the attention of the Divisional Court Registrar in Ms. Parris, LSO licensed paralegal, and the President of the Divisional Court
Time sensitivity: Urgent

Divisional Court File Designation	**24/718/00JR**
Short Style of Cause	*McLean v. TDHA et al.*
Document Type	Email with copy of submitted filing of Request/Requisition for: (i) access to uncertified copy of Document #48 in the Ontario Courts Public Portal ("OCPP) under "Other Submissions" submitted by five different persons [sic]; (ii) compliance with predecessor obligations; (iii) compliance with prior requisitions; and (iv) other residual obligations
Sender's Status	The Applicant and Moving Party in Notice of Motion No. 3 (*NOM #3*)
Sender's Name	Mr. Kevin A. McLean, B.A., J.D., C.I.M.
Particulars involving NOM #3	▪ **NOM #3 made date:** November 17, 2025 ▪ **NOM #3 served on Responding Parties date:** November 17, 2025 ▪ **NOM #3 Motion Record, Factum and Draft Order service date:** November 19, 2025 ▪ **Affidavit of Service date:** Friday, November 19, 2025 ▪ **Confirmation of Motion given to Registrar:** Monday, November 24, 2025

5566

- **Submitted Filing of NOM #3, Motion Record, Factum, Draft Order, Affidavit of Service, Confirmation of Motion, 1st Updated Motion Record (included distinctions between previous Divisional Court JRPA Guide and amended Divisional Court JRPA Guide (June 30, 2025 as per metadata):** November 26, 2025
- **Representation by Divisional Court through OCPP as to processing time:** with three business days
  - Requirement under Rules of Civil Procedure for newly passed provision relating to OCPP in Toronto Region: merely "Subject to Confirmation" (as opposed to "Registrar Acceptance Required" and "confirmation" (two stage process) under the JSO Portal (which remains for 'non' Toronto Region matters
    - Current status of said submitted filing through OCPP: merely "received" but payment has been authorized and denoted via credit card
- **Deadline for Responding Parties (includes Respondents, none of which filed a "First Defence" to the JRPA Application) to have "delivered" a response in accordance with Rule 37.12(5) of Rules of Civil Procedure:** November 28, 2025 or December 1, 2025 (depending on interpretation of "within")
- **Date of Moving Party's Compendium for NOM #3 submitted filing:** November 28, 2025
- Date of Mail filed documents:
  - Draft Order for the Independent Presiding Motions Judge consideration: Monday, December 8, 2025
  - Compendium For NOM #3 (December 7, 2025 completed, then printed, tabbed, hole punched and placed into ten binders): Thursday, December 11, 2025

To:

The Divisional Court of Ontario
Osgoode Hall,
130 Queen Street West
City of Toronto[ii]
Province of Ontario
M5H 2N5

Attention: The new Registrar of the Divisional Court (as of December 3, 2025) in Ms. Roxanne Parris ("**Divisional Court Registrar**", "**Registrar**" or "**Current Registrar**")

AND TO:

The President of the Divisional Court, The Honourable Chief Justice Morawetz
130 Queen Street West
Toronto, Ontario
M5H 2N5

Subject: Urgent compliance with outstanding obligations of the registrar's office of the Divisional Court by way of notice and provision of the submitted filing of the request/requisition of December 15, 2025

Dear Divisional Court and Registrar of the Divisional Court:

1. This communication is tendered *in re* the aforementioned matter. Confirmation is hereby provided that the attached Requisition was submitted for filing on December 15, 2025. Appended hereto is the confirmed receipt issued by the Divisional Court, documenting the said submitted filing. It is attested that the OCPP authorizes the

lectronic submission of requisite documentation, including the payment for notice of motion number three ("NOM #3"), which was duly *effectuated* on the aforementioned date, utilizing the Ministry of the Attorney General ("MAG") authorized software. Further, it is confirmed that, **effective October 3, 2025**, the JSO Portal ceased to be the applicable electronic conduit for filings within the City of Toronto or the "Toronto Region."

2. In consideration of the protracted administrative delays; the *demission* of the Registrar (which was brought to the attention of the undersigned on December 3, 2025, the scheduled date for the written hearing, which seems rather non-coincidental, notwithstanding the non-opposition of any named Respondents in the style of cause or Responding Parties which were non-named Respondents (see: Affidavit of Service of the Applicant (Moving Party) (see: supra)); the Divisional Court's evident *non-compliance* with the *Judicial Review Procedure Act* (*JRPA*), the *Courts of Justice Act* (*CJA*), and the *Rules of Civil Procedure*; and the resultant *dereliction* in honouring prior written representations to the undersigned, the following mail-filing actions were subsequently *effectuated*: the draft order (*Form 59(A)*) dated December 4, 2025, was filed on Monday, December 8, 2025, and the Compendium for NOM #3 (dated December 7, 2025), comprising ten binders (Volumes 1 through 10), was filed under separate cover on Thursday, December 11, 2025.

3. Should the requisite confirmation of all outstanding submitted filings, consistent with the temporal mandates stipulated by the OCPP and written representations by the Registrar in the OCPP, not be provided, relief may be pursued via a draft order submitted to the President of the Divisional Court, who serves concurrently as the Chief Justice of the Superior Court of Justice (SCJ). Said draft order will, *inter alia*, move the Court, but only the President of the Divisional Court as per the CJA et al, to mandate the Registrar of the Divisional Court to *remediate* all deficient submitted filings via the OCPP and ensure compliance across manifold administrative facets.

4. Given the demonstrated pattern of administrative delays and the recurrent failure to honour prior assurances, the submission of a conventional *Notice of Motion* and the attendant expense is deemed unnecessary and impracticable. Consequently, reliance shall be placed upon *Rule 37.01* of the *Rules of Civil Procedure*, which permits the making of a motion without a formal *Notice of Motion* where circumstances do not so require or where it is unnecessary. In such an event, the Registrar of the Divisional Court shall constitute the sole Responding Party, being the functionary against whom the motion is made (it is emphasized that "made" is distinct from "service," "filing," and "delivery"). Should the Registrar's continued *recalcitrance* necessitate this expenditure, an order for costs shall be sought against that functionary. While it is appreciated that a portion of administrative culpability rests with the Former Registrar—whose record evinced a history of *non-compliance* even under the JSO Portal—the extant duties of the Current Registrar are immutable, and the office is necessarily tasked with addressing the transgressions of the *status quo ante*.

5. The jurisdictional basis compelling the President of the Divisional Court to adjudicate this potential motion—which would be supported by submissions and evidence, notwithstanding its deviation from *Form 37(A)*—is articulated in *section 76 of the Courts of Justice Act* (*CJA*), which vests the President of the Divisional Court and only the President of the Divisional Court with the authority to direct court staff and the Registrar concerning the fulfillment of their duties. Given the statutory obligation to assign judicial duties to certain judges, the President possesses the discretion to assign an independent judge (an "Independent Presiding Motions Judge") to consider the mail-filed documents contained within the Compendium for NOM #3 and the Draft Order of December 4, 2025 (*vide: supra*).

6. It is the fervent hope of the undersigned that such a motion will prove *superfluous*, contingent upon the expeditious fulfillment of the Current Registrar's outstanding obligations.

7. Nevertheless, should compliance not be *effectuated* with the utmost expediency, specifically by no later than 12:00 P.M. on the succeeding day (**December 17, 2025**), the aforementioned motion to the President of the Divisional Court shall be commenced without further *admonition*. While recognizing the administrative friction attendant to the technological transition involving the OCPP (October 14, 2025) and the change in Registrar (December 3, 2025), it is *verily* believed that ample time has been accorded to the Current Registrar to *remediate* the prior *transgressions* of the Former Registrar and to honour written assurances pertaining to the confirmation timelines for submitted filings. Furthermore, given that NOM #3 is uncontested and

the *JRPA* Application proceeded *undefended*, without the submission of a **First Defence** by any Respondent, there remains a substantial quantum of administrative irregularity requiring *remediation* and *unwinding* of which I was required to bring my motion intra this JRPA Proceeding.

8. Provided that the Registrar *remedies* the outstanding deficiencies—by confirming all submitted filings by 12:00 P.M. on December 17, 2025, extending an immediate invitation to the Case Center to the undersigned, and uploading all filed documents in the *JRPA* Proceeding to the Case Center by close of business on Thursday, December 18, 2025—the necessity of bringing the intended motion, pursuing costs, and amending the bill of costs previously filed (via mail in the Compendium for NOM #3) shall be obviated.

9. This communication is submitted for the Divisional Court's urgent consideration and necessary administrative action.

10. Ergo, I must rely on the poignant adage, “There is never a wrong time to do the right thing”. Thank you.

Best regards,

/s/Mr. Kevin A. McLean (BA, JD, CIM)

Mr. Kevin A. McLean (BA, JD, CIM)

Enclosures:

1. Request/Request submitted for filing on Monday, December 15, 2025
2. Receipt of said submitted filing

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[i] https://canlii.ca/t/t8m#sec4.05.2.1

[ii] ***Application, City of Toronto***

(2) This rule applies with respect to,

(a) the filing and issuance of documents in proceedings commenced or continued in the City of Toronto

Yours faithfully,

/KAM

Mr. Kevin A. McLean (BA, JD, CIM)

Sender’s name: Mr. Kevin Alexander McLean (BA, JD, CIM)
Sender’s address: 410-775 King Street West, Toronto, Ontario, M5V 2K3
Sender’s Telephone Number: (647) 370-9354
Sender’s email address: mcleansettlement@gmail.com

...

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5569

Mr. Kevin McLean <mcleansettlement@gmail.com>

Dec 22, 2025, 4:12 PM

to SCJ-CSJ, roxanne.parris

Date: December 22, 2025
Via at first instance: Electronic Mail Transmission (may follow via mail, drop off and fax)
Classification: Private and Confidential
Purpose: drawing submitted filing documents in the Ontario Courts Public Portal ("OCPP")[i] to the attention of the Divisional Court Registrar in Ms. Parris, LSO licensed paralegal, and the President of the Divisional Court
Time sensitivity: Urgent

Divisional Court File Designation	**24/718/00JR**
Short Style of Cause	*McLean v. TDHA et al.*
Document Type	Email with Draft Order for Motion #4 (due to the infra without Form 37(A))
Sender's Status	The Applicant and Moving Party in Notice of Motion No. 3 (*NOM #3*)
Sender's Name	Mr. Kevin A. McLean, B.A., J.D., C.I.M.
Particulars involving NOM #3	▪ **NOM #3 made date:** November 17, 2025 ▪ **NOM #3 served on Responding Parties date:** November 17, 2025 ▪ **NOM #3 Motion Record, Factum and Draft Order service date:** November 19, 2025 ▪ **Affidavit of Service date:** Friday, November 19, 2025 ▪ **Confirmation of Motion given to Registrar:** Monday, November 24, 2025 ▪ **Submitted Filing of NOM #3, Motion Record, Factum, Draft Order, Affidavit of Service, Confirmation of Motion, 1st Updated Motion Record (included distinctions between previous Divisional Court JRPA Guide and amended Divisional Court JRPA Guide (June 30, 2025 as per metadata):** November 26, 2025 ▪ **Representation by Divisional Court through OCPP as to processing time:** with three business days o Requirement under Rules of Civil Procedure for newly passed provision relating to OCPP in Toronto Region: merely "Subject to Confirmation" (as opposed to "Registrar Acceptance Required" and "confirmation" (two stage process) under the JSO Portal (which remains for 'non' Toronto Region matters ▪ Current status of said submitted filing through OCPP: merely "received" but payment has been authorized and denoted via credit card ▪ **Deadline for Responding Parties (includes Respondents, none of which filed a "First Defence" to the JRPA Application) to have "delivered" a response in accordance with Rule 37.12(5) of Rules of Civil Procedure:** November 28, 2025 or December 1, 2025 (depending on interpretation of "within") ▪ **Date of Moving Party's Compendium for NOM #3 submitted filing:** November 28, 2025

5570	▪ Date of Mail filed documents: o Draft Order for the Independent Presiding Motions Judge consideration: Monday, December 8, 2025 o Compendium For NOM #3 (December 7, 2025 completed, then printed, tabbed, hole punched and placed into ten binders): Thursday, December 11, 2025 ▪ Motion, without the Form 37(A) due to lack of necessity and/or the circumstances make a notice of motion unnecessary (see: Rule 37.01 of the Rules of Civil Procedure), made to the Divisional Court (defined as "Motion #4"): December 22, 2025

EXCLUSIVELY TO:
To:

The Divisional Court of Ontario
Osgoode Hall,
130 Queen Street West
City of Toronto[ii]
Province of Ontario
M5H 2N5

Attention: The new Registrar of the Divisional Court (as of December 3, 2025) in Ms. Roxanne Parris ("**Divisional Court Registrar**", "**Registrar**" or "**Current Registrar**")

AND TO:

The President of the Divisional Court, The Honourable Chief Justice Morawetz
130 Queen Street West
Toronto, Ontario
M5H 2N5

Subject: my motion #4, without form 37(A) due to lack of necessity and/or the circumstances do not require a notice of motion, and unlikely to even require service on the registrars due to the lack of contested facts (all denoted by record of proceeding) and extant mandatory duties of the former and current registrar

Dear Divisional Court (attention: President) and Registrar of the Divisional Court:

The undersigned submits this formal correspondence to address a persistent, deleterious, and arguably contumacious failure on the part of the Office of the Registrar—encompassing the professional conduct of both the predecessor and the incumbent—to discharge their mandated administrative obligations. Notwithstanding the *prima facie* validity and technical sufficiency of the materials submitted via the *Ontario Court Case Portal* ("OCCP"), there has been a demonstrable and prolonged omission in the processing of filings. Such inaction constitutes a profound departure from the strictures of the *Rules of Civil Procedure, R.R.O. 1990, Reg. 194*, and the specific protocols governing the Toronto Region of the Superior Court of Justice and the Divisional Court.
In view of the extant and historical neglect of these ministerial duties, the further utilization of the OCCP for repetitive filings, accompanied by the redundant remittance of prescribed fees, is deemed computationally futile, economically inefficient, and procedurally nonsensical. To persist in a digital framework that fails to acknowledge or validate receipt is to engage in a hollow exercise of form over substance. Such a course of action would merely perpetuate a state of *status quo ante* wherein the administration of justice remains obstructed by a pervasive bureaucratic inertia that borders on administrative paralysis.

II. THE LEGAL FRAMEWORK FOR MANDAMUS AND THE EXTRAPOLATION OF REGISTRARIAL OBLIGATIONS

It is asserted that the conditions precedent for the seeking of the extraordinary remedy of *mandamus* have been satisfied *in toto*. The Registrar is bound by a public legal duty to act—a duty that is executory, ministerial, and entirely non-discretionary in nature. The right to the performance of said duty is vested in the undersigned as a litigant entitled to the orderly progression of the colonial-judicial machinery.

The necessity of judicial intervention is underscored by the following extrapolations of fundamental legal principles:

1. **A Clear and Vesting Right to Performance:** The applicant has maintained an unassailable record of adherence to all statutory requirements. This includes the meticulous service and filing of documentation and the timely remittance of all prescribed fees. The failure of the Registrar to respond to these completed conditions constitutes a breach of the social contract between the judicial administration and the public it serves.
2. **The Absence of an Alternate, Adequate, or Efficacious Remedy:** No collateral avenue exists to rectify the persistent failure of the Registrar to process filings within the represented temporal parameters. The administrative "black hole" created by the current state of the OCCP renders ordinary inquiries toothless, necessitating an order from this Honourable Court to compel the performance of a duty that should, *ex debito justitiae*, be automatic.
3. **The Practical Value and Determinative Effect of the Order:** An order compelling performance would not merely be symbolic; it would have immediate, tangible utility by rectifying the procedural irregularities and nullities occasioned by the Registrar's *ultra vires* inaction. It is essential to distance the record from this lack of compliance to ensure that the eventual adjudication of the merits is not tainted by the preceding administrative delinquency.

Reference is made to the nuanced jurisprudential distinctions regarding procedural irregularities as articulated in *Long v. Redbranch Investments Ltd., 2018 BCCA 468*, as applied and distinguished within the specific context of these proceedings. Furthermore, the balance of convenience unequivocally favours the applicant. The undersigned has been uniquely prejudiced by the Registrar's failure to facilitate the provision of digital recordings and transcripts on CD—despite Justice Shore's uncorrected misinterpretation of the law—notwithstanding the satisfaction of all financial prerequisites via bank draft.

III. THE DOCTRINE OF IMPLIED REFUSAL AND THE URGENCY OF RECTIFICATION

While the legal test for *mandamus* is ostensibly met, it is conceded that should the Registrar comply with all outstanding statutory and prescribed obligations by 17:00 hours this day, the necessity for the relief sought in *Motion #4* may be partially or entirely obviated. However, the Court must recognize that a refusal to act need not be express; in the absence of compliance, the refusal is deemed implied through continued and unreasonable inaction, as evidenced by the ignored *Requisitions #11 through #15*.

The peculiar circumstances of this matter dictate that the Registrar(s) are the only parties whose interests are directly affected by the orders sought, as they are the primary actors in this administrative default. It is further noted that the Respondents have failed to file *Notices of Appearance* with proof of service as mandated by the plain language of *Form 68A*. This delinquency was unequivocally confirmed by a comprehensive audit of the OCCP *CaseView*. Consequently, the Registrar remains under a mandatory, non-shifting obligation to correct these administrative deficiencies *ipso facto* and to account for payments that may otherwise fail to be "finally captured" due to the expiry of digital payment windows.

IV. SACROSANCT STATUTORY OATHS AND THE PRINCIPLE OF PROCEDURAL CONTINUITY

The attention of the Court is directed to the *Courts of Justice Act, R.S.O. 1990, c. C.43* and the *Public Service of Ontario Act, 2006, S.O. 2006, c. 35, Sched. A*, regarding the solemn oath of office required of public servants. As an officer of the Court, the Registrar is bound by a perpetual statutory duty that transcends the individual identity of the office-holder. The errors, omissions, or systemic oversights of the predecessor do not—and cannot—absolve the incumbent of the immediate obligation to ensure procedural regularity and the integrity of the court record. To suggest otherwise would be to allow the transition of personnel to serve as a shield for the erosion of the rule of law.

V. CONCLUSION AND THE PHYSICAL LODGING OF MATERIALS

To facilitate the President of the Divisional Court in directing staff to rectify these lapses, a comprehensive Motion Record and detailed written submissions have been prepared. While such voluminous documentation should, in an ideal procedural environment, be redundant, they will be provided *ex abundanti cautela* to ensure the Court is fully apprised of the gravity of this administrative failure and the resulting prejudice to the applicant.

Should the electronic portal remain in its current state of dysfunction, the *Draft Order for Motion #4* and all supporting materials shall be delivered via physical strata—by mail or direct drop-off—to the Court's registry to ensure they are brought to the personal attention of the Regional Senior Judge.

Ergo, adhering to the poignant and prevailing adage that "there is never a wrong time to do the right thing," the undersigned remains:

Best regards,

/s/Mr. Kevin A. McLean (BA, JD, CIM)

Mr. Kevin A. McLean (BA, JD, CIM)

Enclosures herein and to follow via piecemeal

---

[i] https://canlii.ca/t/t8m#sec4.05.2.1

[ii] ***Application, City of Toronto***

(2) This rule applies with respect to,

(a) the filing and issuance of documents in proceedings commenced or continued in the City of Toronto

Yours faithfully,

/KAM

Mr. Kevin A. McLean (BA, JD, CIM)

Sender's name: Mr. Kevin Alexander McLean (BA, JD, CIM)
Sender's address: 410-775 King Street West, Toronto, Ontario, M5V 2K3
Sender's Telephone Number: (647) 370-9354
Sender's email address: mcleansettlement@gmail.com

...

[Message clipped] View entire message

One attachment • Scanned by Gmail

M

Mr. Kevin McLean <mcleansettlement@gmail.com> Dec 23, 2025, 1:02 PM

to Tashekah, SCJ-CSJ, roxanne.parris

PRIVATE AND CONFIDENTIAL
URGENT – TIME SENSITIVE

DATE: December 23, 2025

VIA: Electronic Mail Transmission (with hard copies to follow via physical delivery, mail filing and facsimile)

ADDRESSEES

TO
5573

The Divisional Court of Ontario
Osgoode Hall, 130 Queen Street West
Toronto, Ontario M5H 2N5
Attention: The Registrar of the Divisional Court, Ms. Roxanne Parris
(hereinafter the "Current Registrar")
AND TO:

The Former Registrar of the Divisional Court, Ms. Gentles
(hereinafter the "Former Registrar")
AND TO:

The President of the Divisional Court, The Honourable Chief Justice Morawetz
Osgoode Hall, 130 Queen Street West
Toronto, Ontario M5H 2N5

MATTER DETAILS

- **Court File Number:** DC-24-00000718-00JR
- **Short Style of Cause:** *McLean v. TD Home and Auto Insurance Company, et al.*
- **Document Classification:** Correspondence and Submission of Final Draft Order regarding Motion #4
- **Sender:** Mr. Kevin A. McLean, B.A., J.D., C.I.M. (the "Moving Party" and "Applicant")

I. PREAMBLE AND FORMAL SUBMISSION

The Applicant, *ipso facto* the Moving Party in the extant proceedings, respectfully submits this comprehensive and meticulously structured correspondence alongside the appended Final Draft Order pertaining to *Motion #4*. I confirm that this current and final draft order is a substitute for the previous one submitted yesterday. This submission is necessitated by an egregious, multifaceted accumulation of administrative irregularities, systemic failures, and clerical stasis that have, *prima facie*, impeded the orderly and equitable progression of *Notice of Motion No. 3* (*NOM #3*). Such irregularities, if left unrectified by judicial intervention, threaten to undermine the very foundations of procedural fairness and the core tenets of the rule of law within this jurisdiction.

By way of this formal instrument, the Moving Party seeks the immediate, decisive, and remedial attention of the President of the Divisional Court and the Registrars to rectify the *status quo ante*. It is of paramount importance to ensure that the judicial process is not rendered *ultra vires* by clerical omissions, technological inertia within the Ontario Courts Plus Portal (OCPP), or the inadvertent negligence of the physical registry. The Moving Party posits that administrative efficiency is not a mere aspirational convenience but a mandatory, non-negotiable prerequisite for the effective exercise of judicial authority and the protection of a litigant's right to a timely hearing.

II. CHRONOLOGY OF PROCEDURAL COMPLIANCE AND ADMINISTRATIVE STASIS

1. **Initiation and Service of NOM #3:** On November 17, 2025, the Moving Party formally issued *NOM #3*, effecting comprehensive and valid service upon all Responding Parties on even date. Subsequent thereto, on November 19, 2025, the exhaustive *Motion Record*, *Factum*, and *Draft Order* were meticulously served, followed by the requisite filing of the *Affidavit of Service*. These actions were undertaken in strict adherence to the *Rules of Civil Procedure*, demonstrating the Moving Party's unwavering commitment to procedural rectitude.
2. **Confirmation and Digital Filing Imperatives:** On November 24, 2025, a *Confirmation of Motion* was transmitted to the Registrar. On November 26, 2025, the Moving Party successfully navigated the complexities of the OCPP to submit the filing of *NOM #3* and its ancillary documentation. Despite the passage of several weeks and the explicit authorization of the requisite fees, the status of said filing remains perpetually relegated to a "received" state. This failure of the system to transition to "accepted" status as contemplated by the *Rules* constitutes a significant, albeit artificial, barrier to the Moving Party's right to have his motion adjudicated.
3. **Procedural Default of Responding Parties:** It is a matter of record that the Respondents, none of whom have delivered a "First Defence" to the *Judicial Review Procedure Act* (*JRPA*) Application, have failed to adhere to the temporal mandates of *Rule 37.12(5)*. This procedural lethargy, compounded by a total absence of responsive material, constitutes a default that necessitates judicial notice. The Respondents have effectively abdicated their

esponsibility to participate in the adversarial process, yet they remain shielded by the Registry's failure to process the Moving Party's records.

4. **Physical Augmentation and the Voluminous Record:** Notwithstanding the digital impasse, the Moving Party provided hard copies of the *Draft Order* on December 8, 2025, and delivered ten comprehensive, tabbed binders of the *Compendium for NOM #3* via mail filing on December 11, 2025. This physical augmentation of the record—requiring significant personal and financial resources—was undertaken to ensure that the Court remained fully apprised of the evidentiary foundations of the motion.
5.

III. CASE VIEW VERIFICATION AND RESPONDENT PRECLUSION

I further hereby confirm that in light of my review of the Case View in the OCPP, the Respondents are precluded from being served with any of my documents, receiving steps in the *JRPA* Application, and have not opposed the *JRPA* Application. This lack of opposition underscores the *prima facie* validity of the Moving Party's position and highlights the unnecessary delays caused by administrative inaction. The record demonstrates that the Respondents have waived their right to participate in these interlocutory stages through their own inaction and failure to comply with the *Rules*.

While pursuant to *Section 9(4)* of the *JRPA* the Attorney General for Ontario (AGO) is entitled to be heard at the hearing of the *JRPA* Application, that is not a matter that is currently relevant to the interlocutory administrative relief sought herein. The focus remains exclusively on the rectification of the Registry's records to reflect the actual state of the litigation.

IV. LOSS OF CONFIDENCE AND REDUNDANT FILING PROTOCOLS

As I have lost confidence and the public confidence has been eroded as a result of the failures primarily of Former Registrar Gentles, a copy of these documents will be mail or drop off filed by a third party or courier, along with being provided via email. Furthermore, a copy of this email and the appended Draft Order will be transmitted via facsimile to the attention of the President of the Divisional Court by way of attention to his judicial assistant.

This redundant methodology of service and filing is necessitated by the aforementioned administrative failures and is intended to ensure that the judicial record is perfected notwithstanding the current state of registry stasis. The Moving Party asserts that such measures are a regrettable but necessary consequence of the erosion of trust in the Registry's ability to maintain the *status quo* of a functioning judicial system.

V. LEGAL SYLLOGISMS AND THE NECESSITY OF JUDICIAL INTERVENTION

The Moving Party posits that the administrative functioning of the Registry is not merely a ministerial convenience but a fundamental component of the *constitutionally required judicial independence* and the right to a fair adjudication. To the extent that there is any further opposition or interference, or even if compliance is affected in tardy fashion, the *mandamus* relief may become necessary even if moot, as a prophylactic measure against recurrent administrative irregularities.

The following syllogism illuminates the necessity of the requested relief:

- **Major Premise:** The *Courts of Justice Act* and the *Rules of Civil Procedure* mandate that the Registrar shall facilitate the orderly filing, processing, and transmission of judicial records to ensure the accessibility of justice.
- **Minor Premise:** The Registry has failed to process the Moving Party's electronic filings and has omitted to transfer said records to the *Case Center* platform, thereby obstructing the judicial view of the record and preventing the scheduling of a hearing.
- **Conclusion:** Ergo, the administrative omission has resulted in a constructive denial of access to the Court, necessitating an exercise of the Court's inherent jurisdiction to grant remedial relief *nunc pro tunc*.

In limine, the failure of the Registrar's office to discharge its corollary legal duties—specifically the transition of documents to *Case Center*—represents a breach of the mandatory obligations set forth in *Section 76* of the *Courts of Justice Act*. Justice delayed by a computer terminal is no less a denial of justice than a closed courtroom door.

VI. THE RELIEF SOUGHT IN THE FINAL DRAFT ORDER

The Moving Party presents the Final Draft Order for *Motion #4*, which contemplates a multi-faceted approach to restoring procedural integrity, including *inter alia*:

- **Temporal Abridgment:** The immediate abridgment of time for service and filing to reflect the exigent nature of the administrative failure.

Judicial Dispensation: The formal waiver of procedural formalities, such as the *Form 37A*, which have been rendered redundant or impracticable by the Registry's current state of stasis.

- **Mandatory Registrarial Directions:** Explicit instructions to the Current Registrar to facilitate the immediate upload of all electronic filings to *Case Center*.
- **Judicial Assignment:** The appointment of an independent motions judge, untainted by prior involvement or perceived bias, to adjudicate the merits of *NOM #3*.
- **Writ of Mandamus:** A conditional provision for a *Writ of Mandamus* to compel the performance of these ministerial acts should the Registrar fail to comply within twenty-four (24) hours.
-

VII. IMPLICATIONS OF CONTINUED ADMINISTRATIVE NONFEASANCE

The consequences of continued non-feasance extend beyond the parties involved in this specific litigation. If the Registry is permitted to remain in a state of perpetual delay without judicial oversight, the integrity of the *Divisional Court* as a venue for the review of administrative action is compromised. The Moving Party's right to *certiorari* and other prerogative remedies is predicated upon a functioning court system that respects the timelines established by the legislature.

Furthermore, the administrative obligations of the Divisional Court are not personal to the incumbent but attach to the office. *Ipso facto*, the Current Registrar is legally and ethically bound to rectify the omissions and defaults of the Former Registrar. The doctrine of continuity of office ensures that the transition of personnel does not result in the expiration of public legal duties owed to litigants.

VIII. CONCLUSION AND FINAL DEMAND FOR RECTIFICATION

The Moving Party maintains that the declarations and orders sought are self-evident reflections of the current procedural reality. I find it most regrettable but necessary to have taken these steps. I reserve the right to rely on this document and attached documents, by reference, for any lawful purposes including costs.

Should you rectify any and all failures of your public duties to act, we can jointly notify or I can separately notify the Divisional Court to the attention of the President of the Divisional Court forthwith to be efficient with the usage of public resources. However, I have made sufficient demands regarding the same and the delay has been unreasonable.

The Court's inherent jurisdiction to control its own process is the only remaining safeguard against the administrative inertia that has plagued this file. Should the Responding Parties or the Registry persist in their administrative obstruction or fail to rectify their defaults in the face of these written demands, the Moving Party shall seek costs on a substantial or full indemnity basis.

It is the earnest hope of the Moving Party that this correspondence serves as an *acta* of finality, precipitating the necessary administrative actions to restore the integrity of this *JRPA* proceeding and ensuring that justice is not only done but is seen to be done *instanter*.

Respectfully submitted,

/s/Mr. Kevin A. McLean (BA, JD, CIM)
Mr. Kevin A. McLean, B.A., J.D., C.I.M.

Applicant and Moving Party

Enclosures:

1. Final Draft Order for Motion #4 (Form 59A)
2. Supporting Documentation (to follow via piecemeal transmission)

...

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9576

1 attachment • Scanned by Gmail

M

Mr. Kevin McLean <mcleansettlement@gmail.com> Dec 23, 2025, 5:16 PM

to SCJ-CSJ, roxanne.parris, Tashekah

PRIVATE AND CONFIDENTIAL
URGENT – TIME SENSITIVE
DATE: December 23, 2025

VIA: Electronic Mail Transmission (with hard copies to follow via physical delivery, mail filing and facsimile)

ADDRESSEES

TO:

The Divisional Court of Ontario
Osgoode Hall, 130 Queen Street West
Toronto, Ontario M5H 2N5
Attention: The Registrar of the Divisional Court, Ms. Roxanne Parris
(hereinafter the "Current Registrar")
AND TO:

The Former Registrar of the Divisional Court, Ms. Gentles
(hereinafter the "Former Registrar")
AND TO:

The President of the Divisional Court, The Honourable Chief Justice Morawetz
Osgoode Hall, 130 Queen Street West
Toronto, Ontario M5H 2N5

MATTER DETAILS

- **Court File Number:** DC-24-00000718-00JR
- **Short Style of Cause:** *McLean v. TD Home and Auto Insurance Company, et al.*
- **Document Classification:** Factum or Written Submission relating to Motion #4
- **Sender:** Mr. Kevin A. McLean, B.A., J.D., C.I.M. (the "Moving Party" and "Applicant")

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

In light of the continued non-compliance with public legal duties to act, kindly find attached my factum or written submission in support of the Draft Order by motion (absent a Form 37A due to its lack of necessity and circumstances necessitating the same). The motion record will follow in electronic and mail filing copy of he same.

I confirm that my draft order provided today was successfully faxed to the attention of the President of the Divisional Court. A cop of this factum will also be sent to his attention as well.

Govern yourselves in accordance with the law.

Thank you.

Yours faithfully,

/KAM

Mr. Kevin A. McLean (BA, JD, CIM)

...

[Message clipped] View entire message
One attachment • Scanned by Gmail

M

Mr. Kevin McLean <mcleansettlement@gmail.com> Dec 31, 2025, 4:58 PM

to evelyne.ibula, SCJ-CSJ, roxanne.parris, Tashekah

PRIVATE AND CONFIDENTIAL
URGENT – TIME SENSITIVE
DATE: December 31, 2025

VIA: Electronic Mail Transmission (with hard copies to follow (or already occurred) via physical delivery, mail filing and with facsimile copies to the attention of the President of the Divisional Court pursuant to, inter alia, section 76 of the CJA)

ADDRESSEES

TO:

The Divisional Court of Ontario
Osgoode Hall, 130 Queen Street West
Toronto, Ontario M5H 2N5
Attention: The Registrar of the Divisional Court, Ms. Roxanne Parris
(hereinafter the "Current Registrar")
AND TO:

The Former Registrar of the Divisional Court, Ms. Gentles
(hereinafter the "Former Registrar")
AND TO:

The President of the Divisional Court, The Honourable Chief Justice Morawetz
Osgoode Hall, 130 Queen Street West
Toronto, Ontario M5H 2N5

MATTER DETAILS

- **Court File Number:** DC-24-00000718-00JR
- **Short Style of Cause:** *McLean v. TD Home and Auto Insurance Company, et al.*
- **Document Classification:** Enclosure of Motion Record #4 in bookmarked and hyperlinked format as a courtesy to the Divisional Court and President of the Divisional Court
- **Sender:** Mr. Kevin A. McLean, B.A., J.D., C.I.M. (the "Moving Party" and "Applicant")

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

I. INTRODUCTION

1. I cordially write regarding the above. I adopt all definitions from previously, indirectly or directly, cited correspondence.
2. It is my distinct privilege to facilitate the delivery of the enclosed copies of the *Motion Record #4* (the "Motion Record"), alongside the secondary documentation articulated *infra*. Subject to a comprehensive verification of the extant tracking particulars, the *inter vivos* physical filing of these materials via post should be deemed efficacious as of the current date. The *Moving Party* has exercised exhaustive diligence to ensure that the physical and digital manifestations of these pleadings are synchronized to prevent any jurisdictional or administrative dissonance.

II. PROCEDURAL TRANSMISSIONS AND ADMINISTRATIVE COGNIZANCE

3. An identical reproduction of the *Motion Record* shall be dispatched via facsimile to the *President* of the *Divisional Court*. This redundancy is necessitated by the exigencies of the current circumstances to ensure the *status quo ante* of the judicial record is preserved with meticulous precision. Given the gravity of the relief sought and the complexity of the underlying *Judicial Review Procedure Act* (the "JRPA") application, the *Moving Party* deems it imperative that the *President* be possessed of these materials through multiple secure channels to preclude any potential for administrative oversight.
4. In light of the resignation of the *Former Registrar* and the emergence of recently discovered evidentiary substantiation concerning Ms. Evelyne Ibula (the "Ibula Evidence"), as detailed in the *Cover Letter regarding "mail filed" Motion Record* (the "Cover Letter"), I have included her as a recipient *ex abundanti cautela*. The transition between the *Former Registrar* and the *Current Registrar* introduces a critical juncture in the management of this file, necessitating a high degree of transparency to maintain the integrity of the court's record-keeping functions.
5. Based upon my extensive review of the *Public Service of Ontario Act, 2006, SO 2006, c 35, Sch A* (the "PSOA") and attendant regulations, it is unclear if *Former Registrar* Gentles resigned, was terminated for cause or without cause, or abandoned her position. While it is not particularly relevant *per se* but for determining the reasons for the failures in processing submitted documents for filing, which remain outstanding—which in turn means *Motion #4* is increasingly urgent and naturally dovetailed to *Notice of Motion #3* (the "NOM #3") and the requirements to bring such a motion in this proceeding herein—it is also vital in determining whether *Registrar* Parris is the permanent *Registrar* of the *Divisional Court* or merely filling a void left by the delinquency in duties by *Former Registrar* Gentles.
6. This inclusion further serves the purpose of ascertaining whether Ms. Ibula was, or remains, a *de facto* employee or a contractual agent of the *Ontario Government* or the *Ministry of the Attorney General* (the "MAG"). A preliminary inquiry suggests a conspicuous absence of her credentials within the public service records or the *Government of Ontario Employee and Organization Directory* (the "Directory"). The current *prima facie* evidence suggests a potential lack of institutional affiliation, given the absence of a designated telephonic extension within the *Divisional Court* premises. Such irregularities mandate a robust investigative posture to ensure that no *ultra vires* communications have influenced the trajectory of this litigation.

III. ACCURACY, EFFICACY, AND JURISPRUDENTIAL AUTHORITY

7. The *Moving Party* confirms *ipso facto* that the mail-filed iteration of the *Motion Record* is substantive and identical to the electronic version provided herein. The electronic version incorporates sophisticated bookmarking and hyperlinked authorities—provided as a professional courtesy to the *Divisional Court* and the *President*. In light of my continued good faith efforts to respect the resources and efficiency of the public purse, I may provide, as a courtesy, a *Book of Authorities* to ensure that justice is not merely done but seen to be done.
8. In this regard, I will now highlight, while contained in the bookmarked version of *Motion Record #4*, the authority of *Ruffo v Conseil de la magistrature, [1995] 4 SCR 267* (the "Ruffo") at the following paragraphs in summarized form:

> 57 In my opinion, this last observation also applies to the chief district judge. Until 1940, disciplinary control of judges of the chief district judge's court was subject to the dismissal procedure, which required a vote by both legislative assemblies in favour of dismissal (R.S.Q. 1909, ss. 3263 and 3292; R.S.Q. 1925, c. 145, ss. 221 and 269); starting in 1941 it required a report of the Court of King's Bench (Appeal Side), the predecessor of the present Court of Appeal (R.S.Q. 1941, c. 15, ss. 221 and 269; R.S.Q. 1964, c. 20, ss. 76 and 119; R.S.Q. 1977, c. T-16, ss. 85, 127 and 133; S.Q. 1988, c. 21, s. 30; and R.S.Q., c. T-16, s. 95). It must not be forgotten that a large part of the chief judge's role in maintaining high-quality justice was defined gradually over the years, in the same way as judicial precedents. Many aspects of this role derived from judicial tradition without being transferred to

legislation. Therefore, the fact that there was no explicit legislation on ethics until quite recently does not mean we can doubt the continuity that marked the development of the chief judge's responsibilities in this regard. It accordingly cannot be argued that the supervisory powers conferred on the chief judge by the present s. 96 *CJA* were assigned spontaneously by the legislature; in my view, they must rather be seen as the expression of a reality that is consistent with general practice and gradual developments over time.

58 This opinion is shared by the American author C. G. Geyh, who asserts that the chief judge's supervisory powers over ethics are inherent in the exercise of his or her functions and need not be conferred by specific statutory provisions ("Means Of Judicial Discipline Other Than Those Prescribed By The Judicial Discipline Statute, 28 U.S.C. Section 372(c)", in *Research Papers of the National Commission on Judicial Discipline and Removal* (1993), vol. 1, 713, at p. 756). I agree.

59 We must recognize that the chief judge, as *primus inter pares* in the court, the efficient operation of which he or she oversees in all other respects, is in a preferred position to ensure compliance with judicial ethics. First, because of the chief judge's role as co-ordinator, events that may raise ethical issues are more readily brought to his or her attention. As well, because of the chief judge's status, he or she is often the best situated to deal with such delicate matters, thereby relieving the other judges of the court of the difficult task of laying a complaint against one of their colleagues where necessary. In short, the power to lay a complaint is an intrinsic part of the chief judge's responsibility in this area and it would not be fitting for the chief judge to act through someone else, whether a judge or a person outside the judiciary, to fulfil his or her obligations in this regard.

9. As such, *Motion #4* is multi purposed and in the public interest as per the explicit language therein. This technological augmentation is intended to mitigate the cognitive burden on the judiciary, allowing for a more fluid extrapolation of legal principles and a more efficient verification of the cited *jurisprudence*.
10. Obviously, whatever complaint process of the President of the Divisional Court purview is not my prerogative to know but nonetheless part of my duty (moral, ethical, legal or otherwise) to assist in the public interest so others do not suffer in the same or similar

IV. CLOSING REMARKS

10. It is the *Applicant's* anticipation that the self-evident nature of the enclosed materials, coupled with the rigorous adherence to the governing statutes and *Rules of Civil Procedure, RRO 1990, Reg 194* (the "Rules"), despite certain processes being frustrated will assist the *Divisional Court* in resolving the pending motions without further delay.
11. I confirm that as of today's date, the Registrars, court staff and court clerks of the Executive Branch (MAG), have NOT opposed any relief sought herein.

Respectfully submitted,
/s/Mr. Kevin A. McLean (BA, JD, CIM)
Mr. Kevin A. McLean, B.A., J.D., C.I.M. Applicant and Moving Party
Enclosures:

1. *Motion Record #4 of the Applicant* (the "Motion Record"), presented in a hyperlinked and bookmarked format.
2. Electronic copy of the *Cover Letter regarding "mail filed" Motion Record* (the "Cover Letter").

...

[Message clipped] View entire message
2 Attachments • Scanned by Gmail

M

Mr. Kevin McLean <mcleansettlement@gmail.com> Dec 31, 2025, 6:12 PM

to SCJ-CSJ, roxanne.parris, Tashekah

PRIVATE AND CONFIDENTIAL
VIA ELECTRONIC TRANSMISSION
DATE: December 31, 2025
TO: The Superior Court of Justice — Divisional Court (the "Divisional Court")
ATTENTION: The President of the Divisional Court (the "President")

5580

SUBJECT I: CONFIRMATION THAT THE ONLY POTENTIAL CORRECT EMAIL COORDINATES OF MS. IBULA IS NOT ACTIVE WITH THE ONTARIO GOVERNMENT
SUBJECT II: RESERVATION OF RIGHTS IN RELATION TO SUBJECT I
SUBJECT III: DEMAND IN PERPETUITY FOR THE REGISTRAR OF THE DIVISIONAL COURT AS REPRESENTED BY FORMER REGISTRAR GENTLES

Dear Divisional Court of Ontario:

I. INTRODUCTION

I cordially write regarding the above. I adopt all definitions from previously, indirectly or directly, cited correspondence.

II. FACTUAL ANTECEDENTS AND THE STATUS OF MS. EVELYNE IBULA

It has been ascertained, through diligent inquiry, that the electronic mail address previously associated with Ms. Evelyne Ibula (the "Ibula Email") no longer constitutes an active conduit for communication. *Perforce*, a comprehensive examination of the signature block utilized by the individual (**see: Appendix #1**), which notably omitted any telephonic contact information during her representation as the "Assistant Trial Coordinator" (the "Coordinator Role") in January 2025, militates toward the conclusion that Ms. Ibula was neither a permanent employee nor a contractually retained agent of the *Divisional Court* at the material time.

The undersigned has copied and pasted the relevant information from the "Delivery Status Notification" (Failure):

Mail Delivery Subsystem <mailer-daemon@googlemail.com> 4:58 PM (1 hour ago)

to me

Address not found

Your message wasn't delivered to **evelyne.ibula@ontario.ca** because the address couldn't be found

The undersigned herein places reliance upon publicly accessible jurisprudence, *Cover Letter regarding mail filed Motion Record #4 at page 4*, (the "Ibula Jurisprudence") which references Ms. Ibula in capacities distinct from the public service (**see: Appendix #1**). Consequently, the *Ibula Email* has been expunged from all current and prospective itineraries of communication.

III. SYLLOGISTIC EVALUATION OF CONFLICTS AND ADMINISTRATIVE PROPRIETY

The revelation that Ms. Ibula's recent professional affiliations were tethered to *Martin Barristers* (the "Private Firm")—an entity situated at the identical municipal address and suite as counsel for Mrs. Aphrodite Artopoulos—in conjunction with the actions of Mr. David Karat of the Respondent Insurance Companies (collectively the "Respondents") regarding the McLean Property (the "Property"), engenders profound apprehension. Such a nexus necessitates the immediate attention of the *President* in light of the multifaceted supervisory obligations articulated in *Ruffo v. Conseil de la magistrature*, [1995] 4 SCR 267 (the "Ruffo"). The principles elucidated in *Ruffo* have been unequivocally adopted by the *Federal Court of Appeal* in *Canadian Judicial Council v. Girouard*, 2019 FCA 148 (the "Girouard"), at paragraph 42. *Ipso facto*, the Chief Justice, in the capacity of *President*, possesses an inherent mandate to investigate the

circumstances surrounding the *ad hoc* emergence of Ms. Ibula within the administrative architecture of the Court, particularly as her involvement appears coincident with the purported compulsory case conference requirements mandated by Madam Justice Shore.

IV. STATUTORY ANALYSIS OF THE PUBLIC SERVICE OF ONTARIO ACT AND COURTS OF JUSTICE ACT

While the Deputy Attorney General (the “DAG”), acting as the Commissioner under the *Public Service of Ontario Act, 2006, SO 2006, c 35, Sched A* (the “PSOA”), maintains the *ultra vires* power to terminate or deem abandoned the positions of unionized employees of the Ontario Public Service Employees Union (the “OPSEU”), such statutory authority does not preclude the *President* from discharging the delicate obligation of investigating “colleagues,” as envisioned by the Supreme Court of Canada in *Ruffo*.
Furthermore, the *Courts of Justice Act, RSO 1990, c C.43* (the “CJA”), under section 73(2) and 73(2.1), permits the *DAG* or a designate to assign duties to persons regardless of their appointment status under the *PSOA*. It remains a matter of grave concern whether Former Registrar Gentles (the “Former Registrar”) attempted to vest Ms. Ibula with such authority *in limine*. There exists a palpable necessity for a "cooling off" period for individuals transitioning from private advocacy within the same jurisdictional region to roles within the *Divisional Court* administrative apparatus.
Should it be determined that the assignment of Ms. Ibula was procedurally defective or otherwise *prima facie* improper, the undersigned reserves the right to seek the unwinding or setting aside of all derivative steps, documents, or unmade orders as a matter of *status quo ante*.

V. CONCLUSION AND RESERVATION OF RIGHTS

This comprehensive missive is intended for the direct perusal, jointly, of the *President*; however, in light of the erosion of faith and confidence—and presumably that of the public where similar contraventions have transpired—I shall transmit the final two electronic communications and the respective attachment via facsimile, as performed heretofore. I shall continue to exercise *ex abundanti cautela* and due diligence regarding these administrative anomalies. I reserve the absolute right to rely upon this correspondence for any lawful purpose.
As *Motion #4* remains unopposed, I shall refrain from seeking costs at this juncture. Although it was previously intimated that an "army" was being marshalled against the interests of the undersigned, the supremacy of the *Constitution Act, 1982*, the *Canadian Charter of Rights and Freedoms*, and the overarching rule of law ensures that the legal apparatus remains the ultimate arbiter. It is suggested that this multi-jurisdictional army, formed *ad hoc* for the purpose of my destruction, directs its focus toward a comprehension of the Canadian legal system. To the extent they possess such knowledge—which appears improbable given their sparse attempts at legal analysis culminating in a variety of sophisms and fallacious syllogisms—they should attempt to prevail on a balance of probabilities rather than through the manipulation of documentation and the utilization of various criminal law enforcement divisions.

The undersigned maintains that the preservation of legal integrity outweighs individual mortality. With a valid will and power of attorney, I am prepared to persevere through extreme incapacity, serious impairments, and disabilities inclusive of death. If such a stand is not taken, particularly given the perceived threat that the state may turn upon practitioners while the Attorney General of Ontario holds a prominent role under the *Law Society Act, RSO 1990, c L.8*, the public interest will suffer irretrievably. Consequently, the *Divisional Court* need not anticipate a potential settlement, as a confidential and non-disclosable resolution serves no public good. Oddly, this allows me a certain lacuna or opening to have evened the scales of justice which underscores the nefarious and unlawful efforts by the MAG, TPS, OPP et al that have tried and have delayed justice. Nonetheless, the rule of law must be adhered to.
The inference regarding the *ad hoc* inclusion of Ms. Ibula suggests that employees of the Ministry of the Attorney General (the “MAG”) within the *Divisional Court* possessed knowledge of an undisclosed *ex parte in camera* hearing judge who authorized an arrest warrant and were, understandably, hesitant to communicate with the undersigned. I welcome any written opposition to my beliefs while the sources of my beliefs have been highly particularized.

Finally, a formal demand is hereby reiterated that the current Registrar of the *Divisional Court* (**see: Appendix #2**) discharge all non-discretionary public legal duties necessitated by the omissions of the *Former Registrar*, specifically regarding the systemic failure to ensure communication channels remained unobstructed. It is demanded that all outstanding submitted filings are processed without delay and *forthwith*.

I thank the *President* of the *Divisional Court* in advance for discharging the duty to direct the Registrar, court clerks, and other court staff in matters encompassing *Motion #4*, all of which are assigned by law to the judiciary and only to the judiciary.

A blessed and Happy New Year to all herein and beyond.

Yours most appreciatively and gratefully,

/s/Mr. Kevin A. McLean (BA, JD, CIM)
Mr. Kevin A. McLean (BA, JD, CIM)
(He/Him)
Appendix #1: Correspondence signature of Evelyne Ibula and citation of Ibula Jurisprudence.
Appendix #2: Notification of Registrar transition from T. Gentles to R. Parris, dated December 3, 2025.
Appendix #3: Correspondence from Former Registrar Gentles regarding jurisdictional constraints, dated September 9, 2025.

APPENDIX #1

Sincerely,
Evelyne Ibula (She/Her/Elle)
Assistant Trial Coordinator
Superior Court of Justice – Divisional Court
Osgoode Hall, Room 174
130 Queen Street West
Toronto, ON M5H 2N5

Appendix #2:

Gentles, Tashekah (JUD) Wed, Dec 3, 10:45 AM

to me

NOTIFICATION

PLEASE NOTE: I am no longer the Registrar/Manager for Divisional Court. If your email relates to Divisional Court, please forward same to Roxanne Parris the new Registrar for Divisional Court. Roxanne can be reached @ roxanne.parris@ontario.ca.

Please note the Divisional Court e-mail Inboxes for communicating with the court:

Filing and General communication:
SCJ-CSJ.Divcourtmail@ontario.ca

Scheduling information:
DivCourtSchedule@ontario.ca

Thank You,

Appendix #3: Email from Ms. Gentles wherein I was seeking access as a matter of right to the undisclosed to information or indictments signed and filed with the originating courthouse or within the control or custody of the Divisional Court involving the undisclosed signed arrest warrant which were required to be provided to me upon request and without charge – remaining outstanding as of today's date (nota bene: Former Registrar Gentles and the Divisional Court were corrected on the distinction between the jurisdiction of a judge of the dc, also a judge of the SCJ but a judge of the "SUPERIOR COURT OF CRIMINAL JURISDICTION" under the Criminal Code and the concepts of custody and control (see: the right to make a demand for records) of a court which the Divisional Court had and has in light of the presiding judge who made, issued and signed an arrest warrant involving myself of which the executive branch and the courts have refused, contrary to federal and provincial law, to provide a copy of the same.

Gentles, Tashekah (JUD) <Tashekah.Gentles@ontario.ca> Tue, Sep 9, 9:04 AM

to me, Daniel

Good morning Mr. McLean,

Please note Divisional Court does not have jurisdiction to hear criminal matters. This court only hear matters relating to civil and family. As the Registrar for Divisional Court, I do not have jurisdiction to address matters that are criminal in nature.

Regards,

Superior Court of Justice
Divisional Court

Tashekah Gentles

Yours faithfully,

/KAM

Mr. Kevin A. McLean (BA, JD, CIM)

Sender's name: Mr. Kevin Alexander McLean (BA, JD, CIM)
Sender's address: 410-775 King Street West, Toronto, Ontario, M5V 2K3
Sender's Telephone Number: (647) 370-9354
Sender's email address: mcleansettlement@gmail.com

5584

[Message clipped] View entire message

M

Mr. Kevin McLean <mcleansettlement@gmail.com> Jan 2, 2026, 1:49 PM

to SCJ-CSJ, roxanne.parris, Tashekah

Classification: PRIVATE AND CONFIDENTIAL
Time Sensitivity: URGENT – TIME SENSITIVE
DATE: January 2, 2026

Initial Sending Method: Electronic Mail Transmission
Subsequent transmission methods: facsimile *et al*

ADDRESSEES

TO:

The Divisional Court of Ontario
Osgoode Hall (Toronto)
130 Queen Street West
Room 174
Toronto, Ontario
M5H 2N5

(the "**Divisional Court**")

Attention: The Registrar of the Divisional Court, Ms. Roxanne Parris
(hereinafter the "**Current Registrar**" or "**Replacement Registrar**")
Email: Roxanne.parris@ontario.ca

AND TO:

The Former Registrar of the Divisional Court
Ms. Tashekah Gentles
(hereinafter the "**Former Registrar**")
Email: Tashekah.Gentles@ontario.ca

AND TO:

The **President** of the Divisional Court,
The Honourable Chief Justice Morawetz
Osgoode Hall,
130 Queen Street West
Toronto, Ontario
M5H 2N5
Fax: 416.327.6011

MATTER DETAILS

I. **Court File Number:** DC-24-00000718-00JR

II. **Short Style of Cause:** *McLean v. TD Home and Auto Insurance Company, et al.*

III. **Document Classification:** Email with attachment: Canada Post confirmation tracking number of "Mail **Filed**" **Motion Record #4** (January 2, 2026)

IV. **Sender:** Mr. Kevin A. McLean, B.A., J.D., C.I.M.

V. **Sending Party Status in relation to Motion #4**: "Moving Party"

VI. Date that Motion #4 was made (i.e. Draft Order with Factum or Written Submission made): Tuesday, **December 23, 2025**

VII. **Non-opposing Respondents (by virtue of their failure to comply with the explicit language in Form 68A of the Rules of Civil Procedure et al) and prohibited by law to have filed or presented any evidence or submissions in the JRPA Proceeding by the same explicit language in Form 68A**: in style of cause

VIII. **Responding Parties in relation to Motion #4**: the Former Registrar and Current Registrar of the Divisional Court (collectively, the "Divisional Court **Registrars**")

SUBJECT I: CONFIRMATION – MAIL FILING (SEE: RULE 4.05(5) OF THE RULES OF CIVIL PROCEDURE) – MOTION RECORD #4

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

I. INTRODUCTION AND DEFINITIONS

1. I cordially write regarding the above. I adopt all definitions from previously, indirectly or directly, cited correspondence.

2. For the purposes of this communication, the *Rules of Civil Procedure, RRO 1990, Reg 194*, shall be referred to as (the "*Rules*"). The motion record **filed** via postal services on the date hereof shall be referred to as (the "**Motion Record #4**"). The collective administrative leadership, former and current of the court shall be referred to as (the "**Registrars**").

II. FILING AND STATUTORY OBLIGATIONS

3. It is observed, *ex abundanti cautela*, that in light of persistent and profound irregularities concerning the failure of the **Registrars** to discharge their public legal duties—which are unequivocally statutory and prescribed in nature according to the letter of the law—**Motion Record #4** was dispatched and finally effected via **mail-filing** (see: Rule 4.05(5) of the Rules of Civil Procedure) to the *Divisional Court* this morning (the "**Filing**"). This proactive measure is necessitated by the requirement to preserve the integrity of the judicial process and to ensure that the Moving Party's rights are not attenuated by administrative inertia or procedural circumvention.

4. *Ipso facto*, the Office of the Registrar is under a non-discretionary and mandatory obligation to exigently and expeditiously affix the judicial stamp to **Motion Record #4**, effective as of the date of this correspondence, pursuant to the strictures of *Rule 4.05(5)* of the *Rules*. Any deviation from this prescribed duty would constitute a departure from the *status quo ante* and potentially invite a finding of *ultra vires* conduct regarding the administrative handling of the record.

5. To preclude any potential for jurisdictional ambiguity, or subsequent disputation regarding the receipt of the **Filing**, the attached *Canada Post* tracking identifier (the "**Tracking Documentation**") serves as *prima facie* evidence of delivery. This documentation ensures that the relevant and sole *court office* cannot maintain a vacuum of information or assert a lack of knowledge regarding the receipt of a document that has been "**filed by mai**l" under the auspices of *Rule 4.05(6)* of the *Rules*. The temporal certainty provided by the **Tracking Documentation** is conclusive and rebuts any assertion of non-receipt.

III. SERVICE AND PREVIOUS CORRESPONDENCE

6. It is further confirmed that, *inter alia*, the substantive application and underlying legal syllogisms supporting Motion #4 were initiated and "made" on December 23, 2025, and concurrently served upon the **Registrars** in their official capacity. The efficacy of this service is absolute, thereby placing the **Registrars** on constructive and actual notice of the relief sought and the evidentiary basis contained therein.

7. Furthermore, the Draft Order and Motion #4 Factum, defined *infra*, were transmitted via facsimile to the **President** of the *Divisional Court* (the "**President**"). This transmission was executed to facilitate the **President**'s requisite and urgent adjudication and deliberation of the relief sought, with specific reference to the *Factum* or *Written Submission for Motion #4* (the "**Factum**") and the accompanying Draft Order. These transmissions occurred with precise regularity on the following occasions:

a. December 23, 2025, at 18:42 hours; and
b. December 23, 2025, at 23:17 hours.

8. Such repetitive notification underscores the urgency of the matter and ensures that the judicial mind is fully seized of the complexities and the necessitated interventions required to prevent a miscarriage of justice or an inequitable delay in the proceedings.

IV. Conclusion

9. The language and specific relief articulated within the **Motion #4 Draft Order** remain entirely applicable, relevant, and efficacious as of the current date.

10. It is salient to observe that there has been an *absence* of any countervailing submissions or formal opposition from the **Responding Parties**, rendering the requested relief effectively unopposed and the conclusions therein self-evident.

11. In strict and unwavering adherence to the *Rules*, it is respectfully requested and required (see: language in requisition form) that the Office of the Registrar provide a copy of the Order once it has been made, issued, and entered into the judicial record of proceedings for this JRPA Proceeding.

12. Should the **President** of the *Divisional Court* require any refinements, clarifications, or *in limine* modifications to the instrument to better reflect the Court's intent, the undersigned remains available to redraft the same. This ensures that the final document is entirely congruent with the Court's findings and the high standards of stylistic elegance expected in such high-stakes, generally and specifically, and public interest litigation, prior to its subsequent filing and entry into the record of proceeding.

13. Otherwise, I shall presume, reliance on the adverse inference doctrine, that I have complied, in light of the lack of necessity of a Form 37A along with the frustration of the process with electronic filings with the OCPP and the circumstances dictating the absence of a Form 37A, that Motion #4 and its relief sought in the form a hard copy made, provided and served Draft Order via email and fax, and "mail filed" is decided without opposition to the relief sought.

14. Should the Divisional Court and the President of the Divisional Court require any further clarification or assistance in this regard, I remain available via this email.

15. Thank you kindly.

Respectfully submitted:
...

[Message clipped] View entire message
One attachment • Scanned by Gmail

M

Mr. Kevin McLean <mcleansettlement@gmail.com> Jan 12, 2026, 2:58 PM

to SCJ-CSJ, roxanne.parris

Classification: PRIVATE AND CONFIDENTIAL Time Sensitivity: URGENT – TIME SENSITIVE DATE: January 12, 2026
Initial Sending Method: Electronic Mail Transmission

Subsequent transmission methods: facsimile et al

ADDRESSEES

TO:
The Divisional Court of Ontario
Osgoode Hall (Toronto)
130 Queen Street West
Room 174
Toronto, Ontario M5H 2N5
(the "Divisional Court")

Attention: The Registrar of the Divisional Court, Ms. Roxanne Parris *(hereinafter the "Current Registrar" or "Replacement Registrar")* Email: Roxanne.parris@ontario.ca

AND TO: *(TO BE DIRECTED TO IN RELATION TO THE DRAFT ORDER AND DOCUMENTS TO FOLLOW SUBJECT TO ANY IMMEDIATE RECTIFICATION AND REMEDYING OF THE NON-COMPLIANCE INCLUDING THE NOW RECURRING ISSUE OF A 403 FORBIDDEN CODE)*

The President of the Divisional Court, The Honourable Chief Justice Morawetz Osgoode Hall, 130 Queen Street West
Toronto, Ontario M5H 2N5
Fax: 416.327.6011

MATTER DETAILS

I. **Court File Number:** DC-24-00000718-00JR
II. **Short Style of Cause:** McLean v. TD Home and Auto Insurance Company, et al.
III. **Document Classification:** Email with enclosures: (1) Canada Post confirmation tracking number for Motion Record #4; (2) **Draft Order for Motion #5** (January 12, 2026 version - V3); (3) **Summary of Factum or Written Submission in Support of Motion #5**.
IV. **Sender:** Mr. Kevin A. McLean, B.A., J.D., C.I.M.
V. **Sending Party Status:** "Moving Party" in relation to Motion #4 and Motion #5, and NOM #3 (along with NOM #1 and #2) and Applicant in relation to JRPA Application

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

I write to you on an urgent and extraordinary basis, compelled by circumstances that threaten to render the judicial process a nullity. I repeat, rely upon, and incorporate by reference the entirety of the relevant correspondence previously submitted to this Court as though fully set out herein. The situation has reached a critical juncture where the administration of justice is being systematically obstructed by a combination of technical failure, registrarial paralysis, and institutional silence.

The Digital Blockade and the "403 Forbidden" Exclusion: I confirm that as of today's date, there continues to be a persistent and impenetrable "403 Forbidden Error Code" whenever I attempt to access the Ontario Public Courts Portal (OCPP) using my designated email, password, and verification codes. In technical terms, a "403 Forbidden" error signifies that the web server understood the request but affirmatively refuses to authorize access to the requested resource. It indicates that the user lacks the necessary permissions—functioning as a locked door even when the litigant possesses the correct key.

This digital blockade is not a generalized system outage but appears to be a targeted and deliberate exclusion. Through rigorous comparative testing conducted for investigative purposes, I have confirmed that other OCPP accounts remain fully accessible from the same IP address and hardware configuration. However, my specific credentials result in an immediate and absolute refusal. This "digital excommunication" represents a "smoking gun" of administrative interference, occurring precisely as critical litigation deadlines approach. It is a violation of the fundamental principle that digital infrastructure must serve the law, not function as a weapon for "digital gatekeeping" to exclude specific litigants from their constitutional right to be heard. To deny a litigant their digital portal is to effectively evict them from the modern courthouse.

The Administrative Vacuum and Registrarial Absence: While I acknowledge that Ms. Roxanne Parris has served as Acting Registrar since December 3, 2025, there appears to be a total breakdown in institutional continuity. I have verified through direct telephonic inquiry that Successor Registrar Gentles has been absent since December 10, 2025, with an expected return only on January 9, 2026. This month-long absence, occurring during the returnable period for Notice of Motion #3, has left the Registry in a state of functional paralysis. I have preserved an audio recording of the official voicemail message confirming this absence as evidentiary proof of the "institutional silence" currently pervading the Registry.

This administrative vacuum, coupled with the unexplained 403 technical lockout, constitutes a "constructive closure" of the courthouse. When a litigant cannot file, cannot speak to a Registrar, and cannot receive confirmations of service, the rule of law is effectively suspended. The combined effect of these factors creates a "legal vacuum" where rights are asserted

issued but never adjudicated, effectively insulating administrative decisions from judicial review. This is not merely a matter of administrative convenience; it is a substantive prerequisite for a functioning democracy that the state remains subject to the superintending authority of an independent judicature.

Constitutional Imperatives and the Core Jurisdiction of the SCJ: In light of the ongoing 403 Error Code, I respectfully require and demand that this technical barrier be rectified forthwith and by no later than the close of this business day. Access to justice is an inviolable constitutional principle (*TLABC v. BC*, 2014 SCC 59). In the 21st century, access to the Superior Court is synonymous with digital access; to extinguish a litigant's ability to file electronically is to render the constitutional promise of access a dead letter. This blockade represents an unconstitutional attempt by the Executive Branch to achieve indirectly what it is barred from doing directly: ousting the "Core Jurisdiction" of the Superior Court as protected under Section 96 of the *Constitution Act, 1867*. Any administrative policy or registrarial "standard operating procedure" that conflicts with these constitutional mandates is, *ipso facto*, of no force or effect.

Enclosures, Versioning (V4), and the Piecemeal Record: Please find enclosed the **Draft Order for Motion #5** (dated January 12, 2026). I have designated this Draft Order as "V" (Version 3). For purposes of good faith and full disclosure, should updated evidence or status changes require a subsequent revision to bring the status current, I will entitle the same "V5" for ease of reference. This staggered delivery is necessitated by the insurmountable technical barriers I am currently facing, which have forced me to resort to physical mail-filing and facsimile transmissions to preserve my rights. I expressly confirm that I will maintain the highest substantive standards of legal argument in my Factum, maintaining the integrity of the record in spite of the technical non-compliance forced upon me.

PARTICULARIZED LIST OF THE TWENTY-ONE (21) ORDERS SOUGHT IN DRAFT ORDER (V3)

The Applicant seeks the following specific orders to restore the Rule of Law and ensure institutional integrity:

I. DISPENSATION AND ABRIDGMENT OF TIME

1. **DISPENSATION OF FORM 37A:** That the requirement for a formal Notice of Motion (Form 37A) for this Motion #5 be dispensed with, necessitated by the insurmountable technical barriers of the "403 Forbidden Error Code" which has effectively severed the Applicant's primary means of service.
2. **ABRIDGMENT OF TIME:** That the time for service and filing be abridged, declaring this motion properly returnable this day, January 12, 2026, to address the urgent need for judicial oversight over the digital and administrative components of this litigation.
3. **NUNC PRO TUNC ORDERS:** That all orders involving timing and filing relating to this matter be granted *nunc pro tunc*, ensuring the record is perfected despite the administrative failures encountered by the Applicant.

II. JUDICIAL ASSIGNMENT AND INSTITUTIONAL OVERSIGHT 4. **SELF-ASSIGNMENT BY THE PRESIDENT:** That the President of the Divisional Court self-assign this proceeding to his own jurisdiction. This is vital to prevent a miscarriage of justice necessitated by the inextricable nexus between the matters at hand and the requirement for the highest level of judicial oversight to restore public confidence. 5. **RELIEF OF JUSTICE SHORE:** That Madam Justice Shore be relieved from all duties involving the Applicant to maintain the appearance of total judicial impartiality and ensure the merits of the JRPA proceeding are not obscured by collateral disputes regarding judicial conduct.

III. SECTION 76 OF THE CJA AND CONSTITUTIONAL ACCESS 6. **MANDATORY RECTIFICATION OF OCPP:** That IT administrators immediately rectify the "403 Forbidden" status, including whitelisting the Applicant's IP address and restoring full electronic filing and retrieval privileges. 7. **PROVISION OF IT CONTACT:** That court staff provide an individual email contact for the IT department to troubleshoot the 403 issue in the event that the technological court staff cannot fix the same. 8. **PRODUCTION OF ACCESS LOGS:** That the OCCP manager and Registrar provide the President with all relevant logs regarding the Applicant's access attempts to determine exactly when and why the blockade commenced. 9. **ALTERNATIVE EMAIL FILING:** That until the 403 error is fixed, the Applicant is entitled to file via email to the Registry and Acting Registrar Roxanne Parris, with documents deemed filed at the time of transmission. 10. **DECLARATION OF CONSTRUCTIVE DENIAL:** A declaration that digital disenfranchisement constitutes a "constructive denial of the right to be heard" (*audi alteram partem*) and a breach of the Core Jurisdiction of the SCJ as protected under Section 96.

IV. ACCESS TO COURT RECORDINGS, DOCUMENTS, AND INFORMATION ASSETS 11. **COPIES OF RECORDINGS:** That the SCJ Recording Management Office provide copies of digital recordings for all case conferences for which a Request Form Undertaking has been submitted and payment remitted. 12. **PROVISION TO TRANSCRIPTIONIST:** That the RMO provide the Applicant's authorized transcriptionist (ATO) with the specific tapes and materials required for the production of certified transcripts. 13. **ACCESS TO "UNDISCLOSED CRIMINAL PROCEEDING":** That staff provide immediate access to requested documents in their custody related to relevant criminal proceedings, to the extent such documents are relevant to the grounds of judicial review. 14. **"NON-FIPPA" ACCESS:** That staff at any SCJ courthouse provide access to requested documents and information assets, recognizing that the "open court principle" extends to administrative records necessary to verify procedural regularity. 15. **48-HOUR**

RESPONSE MANDATE: That court staff and Registrars respond to the Applicant within 48 hours to compensate for significant procedural delays and ensure the Applicant is not further marginalized by administrative silence. 16. **ITEMIZED FEE ESTIMATES:** That the Registrar provide detailed, itemized estimates of costs for document access. If not provided within 48 hours, such fees shall be deemed waived.

V. ADJUDICATION AND GENERAL PROVISIONS 17. **IMMEDIATE ANNOUNCEMENT ORDER:** That the President pronounce determinations regarding Motions #3, #4, and #5 immediately, with comprehensive, detailed reasons to follow. 18. **MOOTNESS OF PRIOR ORDERS:** That to the extent these orders dispose of any other orders, the relief sought in other motions is rendered moot. 19. **IMMEDIATE EFFECT:** That this Order be effective immediately and settled/signed solely by the President without requirement for approval as to form or content by defaulting Respondents. 20. **PRESIDENTIAL SIGNATURE:** That only the President may sign this order, with formal issuing to be completed by the Registrar's office forthwith and without delay. 21. **LEAVE TO SEEK DIRECTIONS:** That the Applicant is granted leave to seek further directions or submit evidence to assist the Court with the status of these orders.

EXPANDED SUMMARY OF FACTUM OR WRITTEN SUBMISSION IN SUPPORT (MOTION #5)

THE "CONSTRUCTIVE CLOSURE" DOCTRINE & THE ADMINISTRATIVE LEVIATHAN This Motion seeks extraordinary intervention to remedy a state of "digital excommunication." As established in *TLABC v. BC*, access to justice is the skeletal framework upon which the body of Canadian constitutionalism is draped. The "403 Forbidden Error Code" represents a unilateral administrative act that renders the constitutional promise of access a dead letter. When the Executive Branch—through its control of court services—interferes with the Judicial Branch's ability to hear a case, it strikes at the heart of the separation of powers. This is a "Chief's Case" (*R. v. Baldovi*, 2016 MBQB 90), requiring the President to act as the ultimate guarantor of the Court's institutional reputation in the face of executive overreach.

INSTITUTIONAL INTEGRITY & THE "FALSE INFORMATION PACKAGE"

This letter and the Factum addresses a factual matrix of systemic fraudulent conduct, including identity fraud and forged signatures on equipment loan agreements (e.g., the Epstein Cole TPL loan). Central to this motion is the discovery of a "False Information Package" containing fraudulent court documents and the unauthorized involvement of Justice Shore in unrecorded *ex parte* proceedings. These anomalies threaten the appearance of total judicial impartiality. The "independence of the judiciary" is not a privilege for judges, but a shield for the public; institutional silence in the face of bribery and forgery constitutes a surrender of supervisory jurisdiction.

THE DIGITAL BARRICADE & THE RULE OF LAW VS. THE RULE OF MEN (see: Timm v. Canada (BOA, Tab 135)

Access to justice transcends mere administrative grace; it is a substantive prerequisite for a functioning democracy. The Rule of Law is supplanted by a "rule of men" if administrative officials decide who shall have access to the court through server-side blacklisting. Pursuant to *407 ETR v. Ontario*, 2005 CanLII 49963 (Div. Ct.), the Registrar's duty to process documents is a ministerial duty with no residual discretion. The digital blockade functions as "litigation by attrition," intended to wear down the Applicant's resolve through administrative "stonewalling" and the creation of a "digital underclass" of litigants.

PART 4: THE PRESIDENT AS CUSTOS ROTULORUM & MANDAMUS (CONDITIONAL UPON THE INITIAL SECTION 76 OF THE CJA ORDER) (Ruffo, Baldovi and others (see: BOA, Tabs 64 and 69)

The Chief Justice/President possesses the unique "moral authority" to protect the "constitutional trust" (*Ruffo v. Conseil de la magistrature*). This role requires intervention when "shadow assignments" or registrarial paralysis threaten the Court's institutional integrity. The Applicant seeks a Writ of Mandamus to compel the performance of ministerial duties, including the production of case recordings for which payment has been retained without service—a manifest breach of the "contract of administration." Only the President can pierce the "administrative fog" and ensure that the courtroom gates are reopened.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 12th day of January, 2026.

Kevin A. McLean
(Applicant and Moving Party)

Enclosures (may be by piecemeal basis)

1. Draft Order for Motion #5 of today's date submitted by Applicant (file name: Draft Order - Motion 5 - Applicant - Moving Party - Mr McLean - 12-Jan-2026 - v4)
2. Factum or Written Submission to follow;
3. Index of authorities contained in enumerated list #3; and
4. Book of authorities (if necessary)

Yours faithfully,

5590

/KAM

Mr. Kevin A. McLean (BA, JD, CIM)

Sender's name: Mr. Kevin Alexander McLean (BA, JD, CIM)
Sender's address: 410-775 King Street West, Toronto, Ontario, M5V 2K3
Sender's Telephone Number: (647) 370-9354
Sender's email address: mcleansettlement@gmail.com

...

[Message clipped] View entire message
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M

Mr. Kevin McLean <mcleansettlement@gmail.com> Jan 16, 2026, 3:41 PM

to Tashekah, SCJ-CSJ, roxanne.parris

DATE: January 16, 2026
CLASSIFICATION: PRIVATE AND CONFIDENTIAL

TIME SENSITIVITY: URGENT – TIME SENSITIVE

SENDING METHOD: Via Email Transmission (Subsequent transmission via facsimile et al.)

TO:

The Divisional Court of Ontario

Osgoode Hall (Toronto)

130 Queen Street West, Room 174

Toronto, Ontario M5H 2N5

(the "Divisional Court")

Attention: The Registrar of the Divisional Court, Ms. Roxanne Parris

(the "Current Registrar" or "Replacement Registrar")

Email: Roxanne.parris@ontario.ca

AND TO:

The President of the Divisional Court, The Honourable Chief Justice Morawetz

Osgoode Hall, 130 Queen Street West

Toronto, Ontario M5H 2N5

5591

(the “President”)

Fax: 416.327.6011 (or other fax numbers to his attention in light of the continued breaches of the Core Jurisdiction Test, CA 1867, and ROL)

MATTER DETAILS

I. Court File Number: DC-24-00000718-00JR

II. Short Style of Cause: McLean v. TD Home and Auto Insurance Company, et al.

III. Document Classification: Letter with enclosures

IV. Sender: Mr. Kevin A. McLean, B.A., J.D., C.I.M.

V. Sending Party Status: “Moving Party” in relation to Motion #4 and Motion #5, and NOM #3 (along with NOM #1 and #2) and Applicant in relation to JRPA Application

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

I. INTRODUCTION AND PROCEDURAL PREAMBLE

I cordially write regarding the above. I adopt all definitions from previously, indirectly or directly, cited correspondence and filed instruments. This correspondence is intended to serve as a formal bridge between the physical filings already in the possession of the **Divisional Court** and the digital exigencies necessitated by the current technological impasse. It constitutes a deliberate act of procedural preservation, ensuring that the record of these proceedings reflects the Moving Party’s unwavering commitment to the *Rule of Law* (the “**ROL**”) despite the systemic obstructions encountered.

II. TRANSMISSION OF EXECUTORY INSTRUMENTS AND RESTORATIVE ENCLOSURES

Please find appended hereto the following instruments which were submitted for mail filing on the morning of January 14, 2026, as evidenced by the *Canada Post Tracking Attachment* (the “**Tracking Confirmation**”) provided *infra*. Each document serves as a vital component in the overarching architecture of the Moving Party's pursuit of a meritorious adjudication:

1. **Draft Order for Notice of Motion #3 (Liability)** (the “**NOM #3 Liability Order**”): A foundational instrument designed to resolve the threshold questions of liability that have remained in a state of administrative suspended animation for an unacceptable duration.
2. **Draft Order for Notice of Motion #3 (Costs)** (the “**NOM #3 Costs Order**”): An essential restorative measure intended to address the significant disbursements and full-indemnity costs incurred through the protracted procedural history and the necessity for repeated mitigatory filings.
3. **Draft Order for Motion #4** (the “**Motion #4 Order**”): Provided herein as courtesy copies, having been previously mail filed, this order seeks to compel the **Current Registrar** to discharge the statutory and ministerial duties mandated by the *Courts of Justice Act*, R.S.O. 1990, c. C.43 (the “**CJA**”).
4. **Draft Order for Motion #5** (the “**Motion #5 Order**”): A sophisticated request for judicial self-assignment and technical remediation, ensuring the functional efficacy of the court’s process and the protection of the Moving Party's right to be heard.
5. **Factum in Support of Motion #5** (the “**Motion #5 Factum**”): Meticulously prepared in hyperlinked and bookmarked fashion, this document provides an intricate extrapolation of the legal principles governing the core jurisdiction of the superior courts and the constitutional necessity of access.

Concomitantly, copies of the following are provided to ensure a complete record of the Moving Party's due diligence:

1. The cover letter dated January 14, 2026 (the “**January 14 Correspondence**”), which enclosed the aforementioned for mail filing; and

2. The **Tracking Confirmation**, establishing the precise *tempus regit actum* of the physical submission and confirming the receipt of these materials by the **Divisional Court**.

III. MEDICAL EXIGENCY AND THE CONSTITUTIONAL IMPERATIVE FOR ADJUDICATION

As is manifest from the *2025 MRI* (the "**2025 MRI**") and the totality of the medical evidence within the record of proceeding, the physiological condition of the Moving Party undergoes a progressive and non-linear decline. A definitive adjudication upon the merits of the *Judicial Review Procedure Act*, R.S.O. 1990, c. J.1 (the "**JRPA**") proceeding is not merely a procedural preference but an imperative of natural justice. This is particularly salient given that the Certificate of Perfection (the "**Certificate of Perfection**") was duly filed and the requisite fees remitted on December 13, 2024.

Notwithstanding this perfection, there has been a profound and unexplained administrative omission to schedule the **JRPA** proceeding for a hearing, contrary to the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194 (the "**Rules**") and the solemn oaths of office undertaken by the **Divisional Court** personnel. This failure to list the matter involves the institutional integrity of this Honourable **Divisional Court** and falls within the exclusive purview of the **President**. The Moving Party asserts that any further delay constitutes a *de facto* denial of the right to be heard, as the window for meaningful recovery or management of health through medical expert opinions continues to narrow. In order for the Moving Party to determine how to manage their health with the benefit of medical expert opinions *et al.*, the legal status of the insurance coverage must be resolved *instanter*. The *status quo ante* cannot be restored if the subject of the litigation—the health and viability of the Applicant—is permitted to deteriorate beyond the point of medical remediation due to administrative inertia.

IV. JURISPRUDENTIAL EXTRAPOLATIONS AND ADMINISTRATIVE RECTIFICATION

The deleterious impact of such administrative inertia, compounded by the Respondents' pattern of obfuscation, finds clarity in the observations of the Honourable Justice Akazaki in *Zurich Insurance Company Ltd. v. TD Home and Auto Insurance Company, 2025 ONSC 151* (the "**Zurich 2025**"), where his Honour stated:

"[16] As described in the prevailing appellate decisions, the purpose of this regulation was to prevent SABS claims, including vital treatments and income benefits, from being delayed while insurers fought over priority under *s. 268(2)* of the *Insurance Act*."

This syllogism underscores the legislative intent of the *Insurance Act*, R.S.O. 1990, c. I.8 (the "**Insurance Act**") and its associated regulations: the facilitation of expeditious relief for the injured. While the Respondents have frequently misled the **Divisional Court**, the conduct of Ms. Tashekah Gentles (the "**Former Registrar Gentles**"), in her erstwhile capacity as the leader of the court clerks and staff, has stained the reputation and integrity of the **Divisional Court**. This administrative malaise must be corrected *instanter*.

The Moving Party kindly reminds **Former Registrar Gentles**, appreciating that she was absent from her duties for a duration of one month spanning December 10, 2025, to January 9, 2026, of the necessity of rectifying administrative errors of the past. This mandate includes addressing and attending to the discharge of duties involving requisitions so filed or submitted for filing within the Justice Services Online Portal (the "**JSO Portal**"). It matters not who was specifically responsible for the original delay; what is paramount from a standpoint of justice is the immediate identification of a First Insurer (the "**First Insurer**") and the restoration of proper record management through Health Claims for Auto Insurance (the "**HCAI**") and related protocols. The persistence of this delay serves to subvert the very consumer protection objectives that the **Insurance Act** was enacted to preserve, effectively allowing administrative dysfunction to trump substantive statutory rights.

V. PROCEDURAL STANDING AND THE DEFICIENCY OF RESPONDING INSTRUMENTS

The Moving Party formally confirms that, as of the date of this correspondence, there has been no filing or delivery of any First Defence (the "**First Defence**") by any of the Respondents. Consequently, pursuant to the provisions of *Form 68A* (the "**Form 68A**") of the **Rules**, there exists no extant procedural requirement for the Moving Party to serve the Respondents with the current instruments, save for the inherent right of the Attorney General of Ontario (the "**AGO**") to be heard at the plenary hearing of the **JRPA** Application.

It is of paramount importance to distinguish that Motions #3 (which encompass Notice of Motion #1 (the "**NOM #1**") and Notice of Motion #2 (the "**NOM #2**")) through Motion #5 do not constitute the final hearing of the **JRPA** Application itself; they are interlocutory restorative measures necessitated by the Respondents' non-compliance and administrative failures. Therefore, the Moving Party's standing to proceed with these

motion is unimpeachable, particularly given that the Respondents have effectively abdicated their right to respond by failing to file a **First Defence** within the timeframes mandated by the **Rules**.

VI. NON-OPPOSITION TO ADMINISTRATIVE COMPULSION (MOTION #4)

I confirm that the **Former Registrar Gentles** and the **Current Registrar** (Acting Registrar) have not opposed the relief sought in Motion #4 (the "**Motion #4 Relief**") despite being duly served with the same since prior to Christmas Day, specifically on December 23, 2025. Their continued silence and failure to file responding materials constitutes a *de facto* admission of the administrative deficiencies particularized in the moving materials.

In the law of evidence, such silence in the face of serious allegations often permits an adverse inference, and in this context, it further underscores the necessity for the **President** to grant the restorative orders sought to compel the discharge of their statutory and judicial duties. The lack of opposition from those tasked with the administration of the court's business suggests a recognition of the procedural failures that Motion #4 seeks to rectify.

VII. THE 403 BARRIER: DIGITAL GATEKEEPING AND THE RULE OF LAW

It is formally confirmed that the 403 Forbidden Error Code (the "**403 Barrier**") persists as of the date of this correspondence, effectively severing the Moving Party's access to the Ontario Courts Public Portal (the "**OCPP**"). This digital disenfranchisement is viewed as an impermissible and likely *ultra vires* encroachment upon the *Constitution Act, 1867* (the "**1867 Act**") and the **ROL**.

The **403 Barrier**, if not corrected forthwith and/or ordered to be corrected by this Honourable Court, may necessitate the formal intervention of the Auditor General of Ontario (the "**Auditor General**") to investigate the systemic failure of the court's digital infrastructure and the potential misappropriation of administrative authority. While the Moving Party maintains the utmost respect for the considerable resources and competing demands upon the **President**, these matters are unprecedented in nature, involving serious allegations of fraud, bribery, and extortion. These concerns are compounded by various misrepresentations made to the Moving Party by previous court staff, some of whom are no longer employed in their current roles. While the Moving Party is empathetic to any personal loss experienced by these individuals, the institutional integrity of the **Divisional Court** must remain the paramount consideration.

In light of the landmark determination in *Trial Lawyers Association of British Columbia v. British Columbia (Attorney General), 2014 SCC 59* (the "**TLABC 2014**"), it is a settled principle that access to the superior courts is a constitutionalized prerequisite for the maintenance of the **ROL**. The **403 Barrier** functions as an unconstitutional gatekeeper, preventing the Moving Party from exercising the core right of access to the judiciary. The integrity of the **Divisional Court** depends upon its transparency; a "forbidden" screen is the antithesis of the open court principle and risks creating a tiered system of justice where only those with specific digital permissions may seek relief.

VIII. THE ROLE OF THE PRESIDENT AS PRIMUS INTER PARES

The circumstances particularized herein require the immediate and sustained attention of the **President**. It is respectfully submitted that the relief sought in the draft orders falls within the exclusive supervisory jurisdiction of the **President** in his capacity as the *primus inter pares* of the **Divisional Court** and the ultimate guardian of its functional efficacy. The Moving Party seeks the granting of relief in substantially the same form as the draft orders to ensure the due execution of office and prevent a multiplicity of proceedings.

It is further confirmed that the Honourable Madam Justice Shore (the "**Justice Shore**") is to have no involvement in the adjudication or management of this matter. Any such involvement would be viewed as a violation of judicial duties and a breach of the requirements for an impartial tribunal. It is asserted that **Justice Shore** must be relieved of all duties, specifically if not generally, pending comprehensive investigations into the conduct particularized in the **Motion #5 Factum**. The Moving Party contends that the removal of **Justice Shore** from this file is a mandatory step to preserve the appearance of judicial impartiality and to restore public confidence in the administration of justice within this region.

IX. FISCAL CONSIDERATIONS AND THE EFFICACY OF MOTION #5

The Moving Party expresses a profound reluctance to seek costs against the public purse (the "**Public Purse**"), cognisant that such expenditures are drawn from taxpayer resources. I would loathe to seek costs against the **Public Purse** as it is taxpayer money, but I have paid **Prescribed Fees** (the "**Prescribed Fees**") continuously without the law being followed.

As noted, Motion #5 will assist the **Public Purse** through the *power of the robe* in avoiding a multiplicity of proceedings and having to follow up on outstanding obligations of various persons. By centralizing these

restorative measures and providing the **President** with the tools to rectify the technological and administrative failures in a single, comprehensive order, the court can mitigate the long-term fiscal impact of continued litigation and administrative rework. The granting of Motion #5 represents the most economically and procedurally efficient path forward for all stakeholders, including the public whose taxes fund the judiciary.

X. CONCLUSION AND RESERVATION OF RIGHTS

The Moving Party remains available should the **President** require clarification in relation to any of the instruments mail filed with the **Divisional Court** or contained in the record of proceeding by filings within the **JSO Portal**. Furthermore, the Moving Party remains available to finalize a fulsome book of authorities and a hyperlinked index to follow this transmission.

Should the continued silence in the face of these grave administrative and constitutional concerns remain, the Moving Party reserves all rights to ensure that the **President** has full notice of the same so he can discharge his responsibilities to the public and the legal profession. I reserve the right to include all correspondence into further evidence and seek costs and full indemnification for the disbursements necessitated by this forced reliance on physical mail filing as a measure of mitigation against digital exclusion.

Yours most appreciatively and gratefully,

/S/ *Mr. Kevin A. McLean (BA, JD, CIM)*

Mr. Kevin A. McLean, B.A., J.D., C.I.M.

Applicant / Moving Party (Pro Se)

LIST OF ATTACHMENTS:

1. **NOM #3 Liability Order**
2. **NOM #3 Costs Order**
3. **Motion #4 Order**
4. **Motion #5 Order**
5. **Motion #5 Factum** (Hyperlinked and Bookmarked)
6. **January 14 Correspondence**
7. **Tracking Confirmation**

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[Message clipped] View entire message

7 Attachments • Scanned by Gmail

M

Mr. Kevin McLean <mcleansettlement@gmail.com> Jan 30, 2026, 4:43 PM

to SCJ-CSJ, roxanne.parris, Tashekah

Classification: PRIVATE AND CONFIDENTIAL DATE: January 30, 2026
SENDING METHOD: Via Electronic Mail Transmission
ADDRESSEES TO: The Divisional Court of Ontario
Osgoode Hall (Toronto)

130 Queen Street West, Room 174

Toronto, Ontario M5H 2N5

(the "**Divisional Court**")
Attention: The Registrar of the Divisional Court, Ms. Roxanne Parris (the "**Current Registrar**")
AND TO: The President of the Divisional Court, The Honourable Chief Justice Morawetz
Osgoode Hall, 130 Queen Street West

Toronto, Ontario M5H 2N5
5595
MATTER DETAILS I. Court File Number: DC-24-00000718-00JR
II. Short Style of Cause: *McLean v. TD Home and Auto Insurance Company, et al.* (the "***McLean* Proceeding**")
III. Subject I: *McLean v. TD Home and Auto Insurance Company, et al.* (Court File No. DC-24-00000718-00JR)
IV. Subject II: Comprehensive Expansion of the Electronic Book of Authorities and Formal Submissions regarding Jurisdictional Vitiation, Administrative *Mandamus*, the Remediation of Procedural Nullities, and the Preservation of the Open Court Principle.
Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

I cordially write regarding the above. The undersigned adopts all definitions from previously, indirectly or directly, cited correspondence.

I. PRELIMINARY TRANSMISSION OF ELECTRONIC COMPENDIA AND THE CONSTITUTIONAL IMPLICATIONS OF TECHNOLOGICAL VICISSITUDES

It is with distinct professional gratification and a steadfast commitment to the efficiency of the *curia* that a comprehensive Book of Authorities (the "BOA") is provided to this Honourable Court in an electronic format, meticulously bifurcated by indexed tabs and enumerated pagination. The undersigned has done the utmost to confine the volume of pages within these authorities to relevant passages, executive summaries, and essential pages to ensure judicial economy and facilitate an expeditious review, thereby avoiding the presentation of superfluous data. To the extent that further authorities would assist this Honourable Divisional Court and the Honourable Divisional Court President, I will provide them by referencing the version and date.

Owing to the substantial magnitude of the digital data comprising these authorities, which encompass several decades of binding appellate jurisprudence and complex statutory instruments, the **BOA** shall be transmitted via successive electronic mail attachments. This incremental delivery is necessitated to circumvent the constraints of digital throughput and server-side limitations inherent in the current judicial infrastructure. The undersigned hereby confirms the persistence and validity of all prior testamentary filings delivered via physical post, which remain the primary record of truth and the definitive evidentiary foundation of this application, notwithstanding these supplemental digital transmissions.

Furthermore, a contemporaneous verification shall be conducted to ascertain the status of the "403 Forbidden" error code (the "**Access Impediment**") currently plaguing the digital filing interface. This technological obstruction constitutes a *prima facie* barrier to the administration of justice and a fundamental frustration of the litigant's right to file and be heard within a reasonable timeframe. The "Open Court Principle" (the "**Open Court Principle**") is rendered illusory if the electronic portal serves as a digital blockade rather than a gateway. I note that the credit card payment remains in a finalized transaction status (the "**Finalized Payment**") for the motion, yet the administrative processing remains in a state of stasis, suggesting a disconnect between the financial and procedural arms of the Registry. The implications of this blockade are not merely technical but constitutional in nature, as they impede the movement of a proceeding toward its rightful adjudication and create a state of procedural ossification.

Should this administrative paralysis remain unresolved by the meridian of the forthcoming Monday, a formal application shall be commenced to seek the indemnification of substantial costs and disbursements necessitated by this forced procedural detour and the resulting expenditure of legal resources. This technological gatekeeping results in a disparate impact on those seeking judicial review, effectively creating a procedural *lacuna* that prejudices the Applicant and privileges the administrative inertia of the Respondents. The state's failure to maintain a functional digital infrastructure is a form of administrative negligence that cannot be permitted to viciate the substantive rights of the parties or the integrity of the *status quo ante*.

II. JURISDICTIONAL INFELICITY AND THE VITIATION OF THE CASE MANAGEMENT DIRECTIVE

An exacting historical exegesis of the *Rules of Civil Procedure, R.R.O. 1990, Reg. 194* (the "*Rules*") reveals that the procedural maneuvers executed by the Honourable Madam Justice Shore (the "Interlocutory Justice") constitute a profound departure from the post-2010 legal

by estoppel. It is submitted that the purported directives are not merely irregular but are *void ab initio*, representing a nullity upon a nullity. The jurisdiction to invoke the mechanism of case management is strictly contingent upon the satisfaction of the filing of a first defence (the "Filing Requirement") pursuant to *Rule 77.05*.

In the context of an application for judicial review under the *Judicial Review Procedure Act* (the "***JRPA***"), this jurisdictional predicate is analogous to the delivery of a Notice of Appearance (the "**NOA**"). As the Respondents failed to effectuate the delivery of their respective **NOAs** with requisite proof of service, the court remained *divested* of the statutory authority to trigger case management. The principle of *ex debito justitiae* dictates that no court may assume a management function over parties who have not yet submitted to the jurisdiction of the court through the requisite responsive pleadings. To allow a judge to "manage" a file where no party has appeared is to invite a form of judicial overreach that subverts the adversarial foundations of our legal system. Jurisdictional competence is not a matter of judicial convenience but a requirement of natural justice (*audi alteram partem*). The absence of an **NOA** means the Respondents have no *locus standi*; ergo, there are no "sides" to manage, and the attempt to do so is a jurisdictional *felo de se*.

To suggest that there have been profound transgressions of ethics, *statutes* (inclusive of the *Constitution of Canada*), *regulations*, and foundational ethical requirements would be an understatement; indeed, it constitutes a fundamental erosion of procedural due process. The *fons et origo* of this error lies in the assumption that judicial discretion can override the mandatory statutory preconditions for case management. Consequently, the purported assignment and the subsequent directive issued on January 7, 2025 (the "**January Directive**"), were executed *ultra vires*. The law does not permit a tribunal to "manage" parties into compliance; rather, procedural compliance remains the *sine qua non* for the invocation of management authority. To permit the **January Directive** to stand would be to endorse a jurisdictional overreach that undermines the structural integrity of the ***Rules***. The court cannot grant itself jurisdiction through a case management order when the statutory preconditions for that order have not been met. This failure to adhere to the *ratio decidendi* of the ***Rules*** creates a procedural vacuum that threatens the stability of the entire proceeding and necessitates an immediate *restitutio in integrum* to return the parties to their rightful procedural positions.

III. THE PARADIGMATIC "CULTURE SHIFT" AND THE MISAPPLICATION OF RULE 77

A general question of law of central importance arises regarding the undisclosed prior judicial involvement (the "UPJI") of a presiding member and whether such an omission constitutes a fraud upon the court. The 2010 reforms inaugurated a categorical "Culture Shift" (the "Culture Shift") in Ontario litigation, prioritizing proportionality and the mitigation of administrative "over-administration." This shift was intended to facilitate the "resolution of the dispute on the merits," as articulated in *Hryniak v. Mauldin,* 2014 SCC 7 (the "*Hryniak* Decision"). However, *Rule 77.01(1)* provides for judicial intervention only where a demonstrated necessity exists, yet here, the intervention occurred in a vacuum of procedural standing. The "Culture Shift" was never intended to serve as a license for judicial officers to bypass the foundational requirements of the *Rules* or to ignore the mandatory hierarchy of procedural steps.

Pursuant to *Rule 77.02(4)*, the provisions of *Rule 77* maintain paramountcy over all conflicting ***Rules***, including *Rule 50*. In the instant **McLean Proceeding**, no valid assignment under *Rule 77.05* or *Rule 77.06* transpired. Ergo, the direction issued via the "Ibula Email" on January 7, 2025, lacked legal validity as:

(i) no **Filing Requirement** was satisfied, leaving the court without a functional record to manage;

(ii) no exercise of discretion under *Rule 77.05(4)* was manifest, recorded, or justified by any exceptional circumstance; and

(iii) the Respondents, having failed to "deliver" their **NOAs**, forfeited their standing to participate in any procedural steps, let alone a case management conference.

This misapplication of *Rule 77* creates an untenable precedent wherein administrative convenience is elevated above the mandatory strictures of the ***Rules***. The consequence of "over-administration" is the creation of an administrative straitjacket that stifles substantive justice under the guise of efficiency. Management without pleadings is akin to a trial without a jury where the law requires both. Without the **Filing Requirement** being met, any attempt at "management" is a hollow exercise in procedural fiction that fails to satisfy the *prima facie* requirements of the law. This is the very definition of procedural "over-administration"

that the ***Hryniak* Decision** sought to eradicate. The proportionality principle requires that judicial resources be expended only when a proceeding is properly before the court and only to the degree necessary to advance the matter toward a resolution on its merits.

IV. UNDISCLOSED PRIOR INVOLVEMENT AND THE BREACH OF JUDICIAL ETHICS It is now manifest that the impetus for the breach of the *Courts of Justice Act* (the "*CJA*") was the Interlocutory Justice's prior undisclosed participation in an *ex parte in camera* hearing (the "Undisclosed Proceeding"). This failure to provide disclosure regarding the UPJI in the context of an undisclosed criminal proceeding (the "UCP") engenders a reasonable apprehension of bias and violates the *Judicial Code of Ethics*. While the concept of *mens rea* is typically reserved for the criminal law, the intentionality behind this non-disclosure suggests a cognitive avoidance of the fundamental duty of impartiality (*nemo judex in sua causa*). The public trust in the judiciary is contingent upon the transparent disclosure of any potential conflict of interest, especially where such involvement could influence the judicial perception of the litigants.

Such non-disclosure satisfies the criteria for fraud discovered post-facto, thereby invoking *Rule 59.06(2)* and necessitating the vacating of all subsequent *acta*. A judge who has been privy to *ex parte* submissions in a related matter is fundamentally compromised in their ability to preside over the subsequent litigation without the express and informed consent of all parties. The failure to disclose this *status quo ante* involvement constitutes an incurable defect in the proceedings, rendering the subsequent directives unenforceable *in limine*. The integrity of the judicial office requires that judges remain "above the fray," and any secret participation in related proceedings viciates the neutrality required for the adjudication of the current dispute. The legal right to an impartial tribunal is a *jus cogens* norm of the Canadian legal order, the obviation of which results in a jurisdictional nullity that cannot be cured by later acquiescence. To ignore this breach is to permit a corruption of the judicial process that strikes at the very heart of public confidence in the administration of justice.

V. ADMINISTRATIVE MALFEASANCE AND THE MINISTERIAL DUTY OF THE REGISTRAR Regarding the *Ontario Courts Public Portal* (the "OCPP") and *O. Reg. 226/25*, these digital reforms replaced the "Registrar's Acceptance" model with a "Subject to Confirmation" model. However, the systematic rejection of filings via the Access Impediment constitutes a breach of the ministerial duty to facilitate access to the *curia*. In accordance with the jurisprudential framework established in *Re Union Canadienne de l'Industrie des Peches et des Travailleurs, Local 140*, 1981 CanLII 3556 (NBCA) (the "*Union Canadienne*"), the absence of permissive language such as "if it considers it advisable to do so" indicates a mandatory obligation. The Registrar's office is the physical and digital threshold of the court, and it must remain open to all who seek justice.

While the *Industrial Relations Act* examined in ***Union Canadienne*** granted certain discretionary latitudes, the ***Rules*** governing the **Current Registrar** employ the imperative "shall." The failure of the Registry to issue a Form 68B (the "**Notice of Listing**") following the perfection (the "**Perfection**") of the **McLean Proceeding** on December 16, 2024, represents a severe departure from the mandatory strictures of the ***Rules***. When the Executive branch implements a digital blockade through malfunctioning software, the judiciary must assert its inherent jurisdiction to restore the *status quo ante* and ensure that the right to be heard is not extinguished by technological or administrative incompetence. The Registrar's function is ministerial, not judicial; it is to process documents, not to adjudicate their merit through silence or rejection. This administrative malfeasance represents an unwarranted interference with the litigant's *vested rights* to a timely hearing and constitutes a *dereliction of duty* that threatens the administration of justice. The Registrar acts as a conduit for the court, not a censor for the Crown.

VI. THE SUPERVISORY ROLE OF THE PRESIDENT AND THE REMEDY OF MANDAMUS The President of the Divisional Court, in his capacity as the Master of the Roster, maintains a solemn statutory obligation under *Section 76* of the *CJA* to superintend the administrative secretariat and rectify the systemic inertia of the Registry. Pursuant to the venerable principle in *Julius v. Oxford (Bishop of)* (the "*Julius* 1880"), where a statutory power is coupled with a legal right or the public interest, the permissive "may" is transformed *ipso facto* into a mandatory "must." The President's

supervisory jurisdiction is the ultimate safeguard against administrative paralysis and ensures that the administrative arm of the court remains subservient to the judicial mission.

I thank the President of the Divisional Court, in his distinguished capacity as a member of the Canadian Judicial Council and as the *primus inter pares* who possesses the exclusive jurisdiction to self-assign and relieve judges specifically and generally of their duties. He remains the steward of constitutional trust, the emergency administrator, and the guardian of the rule of law. As the moral voice of the Divisional Court, he possesses the authority to take over and manage public issues and to impose his will upon those judges who do not comply with the law, thereby ensuring that public confidence in the judiciary remains at a premium. The extraordinary remedy of *mandamus* (the "***Mandamus***") is sought as a restorative measure to compel the performance of public legal duties unlawfully withheld. This is a remedy of last resort, necessitated by the administrative blockade that has paralyzed this litigation and effectively denied the Applicant his day in court. The issuance of ***Mandamus*** would not only remediate the present harm but would also reaffirm the principle that administrative staff are servants of the law and cannot exercise their functions in a manner that obstructs the path to justice.

VII. CONCLUSION AND THE PURSUIT OF PROCEDURAL RECTITUDE Notwithstanding the anomalous circumstances surrounding the transition of the Former Registrar to the Current Registrar, exhaustive efforts have been dedicated to preparing this BOA for the President's consideration. The Respondents have failed to oppose the *McLean* Proceeding or satisfy the Filing Requirement since December 2025, yet they continue to benefit from the administrative paralysis of the Registry. As you know, there is no requirement for service on the Respondents because of their failure to "file" and "deliver" their NOAs as unequivocally admitted by record in the Case View OCPP. I confirm that they are not entitled to any notice of steps and I will rely on strict compliance with the *Rules of Civil Procedure*.

This state of affairs is inherently prejudicial and violates the principles of fundamental justice and the "**Culture Shift**" promised by the modern ***Rules***. The persistence of these procedural nullities creates a cumulative injustice that can only be rectified through high-level judicial intervention to restore the *status quo ante*. The implications of continued silence from the Registry are profound, as they signal a collapse of the administrative apparatus designed to support the judiciary. It is trusted that the **Current Registrar** shall transmit these authorities to the President's immediate attention, along with the draft orders previously mail-filed, for his judicial review and approval. The undersigned reserves the right to rely on this correspondence for any lawful purpose, internally or externally, inclusive of the assessment of costs. The pursuit of procedural rectitude is not merely a technical endeavor but a requisite for the preservation of the rule of law and the avoidance of a total collapse of process. Thank you.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 30th day of January, 2026.

Yours most appreciatively and gratefully,

Kevin A. McLean

(Applicant and Moving Party)

Enclosure: 1. **BOA** (Tabs 1 to 307) – *To be transmitted in piecemeal electronic installments.* --- (THIS VERSION: PAGES 1 TO 1500)

Appendix #1: CURRENT VERSION OF RULE 77 AS OF JANUARY 1, 2010 (BUT FOR THE CHANGES THEREAFTER FROM MASTER TO ASSOCIATE JUDGES)

RULE 77 CIVIL CASE MANAGEMENT

Purpose and General Principles

Purpose

77.01 (1) The purpose of this Rule is to establish a case management system that provides case management only of those proceedings for which a need for the court's intervention is demonstrated and only to the degree that is appropriate, as determined in reliance on the criteria set out in this Rule. O. Reg. 438/08, s. 64.

General Principles

5599

(2) This Rule shall be construed in accordance with the following principles:

1. Despite the application of case management under this Rule to a proceeding, the greater share of the responsibility for managing the proceeding and moving it expeditiously to a trial, hearing or other resolution remains with the parties.
2. The nature and extent of the case management provided by a judge or associate judge under this Rule in respect of a proceeding shall be informed by any relevant practices, traditions, customs or judicial resource issues that apply locally in the region in which the proceeding is commenced or to which it is transferred. O. Reg. 438/08, s. 64; O. Reg. 383/21, s. 15.

Application

Scope

77.02 (1) This Rule applies to actions and applications commenced in or transferred to one of the following counties on or after January 1, 2010 and assigned to case management by an order under these rules:

1. The City of Ottawa.
2. The City of Toronto.

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M

Mr. Kevin McLean <mcleansettlement@gmail.com> Jan 30, 2026, 4:54 PM

to SCJ-CSJ, roxanne.parris, Tashekah

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

Please find part 2 of 5 attached for record purposes. Thank you.

Yours faithfully,

/KAM

Mr. Kevin A. McLean (BA, JD, CIM)

Sender's name: Mr. Kevin Alexander McLean (BA, JD, CIM)
Sender's address: 410-775 King Street West, Toronto, Ontario, M5V 2K3
Sender's Telephone Number: (647) 370-9354
Sender's email address: mcleansettlement@gmail.com

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M

Mr. Kevin McLean <mcleansettlement@gmail.com> Jan 30, 2026, 4:55 PM

to SCJ-CSJ, roxanne.parris, Tashekah

5600

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

Please find part 3 of 5 attached for record purposes. Thank you.

Yours faithfully,

/KAM

Mr. Kevin A. McLean (BA, JD, CIM)

Sender's name: Mr. Kevin Alexander McLean (BA, JD, CIM)
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Sender's Telephone Number: (647) 370-9354
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M

Mr. Kevin McLean <mcleansettlement@gmail.com> Jan 30, 2026, 4:55 PM

to SCJ-CSJ, roxanne.parris, Tashekah

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

Please find part 4 of 5 attached for record purposes. Thank you.

Yours faithfully,

/KAM

Mr. Kevin A. McLean (BA, JD, CIM)

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Sender's email address: mcleansettlement@gmail.com

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M

Mr. Kevin McLean <mcleansettlement@gmail.com> Jan 30, 2026, 4:57 PM

to SCJ-CSJ, roxanne.parris, Tashekah

5601

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

Please find part 5 of 5 attached for record purposes. Thank you.

Yours faithfully,

/KAM

Mr. Kevin A. McLean (BA, JD, CIM)

Sender's name: Mr. Kevin Alexander McLean (BA, JD, CIM)
Sender's address: 410-775 King Street West, Toronto, Ontario, M5V 2K3
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Sender's email address: mcleansettlement@gmail.com

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Mr. Kevin McLean <mcleansettlement@gmail.com> Jan 30, 2026, 4:59 PM

to SCJ-CSJ, roxanne.parris, Tashekah

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M

Mr. Kevin McLean <mcleansettlement@gmail.com> Feb 3, 2026, 7:19 PM

to SCJ-CSJ, roxanne.parris, Tashekah

Classification: PRIVATE AND CONFIDENTIAL
Time Sensitivity: URGENT – TIME SENSITIVE
DATE: February 3, 2026
Initial Sending Method: Electronic Mail Transmission
Subsequent transmission methods: facsimile et al

ADDRESSEES

TO:
The Divisional Court of Ontario
Osgoode Hall (Toronto)
130 Queen Street West
Room 174
Toronto, Ontario M5H 2N5

(the "Divisional Court")
5602
Attention: The Registrar of the Divisional Court, Ms. Roxanne Parris *(hereinafter the "Current Registrar" or "Replacement Registrar")* Email: Roxanne.parris@ontario.ca
AND TO (FOR PURPOSES DENOTED IN MOTIONS #4 and #5 (a Chief Justice's case as a result of the ethical and integrity issues along with the controversies and challenges
The President of the Divisional Court, The Honourable Chief Justice Morawetz
Osgoode Hall, 130 Queen Street West
Toronto, Ontario M5H 2N5
Fax: 416.327.6011

MATTER DETAILS

I. **Court File Number:** DC-24-00000718-00JR
II. **Short Style of Cause:** McLean v. TD Home and Auto Insurance Company, et al.
III. **Document Classification:** Letter with BOA enclosure (comprehensive for JRPA Proceeding and primarily focused on Motion #5, #4 and NOM #3)
IV. **Sender:** Mr. Kevin A. McLean, B.A., J.D., C.I.M.
V. **Sending Party Status:** "Moving Party" in relation to Motion #4 and Motion #5, and NOM #3 (along with NOM #1 and #2) and Applicant in relation to JRPA Application

Subject I: Enclosure of Written Outline for Compendium For NOM #3, Motion #4, and Motion #5 Subject II: Enclosure of Compendium For NOM #3, Motion #4, and Motion #5 to follow via sequential and piecemeal transmission

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

I cordially write regarding the aforementioned matter and the complex procedural tapestry currently before this honourable court. I adopt and incorporate all definitions from previously, indirectly or directly, cited correspondence (the "**Prior Correspondence**").

I. EXPEDITED TRANSMISSION OF THE BRIEF WRITTEN OUTLINE

In strict adherence to my prior undertakings, please find appended hereto my truncated and succinct written outline (the "**Brief Written Outline**") regarding the *Compendium For NOM #3, Motion #4, and Motion #5*. I utilize the designation "brief" as a descriptors of a more exhaustive iteration; however, in contemplation of the exigent circumstances and the *periculum in mora* inherent in this delay, I have elected to provide this condensed submission. This decision facilitates an expedited adjudication *in limine,* ensuring that the core legal syllogisms are presented without the encumbrance of unnecessary prolixity.

The necessity for this submission arises from the voluminous nature of the three-hundred-and-seven tabbed *Book of Authorities* (the "**BOA**") and the associated *Compendium*. This *acta* is performed in light of the conspicuous absence of opposition from the Respondents, combined with the profound institutional controversies and challenges regarding the integrity of the *Divisional Court*. Such factors have situated this litigation as a definitive "chief's case," requiring the direct oversight of the President of the *Divisional Court* to ensure a resolution that is consonant with the highest standards of judicial integrity.

II. LOGISTICAL ARRANGEMENTS FOR DIGITAL RECORD PERFECTION

Due to the substantial dimensions of the *Compendium For NOM #3, Motion #4, and Motion #5*, and in a diligent effort to satisfy the requisite five-hundred-page separation protocols mandated by the *Rules of Civil Procedure*, the balance of these materials shall be transmitted under separate cover on a piecemeal basis. I confirm that I am taking proactive and vigorous measures to mitigate any administrative burden upon the Registry staff, recognizing the logistical strain that such a comprehensive record (the "**Comprehensive Record**") may impose.

Out of a profound respect for the judicial economy and the valuable time of the President of the *Divisional Court*, I shall provide a physical electronic *USB* device containing the entirety of the *Compendium* and the *BOA*. This digital repository

shall be meticulously hyperlinked and bookmarked to ensure a seamless navigation of the evidentiary record (the "**Digital Record Perfection**"). By providing this integrated digital format, the *Moving Party* aims to facilitate an efficient review process, respecting the Chief Justice's time prior to his well-deserved retirement.

III. THE IMPERATIVE OF URGENCY AND THE RETIREMENT OF THE CHIEF JUSTICE

I came to learn on February 2, 2026, that the Honourable Chief Justice of the *Superior Court of Justice* (acting in his capacity as the President of the *Divisional Court*) contemplates an impending demission from high office in May 2026. Consequently, the urgency of this matter has ascended to an absolute premium. The requirement for a *nunc pro tunc* resolution of the outstanding motions is now a *sine qua non* for the preservation of the *status quo ante*.

The temporal proximity of this retirement mandates that the *Divisional Court* act with alacrity to rectify the historical non-compliance of the Respondents. Any further delay would not only prejudice the *Applicant* but could lead to a functional state of jurisdictional anarchy where the orders of the *Executive Branch* remain unscrutinized and unenforced. The necessity for the Chief Justice to exercise his *Self-Assignment Power* to rectify the unauthorized *acta* of the *puisne* bench is paramount. I reiterate that all extant demands directed toward the *Executive Branch* remain in full force and effect as of the present date and the dates of previous hearings, as dictated by the evolving circumstances of this *JRPA* proceeding.

IV. PROCEDURAL DEFAULT AND THE RECTIFICATION OF NON-COMPLIANCE

Ex *abundanti cautela*, I reconfirm that as a direct consequence of the Respondents' failure to effectuate the "delivery" or "filing" of their *Notices of Appearance*, they are *ipso facto* prohibited from receiving notice of further steps or the service of documents. This procedural stasis was confirmed via the *Ontario Courts Public Portal* (the "**OCPP**") *Case View* on December 1, 2025. This failure to engage with the judicial process constitutes a waiver of their right to participate in the upcoming adjudications.

Notwithstanding this *prima facie* state of default, the systemic non-compliance exhibited by the *Licence Appeal Tribunal* (the "**LAT**") and the Respondent Insurance Companies since 2022 necessitates a formal, signed, issued, and entered judicial order. This is required to ensure that the rule of law is upheld and that the Respondents are compelled to adhere to their statutory and common law obligations. I rely on the principles articulated in *Sidhu Estate v. Bains* (the "**Sidhu Estate Case**") regarding the implications of silence in the face of a duty to act, extrapolating these principles to the current failure of the Respondents to provide the necessary records and appearances.

V. CONCLUSION AND THE EFFICIENCY OPERATION DUTY

In summary, the *Moving Party* demands that the Registry rectify the current record forthwith. I shall provide the aforementioned *USB* transmission to ensure that the court possesses a singular, unified copy of the *Compendium* and *BOA*. This effort is intended to assist the President of the *Divisional Court* in concluding this matter with the stylistic elegance and legal precision that his tenure has come to represent.

I trust the Registry shall discharge its successor obligations to ensure these materials are placed before the President of the *Divisional Court* without delay, thereby honoring the *Efficiency Operation Duty* inherent to the hallowed dignity of the bench.

Yours most appreciatively and gratefully,

/s/Mr. Kevin A. McLean (BA, JD, CIM)

Mr. Kevin A. McLean, B.A., J.D., C.I.M. Applicant and Moving Party

ENCLOSURES:

1. Brief Written Outline for *NOM* #3, Motion #4 and Motion #5 (dated February 3, 2026).

2. *Compendium* for *NOM* #3, Motion #4 and Motion #5 (to follow piecemeal).

(By reference: previously mail filed Draft Orders (x4)

Yours faithfully,

/KAM

Mr. Kevin A. McLean (BA, JD, CIM)

Sender's name: Mr. Kevin Alexander McLean (BA, JD, CIM)
Sender's address: 410-775 King Street West, Toronto, Ontario, M5V 2K3
Sender's Telephone Number: (647) 370-9354
Sender's email address: mcleansettlement@gmail.com

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M

Mr. Kevin McLean <mcleansettlement@gmail.com> Feb 3, 2026, 7:22 PM

to SCJ-CSJ, roxanne.parris, Tashekah

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

As promised, please find the following attached with respect to the Compendium (hyperlinked and bookmarked internally and externally) so aforementioned:

1. Parts 1 to 4: pages 1 to 2000.

Thank you.

Yours faithfully,

/KAM

Mr. Kevin A. McLean (BA, JD, CIM)

Sender's name: Mr. Kevin Alexander McLean (BA, JD, CIM)
Sender's address: 410-775 King Street West, Toronto, Ontario, M5V 2K3
Sender's Telephone Number: (647) 370-9354
Sender's email address: mcleansettlement@gmail.com

5605

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5 Attachments • Scanned by Gmail

M

Mr. Kevin McLean <mcleansettlement@gmail.com> Feb 3, 2026, 7:25 PM

to SCJ-CSJ, roxanne.parris, Tashekah

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

As promised, please find the following attached with respect to the Compendium (hyperlinked and bookmarked internally and externally) so aforementioned:
1. Parts 5 to 6: pages 2001 to 3000.
Thank you.

Yours faithfully,

/KAM

Mr. Kevin A. McLean (BA, JD, CIM)

Sender's name: Mr. Kevin Alexander McLean (BA, JD, CIM)
Sender's address: 410-775 King Street West, Toronto, Ontario, M5V 2K3
Sender's Telephone Number: (647) 370-9354
Sender's email address: mcleansettlement@gmail.com

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M

Mr. Kevin McLean <mcleansettlement@gmail.com> Feb 3, 2026, 7:26 PM

to SCJ-CSJ, roxanne.parris, Tashekah

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

As promised, please find the following attached with respect to the Compendium (hyperlinked and bookmarked internally and externally) so aforementioned:
1. Parts 7 to 8: pages 3001 to 4000.
Thank you.

Yours faithfully,

/KAM

Mr. Kevin A. McLean (BA, JD, CIM)

Sender's name: Mr. Kevin Alexander McLean (BA, JD, CIM)
Sender's address: 410-775 King Street West, Toronto, Ontario, M5V 2K3
Sender's Telephone Number: (647) 370-9354
Sender's email address: mcleansettlement@gmail.com

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M

Mr. Kevin McLean <mcleansettlement@gmail.com> Feb 3, 2026, 7:27 PM

to SCJ-CSJ, roxanne.parris, Tashekah

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

As promised, please find the following attached with respect to the Compendium (hyperlinked and bookmarked internally and externally) so aforementioned:

1. Part 9: pages 4001 to 4500

Thank you.

Yours faithfully,

/KAM

Mr. Kevin A. McLean (BA, JD, CIM)

Sender's name: Mr. Kevin Alexander McLean (BA, JD, CIM)
Sender's address: 410-775 King Street West, Toronto, Ontario, M5V 2K3
Sender's Telephone Number: (647) 370-9354
Sender's email address: mcleansettlement@gmail.com

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2 Attachments • Scanned by Gmail

M

Mr. Kevin McLean <mcleansettlement@gmail.com> Feb 3, 2026, 7:31 PM

to SCJ-CSJ, roxanne.parris, Tashekah

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

As promised, please find the following attached with respect to the Compendium (hyperlinked and bookmarked internally and externally) so aforementioned:

This concludes the Compendium for NOM #3, Motion #4 and Motion #5.

For ease of reference for the President of the Divisional Court, I also include the draft orders for NOM #3 (x2), Motion #4 and Motion #5 which were mail filed on January 16, 2026.

Thank you.

Yours faithfully,

/KAM

Mr. Kevin A. McLean (BA, JD, CIM)

Sender's name: Mr. Kevin Alexander McLean (BA, JD, CIM)
Sender's address: 410-775 King Street West, Toronto, Ontario, M5V 2K3
Sender's Telephone Number: (647) 370-9354
Sender's email address: mcleansettlement@gmail.com

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M

Mr. Kevin McLean <mcleansettlement@gmail.com> Feb 20, 2026, 1:03 PM

to SCJ-CSJ, roxanne.parris, Tashekah

CLASSIFICATION: PRIVATE AND CONFIDENTIAL
TIME SENSITIVITY: URGENT – TIME SENSITIVE
DATE: February 20, 2026

VIA ELECTRONIC MAIL TRANSMISSION
(Subsequent transmission: Facsimile, Courier, and Physical Delivery *et al.*)

TO:

The Divisional Court of Ontario

Osgoode Hall (Toronto)

130 Queen Street West, Room 174

Toronto, Ontario M5H 2N5

Attention: Ms. Roxanne Parris, Registrar of the Divisional Court
(In her capacity as the "Current Registrar" or "Replacement Registrar")

Email: Roxanne.parris@ontario.ca

AND TO (For purposes of Motion #4 and #5)

5608

The President of the Divisional Court

The Honourable Chief Justice Geoffrey B. Morawetz

Osgoode Hall, 130 Queen Street West

Toronto, Ontario M5H 2N5

Fax: 416.327.6011

MATTER DETAILS

- **Court File Number:** DC-24-00000718-00JR
- **Short Style of Cause:** *McLean v. TD Home and Auto Insurance Company, et al.*
- **Document Classification:** Comprehensive Letter with **BOA** enclosures (Amended BOA Index with Tabs 307 to 313 (McLean v. Bradley; Pong v. Quong and Chong et al (SCC: 1926 to 1927) a
- **Sender:** Mr. Kevin A. McLean, B.A., J.D., C.I.M
- **Sender Status:** Moving Party (Motions #1 through #5) and Applicant (*JRPA* Application)

Subject I: Filing Confirmation: Notice of Filing: Amended Index to Book of Authorities, Compendium Outline (NOM #3–5), and Accompanying Materials
Subject II: Jurisdictional Challenge: Formal Notice Regarding Jurisdictional Invalidity: Application of the Doctrine of *Coram Non Judice*
Subject III: Procedural Strategy: Analysis of Jurisdictional Impasse and Strategic Responses to Procedural Objections
Subject IV: Statutory Deadlines: Proposed Order for NOM #2: Notice of Statutory Deadline under CJA s. 123

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns,

1. Repeated, exhaustive, and unequivocal reliance is placed upon the heretofore submitted communications, formal notices, and evidentiary substantiations provided to this Court. This comprehensive written outline (the "Comprehensive Written Outline") is hereby submitted to integrate an augmented factual matrix and manifest evidence of systemic fraud, financial subornation, and institutional capture identified subsequent to the promulgation of the brief written outline (the "Brief Written Outline") on February 3, 2026. This document functions as a definitive instrument of record, intended to consolidate the Applicant's position in light of the harrowing administrative vacuum discovered through forensic investigation.
2. This communication is not intended, nor should the same be construed, as possessing a threatening character; rather, it is dispatched solely to affirm and preserve established legal rights and to ensure that formal notice is provided to the relevant administrative and judicial officers. The presentation of these materials is meticulously and forensically structured to facilitate the optimal utilization of judicial resources through the provision of a transparent and chronological record of the proceeding (the "Proceeding"). It is a supererogatory effort by the Applicant to ensure that the Court is not led into inadvertent jurisdictional error by the administrative obfuscation heretofore practiced by certain registry staff.
3. It is posited that these disclosures are rendered in the utmost *bona fides*, ensuring that all relevant information is ventilated as soon as the same became ascertainable through the diligent utilization of the Ontario courts public portal (the "OCPP") in mid-October 2025. This submission serves to illuminate the administrative vacuum heretofore obscured by informal correspondence and unauthorized judicial management, ensuring that the "institutional radiance" of the Court is maintained through transparency and the removal of opaque administrative blockades. The discovery of the total absence of signed and entered orders constitutes a watershed moment in this litigation, revealing that the purported case management was a procedural phantom with no basis in the official record.

4. The Applicant emphasizes that this disclosure is not merely a procedural formality but a proactive, forensic measure intended to assist the Court in untangling a labyrinthine web of procedural irregularities, administrative omissions, and jurisdictional nullities that have significantly impeded the progress of this *judicial review procedure act* (the "JRPA") application. The gravity of these irregularities necessitates a complete restoration of the *status quo ante*, as the current record is vitiated by acts performed without the requisite authority of the Office, resulting in a state of *coram non judice*. To allow these unauthorized steps to persist would be to sanction a "Star Chamber" methodology, where justice is dispensed through private electronic servers rather than the public, statutory record.

I. ENCLOSURES AND ORGANIZATIONAL STRUCTURE: THE INTELLECTUAL ARCHITECTURE OF THE RECORD

5. Provision is hereby made for the first amended book of authorities (the "BOA"), which comprises an exhaustive and meticulously indexed collection of jurisprudential sources covering the entirety of the *JRPA* proceeding. Given the extraordinary breadth of the legal principles engaged—extending from the foundational *constitution act, 1867* (the "Constitution Act, 1867") to the exacting thresholds of administrative law and the historical promulgation of legal maxims—this set is delivered in five (5) distinct, high-capacity binders (the "BOA Binders"). Each binder is parapeted with protective dividers and thematic groupings to ensure that the Bench can navigate the complex interplay between statutory mandates and inherent judicial limitations with surgical precision.
6. The **BOA** is intended to function as a singular and unified reference for all remaining stages of this litigation, thereby obviating the necessity for piecemeal references and fostering an environment of judicial economy. Reliance is placed upon specific and binding precedents concerning the doctrine of *coram non judice*, the inherent limitations of judicial office, and the "Single-File Mandate," ensuring that the analysis performed by the Court is situated within the established hierarchy of Canadian and Source Law. The meticulous curation of these binders ensures that the President of the Divisional Court is seized of all necessary authorities to resolve the jurisdictional impasse heretofore created by unauthorized management. It is further posited that the inclusion of historical maxims from *Broom's Legal Maxims* serves to reinforce the immutable nature of jurisdictional boundaries which cannot be eschewed by administrative convenience or judicial preference. These maxims represent the "Ancient Constitutions" of the Common Law, providing an unshakeable foundation for the Applicant's assertions.
7. Concurrently, the compendium binder (the "Compendium") (Volume 11 of 11) is submitted, representing the culmination of the evidentiary record essential for the resolution of the pending motions. This volume is organized as a chronological and thematic roadmap of the controversial procedural developments heretofore observed. The **Compendium** facilitates a forensic audit of the court record, demonstrating through the conspicuous absence of documentation in the **OCPP** that the required orders were never issued, nor was the proceeding ever lawfully assigned to case management. The omission of these orders in the official repository constitutes incontrovertible evidence of a jurisdictional vacuum, proving *prima facie* that the purported judicial acts were performed in a vacuum of authority and are, as a consequence, legally non-existent. The **Compendium** serves as an excoriating indictment of the administrative failures that have allowed a "ghost file" to exist outside the bounds of the *Rules*.
8. It is further noted that the **Compendium** incorporates the **Brief Written Outline** as a foundational summary, while the **Comprehensive Written Outline** provides a more intricate analytical investigation into the integrity challenges and the implications of what is characterized as a "Chief Justice's Case." This includes evidence regarding the administrative blockade of judicial resources and the necessity of severing the nexus of institutional capture that has paralyzed this proceeding since the early stages of 2025. The inclusion of Volume 11 ensures that the Court is seized of the full factual matrix concerning the illicit intercession of the Respondents prior to their delivery of a notice of appearance, thereby illuminating the degree to which the *rules of civil procedure* (the "Rules") were eschewed to facilitate an unauthorized case management trajectory that bypassed the mandatory filing of a first defence.
9. For the administrative convenience of the Registrar and the President of the Divisional Court, a separate binder containing the first amended index and the sought draft orders is provided. This enclosure includes the primary substantive order for the third notice of motion (the "Draft Order 3"), the draft order concerning the indemnification of legal expenses (the "Draft Costs Order"), and the draft orders addressing procedural irregularities and institutional challenges (the "Draft Order 4" and the "Draft Order 5"). The prompt issuance of these orders is essential to rectify the registry vacuum and restore the institutional radiance of the Court. These instruments are designed to obviate the consequences of heretofore unauthorized directions and to ensure the proper routing of all materials within the Osgoode Hall administrative framework, thereby terminating the state of *in limine* paralysis that has gripped this matter for over twelve months.

H. ANALYTICAL REVIEW: LOGICAL GAPS AND STRATEGIC COUNTER-ARGUMENTS

10. This analysis evaluates the potential challenges from the Bench or opposing counsel and provides strategic counters based on the current legal record and the specific timeline of the **OCPP** discovery. It is structured to dismantle the "discretionary shield" often invoked by the Court to mask jurisdictional overreach.

1. The Jurisdictional Threshold: *Rule 77* vs. *Rule 50.13*

11. **Potential Gap:** The Court may posit that *rule 50.13* regarding case conferences provides a residual or inherent power to convene parties at any time to facilitate the expeditious determination of a proceeding, characterizing the absence of a formal *rule 77* order as a mere irregularity curable under *rule 2.01*. They may argue that "procedural efficiency" overrides the technical requirements of the *Rules*.
12. **The Counter-Argument Summary:**
    - **Paramountcy of *Rule 77*:** *Rule 77.02(4)* is explicit and non-discretionary; in the event of a conflict with any other *rule* (including *rule 50.13* or *rule 2.01*), *rule 77* prevails. The Court is precluded from utilizing general management powers to circumvent a specific regulatory regime designed to prevent unauthorized file seizure. This is a matter of statutory hierarchy, not judicial preference.
    - **Conditions Precedent:** Pursuant to *rule 77.05(2)*, a proceeding is not subject to case management until a first defence is filed or a specific motion is adjudicated. Absent the filing of *form 38a*, the jurisdictional gate remains locked. A judge cannot inherently empower themselves to manage a file that has not legally entered the case management stream. To hold otherwise would be to render the entire case management regulatory regime redundant.
    - **Nullity vs. Irregularity:** Following *König v. Hobza*, a step taken in total defiance of mandatory jurisdictional requirements is a nullity *ab initio*, not a curable irregularity. If the judge lacked the "office" to hear the matter due to improper assignment, their orders are not merely erroneous; they are legally non-existent under the doctrine of *coram non judice*. An irregularity is a mistake in the exercise of valid power; a nullity is an act performed without any power whatsoever.

2. The "Bayesian Model" and Evidentiary Weight

13. **Potential Gap:** A tribunal may exhibit hesitation in accepting the Bayesian Model (Variable A-P) as forensic proof of institutional capture, potentially dismissing the statistical probability of one in a nonillion as speculative or argumentative rather than traditional evidence. They may claim that "math is not evidence."
14. **The Counter-Argument Summary:**
    - **Circumstantial Totality:** The model is not a substitute for fact; it is a mathematical expression of the totality of circumstances. The Court possesses an existing duty to draw adverse inferences when a party fails to provide an explanation for highly improbable anomalies. The model simply quantifies the weight of circumstantial evidence that the Court is already required to consider.
    - **The "Nexus Hypothesis":** When sixteen low-probability events—including the misappropriation of specific pharmaceuticals, the timing of luxury real estate acquisitions by state actors, and the appearance of non-existent signatories—converge upon a single litigant, the "Coincidence Hypothesis" becomes legally unreasonable. The Bayesian Model provides the tool to measure the degree of that unreasonableness. It is a tool of logic, which is the heart of the law.
    - **Materiality of Underlying Facts:** Notwithstanding any skepticism regarding the statistical label, the Court cannot disregard the underlying fresh evidence. For example, the arrest of Sgt. Black for trafficking the exact drug stolen from the Applicant is a concrete fact. Absent a rebuttal of these specific facts, the Court must conclude that the nexus exists as a matter of judicial record. The "Math" merely serves to confirm what the "Facts" already scream.

3. Due Diligence and "Post-Facto" Discovery

15. **Potential Gap:** Opposing counsel will likely contend that the Applicant failed to exercise due diligence by participating in conferences (such as January 7, 2025) without objection, claiming that jurisdictional silence constitutes attornment. They will argue that the Applicant is "too late" to raise these issues.
16. **The Counter-Argument Summary:**
    - **Technical Impracticability:** Discovery was physically and digitally impossible prior to the implementation of the **OCPP** in mid-October 2025. The legacy portal was an opaque system that failed to provide a "Case View" or transparency regarding the existence of signed orders. One cannot be diligent in a vacuum of information.

- **Fraud on the Registry:** The Applicant was misled by the Ibula Email, which presented itself as a valid judicial mandate. A party cannot be expected to discover the absence of a document when the registry effectively masks that absence through informal correspondence. The registry's own failures cannot be used as a sword against the Applicant's diligence.
- **Rule 59.06(2)(a) Protection:** The *Rules* specifically protect a party's right to set aside an order based on facts arising or discovered after it was made. The Applicant moved on December 1, 2025—within weeks of the **OCPP** becoming functional enough to reveal the vacuum in the record. This constitutes the definition of diligence in the face of institutional concealment.

4. The Definition of "Office" and *Functus Officio*

17. **Potential Gap:** The Court might claim it is *functus officio* because directions were provided and time has elapsed, arguing that a Superior Court judge possesses general jurisdiction that travels with her regardless of specific rotation. They may claim the "job is done" and cannot be undone.
18. **The Counter-Argument Summary:**
    - **Factum a Judice:** Jurisdiction is not a personal attribute of the judge; it is an attribute of the Office. If the judge was not assigned to the Divisional Court rotation for the specific purpose of the *JRPA* proceeding, the act did not pertain to her office. An act by a judge outside their assigned office is a private act, not a judicial one (*Factum a judice, quod ad officium jure non pertinet, ratum non est*). A judge does not carry the power of the Court in their person; they only exercise it when sitting in the proper seat.
    - **The Requirement of Entry:** Per *Castlerigg*, a court is not *functus* until an order is drafted, signed, and entered. The **OCPP** Case View confirms that no order was ever entered. Therefore, the Court cannot be *functus* regarding a proceeding that has never had a valid order issued on the official record. You cannot be "finished" with a task you never legally commenced.
    - **The "Star Chamber" Guardrail:** If an informal email is permitted to exhaust the jurisdiction of a statutory court, it creates a "Star Chamber" environment where justice is administered via private server rather than public record. The *Courts of Justice Act* requires transparency to maintain public confidence.

5. The "Single-File Mandate" and Scope of Relief

19. **Potential Gap:** A judge might find the request to set aside all steps too broad or draconian, preferring to preserve parts of the litigation deemed useful to avoid a waste of judicial resources. They may try to "save" the untainted parts.
20. **The Counter-Argument Summary:**
    - **The Poisoned Root:** Jurisdictional validity is binary. If the initial seizure of the file was *coram non judice*, every subsequent conference, direction, and purported order is fruit of the poisonous tree. A valid legal structure cannot be constructed upon a void foundation. To "save" parts would be to build on sand.
    - **Avoidance of Multiplicity (*CJA s. 138*):** Attempting to sift through a year of unauthorized proceedings would create a hydra-headed litigation monster. The only method to prevent a multiplicity of proceedings and future appeals is a single, comprehensive order that resets the case to its last lawful status. It is more efficient to start correctly than to patch a disaster.
    - **Institutional Purification:** The Court has an inherent duty to purge its own record. Leaving unauthorized documents in the official case history creates a cloud on title for the litigation. Setting them aside is an act of institutional radiance—restoring the integrity of the Superior Court of Justice. The Court's honor depends on its record being clean.

III. THE DOCTRINE OF CORAM NON JUDICE AND THE NULLITY OF JUDICIAL ACTS

21. It is posited that this proceeding has mutated into a matter requiring the direct intervention of the President of the Divisional Court due to profound ethical controversies and the unauthorized handling of the judicial record. These issues implicate the "institutional radiance" of the Court and concern the fundamental authority upon which the administration of justice is predicated. The conduct heretofore observed represents a radical departure from the statutory safeguards intended to protect the neutrality of the adjudicative process, necessitating a forensic re-evaluation of all acts performed since January 2025 which are characterized by a total absence of jurisdictional legitimacy. This is not a mere procedural skirmish; it is a battle for the very soul of the Court's statutory identity.

22. Attention is directed to the authorities contained within the **BOA**, specifically *McLean v. Bradley [1878] 2 SCR 707* (the *McLean*) and the *Pong v. Quong [1927] SCR 271* (the *Pong*) trilogy. These definitive Supreme Court of Canada (the "SCC") precedents confirm that jurisdiction is not a personal attribute of a judge but is a statutory attribute of the Office. An individual sitting in a judicial capacity only possesses the authority delegated to the

specific Office they occupy at the material time; the exercise of power beyond these circumscribed boundaries is *ultra vires* and void *ab initio*. It is heretofore posited that even a judgment rendered by a judge who was *coram non judice* or whose acts were *Factum a judice, quod ad officium jure non pertinet, ratum non est* is rendered invalid, null, and void *ab initio*. The judge, in such circumstances, is merely a private citizen wearing a robe.

23. The *lex terrae* demands that the limits of judicial office be strictly observed to prevent the metamorphosis of a statutory court into a venue of arbitrary discretion. As articulated in *Broom, L.M. 90* (the *Broom*), when a Court possesses no jurisdiction of the cause, the entirety of the proceeding is *coram non judice*. In such a state of jurisdictional absence, actions will lie against the responsible parties without any regard to the purported precept or process. It is established that it is not necessary to obey one who is not judge of the cause, as judicial acts performed outside of prescribed jurisdiction are *Factum a judice, quod ad officium jure non pertinet, ratum non est*. This principle is the "Shield of the Subject" against unauthorized state action.
24. The Divisional Court is bound by the dictates of vertical stare decisis (the “Vertical Stare Decisis”) to adhere to the aforementioned precedents of the **SCC**. When a judge is not properly assigned to the specific statutory role within the Divisional Court rotation, they are rendered a “stranger to the cause.” This is a binary legal state; either the judge is seized of the cause by law, or their interventions are a nullity *ipso facto*. The failure to provide a signed order of assignment for case management, as mandated by *rule 77* and specifically *rule 77.02* and *rule 77.05(2)* of the **Rules**, ensures that the Office was never lawfully occupied. The absence of the **OCPP** entry is the "Silver Bullet" that terminates the legitimacy of all purported management.
25. It is further extrapolated that because the judge in question was acting without the requisite jurisdiction, the resulting directions are devoid of legal efficacy and are to be treated as “white paper” or private correspondence. Reliance is placed upon the principle articulated in the *McLean* that it is not necessary to obey one who is not a judge of the cause. The Divisional Court, being a creature of statute, does not possess the inherent jurisdiction of a *Constitution Act, 1867* Section 96 court to cure such fundamental jurisdictional defects. The absence of an order for assignment, verified by the **OCPP**, confirms that the jurisdictional gate remained closed, rendering all subsequent management steps a legal nothingness that must be purged from the official record to maintain the integrity of the Superior Court and ensure the *status quo ante* is restored in its entirety.

IV. CAUTIONARY ADMONITION TO THE REGISTRAR AND ADMINISTRATIVE STAFF: THE SCOPE OF MINISTERIAL LIABILITY

26. The Registrar and associated court staff are hereby cautioned that they do not enjoy the absolute immunity heretofore reserved for the judiciary. While judicial officers are protected when acting within the scope of their office, ministerial officers, such as the Registrar and clerks, are subject to different legal standards. Their duty is to the law and the integrity of the Registry, not to the informal directions of a judge acting without a valid precept or beyond the scope of their specific assignment. No plea of justification (the “Plea of Justification”) can be made by any individual seeking to rely upon judicial acts that are void *ab initio*. A clerk who facilitates a nullity becomes an accomplice to a jurisdictional fraud.
27. Pursuant to the principles established in *Taylor v. Clemson [1844] 11 Cl & Fin 610* (the *Taylor*), a plea of justification by an officer acting under the warrant of a justice will be found “bad” if the record fails to demonstrate that the justice possessed jurisdiction over the subject matter upon which the warrant was granted. Reliance is placed upon *Broom's Prac.* and the *Broom*, which establish that no plea of justification can be made by any individual seeking to rely upon judicial acts that are void *ab initio*. The Registrar and administrative staff are thus reminded that a state of *coram non judice* vitiates any protection heretofore assumed, and actions may lie against them for facilitating a void process. The administrative staff must serve as the "Guardians of the Gate," not the "Janitors of Judicial Overreach."
28. It is observed that the administrative infrastructure of the Court cannot function as a shield for unauthorized acts. If the administrative staff continue to facilitate or act upon directions that are *coram non judice*, they incur personal and professional liability for their participation in an unauthorized process. Any further reference to the same may result in the commencement of costs submissions (the “Costs Submissions”) against the Registrar of the Divisional Court. The **OCPP** provides forensic confirmation that the necessary orders for assignment for case management were never made, signed, or entered. Therefore, the Registrar’s office possesses no legal precept upon which to base the continued administrative blockade of this proceeding. The continued refusal to file materials or provide transcripts constitutes a substantive barrier to justice for which the staff may be held to account in a private capacity, as their acts are not vested with the authority of the Court.

V. PROCEDURAL DERELICTION AND THE LOCKOUT RULE: PRESERVING THE SINGLE-FILE MANDATE

29. The 2014 amendment to *rule 77.08* of the **Rules** represents the only conceivable provision that could have been purportedly relied upon. However, the requirement for an order for assignment for case management is a jurisdictional prerequisite in the City of Toronto. The absence of such an order on the record, as verified by the **OCPP**, vitiates the legitimacy of any case management conference. *Rule 77.01* is intended to apply case management only when needed, and its unauthorized imposition here served only as an obstruction to the resolution of unopposed motions. The metamorphosis of the Proceeding from a standard application to a managed case was never lawfully effected, as the prerequisite order (the "Mandatory Order") was never promulgated.
30. A contrast is drawn between the instant matter and the proceeding in *Nash v. CAMI* (the *Nash*) (COURT **FILE NO. 25-00000872-00JR**), wherein a judge of the Divisional Court correctly engaged the jurisdictional prerequisites by issuing a *prima facie* email-type order for an assignment for case management prior to any attempt to convene a conference. It is observed that the process comprises two distinct stages: first, the issuance and entry of an order for assignment for case management; and second, the subsequent assignment of steps to a particular judge. In the present case, Madam Justice Shore admitted the necessity of this two-step process, yet the **OCPP** Case View demonstrated on December 1, 2025, that no such order existed. Without a **Mandatory Order** issued pursuant to *rule 77.02* and *rule 77.05(2)*, the Proceeding was never lawfully under case management.
31. From what I can glean from the "public record", The Honourable President of the Divisional Court removed Madam Justice Shore and replaced her with Justice Shreck.
32. **This was required to happen in this JRPA Proceeding (McLean v. TDHA) on account of conflict of interest, bias, lack of independence et al but nonetheless that is not the issue herein as per it relating to the inter alia, failure of a Judge of the Divisional Court to have made an Order for "Assignment For Case Management".**
33. Furthermore, the "Lockout Rule" mandated by *form 68A* of the **Rules** must be observed. The Respondent insurance companies and the licence appeal tribunal (the "LAT") were strictly prohibited from participating or receiving notice of steps until they delivered their notice of appearance (the "NOA"). The failure to comply with this requirement means that their participation in conferences was an unauthorized grant of standing. This violation of the "Single-File Mandate" allowed non-appearing parties to interfere with a *JRPA* proceeding before their standing was legally established, thereby poisoning the procedural well and creating an environment of institutional capture heretofore unprecedented in the Divisional Court. The Respondents were permitted to whisper in the ear of the Court before they were even legally present in the room.
34. The application of *rule 50* pertaining to actions to a proceeding governed by *rule 38* and the *JRPA* constitutes a fundamental category error. In a statutory court lacking inherent jurisdiction, the plain text of the legislation must be followed, and judicial review is only triggered upon the filing of the record of proceeding. An unauthorized Case Management Judge cannot unilaterally bridge this gap through informal management that bypasses the mandatory triggers of the *JRPA*. The concomitant failure to recognize this distinction resulted in an administrative labyrinth where the Applicant's rights were systematically subverted by the application of rules heretofore irrelevant to the Proceeding.

VI. THE NASH V. CAMI ET AL DIVISIONAL COURT PROCEEDING: PRECISE ATTEMPTED COMPLIANCE AT THE TWO-STEP MODEL

33. Notwithstanding the pervasive procedural irregularities heretofore identified, the *Nash v. CAMI et al* (the "Nash Proceeding") Divisional Court proceeding provides an illustrative example of attempted, albeit imperfect, compliance with the two-step jurisdictional model. This compliance was manifested through:
    - The intercession of Mr. Justice Nakatsaru, who promulgated an electronic communication (the "Nakatsaru Email") constituting a *prima facie* order—though ostensibly lacking a formal judicial endorsement—pertaining to an assignment for case management (the "Assignment Order"); and
    - Subsequently, Madam Justice Shore concomitantly issued an electronic communication (the "Shore Email") for the purpose of convening a case conference (the "Case Conference").

34. While certain aspects of the record remain subject to further analytical review—specifically concerning whether a first defence (the "First Defence") had been duly filed at the temporal juncture of the **Nakatsaru Email** or the **Shore Email**—there exists no substantive dispute that the conduct of Madam Justice Shore was fundamentally improper. As a judicial officer, she was under a positive and non-discretionary duty to rectify these procedural

deviations and to provide formal notification to all interested parties. The failure to do so constitutes a breach of the "Public Trust" upon which judicial authority relies.

35. Consequently, it is asserted that the acts performed were *Factum a judice, quod ad officium jure non pertinet, ratum non est* and that the presiding judge was *Coram Non Judice*. In accordance with established principles, no plea of justification (the "Plea of Justification") is available to any individual, including the Registrar of the Divisional Court, administrative staff, or court clerks, who might seek to rely upon such void acts. The **Nash Proceeding** serves as a "Fossil Record" of how the Court attempted to adhere to the rules before succumbing to the administrative chaos that currently plagues the McLean file.
36. It is further observed that no such purported order is capable of being endorsed, issued, or entered into the record. This caution is rendered notwithstanding the forensic confirmation provided by the **OCPP** Case View, which demonstrates the absolute absence of a made, endorsed, issued, and entered order. It is hereby confirmed that no such steps can be taken in any event. The record cannot be "backfilled" with retroactively created authority to cure a fundamental nullity.

VII. THE PONG V. QUONG PRECEDENT: SCC VOIDANCE OF UNAUTHORIZED STATUTORY ADJUDICATION

37. Pursuant to the aforementioned principles, it is observed that in 1927, the matter of *Pong v Quong (and Chong and Thompson), [1927] S.C.R. 271* (see: **BOA**, Tab 309) (the "*Final Pong Appeal*") arrived before the **SCC**. The **Final Pong Appeal** involved two distinct proceedings that illustrate the peril inherent in a Judge of the Divisional Court exceeding a narrow statutory mandate, particularly when a statutory application is before a court in Ontario. Such was the case in *Pong v Chong*, commenced by the landlord in Mrs Thomson, which appeared before Denton J (the "Denton J") of the County Court of York:
    - A summary application (the "Summary Application") under the *landlord and tenant act, RSO 1914, c 155, ss 75-78* (the "*Landlord and Tenant Act 1914*"), which dealt with both residential and commercial leases in 1925. By statute, this matter was required to be heard in the County Court of Ontario and was adjudicated by **Denton J** (County Court Judge of the County of York); and
    - A claim by action (the "Action") initiated by the Quong and Chong Plaintiffs against the Defendant Jack Pong, alongside the landlord in Mrs Thomson, which proceeded through the following judicial levels:
        - Initially before the then High Court of Justice of the Supreme Court of Ontario (the predecessor to the modern SCJ of Ontario) presided over by Justice Mowat 1925;
        - Subsequently before the then Appellate Division of the Supreme Court of Ontario presided over by Middleton J.A. (see: *Quong v Pong, 1925 CanLII 11 (ON CA)* (see: **BOA**, Tab 307)), wherein it was held that the defendant Pong served as a trustee for the plaintiffs;
        - Thereafter, the matter proceeded to the **SCC** via distinct appeals, culminating in the **SCC** affirming that as to the relations between Pong and Quong the matter was *coram non judice.*
38. Given that the current *JRPA* proceeding was commenced by application (the "Application") under statute, the historical context of the **Landlord and Tenant Act 1914** is not merely instructive but binding. The application to the county court judge (**Denton J**) was a statutory application rather than an **Action**, paralleling the summary nature of modern judicial review. The *JRPA* governs the duties and rights of Applicants and Respondents and the ambit of questions to be decided. Following the precedent in *Yatar v TD Insurance Meloche Monnex, 2024 SCC 8* (the "*Yatar*"), the Divisional Court is required to adjudicate through a single Motions Judge under *rule 37.12.1(4-6)*, or by a panel of three Judges, or a single judge of the SCJ pursuant to *ss 6(2)* of the *JRPA*. Pursuant to the **Vertical Stare Decisis**, the Divisional Court possesses no authority to decline the hearing of the **Application**.
39. Moreover, as Madam Justice Shore acted in an unsanctioned manner as *coram non judice*, and pursuant to the doctrine of *factum a judice, quod ad officium jure non pertinet, ratum non est*, she served as an ostensible case management judge (the "CMJ"). In the absence of an operative duty or function, the direction of a case management conference—which, *ipso facto*, could only have been authorized under *rule 50.13* (see: *rule 77.08*)—resulted in orders which are not merely voidable, but void *ab initio* due to a fundamental defect in jurisdictional competence.

Volume #1(A)(III)(e): Return to Denton J's Coram Non Judice Acts to Shore J's Invalid Acts

40. While **Denton J** could adjudicate overholding matters, collateral issues outside the statutory mandate remained characterized by a want of jurisdiction. Similarly, Madam Justice Shore possessed no powers as a **CMJ** because the conditions precedent—the "First Defence Filing Requirement" and the "Assignment For Case Management

Order"—remained unfulfilled. The exercise of alleged power in the absence of these conditions resulted in acts that were nullities. Madam Justice Shore is on worse footing than a fellow Section 96 Judge in **Denton J** because she had no authority whatsoever to intervene into the *JRPA* Proceeding as a **CMJ**.

41. It is further posited that the omission of the "Assignment For Case Management Order" is fully explicated by the conspicuous absence of a first defence (the "First Defence"), insofar as the case management apparatus within the City of Toronto is architecturally designed to be actuated solely by the adversarial intersection of a filed Application and *form 38a*, rather than by the *sua sponte* inclination of a judicial officer. While a Divisional Court Judge can act on her own initiative, it cannot occur unless two formal steps have transpired:
    - The filing of a **First Defence**; and
    - The issuance of an order for "Assignment For Case Management."

Volume #1(A)(III)(f): Res Judicata and Issue Estoppel do not apply when a Judge is Coram Non Judice

42. In *Pong v Quong*, the **SCC** affirmed that a jurisdictional void cannot be filled by the doctrine of finality. Substantive rights cannot be circumvented through unauthorized summary procedures. Therefore, when a judge of the Divisional Court undertakes steps that do not belong to her office, those acts are *factum a judice, quod ad officium jure non pertinet, ratum non est* and subsequent orders are *coram non judice*. They are juridical spectres, possessing the appearance of authority but no substance.

Volume #1(A)(IV): Jurisdictional Matrix and Regulatory Constraints

43. For the purposes of clarity, the following analytical matrix delineates the divergent status of the mandatory prerequisites compared to the actual procedural state within the *JRPA* Proceeding:

Prerequisite	Statutory/Rule (Reg) Requirement	Actual Status in JRPA Proceeding	Implications of Non-Compliance
Assignment Order	*Rule 77.02(1)*: An Assignment For Case Management Order must be made for Toronto matters.	No such Order was made; compliance with *rule 59.01 to .05* was absent.	The judicial officer possesses no case management authority over the specific file.
Triggering Event	*Rule 77.05(2)*: Assignment on initiative occurs after the filing of a **First Defence**.	No **First Defence** or **Notice of Appearance** was filed in 2024 or 2025.	The matter is not yet "eligible" for the case management stream.
Judicial Authority	*CJA s. 75* / *Rule 77.06*: Duties must be assigned by the Chief Justice or President.	No specific assignment or direction existed.	The act is *ultra vires* the individual judge's administrative assignment.
Paramountcy	*Rule 77.02(4)*: *Rule 77* prevails over "any other rule."	*Rule 50.13* was improperly used to bypass *rule 77* constraints.	*Rule 50* has no applicability to Divisional Court *JRPA* Proceeding but it does to Actions in Toronto, Ottawa and Essex.

44. Pursuant to *rule 77.02(4)*, the provisions of *rule 77* are paramount and supersede any conflicting regulatory instruments. The general convening authority under *rule 50.13* remains incapable of actuation where such acts are specifically restricted by the specialized regime of *rule 77*. Such an attempt constitutes an impermissible circumvention of the established regulatory framework and a contravention of the principle of *lex specialis derogat legi generali*. A state of jurisdictional absence (the "Jurisdictional Absence") exists: this signifies a proceeding "not before a judge," as the tribunal was not properly constituted for the purpose of case management. The physical or virtual congregation of parties within a courtroom does not, *ipso facto*, constitute a "court" if the mandatory jurisdictional prerequisites remain unsatisfied.

VIII. STATUTORY MANDATES AND THE RESTORATION OF STATUS QUO ANTE: THE IMPERATIVE OF SECTION 123

45. Pursuant to section 123 (the "Section 123") of the *Courts of Justice Act* (the "CJA"), a decision in this proceeding was mandated to be rendered no later than August 16, 2025. This date represents the six-month statutory outer limit following the returnable dates of the unopposed motions filed on January 22 and January 31, 2025. The protracted administrative inertia observed heretofore represents a significant contravention of the statutory mandates of the *CJA*. The failure of the Court to provide a judgment on **NOM #1** and the second notice of motion (the "NOM #2") by this date is an inexcusable breach of its legislative duty, which no unauthorized case management activity could legally interrupt or obviate.
46. Specifically, the **NOM #2**, which was accepted and confirmed as filed by the former Registrar Gentles with a returnable date of February 14, 2025, was required to be decided within three months of said date under the standard provisions of the *CJA*. The metamorphosis of this timeline into a state of indefinite delay through unauthorized judicial intercession is a direct assault upon the Rule of Law. Every day of administrative silence compounds the prejudice against the moving party while providing a concomitant tactical advantage to the Respondents who benefit from the delay. The *CJA* was designed to prevent precisely this type of "Systemic Glacialism."
47. The blockade of judicial resources and the withholding of oral transcripts represent a zero-sum game where the Applicant is systematically marginalized by the very institution sworn to protect the Rule of Law. The implications of this blockade extend beyond mere delay; they represent a fundamental failure of the institutional oversight vested solely in the President of the Divisional Court. The concomitant failure to facilitate the resolution of these motions has effectively rendered the statutory protections of the *CJA* illusory in the face of unauthorized administrative intercession. The restoration of the lawful trajectory of this proceeding is the only available remedy to cure the jurisdictional void created by the unauthorized acts heretofore documented and to ensure that the *lex terrae* is upheld in the face of institutional capture.
48. The Applicant moves for the formal issuance of the draft orders to break the blockade, restore the *status quo ante*, and vindicate the Rule of Law. The integrity of the Divisional Court necessitates the exposure of these irregularities and the restoration of a transparent and strictly statutory adjudicative process. The disinfecting light of public and regulatory attention is required to address the registry vacuum and ensure the institutional radiance of the Superior Court of Justice. Reliance is placed upon the inherent jurisdiction of the Court to prevent a manifest abuse of process and to purge the record of *ultra vires* interventions. The Court must act as its own "Moral Auditor" to rectify these deviations.

IX. SUMMARY OF CASE LAW: SECTION 123 OF THE COURTS OF JUSTICE ACT AND THE DOCTRINE OF RESILIENCY

49. *Section 123* of the *CJA* is characterized as the structural infrastructure of the Ontario court system (the "Ontario Court System"), providing the requisite statutory framework to maintain continuity when anthropomorphic contingencies—such as judicial illness, retirement, elevation, or death—preclude the presiding judge from finalizing an adjudication. This section established the fundamental safeguard against systemic stagnation and ensures that the adjudicative process remains resilient in the face of human frailty.
50. **Judicial Timelines and the Constitutional Right to a Timely Verdict (*S. 123(5)*):** This subsection serves as the foundational standard for assessing the reasonableness of judicial deliberation. In *R. v. Swaine [2025] ONCA 12* (the *Swaine*), *R. v. Osaigbovo [2024] ONCA 54* (the *Osaigbovo*), *R. v. Taylor [2023] ONCA 88* (the *Taylor CA*), and *R. v. Ansari [2023] ONCA 91* (the *Ansari*), the intersection of *Section 123* and section 11(b) of the *Canadian charter of rights and freedoms* (the "Charter") was scrutinized to determine the limits of permissible judicial deliberation. These cases emphasize that "Justice Delayed is Justice Denied" is not just a cliché, but a constitutional imperative.
51. It is posited that under the principles of *R. v. K.G.K. [2020] 1 SCR 364* (the *K.G.K.*), the statutory guidelines of three and six months in *Section 123* function as the benchmarks of acceptability for the period post-deliberation. While not strict jurisdictional drop-dead dates, they function as the marker of judicial integrity. In the *Swaine*, the failure to deliver reasons post-resignation was identified as a vacuum of authority, while the *Ansari* established that exceeding the guideline does not *ipso facto* constitute unconstitutionality unless it reaches the markedly longer threshold. The *K.G.K.* decision reminds the Bench that judicial independence is not a license for administrative lethargy.

52. The implications of administrative silence were further elaborated in *Auciello v. La [2024] ONSC 4321* (the *Auciello*). Protracted silence post-motion was characterized as a denial of natural justice and a practical denial of justice. When an Associate Justice failed to deliver a decision within the three-month window, the resulting legal limbo led to an irreparable loss of strategic position for the litigants. The *Auciello* case serves as a warning that silence from the Bench can be as damaging as a wrong decision.
53. In *K.M. v. Marson [2018] ONSC 1515* (the *Marson*), the transparent utilization of the extension mechanism in *subsection 123(5)* demonstrated the balance between thoroughness and speed. Conversely, *Tibollo v. Wasserman [2011] ONSC 554* (the *Tibollo*) and *R. v. Bosley [1992] OJ No 1928* (the *Bosley*) confirm that the six-month guideline serves as the rebuttable presumption of excessive delay, necessitating intervention to preserve the institutional reputation of the Court. These cases establish that the "Six Month Rule" is the yardstick by which the Court's administrative competence is measured.
54. **Rehearings and the Preservation of Record (*S. 123(1), (4), and (7)*):** The statutory remedy of last resort for cases left in judicial suspension is found in the reheating provisions. In *Abou-Assaly v. El-Saikali [2025] ONSC 88* (the *Abou-Assaly*) and *McGee v. Farazli [2022] ONSC 334* (the *McGee*), the functional inability of a judge necessitated the assignment of a successor under *Section 123*. These cases prove that the "Death of a Judge" is not the "Death of a File," provided the statutory mechanisms of Section 123 are properly engaged.
55. The efficiency mandate was crystallized in *Barry v. Certified Equipment [2019] ONSC 221* (the *Barry*), which established that a reheating under *subsection 123(7)* is not synonymous with a *de novo* retrial. Where a clear transcript exists, the successor judge may step into the shoes of the predecessor, utilizing existing materials. This policy of finality was echoed in *Smith v. Brockton [2016] ONSC 12* (the *Smith*), where the paper record was deemed a legally sufficient basis for adjudication. The *Barry* decision is a triumph of substance over form, ensuring that litigants are not punished for judicial rotation.
56. In *Runnalls v. Chief Justice [2022] ONSC 11* (the *Runnalls*), the statute was invoked to compel a decision where systemic stagnation had occurred over a period of eight years. This case identifies *Section 123* as the ultimate constitutional check on judicial delay, authorizing the Chief Justice to rescue a stalled matter and assign it to another for finalization. The *Runnalls* precedent is the "Emergency Brake" of the Ontario Court System.
57. **Resilience of Multi-Judge Panels (*S. 123(3)*):** In the context of the Divisional Court, *subsection 123(3)* ensures that the death or incapacity of a single judge does not invalidate the collective work of a panel. *R. v. Cudjoe [2009] ONCA 543* (the *Cudjoe*) and *Wamboldt v. Wellman [2007] OJ No 22*

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Mr. Kevin McLean <mcleansettlement@gmail.com> Feb 23, 2026, 1:07 PM

to SCJ-CSJ, roxanne.parris, Tashekah

CLASSIFICATION: PRIVATE AND CONFIDENTIAL
TIME SENSITIVITY: URGENT – TIME SENSITIVE
DATE: February 23, 2026

VIA ELECTRONIC MAIL TRANSMISSION
(Subsequent transmission: Facsimile, Courier, and Physical Delivery *et al.*)
TO:
The Divisional Court of Ontario

Osgoode Hall (Toronto)

130 Queen Street West, Room 174

Toronto, Ontario M5H 2N5

Attention: Ms. Roxanne Parris, Registrar of the Divisional Court

(In her capacity as the replacement registrar (the "**Replacement Registrar**"))
Email: Roxanne.parris@ontario.ca

AND TO (For purposes of Motion #6) - EXCLUSIVELY AS PER THE LEGISLATURE'S REQUIREMENT UNDER THE CJA SECTION 123
The President of the Divisional Court

The Honourable Chief Justice Geoffrey B. Morawetz

Osgoode Hall, 130 Queen Street West

Toronto, Ontario M5H 2N5

Fax: 416.327.6011

MATTER DETAILS
Court File Number: DC-24-00000718-00JR
Short Style of Cause: *McLean v. TD Home and Auto Insurance Company, et al.*
Document Classification: Enclosure of Factum for Motion #6 pursuant to section 123 of the *CJA* with Draft Order (*Form 59A*) to follow
Sender: Mr. Kevin A. McLean, B.A., J.D., C.I.M
Sender Status: Moving Party (Motions #1 through #5) and Applicant (*JRPA* Application)

RE: Motion #6 – Requirements pursuant to section 123 of the *Courts of Justice Act* (*CJA*) regarding Notice of Motion #2 (the "NOM #2") BY WAY OF WRITTEN ARGUMENT WITH DRAFT ORDER TO FOLLOW AND MATERIALS RELIED UPON IN RELATION TO THE SAME

Dear Sirs/Mesdames:

1. Transmission is hereby effected regarding the mail filing of the most recent and historical instruments relevant to this proceeding, which is characterized by a profound and systemic failure of the adjudicative apparatus. It is confirmed that this application under the *Judicial Review Procedure Act* (*JRPA*) (the "**JRPA Proceeding**") is distinct from a statutory appeal and encompasses several motions initiated in January 2025. Specifically, the latter was adjudicated as a written hearing, thereby necessitating a final determination within the statutory temporal parameters of three or six months from February 14, 2025. The persistent absence of an adjudicative manifestation has resulted in a jurisdictional impasse that threatens the very legitimacy of the registry.
2. Notwithstanding the scrupulous fulfillment of all fiscal obligations—specifically the remission of fees for a service the state has effectively eschewed—and the formal confirmation of filings via the *Justice Services Online Portal* (the "**JSO Portal**"), a decision remains conspicuously absent from the record for a period exceeding 380 days. Following an exhaustive and meticulous review of the relevant jurisprudence, it is posited that a vested entitlement to a decision within the statutory temporal parameters exists as a matter of constitutional imperative. Furthermore, it is asserted that the involvement of Madam Justice Shore was characterized by a total lack of jurisdiction (*coram non judice*), rendering her acts *factum a judice, quod ad officium jure non pertinet, ratum non est*.
3. Reliance is placed upon the evidentiary record indicating that no order for assignment for case management (the "**Assignment for Case Management**") was ever issued, contrary to the mandatory requirements of the *Rules of Civil Procedure* (the "**Rules**"). Consequently, there is no requirement for the Applicant or any party to adhere to the unauthorized manifestations of said office, as they constitute a jurisdictional nullity. The failure of the state to provide the adjudicative product for which payment was remitted constitutes a functional fraud upon the subject and an ontological erasure of the legal remedy sought, leaving the Applicant in a state of legal non-existence.

4. This motion is submitted exclusively to the Honourable Chief Justice of the Superior Court of Justice in his capacity as the President of the Divisional Court, invoking the ultimate jurisdiction to restore the rule of law and obviate the "labyrinthine void" created by administrative inertia.

5. I respectfully yet exclusively submitted to the Honourable Chief Justice of the Superior Court of Justice, in the exercise of his vested adjudicative authority as the President of the Divisional Court, for the purpose of securing required orders pursuant to the remedial provisions contained within section 123(4) and (7) of the *Courts of Justice Act*, RSO 1990, c. C. 43 (the "**CJA**"). It is requested that the motion for judgment (the "**NOM #2**") be reheard in its entirety to obviate the catastrophic failure of the adjudicative process heretofore experienced. The failure of the motions judge to issue a decision within the statutory window constitutes a functional abdication of the sovereign's promise to the subject.

6. It is observed that legislative supremacy (the "**Statutory Supremacy**") dictates that *de facto* statutes must prevail over regulations, ensuring that the will of the legislature remains the preeminent consideration in the administration of justice. To permit a departure from these mandates is to sanction a metamorphosis of the judicial branch from an arbiter of vested rights into a source of procedural opacity and administrative desuetude.

7. The current litigation is defined as a chief justice case (the "**Chief Justice Case**"), characterized by pervasive controversy, the high-profile nature thereof, and challenges to the institutional integrity of the court. Reliance is placed upon the reasoning in *Baldovi v. R.*, 2016 MBQB 167 (the "*Baldovi*"), at paragraph 72 (**BOA, Tab 69**), as adopted by the current administration of the Superior Court of Justice, wherein it was observed that the unique stewardship of the President of the Divisional Court is required when the standard process is insufficient to preserve the perceived and actual dignity of the institution. In such instances, the rule of law must be elevated over administrative convenience.

8. The systemic failures within the registry and the unauthorized assumption of jurisdiction constitute a definitive and ontological example of a case where the legitimacy of the tribunal is subjected to profound scrutiny. This species of administrative blockade (the "**Administrative Blockade**") effectuates a strategic erasure of the subject, rendering the right to access the court a mere theoretical phantom. The resulting constitutional vacuum (the "**Constitutional Vacuum**") allows administrative error to persist in perpetuity, immune from the light of judicial scrutiny.

9. Since the adjudication in *Ruffo v. Conseil de la magistrature*, [1995] 4 S.C.R. 267 (the "*Ruffo*"), the doctrine of primus inter pares (the "**Primus Inter Pares**") has emerged as a substantive, rather than merely ceremonial, designation of seniority. This doctrine recognizes that a Chief Justice possesses an inherent suite of responsibilities that need not be explicitly conferred by statute, functioning as the ethical and integrity barometer for the entire judicial institution. The *Primus Inter Pares* is the finality guardian (the "**Finality Guardian**"), ensuring that the litigation of the subject reaches a determination without the intervention of administrative capture.

10. In *Information Commissioner (Canada) v Canada (Minister of Employment and Immigration)*, 1986 CanLII 6836 (FC) (the "*Information Commissioner*"), invoking *Julius v Oxford (Bishop of)* (1880), 5 App Cas 214 (the "*Julius*"), the court established the foundational syllogism (the "**Julius Syllogism**"). This doctrine dictates that notwithstanding that a power may appear permissive in its linguistic configuration, a compulsory mandate (the "**Compulsory Mandate**") arises *ipso facto* if said power is provided for the purpose of making good a right. When the legislature confers a power to vindicate rights, its exercise ceases to be a matter of grace and becomes a binding public duty.

11. The fulfillment of fiscal and procedural requirements—specifically the filing and payment for *NOM #2* on January 31, 2025—constituted a condition precedent (the "**Condition Precedent**") for the Court's exercise of jurisdiction. Pursuant to the *Julius Syllogism*, the word "may" in the enabling statute is metamorphosed into an imperative "must." Any further delay constitutes a breach of the *Compulsory Mandate*, resulting in an interregnum (the "**Interregnum**") where the law exists but does not speak, placing the subject in a labyrinthine void (the "**Labyrinthine Void**"). In this void, rights are neither vindicated nor extinguished, but are simply extinguished through silence.

12. Recognition is afforded to the principle in *Trial Lawyers Association of British Columbia v British Columbia (Attorney General)*, 2014 SCC 59 (the "*TLABC 2014*"), which affirmed that the provincial power to amend procedural rules cannot effectively deny the right of subjects to have disputes resolved by a superior court. Judicial delay of this magnitude operates as an impenetrable barrier to

the *lex terrae*, effectuating a strategic erasure of the subject. This delay functions as a prohibited financial barrier, effectively barring the doors of the section 96 court through administrative inertia.

13. The nomenclature of the legislation itself provides a linguistic syllogism; it is designated the *Courts of Justice Act* (the "**CJA**"), an appellation that underscores the positive obligation to render justice, thereby eschewing the possibility of a "Courts of Non-Decision Act." Justice delayed is a functional abdication of the sovereign's promise, resulting in a total collapse of the adjudicative objective. The absence of a judicial utterance (the "**Judicial Utterance**") results in a total failure of the adjudicative act, leaving the subject in a state of legal non-existence.

VOLUME #2: NO REQUIREMENT TO OBEY ACTS OF A JUDGE WHO IS CORAM NON JUDICE

14. The legal framework requires that for the adjudicative manifestations (the "**Acta**") of a member of the judiciary to possess binding efficacy, such acts must emanate exclusively from the authorized office and pertain strictly to the prescribed duties associated therewith. The unauthorized assumption of power by Madam Justice Shore, in the absence of a formal designation as a Case Management Judge, constitutes a jurisdictional nullity (the "**Jurisdictional Nullity**"). The exercise of power without mandate (the "**Mandate**") is a nullity that cannot be cured by subsequent acquiescence.
15. The maxim *factum a judice, quod ad officium jure non pertinet, ratum non est* (the "**Factum a Judice**") dictates that such acts are of no force, as a judge without a commission is merely a legal stranger to the record. Any acts arising from such unauthorized intervention are void ab initio (the "**Void Ab Initio**") and do not invoke issue estoppel or *res judicata*. The preservation of curial integrity necessitates that the record be purged of any manifestations arising from an office that was never legally vested.
16. A definitive demarcation exists between the erroneous exercise of extant jurisdiction and the total usurpation of power. An act categorized as an inherent nullity (the "**Inherent Nullity**") arises when an unfulfilled condition precedent to the conferment of authority exists. The judicial officer, acting without a mandate, functions as a *coram non judice* (the "**Coram Non Judice**"), and any resulting orders are born dead. To hold otherwise would allow for a system of autocratic regression (the "**Autocratic Regression**") where the whim of the officer supplants the mandate of the law.
17. The transition of a judge from a neutral arbiter to an agent of executive transformation (the "**Executive Transformation**") triggers the evaporation of immunity, ensuring that power is not exercised in a constitutional vacuum. When a judge assumes a role not assigned by the Chief Justice, they effectuate a functional closure (the "**Functional Closure**") of the legitimate court, deploying an administrative shield (the "**Administrative Shield**") to obstruct merit-based scrutiny. This administrative capture effectuates a functional closure of the judicature, wherein the right to an impartial judiciary is encroached upon by ultra vires acts.
18. Administrative independence is a collective right of the court as an institution, as affirmed in *Reference re Remuneration of Judges of the Provincial Court of Prince Edward Island; Reference re Independence and Impartiality of Judges of the Provincial Court of Manitoba*, [1997] 3 S.C.R. 3 (the "*1997 Judicial Independence Reference*"), at paragraph 270. This unwritten constitutional principle (the "**Unwritten Constitutional Principle**") dictates that even a Chief Judge cannot waive administrative independence through acquiescence to executive demands. Any unilateral closure of a court by the executive branch or the withdrawal of support staff constitutes a prima facie violation of judicial independence.

VOLUME #2(A): THE ADMISSION OF NON-HEARING STATUS

19. On October 10, 2025, the evidentiary nexus substantiating the involvement of Shore J. as a non-hearing judge became apparent. The *SCJ Recording Management Office* advised that transcripts could not be produced because the attendances were merely "conferences," and not hearings. This status as a non-hearing judge is confirmed by her own admissions; by insisting upon a "case conference," she effectively buried her own jurisdictional standing.
20. By explicitly denying the release of transcripts on this basis, Shore J. admitted as a matter of fact and law that these were not hearings (the "**Hearings**"). This admission is fatal; if the attendances were not hearings, they could not have been the venue for any valid adjudicative act, confirming her role was that of an unauthorized Case Management Judge acting entirely outside the mandate. As established in *Duggan v. Durham Region Non-Profit Housing Corporation*, the inherent jurisdiction of the court

cannot be used to override specific rules; specifically, the requirements for assignment under *Rule 77* oust any claimed power to "manage" outside the standard framework.

VOLUME #2(B): REAFFIRMING PROCEDURAL INTEGRITY IN AN ERA OF BACKLOGS

21. The jurisdictional boundaries of *Rule 77* are not mere technicalities but the structural supports of a fair and predictable legal system. The pursuit of judicial economy cannot be achieved by a "shortcut" that bypasses the mandatory requirements of the *Rules*. An "Assignment for Case Management" order is the essential link between general authority and specialized powers; in its absence, a judge has no more authority to decide a case at a case conference than at a social gathering.
22. Procedural fairness requires that substantive rights be determined only on the basis of sworn evidence and in a forum where the rules of natural justice are strictly observed. Any deviation from the statutory roadmap (the "**Roadmap**") renders the proceeding a nullity. When a judge exceeds their jurisdiction, those aspects of the proceeding are a nullity, as substantive rights must not be bypassed through managerial interference.

VOLUME #3: THE STATUTORY SCHEME

23. The *Judicial Review Procedure Act* (the "**JRPA**") is naturally intended to ensure that proceedings are summary in nature, designed to provide a streamlined mechanism for the review of administrative action without the exhaustive procedures of a civil trial. The *JRPA* functions as a procedural scalpel to excise administrative error with velocity, maintaining the supervisory nature (the "**Supervisory Nature**") of the court and ensuring the accountability of the state.
24. Pursuant to *Rule 68.02*, *Rule 38* and *Rules 68.03* to *68.07* apply to applications for judicial review. Upon service of an unissued *JRPA* application, the tribunal is mandated to file the record of proceeding forthwith. This forthwith requirement (the "**Forthwith Requirement**") is a mandatory statutory directive that leaves no room for administrative discretion or dilatory conduct by the respondent tribunal. A tribunal that fails to file its record "forthwith" is effectively obstructing the course of justice and should be subject to immediate remedial intervention.

VOLUME #4: THE FACTS: A CHRONICLE OF PROCEDURAL STAGNATION

25. The *JRPA* application was issued on November 21, 2024. Notwithstanding the commencement of proceedings, no notice of appearance (the "**NOA**") was delivered by any of the Respondents. This total failure to engage signaled an early abandonment of any meritorious defense and invited a summary disposition. Despite perfection on December 13, 2024, the Registrar failed to issue a notice of listing for hearing (*Form 68B*).
26. This registry capture (the "**Registry Capture**") represents the functional mechanism through which the strategic erasure of rights is operationalized. The clerical arm of the state created an administrative barrier that has effectively hijacked the adjudicative objective. On January 30, 2025, *NOM #2* was filed and paid for, seeking a conversion of the motion into a motion for judgment (the "**Conversion Order**") on the basis that no responsive factums had been provided.
27. Notwithstanding absolute compliance with fiscal and procedural requirements, the system has remained unresponsive for over 380 days, representing a terminal failure of the primary track (the "**Primary Track**") of adjudication. In the spirit of urgency and assisting with respect to the immense delays, the Applicant has identified the issues for ease of reference with the supplementary documents that were e-filed and stamped.

VOLUME #5: DELINEATED ISSUES AND ANSWERS

28. **Issue #1: Fiscal Perfection.** Did the Applicant file and pay for *NOM #2* in accordance with *Reg 158/03*? **Answer:** Affirmative. The performance of this statutory duty on January 31, 2025, created a concomitant obligation on the part of the Court to provide a resolution. The payment transforms power into a public duty; the state, having accepted the consideration, is constitutionally precluded from withholding the adjudicative product. Any refusal is a functional fraud (the "**Functional Fraud**") upon the subject.
29. **Issue #2: Procedural Default.** Did the Respondents comply with *Rule 37.12.1(5)*? **Answer:** Negative. No responding record or factum was delivered within the prescribed ten-day interval. This procedural sloth constitutes a functional abandonment of the right to contest, rendering the motion unopposed *ipso facto* and leaving the Court with uncontradicted evidence (the "**Uncontradicted Evidence**"). Strategic silence must not be rewarded with administrative delay; to do so would incentivize procedural defiance.

30. **Issue #3: Commencement of the Adjudicative Clock.** When did the time for a decision commence? **Answer:** The temporal clock commenced upon the expiration of the responding period on February 14, 2025 (the "**Dies a Quo**"). The subsequent passage of one year represents a profound departure from the statutory scheme and the expectations of the *lex terrae*. The Court was seized of the matter the moment the time for filing responses expired, and it has remained silent in the face of a perfected record.
31. **Issue #4: Calculation of Intervals.** Does the delay exceed the statutory windows? **Answer:** Affirmative. For an interlocutory determination, the statutory window closed on April 15, 2025. For a final judgment, the interval expired on August 15, 2025. The current delay exceeds the benchmark of acceptability, transforming adjudicative delay into a structural barrier to justice. The "legal limbo" has ripened into a practical denial of justice.
32. **Issue #5: Definition of Hearing.** Is a written motion a hearing? **Answer:** Affirmative. A hearing (the "**Hearing**") includes proceedings determined without oral argument. The term must be interpreted purposively to include all adjudicative acts where rights are at stake. The exclusion of case conferences (the "**Case Conferences**") underscores that only final adjudicative acts are protected by temporal mandates, preserving the integrity of the process.
33. **Issue #6: Inherent Jurisdiction.** Does the Divisional Court possess inherent jurisdiction? **Answer:** Negative. The Divisional Court is a statutory tribunal and possesses no inherent jurisdiction (the "**Inherent Jurisdiction**"). Every act must find its root in a specific statutory grant, making any deviation a jurisdictional error (the "**Jurisdictional Error**"). It cannot rely on common law powers to excuse procedural lawlessness or justify the suspension of a proceeding.
34. **Issue #7: Rule 37.13(2)(a).** Does this rule function as a statutory surrogate for inherent jurisdiction? **Answer:** Affirmative. It constitutes a procedural companion (the "**Procedural Companion**") and the exclusive authority to forestall profligate delays where the terminal determination is self-evident. Reliance is placed upon *Stickel v. Unum Provident Corporation*, 2009 CanLII 31445 (ON SC) (the "*Stickel*"), which confirms this provision as the instrument through which the Court may resolve claims where no genuine issue exists.

VOLUME #6: JURISDICTIONAL NULLITIES AND THE DOCTRINE OF SEISIN

35. The unauthorized assumption of power is characterized as a strike against the heart of the Rule of Law. Reliance is placed upon *McLean v Bradley* (1878), 2 S.C.R. 535 (the "*Bradley*") (**BOA, Tab 310**). Power without commission is merely the expression of private will under the guise of public office, representing a fundamental deviation from the constitutional trust bestowed upon the bench.
36. At page 547 of the *Bradley*, invoking *Taylor v Clemson* (1844), 11 Cl & F 610 (the "*Taylor*"), it was observed that when the Court lacks jurisdiction, the whole proceeding is *coram non judice*. The actions of Madam Justice Shore are void ab initio due to a fundamental defect in jurisdictional competence. The maxim *Factum a judice, quod ad officium jure non pertinet, ratum non est* is dispositive. Any act of a judge which did not belong to their office is invalid.
37. The inquiry pertains to whether the absence of judicial seisin (the "**Seisin**") by Madam Justice Shore—attributable to the lack of an order for assignment—vitiates her authority. It is a fundamental tenet that a judge's authority is strictly circumscribed (the "**Circumscription**") by assignment orders. In the absence of a formal direction by the Chief Justice, no individual judge is seized of interlocutory steps. Madam Justice Shore was restricted solely to the hearing of the application itself; any attempt to expand this jurisdiction *sua sponte* is *ultra vires*.
38. *Rule 37.15* (the "**Rule 37.15**") dictates that a specific direction (the "**Direction**") must be issued to consolidate motions. No such Direction was promulgated. To assume a Direction exists is to invite bench hunting (the "**Bench Hunting**"). The doctrine of *Seisin* ensures that the "referee" of the procedural phase does not become the "umpire" of the final judgment, preserving judicial impartiality against the metamorphosis (the "**Metamorphosis**") of procedure.

VOLUME #7: THE 13 CHIEF JUSTICE DUTIES: THE LEADERSHIP SUITE

39. The Chief Justice serves as the moral barometer (the "**Moral Barometer**") and institutional reputation guardian. Articulated through the doctrine of *Primus Inter Pares*, his responsibilities include:
a. **Ultimate Jurisdiction:** Final authority over adjudicative and administrative functions, ensuring the judicial hierarchy remains intact;
b. **Constitutional Trust Stewardship:** Primary guardian of the trust bestowed by the sovereign upon the judicial branch;

c. **Master of the Roster:** Absolute authority over scheduling and distribution of resources to prevent arbitrary assumptions of jurisdiction;
d. **Self-Assignment Power:** Authority to take over matters of profound institutional significance where reputation is at risk;
e. **Efficiency Operation Duty:** Responsibility to ensure seamless operation and prevent administrative lacunae or stagnation of the list;
f. **Finality Guardian:** Duty to ensure the litigation reaches a final, issued, and entered determination without administrative capture.

40. Canadian jurisprudence utilizes the incapacity metric (the "**Incapacity Metric**") to determine whether conduct is so manifest and totally contrary to impartiality that public confidence is undermined. A failure in due execution (the "**Failure in Due Execution**") constitutes a manifest departure from the standards of office. The intervention occurring in the total absence of jurisdiction—*coram non judice*—represents such a departure.

VOLUME #7(A): THE MORAL IMPERATIVE OF JUDICIAL ACCOUNTABILITY

41. It is observed that within the reported reasons for decision promulgated by the Canadian Judicial Council (the "**CJC**"), a discernible metamorphosis has manifested among the federal judiciary toward the assumption of proactive accountability, characterized by formal acknowledgments and apologies tendered to litigants for inadvertent procedural errors. It is posited that the current exigency constitutes a quintessential instance wherein such accountability is necessitated, given the inordinate expenditure of resources and temporal delay occasioned by the unauthorized conduct of Madam Justice Shore and the *Office of the Registrar* as evidenced in the Compendium of February 14, 2025.
42. While the principle of judicial responsibility is well-established—as reflected in contemporaneous media reportage (the "**CBC Article**")—a fundamental distinction must be drawn between the general responsibility of a jurist for their conduct and the specific act of unauthorized intervention through self-assignment in the absence of an *Assignment for Case Management*. In light of the precedents established in *McIntosh v. Shore* (the "**McIntosh**") and the *Nash v. CAMI Divisional Court Proceeding* (the "**Nash Proceeding**"), a formal apology is anticipated from Madam Justice Shore to the Applicant and the Respondents to rectify the delay of justice and the atrophy of legal resources; the absence thereof would warrant an adverse presumption of institutional bad faith.

VOLUME #8: ORDERS SOUGHT

43. A fundamental jurisdictional distinction exists between a rehearing (the "**Rehearing**") as contemplated by *section 123* of the *CJA*, and a mere conference. The nomenclature of the *CJA* is deliberate; a "rehearing" implies the restoration of the *status quo ante* via a *de novo* consideration by a properly constituted panel or a single judge sitting in a judicial capacity. The legislative intent behind *section 123* is to restore order and provide necessary structure when the standard process fails to produce a result.
44. The following orders are sought to rectify the procedural irregularities:

a. An Order pursuant to *section 123(4)* of the *CJA* that *NOM #2* be reheard within five days, and by no later than February 28, 2026;
b. An Order that the President of the Divisional Court assume the role of the presiding judge (the "**Self-Assignment Order**");
c. An Order that the President of the Divisional Court issue a bottom-line ruling with reasons to follow;

d. An Order declaring that all purported directions rendered in the absence of a formal "Assignment Order" are nullities and void ab initio;

e. A Mandatory Order requiring the Registrar to forthwith issue *Case Center* invitations to ensure the integrity of the record;
f. Costs of the motion in favour of the Applicant on a substantial indemnity basis.

45. The intervention of the Chief Justice is required to truncate the labyrinthine issues present and ensure substantive justice is not sacrificed to technical failure. This approach is concomitant with the principles of access to justice and judicial independence. The Applicant trusts that the President of the Divisional Court will discharge his duties in accordance with the *lex terrae* and remains available for further inquiry.

5624

ALL OF WHICH IS RESPECTFULLY SUBMITTED for purposes of cover letter for Motion #6 with other attachments to follow in subsequent email this 23rd day of February, 2026.
Kevin Alexander McLean
Applicant, acting in person

Yours faithfully,

/KAM

Mr. Kevin A. McLean (BA, JD, CIM)

Sender's name: Mr. Kevin Alexander McLean (BA, JD, CIM)
Sender's address: 410-775 King Street West, Toronto, Ontario, M5V 2K3
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M

Mr. Kevin McLean <mcleansettlement@gmail.com> Feb 25, 2026, 2:30 PM

to SCJ-CSJ, roxanne.parris, Tashekah

CLASSIFICATION: PRIVATE AND CONFIDENTIAL
TIME SENSITIVITY: URGENT – TIME SENSITIVE

DATE: February 25, 2026

VIA ELECTRONIC MAIL TRANSMISSION

(Subsequent transmission: Facsimile, Courier, and Physical Delivery et al.)

TO:

The Divisional Court of Ontario

Osgoode Hall (Toronto)

130 Queen Street West, Room 174

Toronto, Ontario M5H 2N5

Attention: Ms. Roxanne Parris, Registrar of the Divisional Court

(In her capacity as the replacement registrar (the "**Replacement Registrar**"))
Email: Roxanne.parris@ontario.ca

AND TO (For purposes of Motion #6):

The President of the Divisional Court
5625
The Honourable Chief Justice Geoffrey B. Morawetz
Osgoode Hall, 130 Queen Street West

Toronto, Ontario M5H 2N5

Fax: 416.327.6011

MATTER DETAILS

Court File Number: DC-24-00000718-00JR

Short Style of Cause: McLean v. TD Home and Auto Insurance Company, et al.

Document Classification: Enclosure of Factum for Motion #6 pursuant to section 123 of the *CJA* with Draft ORDER (*Form 59A*) to follow
Sender: Mr. Kevin A. McLean, B.A., J.D., C.I.M

Sender Status: Moving Party (Motions #1 through #5) and Applicant (JRPA Application)

RE: Motion #6 – Requirements pursuant to section 123 of the *Courts of Justice Act* (*CJA*) regarding Notice of Motion #2 (the "**NOM #2**")
To the Attention of the Distinguished Addressees:

I. FORMAL TRANSMISSION OF ADJUDICATIVE INSTRUMENTS AND ADMINISTRATIVE CONTEXT

1. Transmission is hereby effectuated to the Replacement Registrar and the Honourable President of the Divisional Court of the within electronic correspondence, a manifestation which is necessitated by the deleterious and persistent adjudicative stagnation currently encumbering the progression of the subject proceeding. While the nash cami divisional court proceeding (the "**Nash CAMI Divisional Court Proceeding**") demonstrates differential treatment under an identical statutory and procedural framework within the same region and jurisdiction, it is observed that the intervention of Justice Shore in the McLean TDHA JRPA Proceeding was performed WITHOUT even the pretense of an Assignment ORDER. Notwithstanding previous submissions regarding the underlying motivations of such conduct, the paramount issue addressed herein remains the failure of a Motions Judge—as distinct from an unauthorized CMJ—to render an adjudicative determination within the prescribed three-to-six-month interval. Such stagnation is characterized by a failure of the internal machinery of the Court to provide a timely result, thereby threatening the functional integrity of the Rule of Law and necessitating remedial intervention.
2. In consideration of the temporal fact that a duration exceeding one year has transpired since the *NOM #2* (see: *Schedule B* to the Draft ORDER, document number #22) was duly perfected and served on January 31, 2025—originally returnable on February 14, 2026—a decision is nonetheless required by operation of statute to be delivered by a Motions Judge of competent jurisdiction, excluding the participation of Madam Justice Shore.
3. Submission is hereby rendered for the Court's immediate consideration of the following digital *acta*, which have been meticulously prepared to facilitate the exercise of supervisory stewardship over the *Ontario Superior Court of Justice*:
   a. A formal draft ORDER (the "**Draft ORDER**") in *Form 59A*, pertaining to the remedial relief sought under section 123 of the *Courts of Justice Act* (the "**CJA**"), which addresses the jurisdictional lacuna precipitated by the failure to render an adjudicative determination upon notice of motion number two (the "**NOM #2**") within the prescribed statutory intervals. This instrument is intended to remedy a functional dismissal of claims that has occurred without a hearing on the merits.
   b. The revised factum (the "**Revised Factum**"), which has been comprehensively augmented to incorporate a sophisticated exposition of the *sub judice* and *res sub judice* principles, thereby reinforcing the constitutional imperative of sequestering the judicial reserve from *ultra*

ires administrative or managerial interferences. The document further elucidates the distinction between adjudicative privilege and the qualified nature of administrative privilege.

c. A refined iteration of the record (the "**Technological Compliance**"), meticulously structured to facilitate the review of the voluminous evidentiary record and the comprehensive book of authorities (the "**BOA**"), providing the President with an organized means of evaluating the procedural history; it is observed, however, that as these documents are transmitted as standalone attachments, they are devoid of hyperlinking and bookmarking functionalities.

4. It is observed that the within motion is cognizable directly and exclusively by the President of the Divisional Court, as the "chief judge" within the meaning of section 123(1) of the *CJA*, to rectify administrative failures and judicial delays that have ripened into a palpable miscarriage of procedural justice.

II. JURISDICTIONAL NULLITY AND THE EXTRAPOLATION OF CONSTITUTIONAL PRINCIPLES

5. An articulation is provided within the *Revised Factum* of a robust legal syllogism, predicated upon the foundational jurisprudence of the *Supreme Court of Canada* in *McLean v. Bradley* (1878), 2 S.C.R. 535 (*BOA, Tab 310*) and *Pong v. Quong et al.*, [1927] S.C.R. 271 (*BOA, Tab 309*). These authorities establish a definitive and critical demarcation between an erroneous exercise of jurisdiction and a total usurpation of authority that has not legally vested, the latter rendering all subsequent *acta* a nullity, void *ab initio*.
6. It is posited that the unauthorized interventions of the purported case management judge (the "**CMJ**"), occurring in the absolute absence of a formal assignment for case management (the "**Assignment ORDER**") and prior to the filing of a first defence, constitute a jurisdictional nullity. Such acts, being *coram non judice*, represent a fundamental departure from the statutory roadmap and do not invoke issue estoppel or *res judicata*.
7. The *Revised Factum* providing a more detailed elaboration upon the unwritten constitutional principle (the "**Unwritten Constitutional Principle**") of judicial independence, as elucidated in *Reference re Remuneration of Judges of the Provincial Court of Prince Edward Island*, [1997] 3 S.C.R. 3 (*BOA, Tab 7*). It is posited that administrative independence is a collective right of the Court which cannot be waived through acquiescence to unauthorized managerial acts.
8. Furthermore, the delay encountered in the rendering of a decision for the *NOM #2* is characterized as a form of "procedural paralysis," an institutional bias favoring the defaulting respondents by allowing for the stagnation of litigation. Such paralysis must be broken by the direct exercise of the President's supervisory authority to honor the institutional commitment to providing a forum for the resolution of disputes.
9. Reliance is further placed upon the principle that the "social contract" (the "**Social Contract**") between the judiciary and the citizenry mandates the provision of timely adjudication in exchange for the public's submission to the Court's jurisdiction. A failure to provide such adjudication constitutes a breach of this implicit agreement, necessitating the assumption of plenary jurisdiction by the President to restore the functional integrity of the process.

III. TECHNOLOGICAL SPECIFICATIONS AND PROCEDURAL COMPLIANCE UNDER THE *LEX TERRAE*

10. To ensure the "just, most expeditious and least expensive determination" of this summary proceeding, the *Revised Factum* and the Draft ORDER have been prepared with rigorous attention to the citations within the *BOA* and the *Compendia* filed on February 11 and February 14, 2025. While such preparation ensures the accuracy of the record, it is observed that the within standalone versions do not encompass bookmarking or hyperlinking functionalities.
11. Reaffirmation is hereby provided that the *NOM #2* entered a state of *sub judice* on February 14, 2025, and the subsequent failure to issue a decision (the "**Decision**") within the statutory three-to-six-month window creates a mandatory obligation for a rehearing (the "**Rehearing**") under section 123(4) of the *CJA*. Once the statutory period for rendering judgment has commenced, it remains immune to interruption by unauthorized administrative events.
12. It is observed that the within Motion has been heard *ex parte* by reason of the respondents' contumacious failure to deliver a notice of appearance (the "**NOA**"). The legal consequence of such failure is the absolute and irrevocable waiver of their entitlement to notice of subsequent steps, thereby rendering the current application uncontested on the record.
13. The Applicant maintains that the newly proven facts of procedural default, drawn directly from the official record of the *Ontario Courts Public Portal*, are incontrovertible and non-justiciable. This proven,

absolute procedural failure strips the respondents of any legal basis to oppose the current motion or the underlying judicial review application.

14. Reiteration and reliance are hereby placed upon the totality of the legal arguments and statutory interpretations articulated within the Factum for Motion Number Six and the Draft ORDER for Motion Number Six; these instruments are appended herewith for the immediate attention of the Chief Justice of the *Superior Court of Justice* in his capacity as the President of the *Divisional Court*, as the within matter may only be heard and decided by him.
15. It is respectfully required that the Replacement Registrar facilitate the immediate delivery of these materials to the chambers of the Honourable Chief Justice Morawetz, in his capacity as the President of the Divisional Court, to ensure that the within administrative failures are addressed with the requisite urgency to forestall any further technical or substantive failure of the adjudicative objective. There can be no breach of "ORDERS" that were void *ab initio*, as they were nullities from the moment of their inception.
16. Acknowledgement is rendered to the administrative evolution represented by the ontario courts public portal (the "**OCPP**"); absent the transparency inherent in this digital register and the innovative Case View functionality—a transformative benefit for which gratitude is expressed to the pertinent administrators—the Applicant would have remained unaware of the systemic absence of a "Filed" First Defence, the non-existence of an ORDER for "Assignment For Case Management," and the total lack of any other ORDERS within the official record of proceeding.
17. It is now indisputable that Madam Justice Shore was Coram Non Judice and Factum A Judice, Quod Ad Officium Jure Non Pertinet, Ratum Non Est along with on her best day being an unauthorized CMJ but not a Motions Judge at all or for purposes of NOM #2 which was heard in writing, without oral argument, and without attendance of the public which is distinct from that of a case management conference [sic] as she would have it.

    Nonetheless, whomever the presiding Motions Judge for NOM #2 was is not my concern because the six month window has come and gone, and the giving of a decision in relation to the same requires the intervention of the Chief Justice of the SCJ.

ALL OF WHICH IS RESPECTFULLY SUBMITTED for the purposes of the formal cover letter for Motion #6, with the aforementioned attachments enclosed herewith this 25th day of February, 2026.

Respectfully Submitted,

Kevin Alexander McLean, B.A., J.D., C.I.M.

Applicant, Appearing in Propria Persona

Email: mcleansettlement@gmail.com

On Mon, Feb 23, 2026 at 1:07 PM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:
CLASSIFICATION: PRIVATE AND CONFIDENTIAL
TIME SENSITIVITY: URGENT – TIME SENSITIVE
DATE: February 23, 2026
...

[Message clipped] View entire message
5 Attachments • Scanned by Gmail

M

Mr. Kevin McLean <mcleansettlement@gmail.com> Feb 26, 2026, 11:46 AM

to SCJ-CSJ, roxanne.parris, Tashekah

CLASSIFICATION: PRIVATE AND CONFIDENTIAL
TIME SENSITIVITY: URGENT – STATUTORY IMPERATIVE
DATE: February 26, 2026
VIA ELECTRONIC MAIL TRANSMISSION
(Subsequent transmission: Facsimile, Courier, and Physical Delivery)
TO:
The Divisional Court of Ontario
Osgoode Hall (Toronto)
130 Queen Street West, Room 174
Toronto, Ontario M5H 2N5
Attention: Ms. Roxanne Parris, Registrar of the Divisional Court
(In her capacity as the replacement registrar (the "**Replacement Registrar**"))
Email: Roxanne.parris@ontario.ca
AND TO (For the purposes of Motion #6, section 123 of the *Courts of Justice Act*):
The President of the Divisional Court
The Honourable Chief Justice Geoffrey B. Morawetz
Osgoode Hall, 130 Queen Street West
Toronto, Ontario M5H 2N5
Fax: 416.327.6011
MATTER DETAILS
Court File Number: DC-24-00000718-00JR
Short Style of Cause: *McLean v. TD Home and Auto Insurance Company, et al.*
Document Classification: Enclosure of the Motion Record for Motion #6
Sender: Mr. Kevin A. McLean, B.A., J.D., C.I.M.
Sender Status: Moving Party (Motions #1 through #6) and Applicant (JRPA Application)
SUBJECT: Transmittal of the Motion Record for Motion #6 via Hyperlinked and Bookmarked Submission
Dear Mesdames and Sirs:

I. INTRODUCTION AND TRANSMITTAL OF ADJUDICATIVE MATERIALS

1. This correspondence is respectfully submitted as an exhaustive formal transmittal of the materials pertinent to the aforementioned proceeding, articulated within the framework of a highly specialized remedial application.
2. Enclosed herewith is the Motion Record for *Motion #6*, an instrument meticulously curated with multi-dimensional internal and external hyperlinks and comprehensive structural bookmarks. It is posited with considerable legal gravity that this Motion must be adjudicated exclusively by the Chief Justice of the *Superior Court of Justice* in his specialized capacity as the President of the Divisional Court, pursuant to the mandatory requirements of the *Courts of Justice Act*. This submission is provided as a professional courtesy to the President of the Divisional Court, particularly in light of his impending and distinguished retirement; heartfelt felicitations are extended in anticipation of the conclusion of his illustrative tenure, which has long served as a bastion of judicial excellence.
3. As will be noted, the Moving Party has provided extensive citations to the book of authorities (the "**BOA**"), which were duly dispatched via mail filing on the Friday immediately preceding this date; the President of the Divisional Court is respectfully invited to rely upon these materials through the physical binders provided in hard copy for optimal ease of reference, or alternatively, via the comprehensive electronic iteration so provided.
4. As shall be discerned upon a rigorous review, the Motion Record for *Motion #6* underscores the pivotal jurisdictional and procedural considerations articulated within the Factum and the Draft Order (the "**Motion #6 Materials**"). Should the Court require any refinements, stylistic adjustments, or supplementary clarifications, the Moving Party remains available to provide a revised iteration for the Honourable President's review and endorsement. It is noted with profound gravity that the previous intake court endorsement (the "**Intake Court Endorsement**") [sic] precipitated a catastrophic sequence of events characterized by unlawful detention and administrative overreach, an occurrence that has contaminated this *Judicial Review Procedure Act* proceeding (the "**JRPA Proceeding**") notwithstanding its illicit and unconstitutional nature. In light of the escalating urgency, the preservation of procedural integrity and the restoration of the rule of law remain at an absolute premium.

II. PROCEDURAL STATUS OF MOTION NUMBER TWO AND TEMPORAL PROPOSALS

5. The enclosed Motion Record encompasses the *Form 59A* in relation to the notice of motion number two (the "**NOM #2**"), which was duly perfected, verified, and filed on January 31, 2025. It is submitted that this Order remains ripe for approval, endorsement, issuance, and entry at the Court's earliest convenience to truncate the ongoing

administrative stasis. In consideration of the deleterious administrative delays heretofore encountered—which have effectively transitioned from mere clerical oversight into a substantive denial of justice—a proposed temporal framework has been articulated within the materials. Should a divergent chronology be preferred by the Court's administration, notification via electronic mail is respectfully requested within this communication thread to ensure the efficient orchestration of the upcoming adjudicative steps.

6. Consistent with the Moving Party's ongoing due diligence and the existential imperative of self-preservation, it is suggested that the granting of the relief sought in *NOM #2* would, *ipso facto*, obviate the necessity for much of the relief pursued in *Motion #3* and *Motions #4* through *#5*. Significant portions of those subsequent applications are either subsumed by the primary merits of the underlying application or possess a more generalized character extraneous to the core controversies of this *JRPA Proceeding*. By addressing *NOM #2* as a priority, the Court may achieve a more streamlined resolution, thereby conserving valuable judicial resources and mitigating the procedural labyrinth (the "**Procedural Labyrinth**") that has heretofore characterized these proceedings.

III. THE STATUTORY OBLIGATIONS AND LEADERSHIP SUITE OF THE CHIEF JUSTICE

7. Inasmuch as the requested relief falls within the exclusive and non-delegable purview of the Chief Justice, the Court is invited to advise whether the Honourable President requires the entirety of the underlying documentation—whether filed electronically or via physical mail transmittal—in a consolidated electronic format as a further courtesy. The Moving Party is prepared to facilitate a total digital repository to assist in the President's deliberation on these complex matters of institutional integrity.
8. The lex scripta mandates that the Chief Justice adjudicate this *Motion #6 forthwith*, specifically in response to the pervasive challenges, systemic controversies, and profound integrity concerns that have crystallized within the record. This Motion functions as a vital safety valve (the "**Safety Valve**") within the *Courts of Justice Act*, designed to rectify the functional paralysis of the adjudicative process when a presiding judge remains silent beyond the statutory intervals.
9. While the identification of further instances of fraud on the court (the "**Fraud**") remains a subject of ongoing research—including the identity of the previously undisclosed "Ex Parte In Camera Hearing" judge—the Moving Party wishes to avoid unnecessary professional embarrassment to the institution where such evidence might be deemed redundant or excessive. The mail filing of these documents effectively serves the interests of transparency in light of the public nature of the *Ontario Courts Public Portal* portal. Nevertheless, the Moving Party remains prepared to adduce further evidence of Fraud and administrative irregularities as they are uncovered, ensuring that the reputation of the Divisional Court remains unassailable in the face of such egregious overreach.

IV. JURISDICTIONAL NULLITIES AND THE DOCTRINE OF CORAM NON JUDICE

10. An entitlement is asserted to the rendition of a decision by a Motions Judge regarding *NOM #2*, whether through a formal rehearing or a reassignment to a jurist untainted by the appearance of a conflict of interest or a prior unauthorized assumption of jurisdiction. Notwithstanding this alternative, the Moving Party expresses a distinct preference for the self-assignment of this matter by the President of the Divisional Court to ensure the merits of the application are addressed in a formal hearing (the "**Hearing**") that respects the summary nature of judicial review.
11. The official record of proceeding (the "**Record of Proceeding**") serves as the immutable imprimatur of the Court's *acta*. It is established beyond a scintilla of doubt that no order for "Assignment For Case Management" (the "**Assignment Order**") was ever issued or entered into the official docket. Consequently, all purported judicial acts executed by Madam Justice Shore are characterized by the maxims *factum a judice, quod ad officium jure non pertinet, ratum non est* and *coram non judice* (see: *BOA*, Tabs 307 to 312, citing the *Pong v. Quong trilogy* and *McLean v. Bradley*). These acts, performed in the clear absence of a statutory roadmap (the "**Roadmap**"), possess no legal force and cannot be ratified by subsequent administrative acquiescence.
12. It is not the intention of the Moving Party to exhibit any lack of deference toward the judiciary; however, the unfortunate confluence of a "False Information Package" and undisclosed judicial warrants—coupled with admissions from counsel to the Associate Chief Justice and Chief Justice that no such filings occurred between August and October 2024—compels the conclusion that the interventions of Madam Justice Shore were *void ab initio*. No person, whether an agent of the state or a private actor, possesses the legal capacity to ratify or imbue validity into these unsanctioned acts. The motive or state of knowledge of the jurist is irrelevant; the absence of the *Assignment Order* is a jurisdictional defect that cannot be cured, representing an autocratic regression (the "**Autocratic Regression**") that deviates from the constitutional guarantees of the *Constitution Act, 1867*.

V. THE PRIMUS INTER PARES DOCTRINE AND CONCLUDING SUBMISSIONS

13. The Court's attention is directed to previous bottom-line rulings (the "**Bottom-Line Rulings**") rendered by Chief Justice Morawetz, such as the injunction pertaining to the *Ambassador Bridge*, which exemplify the judicial efficiency and moral authority required in the present instance. As the *primus inter pares* of the *Superior Court of*

Justice, the President possesses an inherent suite of responsibilities (the "**Chief Justice Duties**") to oversee the sittings and ensure the institutional synchronicity of the Court.

14. A cursory examination of the *Record of Proceeding* reaffirms that no first defence (the "**First Defence**") was ever filed by the Respondents. Furthermore, there was no assignment by direction (the "**Direction**") from the Chief Justice, the Associate Chief Justice, or the Lead Administrative Judge of the Divisional Court; ergo, Madam Justice Shore was never properly seized of the proceeding nor the attendant motions. To hold otherwise would be to permit a system of registry capture (the "**Registry Capture**") where the clerical arm of the state effectively hijacks the adjudicative objective.
15. Should any impediment exist preventing the President of the Divisional Court from acting upon this *CJA* section 123 motion, immediate notification is requested. In the absence of such notice, it shall be presumed that he is exercising the mandatory duties prescribed by statute to prevent the legal limbo (the "**Limbo**") from ripening into a practical denial of justice. Reference is further made to section 5 of the *Courts of Justice Act* regarding the capacities of the Chief Justice and the Associate Chief Justice. In the event they are unable to act, the intervention of a Judge of the *Court of Appeal for Ontario* shall be sought to perform the necessary statutory duties and restore the integrity of the bench.
16. All outstanding requisitions and demands remain extant; however, these are largely addressed within the comprehensive relief sought in *Motion #6*. Furthermore, should the relief in *Motion #6* and *NOM #2* be granted, the necessity for case conference transcripts and the digital recordings—for which payment was remitted but no product received—shall be rendered moot. The Moving Party considers these unresolved administrative failures as "water under the bridge," provided the core jurisdictional errors are rectified with the requisite celerity.
17. To the extent that the Moving Party is necessitated to persist in the manual transmittal of documentation via mail filing (the "**Mail Filing**"), he shall be compelled to seek a comprehensive award of costs and the exhaustive indemnification of his disbursements in the event of a reasonably non-expeditious granting of the remedial relief sought in *Motion #6* and, by necessary implication and express articulation, *NOM #2*. This cost assessment shall reflect the extraordinary burden placed upon the Applicant due to institutional inertia. It is trusted that such a contingency shall not materialize and that the Court shall act with the requisite celerity to ensure the finality of the *lis*.
18. Furthermore, the Moving Party explicitly and unequivocally reserves the right to rely on this correspondence, any mail filings of documents et al for any lawful purposes, whether within the immediate context of the current *JRPA Proceeding* or in any subsequent or collateral litigation.
19. The Moving Party awaits the Court's direction with the expectation of a just and expeditious resolution, emphasizing that the rule of law demands an adjudicative answer rather than an administrative deflection.

Respectfully submitted,

One attachment • Scanned by Gmail

M

Mr. Kevin McLean <mcleansettlement@gmail.com> Feb 26, 2026, 1:18 PM

to SCJ-CSJ, roxanne.parris, Tashekah

CLASSIFICATION: PRIVATE AND CONFIDENTIAL
TIME SENSITIVITY: URGENT – STATUTORY IMPERATIVE
DATE: February 26, 2026
VIA ELECTRONIC MAIL TRANSMISSION
(Subsequent transmission: Facsimile, Courier, and Physical Delivery)

TO:
The Divisional Court of Ontario

Osgoode Hall (Toronto)

130 Queen Street West, Room 174

Toronto, Ontario M5H 2N5

Attention: Ms. Roxanne Parris, Registrar of the Divisional Court
(in her capacity as the replacement registrar (the "**Replacement Registrar**"))
Email: Roxanne.parris@ontario.ca

AND TO (For the purposes of Motion #6, section 123 of the *Courts of Justice Act*):
The President of the Divisional Court

The Honourable Chief Justice Geoffrey B. Morawetz

Osgoode Hall, 130 Queen Street West

Toronto, Ontario M5H 2N5

Fax: 416.327.6011

MATTER DETAILS
Court File Number: DC-24-00000718-00JR
Short Style of Cause: *McLean v. TD Home and Auto Insurance Company, et al.*
Document Classification: Email
Sender: Mr. Kevin A. McLean, B.A., J.D., C.I.M.
Sender Status: Moving Party (Motions #1 through #6) and Applicant (JRPA Application)
SUBJECT: Confirmation of the mail filing of the Factum and Form 59A for Motion #6 pursuant to *section 123* of the *CJA*
Sirs, Mesdames, and Distinguished Personages:

I. CONFIRMATION OF POSTAL CONSIGNMENT AND DELIVERY

1. Formal notification is hereby provided to corroborate that the transmission of legal materials via Canada Post has been successfully effectuated. The veracity of this delivery is substantiated by the associated tracking documentation, which indicates that the parcel reached its destination at approximately 12:35 PM on the current date.
2. *Ipso facto*, Motion Record #6—comprising the requisite Factum and the draft order (the "**Draft Order**")—has been duly filed via mail with the Divisional Court. These materials have been directed to the exclusive attention of the Chief Justice of the Superior Court of Justice, acting in his official capacity as the President of the Divisional Court.
3. The delivery of these documents constitutes *prima facie* evidence of compliance with the procedural expectations regarding the submission of Motion Record #6 (the "**Motion Record**").

II. SUBMISSION OF THE DRAFT ORDER FOR MOTION #2

4. A discrete copy of the draft order form 59 (the "**Draft Order Form 59 for Motion #2**") has been enclosed as a separate and independent instrument, rather than as a mere subordinate schedule to the *Form 59A* for Motion #6. This structural separation is intended to facilitate the immediate granting of the relief sought therein.
5. It is observed that despite the egregious temporal delay in the adjudication of said motion, the substance of the *Form 59A* remains unaltered from the juncture at which the matter was initially considered. The motion was heard in writing, devoid of oral advocacy, and without the physical or virtual attendance of the Moving Party (the "**Moving Party**") or the responding parties (the "**Responding Parties**").

III. PROCEDURAL IRREGULARITIES AND JURISDICTIONAL DEFECTS

6. Emphasis is placed upon the fact that the delay in providing a determination was occasioned by an unauthorized case management judge lacking the requisite jurisdiction, rendered *coram non judice* in all material respects. The determination of the notice of motion (the "**Notice of Motion**") regarding Motion #2 ought properly to have been rendered by a duly assigned motions judge.
7. The aforementioned Motion #2 has been *sub judice* since precisely 5:01 PM on Friday, February 14, 2025. It is further noted that this motion remained unopposed, as none of the *Responding Parties* complied with the mandatory requirements of *Rule 37.12.1(5)*. No judicial order exists that would preclude the matter from being adjudicated in writing.

IV. STATUTORY IMPERATIVES AND JUDICIAL TENURE

8. The Moving Party directs the Court's attention to the provisions of the *Courts of Justice Act* concerning the temporal limitations imposed upon a member of the judiciary who is retiring, resigning, or being elevated to another post. Specifically, such individuals are required to deliver outstanding decisions within a prescribed period following their demission from office.
9. In light of the impending retirement of Chief Justice Morawetz on May 15, 2026, the Moving Party is proceeding with the utmost urgency and expedition. The *statutory imperative* for a timely resolution is heightened by these circumstances, necessitating a summary conclusion to these proceedings.

V. CLARIFICATION OF LEGAL CHARACTERIZATION

10. For the avoidance of doubt and to preclude any potential misapprehension, it is hereby confirmed that this proceeding constitutes exclusively an application under the *Judicial Review Procedure Act* (the "**JRPA Application**") and is not, under any circumstances, to be characterized as an "Appeal."

VI. CONCLUSION

11. The Moving Party trusts that the *Draft Order* for the rehearing of Motion #6 shall be granted *forthwith* and with the greatest possible celerity during the current week. Such an outcome will ensure that Motion #2 may be reheard upon the written motion record, consistent with the *status quo ante* and the absence of any valid opposition.

Respectfully submitted,

Mr. Kevin A. McLean (BA, JD, CIM) Moving Party and Applicant
Enclosure: February 14 2025 FORM 59A efiled (approved and confirmed by Former Registrar of the Divisional Court)

Yours faithfully,

/KAM

Mr. Kevin A. McLean (BA, JD, CIM)

Sender's name: Mr. Kevin Alexander McLean (BA, JD, CIM)
Sender's address: 410-775 King Street West, Toronto, Ontario, M5V 2K3
Sender's Telephone Number: (647) 370-9354
Sender's email address: mcleansettlement@gmail.com

One attachment • Scanned by Gmail

M

Mr. Kevin McLean <mcleansettlement@gmail.com> Mar 6, 2026, 5:25 PM

to SCJ-CSJ, roxanne.parris, Tashekah

CLASSIFICATION: PRIVATE AND CONFIDENTIAL
TIME SENSITIVITY: URGENT – STATUTORY IMPERATIVE

DATE: March 6, 2026

VIA ELECTRONIC MAIL TRANSMISSION (Subsequent transmission: Facsimile, Courier, and Physical Delivery)

TO: The Divisional Court of Ontario Osgoode Hall (Toronto) 130 Queen Street West, Room 174 Toronto, Ontario M5H 2N5 **Attention: Ms. Roxanne Parris, Registrar of the Divisional Court** (In her capacity as the replacement registrar (the "Replacement Registrar")) Email: Roxanne.parris@ontario.ca

5633

AND TO (For purposes of Motions #3 to #5 and Motion #6 and NOM #2 by reference): The President of the Divisional Court The Honourable Chief Justice Geoffrey B. Morawetz Osgoode Hall, 130 Queen Street West Toronto, Ontario M5H 2N5 **Fax: 416.327.6011**

MATTER DETAILS Court File Number: DC-24-00000718-00JR **Short Style of Cause:** McLean v. TD Home and Auto Insurance Company, et al. **Document Classification:** Email **Sender:** Mr. Kevin A. McLean, B.A., J.D., C.I.M. **Sender Status:** Moving Party (Motions #1 through #6) and Applicant (JRPA Application)

SUBJECT: 1ST AMENDED Written Outline in Executive Summary Format – Opening Statement – Summary of Issues and Brief Answers with the images of fraud, bribery and extortion by the Respondent Insurance Companies and agents of theirs

SUBJECT II: further demand for immediate compliance with the above – **Incorporation of Similar Fact Evidence (SFE) and Fresh Evidence**

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

Please find enclosed the **1st Amended Written Outline for the Compendium for Motions #3 to #5**, representing the finalized, formally executed, and signed iteration of the Applicant's primary statement of issues and legal positioning. This truncated executive written outline and the comprehensive 81-page instrument it introduces are provided not as a mere procedural formality, but as an indispensable, meticulously curated navigational apparatus for the Court. It serves as an instrument of utmost professional assistance and courtesy directed explicitly to the Chief Justice of the Superior Court of Justice (SCJ) in his highly specialized capacity as the President of the Divisional Court.

At this critical, historical juncture, the foundational institutional integrity of the Ontario judiciary is profoundly and publicly engaged. The Divisional Court, tasked statutorily and constitutionally with superintending lower administrative tribunals and maintaining the strict boundaries of administrative law, currently finds its own internal registry mechanisms compromised by extra-judicial interference. This unprecedented state of affairs necessitates an immediate, forceful "Primus Inter Pares" intervention to rectify a systemic cascade of administrative and adjudicative failures. These systemic blockades threaten the very architecture of the Rule of Law and the bedrock constitutional trust placed in this province's justice system by its citizenry. This document, therefore, serves as the definitive, unimpeachable historical record of the Applicant's exhaustive due diligence and the Respondents' calculated, strategic, bad-faith defaults.

I. CONFIRMATION OF RELIEF AND SYSTEMIC PROCEDURAL PARALYSIS

I seek to formally confirm that the relief codified herein directly addresses all of the outstanding issues. It is precisely engineered to definitively and comprehensively resolve the totality of procedural and substantive failures that have characterized, and severely prejudiced, this proceeding since its inception. These failures are not harmless administrative hiccups, nor are they the product of benign clerical oversight; they represent a fundamental, intolerable rupture in the social contract that exists between the citizen and the state's adjudicative apparatus. The proposed orders forcefully address a "Kafkaesque" administrative environment where the following undeniable realities have manifested:

1. **The Failure to Confirm Filings:** Despite exhaustive, continuous efforts, the meticulous submission of thousands of pages of perfected materials, and the prompt payment of all prescribed statutory fees, the registry has persistently and inexplicably failed to confirm filings regarding this JRPA Application. This intentional administrative paralysis creates an "algorithmic exclusion" from the public record. By burying properly submitted, perfected materials in a digital abyss, the registry grossly violates express representations on timing. Furthermore, it renders the Applicant's constitutional right to be heard a functional nullity, effectively weaponizing the court's own digital infrastructure to perform a "shadow-banning" of a lawful litigant.

2. **Failure to Issue Form 68B:** The issuance of Form 68B is a non-discretionary, purely ministerial duty that arises automatically and immediately following the perfection of a Judicial Review Procedure Act (JRPA) application. It is the absolute *sine qua non* of the appellate review process, functioning as the mechanism that legally compels the lower tribunal to transmit its record. By arbitrarily withholding this critical statutory gateway, the registry has effectively padlocked the entrance to the courtroom, creating an impenetrable administrative barrier between the Applicant and the seat of judgment. This deliberate obstruction entirely insulates the Respondents from necessary judicial scrutiny and functions as an unauthorized, extra-legal "administrative stay" of proceedings—a coercive power that rests exclusively within the inherent jurisdiction of a presiding judge, absolutely not with clerical staff acting as rogue gatekeepers.

3. **The Case Management Deception:** I was systematically and continuously misled regarding the procedural status of "case management" by registry staff. Specifically, the "Ibula Email" was weaponized to project a false, impenetrable facade of judicial authority at a time when absolutely no formal *Order* for an "Assignment For Case Management" existed on the curial record. This strategic reliance on "informal directions" over "formal, entered Orders" is a calculated maneuver designed to explicitly evade appellate review and create a "shadow docket," thereby shielding unauthorized, *ultra vires* judicial interventions from public, transparency, and appellate oversight.

4. **Dereliction of Ministerial Duties:** Both Former Registrar Gentles and current Registrar Parris have catastrophically failed to discharge their non-delegable, statutory obligations under the *Courts of Justice Act* to maintain an accurate, accessible, and neutral court record. Furthermore, I have been subjected to documented, aggressively misleading representations by court clerks Ms. Clegg and Ms. Lawrence—specifically the patently false, written assertion that "all matters are currently being case managed." This vicarious judicial deceit served solely to deny the Applicant a lawful, desperately needed hearing date while protecting a compromised, legally nonexistent adjudicative silo.

5. **Fresh Evidence and Similar Fact Evidence (SFE):** As conclusively established on page 81 of the amended outline, the Applicant now explicitly relies upon **Similar Fact Evidence** arising from the *Nash v. CAMI* record (25-872-JR). This critical fresh evidence establishes a chilling "modus operandi" of adjudicative silencing directed by the unauthorized judicial officer against disabled litigants. It proves, on a balance of probabilities, that the jurisdictional usurpation and silencing experienced herein is not an isolated, accidental anomaly, but part of a broader, systemic, and deeply prejudicial pattern of misconduct.

II. THE SOMATIC COST AND THE MARCH 10TH ULTIMATUM

It is now past three months since the time that there was a strict, legally required decision to be given in relation to Notice of Motion #3 (NOM #3). This pivotal motion was returnable on December 3, 2025, and was **entirely unopposed**. All Responding Parties were duly and properly served as per my Affidavit of Service on November 21, 2025. As such, the matter was heard notionally in writing. The total failure of the highly-resourced Respondents to file any responding materials constitutes a definitive, deemed admission of all the facts pleaded.

I confirm that the four orders for NOM #3 to NOM #5 (including the necessary costs therein) were mail filed all on January 16, 2026. As you are acutely aware, Rule 59.06(2)(a) of the *Rules of Civil Procedure* strictly requires me to bring my motions herein to correct and address these issues. Trust me, I would have vastly preferred to have brought a brand-new, plenary statement of claim, as it would have been substantially more lucrative in terms of general, aggravated, and punitive damages. However, that is not the required procedural mechanism, and I remain steadfastly bound to strictly follow the *Rules*, even when the registry does not.

This continued curial delay is physically, physiologically, and legally destructive. Justice delayed in this specific medical context is tantamount to state-sanctioned physical degradation. I am currently managed by high-level painkillers on a daily, continuous basis. I am forced to wear two distinct, heavy-duty back braces simultaneously with knee braces, utilizing specialized orthotics just to achieve basic mobility, and undergoing multiple, highly invasive levels of injections to manage chronic, rapidly degenerating pain. I have even had to rely on percussion instruments *et al.* for vibration-based physical therapy in the absence of funded care. I am now scheduled for further intensive MRIs with a focus shifting more ominously to the cervical area and escalating leg issues. My physical condition is objectively in a state of precipitous degeneration. Without the funds and legally mandated orders sought herein, these dedicated service providers cannot continue to provide me with the necessary treatment, life-altering services, and access to various medical goods. If this administrative blockade continues, the physiological damage crosses the threshold into the irremediable.

If the relief is not granted in full and/or in my favour by end of business day on Monday, March 10, 2026, I will bring an immediate, additional motion under Section 123 of the Courts of Justice Act to ensure that NOM #3 is forcefully reheard to follow with Motion #4 and Motion #5, deploying every conceivable statutory mechanism available to force lawful adjudication and halt this medical gaslighting.

III. ONTOLOGICAL DECONSTRUCTION AND THE JURISDICTIONAL VOID

The 1st Amended Outline provides a rigorous, historically grounded **Ontological Deconstruction** of the cause. Any lawyer who possesses even a rudimentary understanding of litigation and basic jurisdictional principles guarantees that

Madam Justice Shore's acts were *Factum A Judice, Quod Ad Officium Jure Non Pertinet, Ratum Non Est* (an act by a judge which does not pertain to her office is utterly void and not valid). Consequently, any and all appearances before her were explicitly *Coram Non Judice* (not before a judge). The jurisprudential distinction is critical: while the Divisional Court itself may possess the requisite subject-matter jurisdiction, the specific judicial officer completely lacked the necessary roster assignment, and thus the legal authority, to wield it.

Crucially, she admitted to this exact same jurisdictional necessity in the *Nash v. CAMI et al.* JRPA Divisional Court Proceeding, where she properly and lawfully awaited an assignment order before acting. Based on my comprehensive review of the "Record of Proceeding" therein, Madam Justice Shore has been officially reported to the Canadian Judicial Council (CJC) for arguably more egregious, shocking misconduct against a disabled individual, specifically demanding that he was silenced and stripped of his voice. I will have that "Record of Proceeding" checked with further, granular particularity, but there is an obvious, undeniable pattern with Madam Justice Shore and her absolute need to be removed from any further duties by the Chief Justice of the SCJ to preserve whatever remains of the appearance of judicial impartiality.

Nonetheless, that is posited for now; she simply cannot be involved, in any capacity whatsoever, in the relief sought in NOM #3 due to this unresolvable, fatal taint. To the extent she engaged in similar defamation like she did with Mr. Adan McIntosh, then perhaps it requires a completely different judicial region to decide the same to ensure absolute neutrality. Furthermore, I formally require the name of any individual within IT or registry leadership to address the ability to access the OCCP forthwith, and if you fail to provide this by Monday, I will draw that digital lockout up the chain as an intentional obstruction of justice.

IV. FRAUD, BRIBERY, AND THE SYSTEMIC INFRASTRUCTURE OF MALICE

The underlying "FBE" (Fraud, Bribery, and Extortion) executed by the Respondent Insurance Companies is no longer a mere allegation or a theory; the fraud has been objectively confirmed, thoroughly documented, and proven via a dense mosaic of undeniable documentary evidence. To directly assist the Chief Justice of the SCJ with understanding the broad and deep frauds orchestrated against me, I have included the explicit pictures, surveillance, and forensic accounting of the various frauds committed upon me. This visual compendium will assist the Chief Justice during his last 70 or so days in office to immediately grasp the gravity and scale of the malfeasance. Off the top, it is abundantly clear that the "False Information Package" is even more false than I initially thought it was—it was a weaponized dossier of fabricated intelligence, designed with malice aforethought to secure an unrecorded warrant and execute a devastating residential lockout.

In light of the TPS and Peel Region (Brampton) police misconduct, I am pleased to have been fully and entirely vindicated, but the severe psychological and material damage was done, and they failed to respond to NOM #3 for obvious reasons—to respond would be to categorically admit liability for their complicity in the fraud. I confirm that all mail filings have been effectuated and you will see the detailed, extensively briefed sections on **Equitable Tolling**. This vital legal doctrine legally ensures that my limitation periods are entirely paused (*lex non cogit ad impossibilia*) due to the state-imposed digital blockades and 403 Forbidden errors that prevented timely digital access. To the extent that compliance is not immediately affected, I will ensure that costs are sought against the relevant persons and branches of government on a strict, full-indemnity scale.

V. THE SOLEMN UNDERTAKING AND SUCCESSOR LIABILITY

While I would have immensely relished, contingent upon the relief being granted herein, bringing a massive, unprecedented suit in civil conspiracy against the Epstein Cole LLP Client, Mr. Karat, TDI, and Justice Shore—because we now know what she did was intentionally and maliciously non-compliant with the law as there absolutely had to be an ORDER for "Assignment For Case Management" prior to assuming carriage—I have chosen this alternative, higher route. I appreciate that she has a family and that we all make mistakes, even jurists. While I firmly believe she remains to have a profound moral and legal duty to formally correct the same, pursuing her personal ruin is not relevant per se to my immediate, life-sustaining priority: ensuring my specialized service providers receive the funds they are lawfully entitled to so that I may survive.

Therefore, I have included a formally executed, **Comprehensive Undertaking** to the Divisional Court. As noted, the undertaking is conditional, and since Madam Justice Shore's acts were *Factum A Judice* and *Coram Non Judice*, her cloak of judicial immunity is fundamentally and permanently extinguished. I am more than legally entitled to file a statement of claim (Action) against her in her personal, individual capacity for the torts of misfeasance in public office

additional infliction of mental suffering. However, by granting the relief herein, I have undertaken not to do so. While the undertaking was and is unnecessary under a strict interpretation of the law, I felt it was the honourable thing to do to respect court resources, clear the air, and remove the paralyzing specter of collateral litigation from the minds of the bench. Should a different, more specific form of undertaking to the Divisional Court be required to satisfy institutional anxieties, I am completely in your hands. Suffice it to say, there are very few litigants who would demonstrate this level of maturity, restraint, and whatnot in the face of such relentless, bad-faith institutional obstruction.

This covenant will give all involved some necessary clarity in light of the absolute absence of judicial immunity for Madam Justice Shore and the critical fact that she is not a servant or employee of government. The previous, outdated thinking that the State could somehow be liable for a Judge's conduct where no judicial immunity existed is no longer the case under modern statutory frameworks (see: Federal and Provincial *Crown Liability and Proceedings Act (CLPA)*). It is digitally signed with cryptographic certainty, and I will also send a hand ink-signed copy via secure transit for strict record-keeping purposes for the next Chief Justice so they are intimately aware of the same. I kindly remind the Court of recent jurisprudence like *Dugre* and the formalized ability to file a complaint with the CJC and the new model that will ensure strict compliance and even extract a formal apology. Moreover, this entire debacle would be a matter of massive successor liability involving the next Chief Justice of the SCJ, so it is institutionally vital that it is contained and resolved now. Should the Chief Justice or ACJ be conflicted, I understand the established, mandatory procedure is to have the next most senior judge of the Toronto Region after the RSJ seize the matter immediately.

VI. FINAL DIRECTIVES, PRIVACY EXHAUSTION, AND RESERVATIONS

I reserve the absolute right to amend any part of this written outline for current facts, shifting circumstances, and further evidence as it becomes known to me in real-time. **I will continue to exhaust any and all routes of privacy and request of information, personal information, Personal Health Information (PHI) and confidential information, and I explicitly reserve the right to bring this to the attention of the Court in the Proceeding herein. For absolute confirmation purposes, we are referring strictly to a judicial review under the JRPA in case that was not clear to some.** This proceeding constitutes a direct, administrative law challenge to state action, not a standard, private plenary litigation to be bogged down in endless discovery. The other vital reason for ensuring that this was emailed and faxed at first instance is to ensure that my comprehensive undertaking is on file in perpetuity, surviving any convenient future registry "errors" or "lost files."

As you can also plainly see, I have maintained my utmost composure and strictly limited my filings to the proceeding herein without expanding maliciously or frivolously, but this comprehensive record will absolutely need to be on file with the future Chief Justice. I do not intend anything in this correspondence to be threatening or demanding per se, but I require—and the law demands—strict, unyielding compliance with the *Rules of Civil Procedure*, the *Courts of Justice Act*, and the *Judicial Review Procedure Act*. I will continue to vigorously assert my legal and lawful rights as I am entitled herein and elsewhere.

Nonetheless, if Motion #6 is granted and NOM #2 is then subsequently granted, then much of the relief in NOM #3 is not relevant per se, but this advanced procedural strategy gives me two distinct "cracks at it" which are entirely independent of each other. And to the extent that after absolutely everything is exhausted that I need to bring this to the Supreme Court of Canada (SCC), then that is exactly where it needs to go per se, but we must exhaust the statutory remedies herein first and we must have formal, written reasons for decision in each of the motions by a Presiding Motions Judge to satisfy the strictest appellate prerequisites.

Should any clarity, further documentation, or procedural clarification be required by the Divisional Court President in his unique capacity as Primus Inter Pares, kindly advise forthwith. Otherwise, I will comfortably presume that it is not required or needed and that the record is complete.

Kindly revert back by no later than Monday. I will continue to rigorously prepare, submit and mail filed and meticulously count my disbursements accordingly and potentially pursue all associated costs.

Respectfully,

Mr. Kevin A. McLean, B.A., J.D., C.I.M. *Moving Party and Applicant (In Propria Persona)*

RECAPITULATION OF THE 13 CHIEF JUSTICE DUTIES (*RUFFO V. CONSEIL DE LA MAGISTRATURE*)

Since the seminal, paradigm-shifting adjudication in *Ruffo v. Conseil de la magistrature*, [1995] 4 SCR 267, the doctrine of Primus Inter Pares (the "Primus Inter Pares"), where such Latin phrase was forcefully mentioned for the first time in relation to modern judges, has crystallized into a deeply substantive, operational designation. A Chief Justice, and by direct structural and constitutional extension, the President of the Divisional Court, possesses an inherent, non-delegable suite of responsibilities—the 13 chief justice duties (the "13 Chief Justice Duties")—specifically comprising:

a. **(a) Ultimate Jurisdiction:** The definitive and final authority over all adjudicative and administrative functions. This duty empowers the Chief Justice to step in and seize control of a file when jurisdictional vacuums, such as the one created by the registry's refusal to issue Form 68B, threaten to completely paralyze the court's ability to function. b. **(b) Constitutional Trust Stewards:** The non-delegable, sacred responsibility as the primary guardian of the constitutional trust and the Rule of Law. When registry staff or unauthorized jurists attempt to create a "shadow docket," the Chief Justice must act as the ultimate steward to ensure public access and constitutional fairness are immediately restored. c. **(c) Imperviously Influenced Mandate:** The absolute requirement to remain completely impervious to external pressures, internal court politics, or systemic inertia. This requires the Chief Justice to objectively view the misconduct of fellow jurists—such as Madam Justice Shore's *ultra vires* actions—without institutional bias or the desire to protect colleagues from lawful accountability. d. **(d) Master of the Roster:** The absolute, unassailable authority over the scheduling and distribution of judicial resources. This principle fundamentally precludes rogue, self-assignments by unassigned judges, rendering any action taken by an unassigned judge—as occurred in this proceeding—a direct usurpation of the Chief Justice's core power. e. **(e) Self-Assignment Power:** The inherent authority to self-assign matters of profound institutional significance. In the face of a 403 Forbidden digital lockout, registry dereliction, and unauthorized case management, the Chief Justice has the explicit power to pull this file to his own desk to rapidly cure the procedural chaos. f. **(f) Administrative Steward:** The duty to rigorously oversee clerical and registry functions pursuant to section 76 of the *Courts of Justice Act*, RSO 1990, c C.43. This prevents clerks from acting as jurisdictional gatekeepers and mandates that the Chief Justice correct the behavior of Registrars Parris and Gentles who have failed to confirm filings. g. **(g) Institutional Reputation Guardian:** The strict obligation to protect the standing of the Court in the public eye from allegations of bias, corruption, or dysfunction. The FBE (Fraud, Bribery, Extortion) allegations detailed herein, paired with the registry's obstruction, represent a severe threat to the court's reputation that must be quelled by decisive leadership. h. **(h) Efficiency Operation Duty:** The responsibility to ensure the seamless, timely operation of all Court functions. This duty is specifically engaged when medical emergencies are present; the three-month delay on an unopposed motion that funds life-sustaining medical equipment is a direct violation of this operational mandate. i. **(i) Ethical Compliance Guarantee:** The role as final internal arbiter of professional conduct within the tribunal. The Chief Justice must ensure strict adherence to the *Rules of Civil Procedure* by all staff and jurists, stepping in when clerks issue misleading emails regarding non-existent case management orders. j. **(j) Complaint Laying Power:** The intrinsic, affirmative authority to initiate formal complaints to the Canadian Judicial Council (CJC) when judicial officers act *ultra vires*. If an officer repeatedly acts *Coram Non Judice*, as seen in both this file and *Nash v. CAMI*, the Chief Justice has the power to formally escalate the matter. k. **(k) Puisne Judge Removal Power:** The administrative authority to dynamically reassign or completely sideline colleagues during ethical inquiries or jurisdictional disputes, ensuring that tainted jurists are removed from proceedings where their impartiality or jurisdiction is fatally compromised. l. **(l) Moral Barometer:** The role as the ethical and integrity barometer for the entire institution. The Chief Justice sets the tone; tolerating the "algorithmic exclusion" of a disabled litigant sets a barometer of institutional apathy that must be immediately reversed. m. **(m) Moral Authority:** The sweeping power to impose judicial will upon other puisne judges through binding ethical directives and administrative mandates, guaranteeing that the Rule of Law supersedes individual judicial caprice or registry incompetence.

DATED at Toronto, Ontario, this 6TH day of March, THE YEAR OF 2026.

Kevin A. McLean (BA, JD, CIM)

(Applicant and Moving Party *in propria persona*)

Enclosure: A formally executed, digitally signed, and cryptographically verifiable copy of the aforementioned 1st Amended Written Outline. This transmitted record is expressly inclusive of the Comprehensive and Perpetual Undertaking to the Ontario Superior Court of Justice (Divisional Court). Please be advised that this solemn covenant is inextricably contingent upon the strict fulfillment of the conditions precedent explicitly referenced therein—specifically, that the relief formally sought in the within proceeding is granted in full by a lawfully assigned Judge of the Divisional Court operating strictly within their statutory and jurisdictional mandate. This enclosed instrument is provided to ensure absolute non-repudiation, offering the Court a permanent, binding covenant that definitively extinguishes any

jurisdictional apprehension of collateral liability against the unauthorized judicial officer, provided the Rule of Law is promptly and faithfully restored. Furthermore, the enclosure includes references to the 312-tab Book of Authorities (BOA), and the multi tabbed Compendium for Motion #3 to #5 (noting the time in which NOM #3 was paid for therein and Requisition #11 confirming the OCCP Case View as of December 1, 2025) serving as the exhaustive compendium of binding jurisprudence to prevent any further jurisdictional vacuums.

Yours faithfully,

/KAM

Mr. Kevin A. McLean (BA, JD, CIM)

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[Message clipped] View entire message

One attachment • Scanned by Gmail

M

Mr. Kevin McLean <mcleansettlement@gmail.com> Mar 30, 2026, 3:18 PM

to roxanne.parris, Tashekah, SCJ-CSJ

DATE: MARCH 30, 2026
CLASSIFICATION: PRIVATE AND CONFIDENTIAL

TIME SENSITIVITY: URGENT – STATUTORY IMPERATIVE

VIA MAIL FILING AT FIRST INSTANCE

TO:

For purposes of Motion #7 in relation to NOM #3

The President of the Divisional Court

The Honourable Chief Justice Mr. Geoffrey B. Morawetz (the “Divisional Court President”)

Osgoode Hall, 130 Queen Street West

Toronto, Ontario M5H 2N5

Fax: 416.327.6011

AND TO: (FOR COURTESY AND SERVICE PURPOSES WHERE APPLICABLE)

The Divisional Court of Ontario

Osgoode Hall

130 Queen Street West, Room 174

Toronto, Ontario M5H 2N5

Attention: Ms. Roxanne Parris, Registrar of the Divisional Court

(In her capacity as the replacement registrar (the “Replacement Registrar” or “Current Registrar”))

Email: Roxanne.parris@ontario.ca

PARTICULARS AND SPECIFIC DETAILS OF THE MATTER:

Court File Number: DC-24-00000718-00JR

Short Style of Cause: McLean v. TD Home and Auto Insurance Company, et al.

Document Classification: Draft Order for Motion #7

Sender: Mr. Kevin A. McLean, B.A., J.D., C.I.M.

Sender Status: Moving Party (Motions #1 through #7) and Applicant (JRPA Application)

SUBJECT: Submitting of Draft Order Form 59B for Motion 7 (without a notice of motion) and pursuant to Section 123 of the Courts of Justice Act

Dear Chief Justice Morawetz and Madam Registrar,

Please find enclosed, for the exclusive attention of the Chief Justice of the Superior Court of Justice in his capacity as the Divisional Court President, a copy of the Draft Order in Form 59B for Motion #7, which relates to Notice of Motion (NOM) #3. This submission is entirely distinct from Motion #6, which relates exclusively to NOM #2.

The submission of this Draft Order in Form 59B, without the necessity of a fresh notice of motion, is the proper and legally necessitated procedural vehicle given the current posture of functional silence from the bench. It is absolutely imperative that the administrative processing, tracking, and judicial consideration of these distinct motions remain strictly compartmentalized. Any conflation of NOM #2 and NOM #3 by the registry or the judiciary will only serve to further entangle the procedural record, invite reversible error, and exacerbate the already extraordinary delays characterizing this proceeding.

I. Extraordinary Delay and Strict Compliance with Section 123 of the Courts of Justice Act

A. The Statutory and Constitutional Imperative

It has now been more than three months since NOM #3 was heard in writing and properly submitted for determination. This delay is not merely an administrative inconvenience; it represents a fundamental, systemic breakdown in the statutory machinery of the court. It strikes at the very heart of the social contract between the judiciary and the public it serves. Ironically, on the exact same date that this motion was submitted for a determination, Former Registrar Gentles was relieved of her duties.

It must be stated unequivocally that internal administrative upheaval, chronic staffing shortages, and the transition of executive duties to Current Registrar Parris do not, under any interpretation of the law, act as an abeyance or tolling of Section 123 of the Courts of Justice Act (CJA). The statutory obligations owed by the Court to the litigants who appear before it are immune to the internal staffing fluctuations of the registry. The Court, as an institution, bears the absolute burden of ensuring that its administrative transitions do not prejudice the substantive or procedural rights of the public. Section 123 was enacted by the legislature precisely to serve as an accountability mechanism against indefinite judicial reservation, ensuring that the wheels of justice do not grind to a halt behind closed chambers doors.

B. Severe Prejudice and the Administration of Justice

As it stands, there are two distinct, fully briefed, and duly paid-for motions that urgently require the Divisional Court President to intervene and issue orders. While I offer my sincere congratulations to the Chief Justice on his impending retirement and his long, dedicated tenure of service to the administration of justice, he is nonetheless strictly and statutorily bound by Section 123 of the CJA to ensure decisions are issued prior to the expiration of his mandate. The powers vested in the Chief Justice are not merely titular; they encompass a strict duty to superintend the timely delivery of justice.

I appreciate the holidays taken by the judiciary and court staff in December 2025 and early January 2026. I also recognize that the specific language utilized under Section 123(2) of the CJA employs the permissive "may" regarding decisions rendered post-retirement. However, the delays herein are extraordinary and verge on a constructive denial of natural justice. The prejudice compounded by this delay is palpable and severe. It results in exponentially escalating legal disbursements, the indefinite freezing of substantive rights, the paralysis of the underlying JRPA application, and a chilling effect on the Applicant's ability to seek timely appellate or supervisory relief.

I respectfully, yet firmly, require strict compliance with the CJA. As I have noted in previous correspondence, while the Act does not guarantee me a specific, favorable substantive result on the merits of my motions, it absolutely guarantees that a decision—good, bad, or indifferent—will be rendered in a timely manner. The foundational legal principle that "justice delayed is justice denied" is explicitly codified within these statutory timelines. The present three-month judicial silence is fundamentally incompatible with the efficient administration of justice, erodes the rule of law, and undermines public confidence in the judicial process as a reliable forum for dispute resolution.

II. Relevant Jurisprudence on Judicial Delay and Institutional Accountability

The following analysis tracks the timelines associated with judicial "inability" or "failure to decide" under Section 123 of the CJA. It focuses closely on the critical duration between the initial judicial failure and the eventual administrative intervention required by the Office of the Chief Justice to cure the defect. This jurisprudence establishes an unambiguous mandate for your immediate intervention:

- **R. v. Swaine, 2025 ONCA 614:** This highly complex appellate decision involved the Executive Legal Officer (ELO) and assertions of judicial immunity regarding internal court communications following a trial judge's repeated, unexplained failure to provide reasons. The case underscores the delicate and often fraught balance between adjudicative privilege (the "veil of judicial deliberation") and the right of a litigant to transparency when the judicial apparatus breaks down. The ONCA noted that a pattern of reasons not being ready on multiple occasions is, "on its face, unusual." The two-to-three-month intervention timeline in *Swaine* highlights that unchecked judicial silence inevitably forces administrative escalation. It demonstrates that when a judge becomes functionally incapable of discharging their duty—whether due to health, workload, or otherwise—the Chief Justice's office must step in to prevent the administration of justice from falling into disrepute.
- **Salah v. Timothy's Coffee:** In this instance, once the Chief Justice verified the original judge's functional unavailability following a year of judicial silence, a successor was appointed to mitigate further severe commercial prejudice to the franchisee. The Chief Justice has a proactive duty to monitor the bench. Notably, there has been well over a year of silence involving my NOM #2 (which was duly paid for, filed, and served in late January 2025). This degree of silence is not merely a scheduling oversight; it represents a systemic procedural failure and a total abandonment of the docket. If a year of silence in *Salah* triggered the appointment of a successor to prevent a business from failing, the parallel timeline in this matter demands identical, immediate rectification to cure the defect and advance the proceeding before irreversible prejudice crystallizes.
- **K.M. v. Marson, 2018 ONSC 3493:** This case critically addressed the improper use of Section 123(5) by a judge who was not the Chief Justice, the Associate Chief Justice, or the Regional Senior Judge. The *puisne* judge attempted to unilaterally grant extensions for the delivery of reasons. Applying the doctrine of *expressio unius est exclusio alterius*, this serves as a stark reminder that the statutory mechanics governing delay and extensions of time must be wielded *only* by those explicitly granted the statutory authority to do so. *Ad hoc* procedural deviations by individual judges acting outside their statutory purview are ultra vires and invalid. It reaffirms that the authority to manage profound judicial

delay rests exclusively with the Chief Justice and cannot be usurped by the presiding judge attempting to cover their own delays.

- **Patra Ironworks:** In stark contrast to the languishing timeline in the present proceedings, the Chief Justice in *Patra* evaluated the record and intervened within a mere 30 days of delay, determining whether an existing endorsement precluded a rehearing. This demonstrates that rapid institutional correction is both highly possible and statutorily expected when the circumstances warrant it. The 90-day benchmark is a ceiling, not a floor, and proactive, rapid intervention is the hallmark of effective, modern judicial administration.

III. Conduct, Overreach, and Jurisdiction of Madam Justice Shore

A. Void Orders and the Doctrine of Coram Non Judice

I urgently require a motions judge to hear NOM #2 and NOM #3 to eradicate the procedural stains left on the official record by Madam Justice Shore. I respectfully and firmly submit that her acts commencing January 8, 2025, and any appearances before her, were *Coram Non Judice* and *Factum A Judice, Quod Ad Officium Jure Non Pertinet, Ratum Non Est*.

The legal implication of *Coram Non Judice* (before a judge not competent to have jurisdiction) is absolute and uncompromising. When a judge acts outside the boundaries of their prescribed jurisdiction, they are not acting as a court of law; they are acting as a private citizen donning a robe. Consequently, any order, endorsement, or directive made without jurisdiction is *void ab initio*—a legal nullity from its very inception. It has no force, it commands no obedience, it is immune to the doctrine of collateral attack, and it cannot bind the parties or subsequent courts. It must be formally excised from the record to prevent future jurisdictional contamination and to restore the integrity of the docket.

I have, as confirmed and deemed by operation of law, formally filed my Form 1 and Form 5 of the Criminal Proceeding Rules with the SCJ 361 University Avenue Courthouse on March 16 and 18, 2026. These filings involve the specific, targeted relief sought regarding Madam Justice Shore and her undisclosed, highly prejudicial involvement in the irregular, family-style INTAKE COURT ENDORSEMENT (SEPT 23, 2024).

It appears Madam Justice Shore fundamentally failed to turn her mind to the undeniable reality of metadata and digital footprints in the modern systems governing arrest warrants and electronic court records (such as CaseLines or Justice Services Online). Hexadecimal dumps, system audit logs, IP tracking, and embedded document metadata do not lie. They are not subject to human misrecollection, spin, or convenient memory lapses; they provide an objective, infallible, and auditable chronological record of exactly who accessed, altered, drafted, or authorized a document. The metadata explicitly ties her to proceedings from which she should have been wholly recused, creating an undeniable reasonable apprehension of bias, if not actual bias.

B. Documented Pattern of Jurisdictional Overreach

I respectfully challenge Madam Justice Shore to unequivocally and on the public record disavow any prior judicial involvement with myself prior to the commencement of this specific JRPA Proceeding. If I do not hear a formal, written denial by Wednesday, I will presume as a matter of indisputable fact that she was involved, and I will forcefully rely on the adverse inference doctrine in all subsequent appellate and supervisory proceedings.

While I commend her past *pro bono* work, particularly her efforts on behalf of vulnerable women and *Agunot* seeking religious divorces, her unapologetic and legally untethered conduct in this specific matter is not an isolated anomaly. Rather, it forms part of a deeply concerning, heavily documented pattern of jurisdictional overreach and the misapplication of statutory authority observed in previous matters. A judge cannot be permitted to act as a maverick, dispensing individualized notions of justice that float free from the anchor of the Rules.

Most notably, in *DiPoce*, she demonstrated a profound inability to reconcile specific Family Law Rules regarding contempt, reading a broad grant of authority into rules that required strict, narrow statutory interpretation. This drew direct and public contradiction from her peers on the bench, including her former law partner, Madam Justice Kraft, highlighting a fundamental schism in her understanding of her own "home" rules. This troubling trajectory continued in *McIntosh*, wherein she proceeded without sound jurisdictional footing against a vulnerable, self-represented litigant.

Furthermore, her conduct in *Nash v. CAMI*—where she was ultimately removed as the Case Management Judge—demonstrates an alarming, repeated misunderstanding of jurisdictional boundaries outside of (and occasionally within) her home arena of family law. It appears she operates under the mistaken belief that a Superior Court Judge possesses unfettered inherent jurisdiction to control process however they see fit, treating broad discretionary grants as *carte blanche* to rewrite the Rules of Civil Procedure. Inherent jurisdiction cannot override explicit legislative will or specific statutory frameworks. Reading a broad, unfettered grant of inherent jurisdiction into specialized civil or criminal rules is a dangerous practice that destabilizes the predictability of the law and turns the courtroom into a venue of arbitrary discretion rather than structured justice.

Due to the unfortunate, entirely avoidable amount of disbursements, resources, and time spent untangling these jurisdictional overreaches, I will be seeking substantial costs directly against her or whomever is improperly advising her behind closed doors. This matter has transcended a mere procedural dispute; it is now an issue of central importance to the legal system as a whole.

C. Post-Order Discoveries, Wasted Resources, and the JRPA Guide

I again note the strict requirement under the *Rules of Civil Procedure*, whilst relying on all filed documents and mail-filed documents in relation to the requirements since 1984 in this province, that any fraud or material facts discovered post any "Order" must be addressed by the Court. In this instance, although there was no valid Order—as Madam Justice Shore was by her acts *Factum A Judice, Quod Ad Officium Jure Non Pertinet, Ratum Non Est* (i.e., invalid and not pertaining to a judicial office *per se*)—the procedural wreckage left behind must be cleared.

Any appearances before her were not valid "Hearings" but were *void ab initio*. This resulted in entirely wasted judicial and administrative resources, forcing the Applicant to burn time and capital briefing motions before a Coram Non Judice forum, as there was never any jurisdiction to engage in the same.

Furthermore, I draw to the immediate attention of the President of the Divisional Court the Divisional Court JRPA Guide, which is in my mail-filed Compendium for NOM #3 as of December 11, 2025, and in the motion record preceding the same. Therein, an Executive Branch JRPA Divisional Court Guide actively misstates the law. The Executive branch dictating legal interpretations to the Judiciary or self-represented litigants creates a profound separation of powers issue. Relying on an administrative guide that misstates fundamental administrative law principles corrupts the adjudicative process. It needs to be corrected forthwith to prevent further miscarriages of justice.

IV. Administrative Notices and Systemic Integrity

A. Registry Appointments and Delegation of Authority

I am currently in the process of obtaining the administrative history of Ms. Ibula via a targeted privacy request to determine definitively whether her appointment was properly authorized and signed by Former Registrar Gentles.

The integrity of the registry's actions relies entirely on the proper and lawful delegation of authority (*delegatus non potest delegare*). The registry functions in a ministerial capacity, not an adjudicative one. If court staff are signing orders, rejecting valid filings, or managing dockets without properly executed administrative authority, their actions are ultra vires and legally meaningless. Such actions represent an unconstitutional barrier to the courts. Uncovering the exact chain of authority regarding Ms. Ibula is absolutely necessary to determine the validity of the administrative roadblocks erected in this file.

Furthermore, I have provided formal notice to the "Court Office" at the 361 University Avenue Courthouse that I am seriously considering submitting a comprehensive, evidenced-backed report to the Auditor General of Ontario. The gross misallocation of judicial resources, the systemic administrative failures, the duplication of hearings caused by void orders, and the resultant waste of public funds documented herein are matters of paramount public interest. I am, however, providing the Court a final, measured window of time to address and remedy these glaring issues internally before I escalate the matter to external, independent financial oversight.

B. Access to the OCPP and Punitive IP Blacklisting

Finally, I once again formally demand that the Court comply with basic constitutional principles of procedural fairness, natural justice, and the open court principle by immediately removing the oppressive block/blacklist on my IP address.

This technological blockade prevents me from accessing the OCPP (Ontario Court Paperless Portal). In an era where electronic filing is mandated, the portal is the literal door to the courthouse. Denying a litigant access to the court's digital infrastructure is an indefensible, seemingly punitive barrier to justice. It operates as an *ex parte* administrative sanction imposed without due process, notice, or the opportunity to be heard. It severely prejudices my ability to manage this litigation, file documents, and review the record. I demand that this IT restriction be lifted forthwith, as the State cannot lawfully lock out a litigant without a formal, appealable order restricting their access.

C. Defamation, the False Information Package, and Reservation of Rights

I also cordially remind all that whomever authorized any of the filing of the False Information Package in relation to the undisclosed Madam Justice Shore involvement amounts to defamation which has no legal defence. Whomever did so must remedy the same, as that False Information Package remains a defamatory, libelous set of statements to which no privilege attaches. These statements are not validly preparatory to any litigation, nor were they made during the course of litigation, as the Criminal Proceeding commenced by the criminal prosecution did not validly occur. I remain in a cooperative and solutions-oriented mindset.

As such, nothing herein should ever be construed as threatening, as it is not. I am merely stating my legal positions and detailing how I will proceed, all under the backdrop of the right to exercise my rights and to further file documents in relation to notices of applications, or to file a statement of claim, notice of action, or other originating process. I will not be deterred from my legal rights, and the public deserves the same.

V. Procedural Posture, Vertical Stare Decisis, and Intra-Proceeding Communication

I am, of course, relying on the seminal authorities in the mail-filed book of authorities, original and first updated, relating to the ability to mail file any motion (not a notice of motion) and the language in the *Courts of Justice Act*, Section 123, along with a draft order for the Court's consideration, but herein only by the Divisional Court President.

As noted previously, I will await to hear positively or negatively as to whether Madam Justice Shore will admit her prior judicial involvement. If not, then I will draw further documents to the attention of the Divisional Court and rely on the adverse inference doctrine. Of course, if she did not have any involvement, she would have represented that she did not, considering her propensity to fire back with correspondence under her name or through others. Nonetheless, I wish to not have any misunderstandings *per se*.

In this regard, I also note that this is not an out-of-court communication but rather an intra-proceeding communication wherein the Respondents failed to follow the basics, as did Madam Justice Shore. Moreover, Madam Justice Shore was never presiding at law as she was *Coram Non Judice*, and her acts were *Factum A Judice, Quod Ad Officium Jure Non Pertinet, Ratum Non Est*. She cannot overpower the giants of our Supreme Court of Canada (SCC) and their decisions because we are in a common law jurisdiction wherein vertical *stare decisis* applies, and it is not discretionary. Thank you.

Conclusion

I have provided the detailed exposition above in good faith to ensure that the ongoing pattern of procedural decay, administrative silence, and jurisdictional misconduct is firmly and irrevocably established on the record. It is my explicit intention to ensure the Chief Justice has the full, unfiltered scope of what is occurring within his Court in his capacity as the Divisional Court President, so that he may act decisively, correct the record, and fulfill his statutory mandate before it concludes.

I await the stamped Orders and the immediate restoration of my portal access.

Regards,

Electronically signed

A/C/M: Kevin A. McLean (BA, JD, CIM)
5644
Mr. Kevin A. McLean (BA, JD, CIM)

Enclosure:

1. Draft Order for Motion #7 of the Applicant dovetailing to NOM #3

Warm regards,

Mr. Kevin A. McLean (BA, JD, CIM)
Chartered Investment Manager
Email: mcleansettlement@gmail.com
Fax: 416.981.7117
Phone number: 647.370.9354

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[Message clipped] View entire message
4 Attachments • Scanned by Gmail

M

Mr. Kevin McLean <mcleansettlement@gmail.com> Apr 11, 2026, 8:01 PM

to SCJ-CSJ, roxanne.parris, Tashekah

DATE: April 11, 2026
CLASSIFICATION: PRIVATE AND CONFIDENTIAL

TIME SENSITIVITY: URGENT – STATUTORY IMPERATIVE

VIA MAIL FILING AT FIRST INSTANCE

TO:

Re: For purposes of Motion #7 in relation to NOM #3

The President of the Divisional Court

The Honourable Chief Justice Mr. Geoffrey B. Morawetz (the "Divisional Court President")

Osgoode Hall, 130 Queen Street West

Toronto, Ontario M5H 2N5

Fax: 416.327.6011

AND TO (FOR COURTESY AND SERVICE PURPOSES WHERE APPLICABLE)

The Divisional Court of Ontario

Osgoode Hall

130 Queen Street West, Room 174

Toronto, Ontario M5H 2N5

Attention: Ms. Roxanne Parris, Registrar of the Divisional Court

(In her capacity as the replacement registrar (the "Replacement Registrar" or "Current Registrar"))

Email: Roxanne.parris@ontario.ca

MATTER DETAILS

- Court File Number: DC-24-00000718-00JR
- Short Style of Cause: McLean v. TD Home and Auto Insurance Company, et al.
- Document Classification: Factum for Motion #7
- Sender: Mr. Kevin A. McLean, B.A., J.D., C.I.M.
- Sender Status: Moving Party (Motions #1 through #7) and Applicant (JRPA Application)

"Subjects matters"

SUBJECT No. 1: Submitting Factum for Motion #7, Advancing Final Notice of Statutory Default, Demanding Rectification of Jurisdictional Nullities, and Invoking Section 123 of the Courts of Justice Act

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

1. This correspondence is formally directed to the judicature for the express purpose of effectuating the service and filing of the enclosed factum for motion number seven (the "**Factum For Motion Number Seven**"). It is submitted that this transmission operates concurrently as a peremptory demand for immediate administrative accountability and a final, unyielding opportunity for the discharge of non-delegable judicial duties. This extraordinary intervention is necessitated by an unprecedented matrix of procedural irregularities, jurisdictional usurpations, and documented documentary fabrications that fundamentally threaten the integrity of the administration of justice and require immediate rectification to restore the status quo ante (the "**Status Quo Ante**").
2. The foundational legitimacy of the judicature is inextricably tethered to the preservation of a pristine, publicly accessible, and fundamentally authentic court record. It is an unassailable constitutional precept that the open court principle forms the bedrock of the adversarial system; thus, when the administrative apparatus of the state is covertly weaponized to manufacture jurisdiction or to conceal the identity of judicial actors effectuating deprivations of liberty, the constitutional framework is violently ruptured. The present communication, therefore, transcends mere procedural compliance. It is an invocation of the supervisory and inherent jurisdiction of the Superior Court of Justice to urgently self-correct a catastrophic institutional failure before irreversible constitutional harm is permanently cemented into the jurisprudential record. When state agents operate beyond the strict demarcations of

their statutorily conferred authority, their actions cease to be cloaked in the presumption of regularity and instead degenerate into actionable malfeasance.

The Undisclosed Judicial Adjudication, Forensic Traceability, and the Evidentiary Presumption of Identity

3. It is brought to the immediate and solemn attention of the **Divisional Court** that incontrovertible, newly adduced forensic evidence establishes a compelling, irrefutable, and mathematically predictable nexus between the Honourable Chief Justice Mr. Geoffrey B. Morawetz and the heavily obfuscated, entirely unrecorded ex parte in camera hearing (the "**Ex Parte In Camera Hearing**") conducted in the autumn of 2024. The empirical metadata derived from the unauthorized GrapeCity software manipulation—specifically the catastrophic morphological collapse of the original judicial anchor text into the “C L (M)” artifact—alongside the strict procedural routing mandates codified within rule 4.05 of the *Rules of Civil Procedure*, RRO 1990, Reg 194, yields the inescapable conclusion that the Divisional Court President operated as the presiding, yet wholly undisclosed, jurist. It is fundamentally apparent that the Divisional Court President authored the handwritten fiat or endorsement that was subsequently, and improperly, metamorphosed by state actors into a fabricated criminal instrument designed explicitly to bypass the rigorous statutory safeguards of the Ontario Court of Justice, essentially representing an unauthorized Superior Court of Justice involvement inserted into the criminal record on the 2nd floor.
4. The forensic architecture of this deception is not merely suggestive or reliant upon inferential leaps; it is mathematically determinative. The advanced forensic analysis reveals the utilization of the GrapeCity.PDF (Mescius) version 6.0.2 by state actors to aggressively flatten and unilaterally alter the original Superior Court of Justice document. This specific software iteration is critically afflicted with the documented vector collapse, specifically recognized within computational paradigms as the DOC-6507 "whitespace bug", which precipitates catastrophic optical character recognition morphological failures during the erasure process. When the state manipulators attempted to digitally scrub the anchor text representing the Chief Justice's signature line ("Chief Justice G.B. Morawetz") to actively disguise the document's true origins, the resulting stem shearing mutated the characters "C J" into "C L". Simultaneously, Bezier curve vector compression mathematically crushed the internal horizontal crossbars of the initials "G.B.", leaving only the outermost rounded vector paths to be interpreted by the algorithm as the parenthetical "( )". This resulting indelible “C L (M)” artifact operates as the digital DNA of the forgery. It provides incontrovertible, mathematically predictable forensic proof of a coordinated digital falsification of state documents, explicitly engineered to systematically hide judicial identity and

rrevocably tying the provenance of the fraudulent warrant back to the first-floor chambers of the Superior Court of Justice at 361 University Avenue, effectively illuminating the illicit procedural corridor utilized by the state. This mathematical certainty transcends any plausible deniability.

5. Furthermore, an exhaustive examination of the temporal and geographic constraints unequivocally corroborates the forensic metadata extracted from the manipulated instrument. The fabricated document purports, upon its face, to bear the signature of Justice of the Peace George Jiri, a jurist statutorily appointed and assigned exclusively to the Central West Region (Brampton). The complete absence of a section 599 *Criminal Code*, RSC 1985, c C-46 application for a change of venue renders the inter-regional transference of this matter from Toronto to Brampton legally impossible absent illicit circumvention of the territorial division mandates. Additionally, the timestamps of the purported signatures—which were executed during the precise temporal window of the 361 University Avenue courthouse's non-public lunch closure between 11:49 AM and 12:59 PM—further solidify the conclusion that this document was generated within the cloistered administrative silo of the Superior Court's Family Registry. It utilized civil software logic and internal terminology entirely alien to the standardized, digitally sealed ICON/Versaterm criminal e-Intake portal utilized by the Ontario Court of Justice.

Anticipatory Rebuttal: Forensics Elevate Identity Attribution from Speculation to Certainty

6. It may be advanced by opposing counsel, or silently contemplated by a reviewing jurist attempting to insulate the institution from reputational hazard, that the attribution of the aforementioned digital artifact to the Chief Justice relies upon circumstantial speculation rather than direct, authenticated proof. Such an assertion is fundamentally flawed, technologically illiterate, and is hereby preemptively rebutted in its entirety. The mathematical predictability of the vector collapse within the .NET SDK architecture, combined with the administrative impossibility of any other judicial officer utilizing the 361 University Avenue first-floor routing conduit for this highly specific, multi-jurisdictional fiat, elevates the evidentiary standard from mere inference to an absolute, non-justiciable forensic certainty. The metadata is un-redacted, immutable, and permanently captured within the Canadian Police Information Centre transaction logs.

7. Additionally, under the paramount evidentiary maxim *omnia praesumuntur contra spoliatorem* (all things are presumed against a despoiler), the state's intentional concealment, active obfuscation, and blatant spoliation of the original, unaltered jurat necessitates that the strongest possible adverse inferences be drawn against the institutional actors who facilitated the erasure. When the state

deliberately destroys or alters the foundational document authorizing a deprivation of liberty, it irrevocably forfeits any presumption of regularity. The resulting Information is an unsworn legal nullity, rendering all subsequent prosecutorial and administrative steps—including the execution of the arrest—void *ab initio*.

8. The execution of this void instrument fundamentally alters the legal landscape, transitioning the matter from mere procedural irregularity to actionable state-actor malfeasance and the escalation to state-actor kidnapping. As established in jurisprudence, kidnapping requires *asportation* (physical movement) executed without lawful authority. The specific intent (*mens rea*) requisite for this offense is irrefutably established through the police's willful blindness to documentation that was facially void. The Applicant was lured via a calculated ruse and physically transported from the administrative area to the dungeon/cells based entirely on a fabricated family-law endorsement utterly devoid of a Form 7 command. This overt physical movement, executed without a scintilla of lawful authority, establishes the requisite *asportation*. This paradigm goes far beyond mere false imprisonment; it constitutes the most egregious state-actor kidnapping scenario imaginable, thereby exposing the state to massive civil damages and robust section 24(1) *Canadian Charter of Rights and Freedoms* remedies.
9. Consequently, a strict, uncompromising temporal mandate of precisely forty-eight business hours from the confirmed receipt of this correspondence is hereby imposed upon the Divisional Court President to issue a formal, on-the-record confirmation or an unequivocal, sworn denial of said judicial involvement in the aforementioned criminal proceeding. Should this temporal window expire absent a definitive and substantive rebuttal, an irrefutable presumption of admission shall crystallize by operation of law, invoking the strict application of the doctrine of adverse inference (the "**Doctrine Of Adverse Inference**"). It shall thereafter be taken as an established procedural fact, *prima facie* and conclusively, that the Divisional Court President authored the underlying fiat that facilitated the egregious deprivation of liberty without the lawful issuance of a statutorily compliant arrest warrant, thereby operating in direct, unconstitutional contravention of section 9 of the *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11.

Broader Institutional and Investigatory Engagements: Preservation of Evidence and Imminent Disclosure

10. It is further noted, with the utmost gravity, that the systemic anomalies documented herein have triggered the engagement of external, independent oversight bodies. The Applicant formally advises the judicature that the Auditor General of Ontario is currently engaged in an active review of these

interconnected administrative processes. While the Applicant is constrained by statutory confidentiality from speaking directly to the substantive truth or preliminary findings of the Auditor General's ongoing inquiry, the institutional preservation of the uncorrupted record is now an overarching imperative.

11. Concurrent with the Auditor General's involvement, various privacy divisions operating across both provincial and federal ministries have been formally apprised and are actively engaged. Crucially, the Applicant places the **Divisional Court** on strict notice that the extraction of hexadecimal data dumps, offline information caches, and uncorrupted intelligence from secure, offline storage architecture is currently underway. Furthermore, the Royal Canadian Mounted Police (RCMP), acting specifically through the Canadian Police Information Centre (CPIC) privacy division, has been formally engaged concerning the intersection of these anomalies with both the *Privacy Act*, RSC 1985, c P-21, and the *Access to Information Act*, RSC 1985, c A-1.
12. *Nota Bene (Anticipatory Rebuttal Regarding Public Interest and Disclosure):* An assertion may be made that internal administrative investigations ought to proceed behind the veil of deliberative privilege to protect the institutional reputation of the court. This is categorically rejected. The threshold for mandatory, imminent public disclosure has been crossed. There exists a profound and pressing potential for immediate public disclosure detailing the alarming degree to which the Toronto Police Service (TPS) may be actively, and with a concerning level of regularity, engaged in the systemic falsification of intelligence and judicial data. This falsification spans critical jurisdictional boundaries: from one court level to another, from one physical courthouse to another, from one distinct administrative region (Toronto) to an entirely separate region (Central West), and, most egregiously, involves the transmission of fabricated data across judicial tiers—from a Superior Court of Justice (SCJ) Judge to a Provincial Court Judge, and from an SCJ Judge down to a Justice of the Peace. The transformation of a genuine judicial chambers process into a completely fictitious online process, encompassing the illicit alteration of dates, the manipulation of temporal stamps, and the fraudulent reassignment of judicial titles, represents a catastrophic failure of the justice system's foundational safeguards.
13. The stakes involved transcend the Applicant's individual procedural grievances. If the coordinated fabrication of documentation detailed herein has resulted in even a single innocent individual currently sitting in custodial detention, or remaining improperly charged before the courts as a direct consequence of this systemic data manipulation, it is anticipated that Commissioner Michael Duheme of the RCMP will be statutorily and morally compelled to intervene directly. The judicature is further

reminded of the potent interplay between section 8(2)(m)(i) of the *Privacy Act*, RSC 1985, c P-21, which authorizes disclosure in the public interest, and section 19 of the *Access to Information Act*, RSC 1985, c A-1, mechanisms that ensure institutional accountability cannot be perpetually suppressed.

Statutory Obligations Pursuant to the Rules of Civil Procedure, the Doctrine of Fraus Omnia Corrumpit, and the Preclusion of Multiplicity

14. The judicature is respectfully reminded that the procedural trajectory undertaken herein is not a matter of elective preference, nor is it a discretionary foray into collateral litigation designed to vex the **Divisional Court**; rather, it is a matter of strict statutory compulsion. Pursuant to the interlocking and paramount mandates of rules 2, 37, and 59 of the *Rules of Civil Procedure*, RRO 1990, Reg 194, alongside a litany of established equitable principles synthesized over centuries of common law jurisprudence, it is obligatory that any motion to impeach, vacate, or set aside steps, documents, or purported orders generated through deliberate fraud, procedural deceit, or jurisdictional overreach must be brought interstitially within the existing originating proceeding.
15. The historical and epistemological evolution of civil procedure within this jurisdiction conclusively establishes this mandate. The antecedent framework operating under the former *Rules of Practice* permitted fraud-based impeachment solely by way of a newly instituted originating action, thereby bifurcating the relief sought and emphasizing archaic procedural formalism over the delivery of substantive justice. The promulgation of the *Courts of Justice Act*, RSO 1990, c C.43 and the unified *Rules of Civil Procedure*, RRO 1990, Reg 194 consciously eradicated this dichotomy, strategically replacing the restrictive term "action" with the expansive term "proceeding." This legislative evolution ensures a universal corrective jurisdiction, empowering the presiding **Divisional Court** to instantaneously expunge tainted adjudications without imposing the onerous burden of multiplicity upon the aggrieved litigant, thereby upholding the overarching objective to secure the just, most expeditious, and least expensive determination of every civil proceeding.
16. The jurisprudential landscape governing these anomalies is definitively governed by the equitable maxim *fraus omnia corrumpit* (fraud unravels everything). A judgment, endorsement, or procedural advantage procured by calculated deceit, manipulation of the electronic docket, or the deliberate withholding of material jurisdictional facts from the court record never attains the sacrosanct protection of finality, estoppel, or *res judicata*. It is submitted that the deliberate injection of fabricated authority into the administrative record pollutes the entirety of the subsequent proceedings, acting as a virulent

contaminant that necessitates immediate internal purification by the **Divisional Court** of original jurisdiction prior to any secondary appellate or tortious review being undertaken.

Anticipatory Rebuttal: Originating Forum Preserves Judicial Economy and Precludes Collateral Attack

17. An objection may predictably be raised by the Crown or institutional Respondents suggesting that allegations of profound state-actor misconduct, malicious prosecution, or fraudulent document manipulation ought to be severed from the present judicial review application and pursued via a separate, newly commenced tortious action in the Superior Court. Such a proposition directly contravenes the fundamental prohibition against the multiplicity of proceedings and violates the rule against collateral attack, as strictly defined by the Supreme Court of Canada. The rule against collateral attack is animated by the necessity of preserving the authority of court orders and ensuring orderly administrative processes; however, this protection is instantaneously vitiated when the underlying order is demonstrably procured by fraud or issued entirely without jurisdiction.

18. The statutory architecture dictates that internal exhaustion and the vacatur of nullities must occur within the originating forum to preserve judicial economy and prevent the chaotic fragmentation of justice. Although the commencement of an independent civil action for *Charter* damages, state-actor kidnapping, and malfeasance in public office might yield a vastly more lucrative financial outcome for the Applicant, strict adherence to the *Rules of Civil Procedure*, RRO 1990, Reg 194 mandates the present methodology, ensuring that the tainted administrative record is purified *ab initio* before external, collateral actions are rightfully entertained and quantified by a trier of fact. This internal rectification is paramount, particularly given that the Form 4E Requisition filed by the Applicant explicitly invoked the joint and multi-purposed nature of the form to avoid the multiplicity of forms, unequivocally demanding that the Registrar process all urgent filings via the OCPP, with a copy via email and fax, including Notice of Motion Number Three. This demand for the immediate processing of urgent filings was flagrantly ignored by the administrative apparatus, despite the explicitly articulated urgency amplified by the facts set out within the Requisition.

Jurisdictional Nullity, Coram Non Judice, the MacFoy Principle, and the Doctrine of Estoppel By Record

19. The purported interventions, directives, and mandatory case management conferences previously ordered by Madam Justice Shore are challenged herein not as mere procedural irregularities capable of retroactive cure or subsequent waiver by the parties, but as profound, irremediable nullities. It is submitted that Madam Justice Shore operated entirely absent foundational jurisdiction, rendering her actions coram non judice (the "**Coram Non Judice**"). The adjudicative posture of this **Divisional**

ourt must be governed by the ancient, immutable, and strictly applied maxim: *factum a judice, quod ad officium jure non pertinet, ratum non est* (an act by a judge which does not pertain to their office is not valid). When a judicial officer acts wholly outside their statutorily conferred authority or assigned territorial jurisdiction, they cease to act as a judge, and their pronouncements carry no greater legal weight than the assertions of a private citizen.

20. In this context, paramount reliance is placed upon the doctrine of estoppel by record (the "**Estoppel By Record**"), as thoroughly elucidated by the Alberta Court of Appeal in *Turigan v Alberta*, 2023 ABCA 112. The jurisprudential principles extracted from *Turigan v Alberta*, 2023 ABCA 112 unequivocally establish that a strict prerequisite for the valid exercise of judicial power is the existence of underlying, statutorily conferred jurisdiction; an order rendered by a **Divisional Court** lacking such foundational jurisdiction is an absolute nullity, entirely incapable of generating binding effect, compelling obedience, or precluding subsequent collateral or direct challenge. This concept is further buttressed by the seminal *MacFoy* principle (*MacFoy v United Africa Co Ltd*, 1961, 3 All ER 1169 (PC)), which dictates that one cannot build a valid procedural structure upon a foundation of absolute nullity; if an act is void, then it is in law a nothing, and every proceeding which is founded upon it is also bad and incurably bad.

21. *Application of the Law to the Facts:* Applying the rigorous standard articulated in *Turigan v Alberta*, 2023 ABCA 112 and the uncompromising logic of the *MacFoy* principle to the present factual matrix, the absolute failure of the Respondents to file a requisite first defence (specifically, the statutorily mandated Notice of Appearance), coupled with the failure to have an Order for Assignment for Case Management, made at first instance, issued at second instance, and then entered at third instance, coupled with the illicit reliance upon a fabricated, unsworn Information package that entirely bypassed the statutory territorial division requirements, dictates that the adjudicative foundation was demonstrably non-existent *in limine*. Specifically, under rule 77 of the *Rules of Civil Procedure*, RRO 1990, Reg 194, case management powers are only triggered upon the formal filing and registration of a First Defence. Madam Justice Shore’s unilateral convening of a compulsory case conference, in the total absence of a filed defence and without a formal, perfected Order for Assignment for Case Management, constituted an *ultra vires* circumvention of paramount procedural rules.

22. Because these purported orders, endorsements, and case management directives were birthed in a complete jurisdictional vacuum, they are void *ab initio*. A legal nullity cannot serve as a foundation for estoppel; one cannot put something on nothing and expect it to stay there. Therefore, the Applicant is

not estopped by any prior record, procedural direction, or silent acquiescence from demanding the immediate, unqualified vacatur of these *ultra vires* judicial acts. Furthermore, the constitutional right to be heard must not be conflated with a mere administrative right to conference. By forcing the Applicant into procedurally vacuous, unrecorded conferences predicated on a nullity, the **Divisional Court** actively violated fundamental precepts of procedural fairness, natural justice, and adjudicative legitimacy.

The Obvious Inferences: The Misconduct in Each Proceeding is Inextricably Tied to the Chief Justice

23. It is a fundamental canon of forensic review and legal deduction that systemic anomalies occurring in multiple, supposedly distinct adjudicative streams rarely emerge *ex nihilo*; rather, they manifest from a central point of administrative contamination. The unassailable inference to be drawn from the documented record is that the procedural misconduct permeating each and every proceeding—whether stationed at first instance in the Superior Court of Justice or elevated for appellate review to the Divisional Court—is inextricably tethered to the actions, omissions, and administrative orchestration of Chief Justice Morawetz.
24. The digital and procedural manipulation of the *INTAKE COURT ENDORSEMENT (SEPT 23 2024)* is not an isolated clerical defect or a benign registry error. It serves as the foundational genesis for a cascading series of procedural abuses that spans multiple registries and court levels. The very necessity of invoking section 123 of the *Courts of Justice Act*, RSO 1990, c C.43 to combat the administrative paralysis of Notice of Motion Number Three, alongside the subsequent deployment of Madam Justice Shore to obfuscate the record through *ultra vires* case management directives, demonstrates a unified, orchestrated trajectory of institutional subversion. The common denominator across the criminal deprivation of liberty, the civil obfuscation, and the appellate paralysis is the exertion of administrative control by the Master of the Roster.
25. This systemic contamination is further corroborated by the highly conspicuous procedural anomaly that the Chief Justice had previously exercised his paramount authority to explicitly self-assign in this litigation. Such antecedent self-assignment renders his current retreat into administrative silence and his steadfast refusal to formally assign Notice of Motion Number Three not merely passive negligence or bureaucratic oversight, but demonstrably evasive, behind-the-scenes conduct designed specifically to shield his own underlying *coram non judice* actions from the sunlight of judicial scrutiny. The parallels to the obfuscation tactics deployed in the *Nash v CAMI Automotive Inc*, 2023 ONSC 1520 JRPA proceeding are too perfectly aligned to be construed as coincidental; they represent a replicated

methodology of judicial interference, further evidencing the overarching and inescapable reach of the Chief Justice's administrative influence over these procedurally vacuous proceedings.

Peremptory Demand for Disclosure: Production of the Uncorrupted Intake Court Endorsement

26. **MOST IMPORTANTLY**, the Applicant hereby issues a formal, peremptory demand that the Divisional Court President unequivocally provide an uncorrupted, original copy of the Intake Court Endorsement. This demand encompasses the Intake Court Endorsement in its original, unaltered form, alongside any and all supporting documentation, directly to the Applicant within this specific email thread. The provision of these documents is essential, as it will illuminate the further facts of the matter and explicitly identify the extent of the fraud discovered. It is not asserted at this juncture that the Intake Court Endorsement was inherently fraudulent *per se* merely by virtue of a self-assignment—as the Master of the Roster undoubtedly possesses the administrative authority to self-assign—but rather, the invalidity and nullity arise fundamentally from the subsequent, orchestrated cover-up and the illicit transmogrification of a civil fiat into a fabricated criminal warrant.
27. The Applicant simply and respectfully requests that the Divisional Court President, channeling his response through the formal administrative mechanisms of the Divisional Court registry, provide the following specific production in substance and form:

    "Dear Mr. McLean, please find a copy of the Intake Court Endorsement along with the *Criminal Code* Form 2 or *Criminal Code* Form 4 Indictment and the Information Package [if applicable] exactly as it existed when I received the same and was required to initially consider the allegations contained therein. Please find attached a copy of the Intake Court Endorsement in its original handwritten form, which was heard in my judicial chambers during the 'Ex Parte In Camera Hearing' as you have noted, alongside the electronic form that was subsequently provided to the TPS through the 1st floor of the SCJ 361 University Avenue Courthouse."
28. Should the Divisional Court President fail to fulfill this peremptory demand for documentary production by the conclusion of the business day on Tuesday, the Applicant will be compelled to seek immediate equitable relief and an order for production from another, unconflicted judge of the Superior Court of Justice.

Section 123 of the Courts of Justice Act, Administrative Dereliction of Duty, and the Final Opportunity to Discharge Statutory Obligations

29. The profound procedural paralysis currently afflicting this litigation engages the strict, mandatory remedial mechanisms codified within section 123 of the *Courts of Justice Act*, RSO 1990, c C.43. It is a statutory imperative that motions formally made and returnable on specified dates, yet remaining capriciously undecided upon the expiration of the three-month or six-month temporal limitations, be formally escalated to the Chief Justice of the Superior Court of Justice, acting in their capacity as the President of the Divisional Court. The triggering of section 123 operates as an administrative red alert, designed specifically by the legislature to combat systemic stagnation, pierce the veil of deliberative privilege, and prevent the administrative abandonment of vulnerable litigants. The necessity of this statutory mechanism is underscored by the explicit notation within the *Factum of the Applicant for Motion #7*, categorizing this motion as one "required to be filed and directed to the Chief Justice of the Superior Court of Justice as the President of the Divisional Court pursuant to section 123 of the Courts of Justice Act".

30. The jurisprudential trajectory interpreting section 123 confirms that the expiration of these statutory timelines transforms procedural delay from a mere inconvenience into a substantive denial of justice. The Chief Justice, operating under the constitutional doctrine of *primus inter pares* (first among equals), is uniquely empowered with plenary, intrinsic, and exclusive authority to reassign duties, relieve subordinate jurists of their dormant dockets, and proactively purify the procedural record. However, a profound and legally irreconcilable paradox arises when the architect of the delay is the Master of the Roster themselves, orchestrating a deliberate suppression of motion material, as evidenced by the unacknowledged receipt of filing fees ($339.00) detailed in Receipt 25D3-0F4F-4A06-8CF8 for Notice of Motion Number Three, for the "Motion Document - Motion Record - Filing Fees".

31. It is observed with the utmost gravity and concern that a profound, sustained dereliction of these non-delegable administrative duties has transpired. The institutional stagnation surrounding Notice of Motion Number Three—compounded by the inexplicable technological blacklisting of the Applicant via persistent "403 Forbidden" network access errors on the Ontario Courts Public Portal—amounts to an unlawful administrative abandonment of the judicial review application. This coordinated, multi-tiered stonewalling severely prejudices the Applicant and perpetuates ongoing, irreparable financial harm flowing directly from the unrectified theft of property and identity.

32. This correspondence serves as the final, unequivocal, and documented opportunity for the Divisional Court President to discharge the statutory duties strictly mandated by the *Courts of Justice Act*, RSO

990, c C.43. Should reasonable, statutorily defined timelines continue to be ignored, obfuscated, or delayed, all available and extraordinary legal remedies—including but not limited to the seeking of an Order of *Mandamus* against the **Divisional Court**'s administrative apparatus to compel the performance of a public duty—shall be aggressively and relentlessly pursued to ensure that the substantive adjudication of the underlying application is secured without further unconstitutional delay.

Systemic Conflict of Interest, The Unequivocal Duty to Notify, and the Deemed Recusal by Silence

33. It is formally asserted that the factual matrix presently before the judicature engages the most stringent strictures regarding conflicts of interest and judicial bias. The foundational parameters governing the disqualification of judges are rooted in two immutable legal maxims: *audi alteram partem* (listen to the other side) and *nemo judex in sua causa* (no one should be a judge in his own cause), concepts thoroughly canvassed in the authoritative 2015 jurisprudential analysis, *A Guide to Judicial Bias: Law, Practice, and Procedure* (2015 CanLIIDocs 5022). As established by the House of Lords in the historical cornerstone decision of *Dimes v Proprietors of Grand Junction Canal* (1852), 3 HLC 759, and continually reaffirmed over the subsequent 150 years, the absolute preservation of judicial impartiality remains the bedrock of the legal system.
34. It is submitted that Chief Justice Morawetz operated under a profound and paralyzing actual conflict of interest due to his own clandestine authorship. Knowing unequivocally that he had signed the *INTAKE COURT ENDORSEMENT (SEPT 23 2024)*, he bore an affirmative, non-delegable, and continuing duty to warn the Applicant and explicitly disclose his involvement upon the public record. Instead of discharging this ethical and legal duty, he remained situated as the Divisional Court President, engaging in covert, behind-the-scenes conduct to orchestrate a subordinate jurist (Madam Justice Shore) into flagrantly breaching the *Judicial Review Procedure Act*, RSO 1990, c J.1, the *Courts of Justice Act*, RSO 1990, c C.43, and the *Rules of Civil Procedure*, RRO 1990, Reg 194. Such conduct fundamentally vitiates his authority, dictating that he is absolutely precluded from deciding a single motion brought to his attention under section 123 of the *Courts of Justice Act*, RSO 1990, c C.43 or via the Applicant's discretionary request for self-assignment.
35. The Supreme Court of Canada, in *Yukon Francophone School Board, Education Area #23 v Yukon (Attorney General)*, 2015 SCC 25, definitively articulated that the appearance of justice is of equal constitutional magnitude to the reality of justice. Applying the reasonable person standard synthesized in *Yukon Francophone School Board, Education Area #23 v Yukon (Attorney General)*, 2015 SCC 25 and initially framed in *Committee for Justice and Liberty et al v National Energy Board*, [1978] 1 SCR

369, the outcome is determinative. Would a reasonable, informed person—cognizant of the totality of the circumstances, namely that Chief Justice Morawetz engaged in an *ultra vires* act by authoring the facially invalid *INTAKE COURT ENDORSEMENT (SEPT 23 2024)*, an instrument devoid of *Criminal Code*, RSC 1985, c C-46 validity that directly precipitated the Applicant's unlawful detention and kidnapping by the Toronto Police Service, and subsequently utilized Madam Justice Shore as an administrative proxy to obstruct appellate review—conclude that the Chief Justice retains the requisite impartiality to adjudicate Notice of Motion Number Three, or Motions Number Four through Six? The answer is an unequivocal and resounding negative. An impenetrable apprehension of bias is instantaneously crystallized.

36. The Applicant emphatically submits that this failure by Chief Justice Morawetz to disclose his prior judicial involvement transcends mere administrative oversight; it constitutes an actionable falsity by omission. When a jurist, armed with the precise knowledge of their own foundational role in orchestrating a deprivation of liberty, consciously elects to withhold that highly material fact from an aggrieved litigant while simultaneously maintaining supervisory jurisdiction over the resultant appellate proceedings, that silence is demonstrably deceptive. It is respectfully asserted that any reasonable, informed person—having thought the matter through—would not merely apprehend a lack of impartiality, but would definitively conclude that independence is structurally impossible. This falsity by omission fundamentally shatters the public trust and renders any further adjudication by the Chief Justice an exercise in administrative subterfuge rather than impartial justice.

37. Crucially, a jurist confronted with a potential disqualification, an apprehension of bias, or an actual conflict of interest possesses an unequivocal, affirmative legal duty to formally notify the parties and the public record. As explored in scholarly discourse regarding procedural uncertainty in judicial disqualification (see: Professor Philip Bryden, *Legal Principles Governing the Disqualification of Judges*, 2003 CanLIIDocs 85, referencing the procedural clarity demanded by the South African Constitutional Court in *President of the Republic of South Africa v South African Rugby Football Union*, [1999] ZACC 9), a judge cannot simply retreat into administrative silence when their impartiality is directly and factually impugned. The Chief Justice Morawetz held, and continues to hold, an unassailable duty to formally and explicitly notify the Applicant whether he is officially recusing himself from the entirety of this proceeding.

38. It is respectfully submitted that any continued failure by the Divisional Court President to definitively respond and issue a formal notification within the forty-eight-hour temporal mandate shall be construed

not merely as an evidentiary admission of authorship regarding the fabricated warrant, but as an *ipso facto* administrative and judicial recusal. Governed by the maxim *qui tacet consentire videtur* (silence implies consent), the refusal to deny involvement or formally address the conflict constitutes an admission of the underlying unconstitutional entanglement. Consequently, the silence of the Chief Justice must be recognized by the administrative registry as an irrevocable self-recusal from any further supervisory or adjudicative role concerning the Applicant's proceedings.

Institutional Contamination: The Divisional Court Vice President and the Regional Senior Justice

39. Furthermore, the administrative architecture of the judicature renders the Divisional Court President and the Divisional Court Vice President (the Associate Chief Justice) inextricably intertwined. This structural duality and administrative proximity generate an indivisible unit of authority. Because the Vice President operates as the direct proxy and immediate subordinate to the President in the management of the Divisional Court roster, she is irrevocably tainted by association. This is not merely an apprehended bias, but an *actual conflict of interest*, exponentially exacerbated by the historical deployment of Ministry of the Attorney General counsel (Mr. Annathan Sinnadurai) to simultaneously defend the Chief Justice, the Associate Chief Justice, and Madam Justice Shore in the closely related matter of *McIntosh v Shore et al*.
40. The contamination of jurisdiction extends deeply into the geographic hierarchy of the Superior Court. Because the genesis of the impugned *INTAKE COURT ENDORSEMENT (SEPT 23 2024)* is geographically and administratively localized within the 361 University Avenue Courthouse, the Regional Senior Justice for the Toronto Region, the Honourable Mr. Justice Firestone, is similarly precluded from exercising supervisory or assignment jurisdiction. To the extent that the Chief Justice of the Superior Court of Justice had any involvement in the making, giving, or endorsement of the invalid court document at first instance, the entire administrative superstructure of the 361 University Avenue Courthouse—and by extension, the Regional Senior Justice tasked with its localized oversight—is fundamentally paralyzed by this overlapping, systemic institutional conflict.
41. Consequently, impartial adjudication is rendered structurally impossible under the current Toronto Region roster assignments, extending from the Chief Justice down through the Associate Chief Justice and the Regional Senior Justice. The situation necessitates the immediate appointment of an out-of-region, demonstrably unconflicted jurist to superintend this matter, perform a *de novo* review of the tainted record, and effectuate the sweeping vacatur of all acts undertaken *coram non judice*.

42. The Applicant expressly reserves the absolute and unfettered right to bring the totality of these profound constitutional, procedural, and jurisdictional anomalies to the attention of any Honourable Judge within the Superior Court of Justice, seeking immediate equitable relief *ex debito justitiae* (as a matter of right). All pleadings, affidavits, compendia, documentary exhibits, and forensic analyses previously served and filed in any related proceeding, matter, or issue—including Appendix “R”: Exhibit “F from Statutory Declaration #1 for NOM #3 and Appendix “S”: The email chain with the SCJ 361 University Avenue Courthouse, 1st Floor—are hereby expressly incorporated by reference into this communication, forming the indelible record upon which this **Divisional Court** shall ultimately be judged.

43. Simply put the record is the record and where a “court of record” as at issue, like the Divisional Court, the Divisional Court cannot fake the two things which are fatal on their own:

    a. The failure of the Respondents to file a First Defence; and/or

    b. The failure of any Judge of the Divisional Court to make, issue and enter (although there as no making at all) an Order for "Assignment For Case Management".

44. Thank you for discharging your “Honour” as required by law.

All of which is respectfully submitted,

Electronically signed (but not digitally)

/s/ Mr. Kevin A. McLean (BA, JD, CIM)

Mr. Kevin A. McLean (BA, JD, CIM)

Enclosures:

Warm regards,

Mr. Kevin A. McLean (BA, JD, CIM)
Chartered Investment Manager
Email: mcleansettlement@gmail.com
Fax: 416.981.7117
Phone number: 647.370.9354

5660

[Message clipped] View entire message

2 Attachments • Scanned by Gmail

Tab 90

Form 1
NOTICE OF APPLICATION

(*Criminal Proceedings Rules*)

ONTARIO
SUPERIOR COURT OF JUSTICE

Toronto
Region

Unknown, to be provided by the Originating Courthouse at the Originating Court Office or 457197 (Year 2024)
Court File No. (if known)

BETWEEN:

HIS MAJESTY THE KING

respondent

- and -

Mr. Kevin A. McLean (BA, JD, CIM)
(specify name of accused)

applicant

TAKE NOTICE that an application will be brought on **Friday** day, the **19th** day of **June** , (specify month)

20 **26** , at **50 Eagle Street West, Newmarket, ON L3Y 6B1**
(specify address of court house)

for an order granting

(set out relief sought)

(please see: Schedule "A"

THE GROUNDS FOR THIS APPLICATION ARE:

1. That **See: Schedule “A”**
2. That **See: Schedule “A”**
3. Such further and other grounds as counsel may advise and this Honourable Court may permit.

IN SUPPORT OF THIS APPLICATION, THE APPLICANT RELIES UPON THE FOLLOWING:
(set out documents such as transcripts, etc. upon which the Applicant relies)

(see: Schedule "A")

(evidence)

THE RELIEF SOUGHT IS:

1. An Order allowing the application and granting
(indicate particular relief sought)

This Form 1 Notice of Application and Form 5 NOA and Constitutional Issue along with any motions herein (see: Schedule A)

By virtue of subrule 43.03(3) of the Criminal Proceedings Rules for the Superior Court of Justice (Ontario), you are, upon receiving this notice, to return forthwith to the clerk of the court at the place where the application is returnable true copies of the conviction (or as the case may be) herein referred to, together with true copies of the indictment, information, exhibits and papers or other documents touching the matter, as fully and as entirely as they remain in your custody, together with this notice and the certificate prescribed in the said rule.

Dated this 29th day of April 2026



Mr. Kevin A. McLean (BA, JD, CIM)
Self-represented (Pro Se)

To:

Ms. Monica Simion
Manager of Court Operations
SCJ 361 University Courthouse, Floor 1, Toronto, Ontario, M5G 1T3

Rule 43.03 required Certification by Manager of Court Operations at SCJ 361 University Courthouse (Floor 1)

Pursuant to the accompanying notice I herewith return to this Honourable Court the following:
True copies of:
(1) the information;
(2) the conviction (or as the case may be);
(3) the exhibits, if capable of reproduction and relevant to the matters in question; and,
(4) any other papers or documents touching the matter, if capable of reproduction and relevant to the matters in question.

And I hereby certify to this Honourable Court that I have above truly set forth all exhibits, papers, and documents in my custody or power relating to the matter set forth in the said notice of application.

_____
Signature and Certification

Date: _____

Manager of Court Operations at SCJ 361 University Avenue Courthouse
1st Floor
Toronto, Ontario
M5G 1T3

THE APPLICANT MAY BE SERVED WITH DOCUMENTS PERTINENT TO THIS APPLICATION

1. By service in accordance with rule 5, through
(specify address, telephone number and email)

Phone number: (647) 370-9354
Fax: 416.981.7117
Email: mcleansettlement@gmail.com and any other dedicated email (in lieu of the former or by addition) so provided

DATED at **Toronto**, Ontario, this **29th** day of **April**, 20 **26**



Signature of applicant or counsel

Mr. Kevin A. McLean (BA, JD, CIM)
Phone number:
Fax: 416.981.7117
Email: mcleansettlement@gmail.com and any other dedicated email (in lieu of the former or by addition) so provided

(set out name and address, as well as telephone number and email)

SCHEDULE "A" 1

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FOR ORDERS GRANTING AND RELIEF SOUGHT IS:

The Applicant respectfully seeks the pronouncement of the following extraordinary remedies, declaratory judgments, and prerogative orders in allowing the Form 1 Notice of Application and Form 5 Notice of Application and Constitutional Issues:

NUNC PRO TUNC RELIEF

I. An order is respectfully sought directing that any and all pronouncements, decrees, or orders rendered herein be granted *Nunc pro tunc* (the "***Nunc pro tunc* Relief**"), thereby ensuring that the restorative judicial effects are applied retroactively to the inception of the procedural malfeasance that initially materialized on September 23, 2024;[i]

LENGTHENING OF TEMPORAL PARAMETERS

II. An order is sought decreeing that any statutory or procedural temporal limitation required to be protracted in the paramount interests of justice be, and is hereby, lengthened; [ii]

RECUSAL OF ANY JUDGE IN THE TORONTO REGION SCJ INCLUSIVE OF THE HONOURABLE CHIEF JUSTICE MORAWETZ AND THE ACJ MADAM JUSTICE MCWATT

III. An order that restraining and prohibiting any judge in the Toronto Region of the SCJ from any involvement, indirectly or directly in this Criminal Proceeding and in any hearing of any Application, motion or otherwise;

COURT DOCUMENTS AND THE REQUISITE FILING THEREOF

SUBSERVIENCE TO RULE 4.02(D) OF THE CRIMINAL PROCEEDINGS RULES

IV. A declaratory pronouncement is sought establishing that the underlying matter (the "**Criminal Proceeding**") was officially commenced at the precise temporal juncture when the undisclosed law enforcement officer, presumably Detective Abdulhameed K. Virani, submitted the requisite information pursuant to form 2 of the *Criminal Code*, RSC 1985, c C-46 (the "**Criminal Code**"), whether in a previously declared state or presented to be sworn before a jurist of the Superior Court of Justice, and was subsequently so sworn within the precinct of the court office situated at the Superior Court of Justice located at 361 University Avenue, specifically within the designated family court repository (the "**Family Court Office**");

V. A **Declaration** is sought affirming that the **Criminal Proceeding**, comprehensively subsuming any trial, application, appeal, or ancillary hearing—inclusive of any *ex parte* proceedings conducted *in camera*—was formally commenced within the jurisdictional locus of the Superior Court of Justice at 361 University Avenue, explicitly upon the primary level thereof;

5672 VI. A **Declaration** is sought establishing that the **Intake Court Endorsement**, dated September 23, 2024, was ostensibly issued by the clerk of the court functioning at the Superior Court of Justice, 361 University Avenue, albeit entrenched within a record that is compulsorily required to be produced by the manager of court operations corresponding to the aforementioned primary level of the judicial facility;

STRICT ADHERENCE TO RULE 4.05(1) OF THE CRIMINAL PROCEEDINGS RULES CONCERNING THE PRESCRIBED LOCUS OF FILING

VII. A **Declaration** is sought asserting that, predicated upon the statutory imperative that all documentation must be filed electronically via electronic mail within the specific court office wherein the proceeding was initially commenced—saving and excepting documents submitted *in limine* during a hearing or where the *Criminal Proceedings Rules for the Superior Court of Justice (Ontario)* (the "*Criminal Proceedings Rules*") explicitly dictate otherwise, which they demonstrably do not—the applicant, the respondents, the Attorney General of Ontario, and the Attorney General of Canada are invariably compelled to submit any and all requisite filings exclusively to the court office situated on the primary echelon of the Superior Court of Justice at 361 University Avenue;

INFORMATIONS, INDICTMENTS, AND THE REQUISITE JURISDICTIONAL CERTIFICATION

VIII. A declaratory judgment is sought confirming that the legal construct of an indictment inherently subsumes informations, and that such charging documents were mandatorily required to be transmitted to the Superior Court of Justice via electronic mail;

IX. An order is sought compelling the specific court office where this **Criminal Proceeding** was commenced to transmit the complete evidentiary and procedural compendium to the corresponding court office designated to adjudicate the **Form 1 Notice of Application** and the attendant notice of constitutional question in form 5 (the "**Form 5 Notice of Constitutional Question**"), being the Superior Court of Justice at 361 University Avenue, in strict accordance with the mechanisms prescribed by *rule 43.03* of the *Criminal Proceeding Rules*

SERVICE PROTOCOLS AND THE JURISPRUDENTIAL IMPLICATIONS OF THE SEPTEMBER 23, 2024 ENDORSEMENT

APPLICATION OF RULE 5.01 PERTAINING TO NON-PERSONAL SERVICE AND ANCILLARY MATTERS

X. A **Declaration** is sought stipulating that the **Form 1 Notice of Application** encapsulates prayers for relief historically subsumed under the royal prerogative writs, definitively including *mandamus*, *certiorari*, and *prohibition*, and that said document was effectuated upon the Superior Court of Justice at 361 University Avenue, specifically targeting the primary floor court office, and upon the Honourable Madam Justice Shore on or subsequent to Monday, March 16, 2026;

XI. A **Declaration** is sought conclusively resolving that the **Intake Court Endorsement** does not constitute a validly articulated order pursuant to the strictures of the *Criminal Code* or the *Criminal Proceedings Rules*;

XII. A **Declaration** is sought asserting that the *Criminal Proceedings Rules* must not operate *ultra vires* or in contradistinction to the substantive provisions of the *Criminal Code*, and that the categorization of an order

must perpetually remain harmonized with the established judicial interpretation governing the parameters of an order within the corpus of criminal jurisprudence;

XIII. A **Declaration** is sought establishing that the **Intake Court Endorsement** constitutes, at its zenith, a mere administrative determination, or, at its nadir, an absolute nullity rendered *void ab initio*. It represents nothing more than the *acta* of the Honourable Madam Justice Shore executed under the doctrine of *factum a judice, quod ad officium jure non pertinet, ratum non est*, thereby rendering the appearances before her irrevocably *coram non judice*;

XIV. A **Declaration** is sought emphasizing that any formulation or issuance of the **Intake Court Endorsement** was inherently *factum a judice, quod ad officium jure non pertinet, ratum non est* concerning the presiding jurist of the Superior Court of Justice. The jurist, despite possessing superior court of criminal jurisdiction, remained inextricably bound by the statutory confines of the *Criminal Code* and the *Criminal Proceedings Rules*, thereby rendering the specific segment of the *ex parte in camera* proceeding wherein such acts were consummated as entirely *coram non judice*, predominantly because the resultant instrument is not one that a jurist of the Superior Court of Justice is legally empowered to issue at that nascent phase of a criminal prosecution;

XV. A **Declaration** is sought affirming that the manager of court operations stationed at the Superior Court of Justice at 361 University Avenue was duly served with a meticulously reproduced copy of the **Form 1 Notice of Application** on March 16, 2026, or immediately thereafter, accomplished by means of postal transmission and/or by depositing a copy with the individual exercising supervisory control over the court office situated on the primary level, in precise compliance with *rule 5.01(3)* of the *Criminal Proceedings Rules*;

XVI. A **Declaration** is sought asserting that while the service effectuated upon the manager of court operations by means of depositing the document at the corresponding court office on the primary floor of the Superior Court of Justice satisfies the minimal requirements for service, the distinct obligation to file the documentation with the specific court office wherein the **Criminal Proceeding** was inaugurated strictly necessitates electronic filing via email, directed specifically to the designated functionary, notably Ms. Monica Simion.

APPLICATION OF RULE 5.02

XVII. A **Declaration** is sought confirming that the Honourable Madam Justice Shore was personally served, in rigorous adherence to *rule 5.02(1)(c)* of the *Criminal Proceedings Rules*, by means of depositing the **Form 1 Notice of Application** with the individual exercising authority over the court office located within the precise geographic locus where the purported adjudication was manifested;

XVIII. A **Declaration** is sought differentiating, as a matter of established legal doctrine, the physical court office where an adjudication is formalized from the localized ether where a corresponding warrant, order, determination, direction, or endorsement is conceptually or administratively formulated;

XIX. A **Declaration** is sought positing that, while it remains an axiomatic requirement that all orders be formally endorsed, the converse proposition is jurisprudentially fallacious; thus, it is self-evident that not all endorsements can be elevated to the legal stature of an order.

ADHERENCE TO RULE 6 OF THE CRIMINAL PROCEEDINGS RULES

XX. A **Declaration** is sought codifying the principle that the commencement of a **Form 1 Notice of Application** is fundamentally distinct and severable from the commencement of a substantive criminal proceeding. This delineation is reinforced by the jurisprudential framework established in *R. v. Awad*, 2010 ONSC 1523 at para 45, 98 OR (3d) 314 (the "*Awad Decision*"). In the *Awad Decision*, the court affirmed that applications seeking prerogative relief or raising collateral constitutional issues operate upon an independent procedural trajectory, thereby necessitating that the procedural apparatus of the application not be entirely subsumed by the primary prosecutorial mechanisms. Applying this legal doctrine to the extant factual matrix, it becomes self-evident that the initiation of the **Form 1 Notice of Application** did not trigger the broader

procedural mechanisms associated with the substantive criminal trial; thus, *prima facie*, the foundational mechanism of commencing an application cannot be legally conflated with the swearing of an information;

XXI. A **Declaration** is sought dictating that, as the **Criminal Proceeding** was indisputably commenced through the solemn swearing or affirmation of the information in form 2 under the *Criminal Code*, or alternatively by the execution and submission of an indictment in form 4 under the *Criminal Code*, directly to the Superior Court of Justice at 361 University Avenue, the foundational requisites of commencement have been strictly satisfied;

XXII. A **Declaration** is sought confirming that, as an immutable consequence of the foregoing commencement protocols, *rules 6.01* through *6.11* of the *Criminal Proceedings Rules* are entirely inapplicable to this **Criminal Proceeding**, given that it was inaugurated before the Superior Court of Justice exclusively by the swearing of the information or the laying of the indictment before a jurist of the Superior Court of Justice.

IMPLICATIONS OF RULE 9 OF THE CRIMINAL PROCEEDINGS RULES

XXIII. A **Declaration** is sought resolving that the purported intake court endorsement, and unequivocally the specific **Intake Court Endorsement** dated September 23, 2024, demonstrably failed to achieve compliance with the rigorous strictures embedded within *rule 9.01* of the *Criminal Proceedings Rules*;

JURISDICTIONAL CONTOURS UNDER RULE 43 OF THE CRIMINAL PROCEEDINGS RULES

XXIV. A **Declaration** is sought affirming that the specific administrative determination to which this supervisory application is irrevocably tethered is the **Intake Court Endorsement**;

XXV. A **Declaration** is sought affirming that the manager of court operations stationed at the Superior Court of Justice at 361 University Avenue was duly served on or immediately succeeding March 16, 2026;

XXVI. A **Declaration** is sought asserting that the applicant, by serving the **Form 1 Notice of Application** complete with the embedded endorsement dated April 29, 2026, formulated in precise conformity with *rule 43.03(2)* of the *Criminal Proceedings Rules*, completely discharged the obligation to execute service upon the manager of court operations at the Superior Court of Justice;

XXVII. A **Declaration** is sought mandating that the manager of court operations at the Superior Court of Justice was legally compelled to forthwith transmit the entirety of the documentation, physical papers, exhibits, and corollary materials to the clerk of the court situated in courtroom 241 at the Superior Court of Justice without delay;

XXVIII. A **Declaration** is sought stipulating that the applicant is not fettered by the thirty-day limitation period enumerated within *rule 43.04(1)* of the *Criminal Proceedings Rules*, fundamentally because the **Intake Court Endorsement** does not ascend to the requisite legal standard of an order. An ancillary order is sought declaring that any such thirty-day limitation period would only forcefully commence upon the unredacted production of the endorsement to the applicant and to the honourable court where the **Form 1 Notice of Application** is definitively returnable;

XXIX. An order is sought dictating that the **Form 1 Notice of Application** shall be made returnable precisely thirty days subsequent to the date upon which the applicant perfects personal service upon all strictly relevant individuals, judicial officers, and entities, coupled with the requisite filing of two duplicate copies bearing irrefutable proof of service with the clerk of the court tasked with adjudicating the application, executed only after the foundational filing within the court office where the **Criminal Proceeding** was originally commenced.

THE PROPER RETURNABLE FORUM BEFORE THE CLERK OF THE COURT

XXXII. A **Declaration** is sought pronouncing that the **Form 1 Notice of Application** and the **Form 5 Notice of Constitutional Question** are strictly returnable to the clerk of the court officiating at the "Court Office" denoted in the Form 1 Application which is

EXTRAORDINARY REMEDIES BY WAY OF THE PREROGATIVE WRITS

XXXIII. An order in the unalloyed nature of *certiorari* is sought, forcefully quashing, vitiating, or otherwise setting aside the certified true copy of the information and/or the indictment, as the specific procedural posture may dictate, particularly as it is to be returned forthwith by the manager of court operations to the criminal division of the Superior Court of Justice at 361 University Avenue.

XXXIV. An order in the nature of *certiorari* is further sought, quashing, nullifying, and comprehensively setting aside the **Intake Court Endorsement**, compelling its immediate return by the manager of court operations to the criminal registry of the Superior Court of Justice; and

XXXV. Concomitant orders in the nature of *mandamus* are sought, strictly directed toward any designated individual or functionary situated within the executive branch of the state who remains encumbered by non-discretionary, executory, and ministerial duties, yet who has demonstrably failed to execute or enforce such binding obligations.

CONSTITUTIONAL REMEDIES AND RELIEF PURSUANT TO THE CANADIAN CHARTER OF RIGHTS AND FREEDOMS

XXXVI. Comprehensive orders and **Declaration**s are sought, as intricately particularized within the applicant's **Form 5 Notice of Constitutional Question** issued pursuant to the *Criminal Proceedings Rules*, which is mandated to be formally delivered, served, and perfected within the specific court office where the **Criminal Proceeding** was formally inaugurated.

THE SUPREMACY OF STATUTORY CODIFICATION OVER ADMINISTRATIVE DIRECTIVES

XXXVII. A **Declaration** is sought firmly establishing that administrative practice directions, regardless of their source, do not coalesce into substantive source law *per se*, and remain perpetually subordinate to the legislative supremacy of the *Criminal Code* and the strict regulatory framework of the *Criminal Proceedings Rules*.

COSTS

XXXVIII. An order is sought directing the immediate payment of substantial indemnity costs, to be awarded unequivocally in favour of the applicant.

INTEREST

XXXIX. An order is sought demanding the rigorous application of pre-judgment and post-judgment interest in relation to any and all monetary restitution awarded herein, calculated strictly in accordance with the prevailing statutory instruments.

THE GROUNDS FOR THIS APPLICATION ARE:

VOLUME 1 — OVERVIEW

COMMENCEMENT OF CRIMINAL PROCEEDINGS AND THE ISSUANCE OF PROCESS

1. Criminal proceedings are formally initiated upon the swearing of an information (the "**Information**") before a judicial officer holding competent jurisdiction within the province; such presiding officers encompass a justice of the peace (the "**Justice of the Peace**"), a judge of the ontario court of justice (the "**Provincial Court Judge**"), or a judge of the superior court of criminal jurisdiction (the "**Superior Court Judge**"), as delineated strictly within the definitions enumerated in the *Criminal Code*, RSC 1985, c C-46 (the "*Criminal Code*"). Within the provincial jurisdiction of Ontario, a Superior Court Judge fundamentally incorporates the judiciary presiding over the section 96 tribunals, explicitly referencing section 96 of the *Constitution Act, 1867* (UK), 30 & 31 Vict, c 3, reprinted in RSC 1985, Appendix II, No 5, alongside the justices of the Court of Appeal for Ontario.

2. The solemn swearing of an Information operates to commence criminal proceedings against an accused individual, a jurisprudential principle affirmed comprehensively in *R v Awad*, 2014 NSSC 44 (*the "Awad Decision"*), *R v Pardo*, 1990 CanLII 10957 (QC CA) (*the "Pardo Decision"*), and *R v McHale*, 2010 ONCA 361 (*the "McHale Decision"*), wherein the respective appellate authorities articulated unequivocally that the formal laying or receipt of an Information constitutes the foundational commencement of such proceedings. Antecedent to the contemporary implementation of the declarative process for a form 2 information (the "**Form 2 Information**"), which accommodates execution via traditional, electronic, or digital signatures, the swearing of said document was strictly necessitated to occur in the physical or constructive presence of a Justice of the Peace, a Provincial Court Judge, or a Superior Court Judge.

3. The formal commencement of proceedings operates independently from, and does not strictly necessitate, the concomitant issuance of judicial process (the "**Judicial Process**"), which traditionally manifests as either a summons (the "**Summons**") or a warrant for arrest (the "**Arrest Warrant**"). This distinction was definitively elucidated by the British Columbia Court of Appeal in *Davidson v British Columbia (Attorney General)*, 2006 BCCA 447, 214 CCC (3d) 373 (*the "Davidson Decision"*), at paragraph 66 per Madam Justice Levine, establishing

5677 that the initiation of the prosecutorial machinery is distinctly severable from the mechanisms deployed to compel the attendance of the accused.

4. Concerning the appellate authority established in the *McHale Decision*, the Honourable Justice Watt, writing for the unanimous panel, observed at paragraph 86 that the *Criminal Code* provides no explicit statutory definition for the terminology "proceedings" as it is utilized within section 579(1) or subsequent provisions. The judiciary has historically construed the phrase "at any time after any proceedings in relation to an accused... are commenced" to signify any temporal point succeeding the laying of an Information, a doctrine heavily supported by the jurisprudence in *Campbell v Attorney-General of Ontario*, 1987 CanLII 4268 (ON SC), 58 OR (2d) 209 (HCJ) (*the "Campbell Trial Decision"*) at page 220, affirmed in *R v Campbell*, 1987 CanLII 4333 (ON CA), 60 OR (2d) 617 (*the "Campbell Appellate Decision"*), alongside *R v Wren*, [1987] BCJ No 1336 (CA) (*the "Wren Decision"*), and the *Pardo Decision* at pages 373-374. Consequently, a logical syllogism dictates that the laying or receipt of an Information falls squarely within the ambit of proceedings in relation to an accused, an extrapolation equally applicable to a pre-enquete, which constitutes a judicial proceeding designed specifically to ascertain whether Judicial Process ought properly to issue.

5. By logical corollary and strict statutory interpretation, an individual is not categorized jurisprudentially as an accused until such time as formal charges have been lawfully laid. An individual crystallizes into an accused precisely upon the laying of charges, effectuated either by a Form 2 Information or an indictment (the "**Indictment**"), as articulated in the *Pardo Decision*, wherein the appellate tribunal confirmed that an individual becomes an accused contemporaneous with the laying of the Information, thereby marking the commencement of proceedings; a principle further consolidated in the *Campbell Appellate Decision*.

THE IMPERATIVE INTEGRITY OF THE JUDICIAL SYSTEM AND THE DOCTRINE OF ABSOLUTE NULLITY

6. The foundational integrity of the Canadian justice system is unequivocally contingent upon the unbroken chain of custody of sworn and subscribed documentation, the rigorous adherence to statutory forms governing the deprivation of liberty, and the unassailable impartiality of the adjudicative body. When these fundamental constitutional pillars are circumvented—whether consequence of egregious administrative incompetence or

5678 deliberate obfuscation effectuated by pre-existing conflicts of interest—the resultant judicial actions transcend mere curable administrative irregularities or voidable errors; rather, they are classified categorically as absolute nullities *ab initio*, devoid of any legal force or effect from their very inception.

7. Within the historical jurisprudence of this jurisdiction, there exist exceedingly rare instances wherein law enforcement personnel have engaged in the swearing of fabricated informations, the manipulation and backdating of records, and the outright forgery of citizens' signatures concerning the relinquishment of firearms. Precedent reveals an exceptionally limited compendium of reported decisions—specifically, merely five documented instances—that approximate the severity of the fabricated documentation compilation (the "**False Information Package**") purported to have been filed by the Toronto Police Service at the Ontario Court of Justice facility located at 10 Armoury Street.

8. The taxonomy of document fabrication within the criminal justice apparatus can be stratified into three distinct classifications based upon the mechanism of action, judicial interaction, and systemic impact. First, subfacial fabrication, or procedural forgery, materializes when a state agent drafts a Form 2 Information or an information to obtain (the "**Information to Obtain**") containing deliberately fabricated, misleading, or heavily sanitized factual assertions, subsequently presenting the document to a genuine judicial officer who is thereby deceived into issuing a facially valid but constitutionally defective warrant. This mechanism implicates statutory offences including perjury, contrary to section 131 of the *Criminal Code*, fabricating evidence under section 137, and obstructing justice under section 139.

9. Second, absolute fabrication, or judicial forgery, represents the complete usurpation of the judicial function. This egregious transgression occurs when a law enforcement officer fabricates a judicial authorization *ex nihilo*, forging the judicial signature or illicitly utilizing the physical or digital imprimatur of a judicial officer, thereby bypassing the adjudicator entirely. Such actions constitute forgery under section 366 of the *Criminal Code*, uttering a forged document under section 368, and personating a public officer under section 130, weaponizing the presumption of regularity against third parties who rely upon the document's apparent authority.

10. Third, administrative and civil forgery involves the falsification of civilian signatures on administrative policing forms or the exploitation of law enforcement status to manipulate private legal instruments. While this category frequently bypasses the criminal tribunals, it profoundly subverts administrative and civil processes, eroding public

confidence and implicating offences such as breach of trust by a public officer pursuant to section 122 of the *Criminal Code*.

11. The paramount illustration of absolute judicial forgery in contemporary Canadian policing materialized within the Service de police de la Ville de Montréal during the pursuit of a notorious organized crime affiliate, documented comprehensively in *Silva v R*, 2021 QCCS 4627 (*the "Silva Trial Decision"*), and *Police Ethics Commissioner v Joly-Tessier*, 2024 QCTADP 49 (*the "Joly-Tessier Tribunal Decision"*). In that proceeding, an investigator misappropriated a justice's official stamp to fabricate a false judicial authorization (the "**Fausse Autorisation Judiciaire**"), completely bypassing judicial oversight. The tribunal observed that such actions profoundly jeopardize the separation of powers and the integrity of the justice system, emphasizing that society cannot tolerate law enforcement officers generating counterfeit court orders autonomously, notwithstanding the exigencies of a complex investigation. Applying this doctrine to the present circumstances, the utilization of an unauthorized and fabricated document analogous to a **Fausse Autorisation Judiciaire** necessitates a complete stay of proceedings, as the usurpation of the judicial function by state agents offends the fundamental principles of justice and extinguishes the jurisdiction of the tribunal *in limine*.

12. Furthermore, the jurisprudence addressing administrative forgery by law enforcement is elucidated in the matter of Constable Darren Smith of the Hamilton Police Service (*the "Smith Prosecution"*), who was prosecuted criminally for forging civilian signatures on firearms surrender waivers to bypass procedural prerequisites. In that instance, despite the absence of financial remuneration and the motivation being grounded in administrative convenience, the conduct resulted in a criminal conviction for forgery, establishing that the falsification of legal instruments by state agents constitutes a severe breach of trust. Applying the legal principles derived from the *Smith Prosecution* to the factual matrix at bar, the deliberate fabrication of the Form 2 Information and the associated endorsement demonstrates a corresponding, albeit exponentially more severe, manifestation of documentary forgery. When state actors fabricate foundational jurisdictional instruments, the resulting prejudice transcends mere administrative irregularity; it vitiates the entire prosecutorial foundation, rendering the subsequent deprivation of liberty an arbitrary and unconstitutional detention, and mandating the nullification of the proceedings *ab initio*.

13. Notwithstanding the aforementioned precedents concerning subfacial and administrative manipulation, the jurisprudential history of this nation remains devoid of any parallel to the outright falsification of a Form 2

5680 Information combined with a fabricated initial warrant—historically delineated as a warrant in the first instance, adopting the nomenclature from the Ministry of the Attorney General Court Services Division Information Access Guide (2019)—until the manifestation of the present proceedings.

JURISDICTIONAL FAILURES AND THE FABRICATION OF THE IMPUGNED ENDORSEMENT

14. The present application delineates a cascading sequence of jurisdictional failures, absolute administrative nullities, unremedied procedural irregularities, and severe forensic anomalies that collectively render the criminal proceeding instituted against the applicant (the "**Applicant**") an absolute nullity *ab initio*. The impugned instrument, styled ostensibly as an intake court endorsement dated the twenty-third of September, 2024 (the "**Impugned Endorsement**"), possesses absolutely no legal characteristic commensurate with a form 7 warrant (the "**Form 7 Warrant**").

15. The Impugned Endorsement is fundamentally devoid of the essential prerequisites characterising a Form 2 Information, fails to qualify as a legitimate judicial order, and constitutes no recognized species of criminal process—whether through the lawful swearing or **Declaration** of an Information or the execution of a Form 4 Indictment by the Attorney General, as contemplated within the definitions articulated in section 2 of the *Criminal Code*. Consequently, the instrument is entirely unrecognizable under the *Criminal Code*, the *Criminal Proceedings Rules for the Superior Court of Justice (Ontario)*, SI/2012-7 (the "*Criminal Proceedings Rules*"), or any lawfully sanctioned intake architecture operating within the Province of Ontario.

16. The origination of the Impugned Endorsement implicates a judicial officer harbouring an established, demonstrable, and deeply entrenched animus toward the Applicant, originating near the temporal juncture of the Applicant's arrival in the jurisdiction of Ontario in April 2018. This profound adversarial predisposition stems from the judicial officer's antecedent capacity as legal counsel representing a litigant (the "**Epstein Cole LLP Client**") during contentious matrimonial proceedings against the Applicant's former romantic partner, who subsequently transitioned into a common-law spousal relationship with the Applicant, thereby establishing an indisputable and enduring conflict of interest.

5681 Forensic tracing establishes incontrovertibly that the Impugned Endorsement originated within the first-floor family law registry of the Superior Court of Justice, situated at 361 University Avenue, Toronto (the "**Family Law Registry**"). The Family Law Registry is exclusively vested with administrative jurisdiction pertaining to familial litigation; it possesses absolutely no criminal jurisdiction, maintains no statutory authority to issue criminal processes, and lacks any legislative mandate to administer criminal intake procedures. The utilization of a family-law administrative registry to generate an instrument compelling criminal arrest is unequivocally *ultra vires*, constitutionally corrosive, and irreconcilably incompatible with the open court principle.

18. The foundational architecture of the criminal justice system mandates unequivocally that criminal proceedings within Ontario must commence exclusively within the Ontario Court of Justice, and criminal warrants must be promulgated solely by a Justice of the Peace or a Provincial Court Judge exercising explicit criminal jurisdiction. The diversion of a criminal Information through the Family Law Registry constitutes a structural impossibility within the statutorily prescribed criminal justice framework, operating as a deliberate jurisdictional bypass of the legislated intake architecture.

19. With the benefit of hindsight, the connection between Madam Justice Shore and Chief Justice Morawetz became obvious in that by the Chief Justice Morawetz authorizing an INTAKE COURT ENDORSEMENT (SEPT 23 2024), it also required the blessing of a "Court Office" but without a filing of the Criminal Code Form 2 or the Criminal Code Form 4, it was an "off the books" type exercise.

20. The subsequent apprehension and ensuing custodial detention of the Applicant were predicated entirely upon this legally unauthorized and fabricated instrument. The Impugned Endorsement is entirely bereft of the statutorily mandated indicia defining a lawful warrant: it conspicuously lacks a Form 7 designation, contains no explicit directive commanding peace officers, omits the requisite offence particulars, fails to articulate the statutory grounds for issuance, provides no geographical parameters for execution, and features no verifiable or authenticated judicial signature. In both substance and form, the instrument manifests as an unequivocally false document.

21. Comprehensive forensic analysis substantiates that the Impugned Endorsement was generated utilizing GrapeCity Documents for PDF 6.0.2.0, an automated software development kit that is categorically unutilized by any judicial registry within the Province of Ontario. The constellation of metadata anomalies, anchor-point deviations, typographical font transitions, and footer corruptions intrinsically confirms extensive post-production digital

5682 manipulation. Such forensic irregularities are fundamentally irreconcilable with any authentic documentation promulgated by a designated court of record.

SPOLIATION OF JUDICIAL ACTA AND THE SUBVERSION OF THE INTAKE ARCHITECTURE

22. The documentary evidence reveals that the sworn Information ostensibly reviewed by the authorizing justice—specifically, Madam Justice Shore (the "**Swearing Justice**")—was subjected to material and unlawful alteration subsequent to the administration of the judicial oath. The third page of the five-page composite, which natively contained the critical jurat, the prosecutorial election, and the judicial confirmation blocks, was systematically excised and substituted with the Impugned Endorsement. This deliberate manipulation constitutes an egregious spoliation of sworn judicial *acta*. Invoking the evidentiary doctrine of *omnia praesumuntur contra spoliatorem,* this Honourable Court is legally obligated to infer that the destroyed or removed documentation contained evidentiary material directly adverse to the interests of the state apparatus.

23. Inquiries directed to the established criminal registries corroborate the complete absence of any legitimate intake procedure. The criminal administrative office of the Superior Court of Justice affirmatively certified the non-existence of any Form 2 Information, Indictment, or warrant pertaining to the Applicant. Similarly, the administrative registry for the Central West Region, specifically the Ontario Court of Justice situated in Brampton, confirmed an identical absence of any such filings. Furthermore, legal counsel acting on behalf of the Ministry of the Attorney General explicitly conceded that no such documentary filing ever transpired between the months of August and October 2024. As the Ontario Court of Justice facility at 10 Armoury Street did not function as the originating jurisdiction, it possessed no duplicate of the documentation, notwithstanding its purported, yet legally defective, designation as a transferee courthouse spanning distinct territorial divisions, contrary to the definitions articulated within the *Criminal Code*.

24. Consequently, the solitary administrative repository maintaining custody and control over the Impugned Endorsement is the Family Law Registry, thereby irrevocably solidifying its unauthorized, non-criminal genesis. Crown counsel's explicit admission acknowledging the absolute failure to properly file a Form 2 Information

5683 between August and October 2024 is legally fatal; absent the formal filing of an Information, no criminal proceeding can lawfully exist or be sustained *in limine*.

25. The protracted temporal lacuna of six weeks separating the initial apprehension of the Applicant on the second of October, 2024, and the inaugural judicial appearance on the thirteenth of November, 2024, precipitated an unconstitutional procedural vacuum. During this extended interval, law enforcement maintained exclusive, unregulated custody of the purported Information, possessing unfettered opportunity to alter, substitute, or meticulously fabricate the constituent pages. This delay transcends mere administrative inadvertence; rather, it constitutes the precise temporal window systematically exploited to effectuate the spoliation of the judicial record.

STATUTORY IMPERMEABILITY AND THE APPREHENSION OF BIAS

26. Should the prosecutorial authority attempt to invoke section 599 of the *Criminal Code* to retroactively legitimize the irregular geographic and institutional routing of the Information, such an assertion remains jurisprudentially impossible. The applicability of section 599 is strictly delineated to judicial venues before which an accused is or may be indicted. Given the prosecutorial election to proceed via summary conviction, the matter is categorically precluded from resulting in an Indictment. Consequently, section 599 is statutorily impermeable and fundamentally incapable of curing a foundational, intake-level jurisdictional defect.

27. The deprivation of the Applicant's liberty was further contaminated by a profound and unmitigated conflict of interest. The Swearing Justice had previously operated as senior litigation counsel at a law firm representing a profoundly adverse litigant against the Applicant within the context of highly contentious civil litigation. The deliberate failure to disclose this antecedent adversarial relationship, synergized with the demonstrably irregular forum-shopping executed to procure a warrant through the Family Law Registry, engenders an overwhelming and objective reasonable apprehension of bias, representing a severe contravention of the *Ethical Principles for Judges*.

CUMULATIVE SUBVERSION OF THE RULE OF LAW AND REQUESTED RELIEF

28. The cumulative amalgamation of these profound jurisdictional and procedural transgressions—encompassing the *ultra vires* issuance of a family-law endorsement masquerading as a criminal warrant, the deliberate spoliation of the Form 2 Information jurat, the forensic fabrication of a digital signature, the intentional circumvention of the

5684 electronic intake architecture, the undisclosed conflict of interest, and the absolute failure to formally file the foundational Information—fundamentally shocks the conscience of this Honourable Court and unequivocally undermines public confidence in the administration of justice. These actions do not represent mere administrative infelicities; they constitute a systemic and deliberate circumvention of the rule of law.

29. In light of the aforementioned incontrovertible factual matrix and the application of rigorous jurisprudential doctrines, the Applicant respectfully seeks declaratory, prerogative, and equitable relief to rectify the profound jurisdictional vacuum engineered by the failure of the state apparatus to file a lawful Information. The Applicant beseeches this Honourable Court to quash the Impugned Endorsement, to issue an order of *mandamus* compelling the production of the unadulterated, original judicial *acta*, and to restore the judicial record *Nunc pro tunc* to its lawful, untainted state as it ostensibly existed on the twenty-third of September, 2024, thereby restoring the *status quo ante*.

30. The three cases referenced in the history of this country wherein the police engaged in either outright fabrication of the Information or a civilian's certification to surrender weapons are infra. The only case where a police officer had taken the judicial stamp of a JP, OCJ Judge or SCJ Judge was the 2019 cases involving *R. v. Silva* and police officer Mr. Joly-Tessier.

Case / Subject	Type of Fabrication	Systemic Response / Penalty	Context
SPVM Officer Guillaume Joly-Tessier (*Frédérick Silva* case) 2019	**Absolute** (Stole JP stamp, forged signature on fake warrant)	25-day suspension without pay (Police Ethics Tribunal).	Noble cause corruption; high-pressure hunt for serial killer. Administrative leniency despite severe judicial denunciation. (underlying case is R. v. Silva) 2019: Silva v. R., 2021 QCCS 4627 Silva v. R., 2021 QCCS 4131

5685			In ORDER FOR THE RUSE TO WORK INVOLVING A HITMAN IN FRED SILVA [iii]
Toronto Drug Squad (*R. v. Schertzer*) 2015	**Subfacial** (Fabricated notes, false ITO, perjury)	3 years imprisonment (Ontario Court of Appeal).	Cover-up of a *Charter* s.8 breach. Court established strict standard for police perjury and document fabrication.
Hamilton Police (*R. v. Hansen*) 2016	**Subfacial** (Swore false ITO to target drug dealer)	5 years imprisonment (Superior Court of Justice).	Malicious prosecution; severe breach of trust and corruption of the judicial authorization process. Five years in prison.
Const. Darren Smith (Hamilton Police) 2019	**Administrative** (Forged citizen signatures on firearms waivers)	18 months probation, 75 hours community service.	Laziness and convenience; no financial gain, but still prosecuted criminally for forgery. (NTD: case that I have cited many times and in the criminal case

31. However, never in the history of this country has there been the falsification of the Criminal Code Form 2 Information and the purported arrest warrant (warrant in the first as one called it as if it the language was being taken from the MAG CSD Court Information Access Guide (2019) until now.

I. INAPPLICABILITY OF SECTION 599 AND JURISDICTIONAL ROUTING

32. It is submitted that any reliance upon section 599 of the *Criminal Code*, RSC 1985, c C-46 (the "*Criminal Code*") to justify the highly irregular and unauthorized transfer of charging documents is statutorily misconceived, jurisprudentially unfounded, and fundamentally devoid of legal merit. The applicability of this specific statutory provision to the extant factual matrix is definitively precluded by two insurmountable statutory impediments *in limine*, which operate to entirely vitiate the Crown's procedural posture.

33 Primarily, the substantive application of the provision is strictly constrained to indictable offences by the explicit and unambiguous text of the legislation. Section 599(1) of the *Criminal Code* explicitly stipulates its application solely to "A court before which an accused is or may be indicted". Within the foundational architecture of Canadian criminal jurisprudence, the jurisdictional bifurcation between summary conviction offences—adjudicated exclusively by a jurist sitting in the Ontario Court of Justice (the "**OCJ**")—and indictable offences—which may engage the jurisdiction of the superior courts—is paramount and non-derogable. Given that the prosecuting authority has unequivocally elected to proceed by way of a summary conviction election (the "**Crown Election**"), the accused shall *ipso facto* never face an indictment nor the prospect of a jury trial. Consequently, section 599 of the *Criminal Code* is statutorily inapplicable on its face. To invoke this provision in the context of pure summary proceedings evinces a profound misapprehension of the bifurcated procedural conduits established by the legislature, attempting to forcefully graft an indictable mechanism onto a summary conviction reality.

34. Furthermore, an exacting analysis of the legislative intent reveals that section 599 of the *Criminal Code* operates exclusively as a substantive change of venue provision, rather than a mere administrative filing mechanism utilized to correct bureaucratic routing errors. It is historically, practically, and jurisprudentially reserved for those rare and exceptional instances wherein an accused faces an indictable trial that must be transposed to a completely distinct territorial division to mitigate the overwhelming taint of pre-trial publicity or localized prejudice, thereby preserving the fundamental integrity of the jury pool and the accused's constitutional right to a fair trial. Opposing counsel may attempt to creatively characterize the transposition of the charging document as a mere procedural irregularity curable under standard administrative practices; however, such a counter-argument must be emphatically dismissed as a legal fiction. The physical transposition of a sworn form 2 information (the "**Information**") from the chambers of an issuing superior court magistrate to a lower intake registry is a basic administrative routing imperative, possessing absolutely no nexus to a substantive, judicially mandated change of venue. To purposefully conflate these legally distinct mechanisms is legally untenable and constitutes an impermissible, results-oriented attempt to leverage a complex trial provision to excuse a foundational failure of administrative court filing.

35. The jurisdictional routing of foundational charging documents from the Ontario Superior Court of Justice (the "**SCJ**") to the OCJ demands rigorous, uncompromising adherence to the sanctity of the court record. The intentional destruction, post-oath alteration, or deliberate concealment of formal adjudicative documents by state agents constitutes the egregious and actionable act of spoliation. Pursuant to the centuries-old evidentiary doctrine of *omnia praesumuntur contra spoliatorem*—all things are presumed against a wrongdoer—the tribunal is strictly compelled to draw the most adverse inferences possible, specifically inferring that the excised or altered pages contained documentary evidence highly detrimental to the legal position of the state actors responsible for their manipulation. This presumption is magnified exponentially when the alleged spoliators are sworn peace officers entrusted with the administration of justice.

36. A strict, legally recognized demarcation exists between purely administrative endorsement pages and substantive, sworn documentary instruments. The intake court endorsement (the "**Intake Court Endorsement**"), frequently designated within the registry as a backing sheet, functions strictly as an administrative apparatus utilized by court registry staff to chronologically chronicle remands, bail conditions, the Crown Election, and the eventual entry of pleas. The customary administrative practice of appending a blank endorsement sheet prior to official electronic or physical filing does not, *prima facie*, vitiate the underlying legality of the charge, as it does not purport to alter the sworn allegations.

37. Conversely, the substantive pages comprising the specific counts and the jurat are executed under the absolute, solemn penalty of perjury. Should state agents physically excise the specific page delineating the charges that were previously scrutinized and explicitly authorized by a jurist of the SCJ, subsequently substituting or augmenting it post-oath to cure defects or alter the narrative, such conduct constitutes a catastrophic procedural breach and the direct spoliation of a sworn legal instrument. The *acta* of the court are thereby irreversibly tainted.

38. An Information cannot be materially altered, augmented, or subjected to page substitution subsequent to the administration of the judicial oath without inextricably severing the absolute chain of custody of that oath. The law dictates that should the factual circumstances or the specific prosecutorial counts necessitate modification prior to the inaugural judicial appearance, law enforcement personnel are statutorily precluded from merely substituting

5688 physical pages into the existing package; they are strictly and universally obligated to swear a completely superseding Information before a justice of the peace to re-engage the legal machinery.

39. Where the evidentiary record demonstrates—as it does in the extant matter—that the physical pages originally sworn before the SCJ diverge structurally, materially, or substantively from the iteration ultimately filed with the OCJ registry, it is a self-evident conclusion that the Information currently situated before the tribunal was never sworn under oath in its extant, pieced-together form. An unsworn Information presented as a sworn instrument is an absolute legal nullity, representing a fatal jurisdictional deficiency that immediately and permanently divests the tribunal of any adjudicative authority. Such a systemic failure to authenticate the charging instrument operates in direct contravention of the fundamental justice and liberty guarantees enshrined within section 7 of the *Canadian Charter of Rights and Freedoms*, Part I of the Constitution Act, 1982, being Schedule B to the Canada Act 1982 (UK), 1982, c 11 (the "*Charter*").

III. TEMPORAL ANOMALIES AND THE ADMINISTRATIVE CHASM

40. The highly anomalous and entirely unexplained temporal chasm spanning the initial detention of the accused on October 2, 2024, and the scheduled inaugural judicial appearance on November 13, 2024, demands rigorous, skeptical scrutiny regarding the custodial transmission of the charging package. This prolonged delay directly offends the core constitutional imperatives of prompt disclosure and judicial oversight.

41. A critical, substantive legal distinction must be drawn between the swearing of the charging document and its subsequent, formal filing with the registry of the court of competent jurisdiction. Given that the investigative authorities were statutorily required to swear the Information before an SCJ jurist to secure the arrest warrant initially, the Information was legally laid pursuant to section 504 of the *Criminal Code* prior to the physical detention of the accused on October 2, 2024. The administration of the oath had already been perfected, thereby irreversibly activating the prosecutorial machinery and engaging the liberty interests of the subject.

42. The physical or electronic transmission of the aforementioned sworn documentation to the OCJ represents a constitutionally imperative administrative step required to place the matter before an independent adjudicator. The absolute chronological boundary for law enforcement to deposit the package with the OCJ registry is strictly prior

5689 to the commencement of court proceedings on the date of the first appearance. Failure to do so results in a loss of jurisdiction over the person.

43. Section 505 of the *Criminal Code* unequivocally mandates that an Information must be laid "as soon as practicable" and "in any event before the time stated in the appearance notice or undertaking." As the Information was preemptively sworn to procure the warrant weeks prior, law enforcement was merely obligated to ensure the physical documentation was expeditiously deposited at the OCJ intake registry for docketing. Holding the document for six weeks plainly violates the spirit and the letter of the "as soon as practicable" standard, which requires diligent administrative routing, not strategic document retention.

44. Consequently, law enforcement exploited the entirety of the six-week interval to retain exclusive, unmonitored physical custody of the file prior to its submission to the OCJ registry. While opposing counsel may proffer the technical argument that this timeline mathematically complies with the outermost boundaries prescribed by section 505 of the *Criminal Code*, such a defense is inherently specious and ignores the substantive psychological and procedural prejudice inflicted upon the accused. This extensive, unexplained delay engineered a deliberate evidentiary void—a procedural black hole—relegating the accused to a state of juridical limbo entirely devoid of a publicly accessible docket against which to verify the legality of the detention. Crucially, this artificial temporal expanse provided ample opportunity for the physical manipulation of the document, the substitution of substantive pages, and the post facto fabrication of the signature of the justice of the peace (the "**JP**"), all effectuated entirely insulated from the auditing functions of judicial oversight.

V. THE ISSUANCE OF PROCESS AND SUPERIOR COURT OF JUSTICE CUSTODY

45. The granular application of the mechanical provisions of the *Criminal Code* and standard court administrative protocols to the specific factual matrix involving the courthouse situated at 361 University Avenue and the chambers of Madam Justice Shore reveals profound procedural irregularities and systemic anomalies that strike at the heart of the tribunal's adjudicative integrity.

46. As a tribunal of inherent jurisdiction, the SCJ possesses plenary administrative, supervisory, and judicial powers that substantially eclipse those of the statutorily circumscribed OCJ. It is an axiomatic principle of law that the SCJ, acting as a court of record, bears the ultimate, non-delegable responsibility for preserving the original, executed

5690 arrest warrant as an indelible component of its permanent, audited *acta*. The precise procedural conduit leading to this retention, however, is wholly contingent upon the precise methodology employed by law enforcement to lay the Information.

47. Pursuant to the strictures of section 508.1 of the *Criminal Code*, should the Information have been laid via telecommunication, the physical document would not have been contemporaneously filed at the SCJ at the moment of issuance. The affiant would administer the oath remotely, and the presiding jurist would electronically generate and transmit the legal process. Nevertheless, the utilization of tele-applications, (otherwise not appearing in person) and/or telewarrants necessitates an uncompromising, rigorously audited paper trail; the Information sworn upon oath must be subsequently filed with the registrar to ensure absolute transparency and to facilitate potential *certiorari* review.

48. Alternatively, should the swearing process have occurred physically *in camera* within the judicial chambers of the SCJ, the presiding jurist would have directly scrutinized the physical documentation, though not necessarily retained a physical iteration within those specific chambers. Operating in the highly administrative and heavily burdened capacity of **Family Team Leader, Madam Justice Shore** exercises the authority to review the Information and authorize the warrant *in camera*, expeditiously returning the *acta* to law enforcement or, more properly, to her registry personnel for formal processing and entry into the court's immutable records.

49. It is odd on its face that Madam Justice Shore became the family law team leader at the SCJ 361 University Avenue Courthouse, after it began to house SCJ family law matters, considering she was only appointed in late 2018. She had little to not judicial experience in the arena of family law when compared to other Judges of the SCJ and her family law litigation experience was minimal at best. She did not shape family law in Ontario or in Canada in any significant way per se but she certainly politicized her potential appointment with much fervour and sat on a litany of committees and boards on the administrative side.

50. In the conspicuous absence of a digitally generated, pre-populated form 7 arrest warrant (the "**Form 7**") provided *ab initio* by the attending law enforcement officers—a standard practice in modern policing—the administrative execution and formatting of the judicial fiat inevitably devolves upon the subordinate court registry. The administrative personnel situated on the first floor of the SCJ specifically facilitate these functional, clerical requirements for the Family Division.

5691 In such an administrative paradigm, a registrar or clerk of the court is statutorily empowered to sign or authenticate the resulting warrant on behalf of the presiding jurist based upon her oral directives, subsequently transmitting an electronic iteration of the issued process to the operational officer, specifically Detective Virani. This operational sequence is entirely consistent with the sweeping statutory authority conferred by section 3.1 of the *Criminal Code*, which provides that judicial acts are effective from the exact moment they are pronounced, and that the clerk of the court is fully authorized to memorialize such acts in writing.

52. Irrespective of whether the warrant was authorized via telecommunication pursuant to section 508.1 of the *Criminal Code* or physically *in camera* by Madam Justice Shore, the originating tribunal retains absolute, non-delegable responsibility for the original *acta*. Because the SCJ is a court of record possessing inherent jurisdiction, the original signed arrest warrant—or the master electronic corollary—must permanently reside within the originating court office (the "**Originating Court Office**"). The complete, certified absence of these requisite records from the SCJ archives, despite formal demands, constitutes a glaring anomaly indicative of either catastrophic administrative negligence or deliberate, state-sanctioned concealment designed to mask a jurisdictional usurpation.

V. ANATOMY OF THE SWORN RECORD AND STRUCTURAL DEFICIENCIES

53. A rigorous, technical analysis of the standard structural architecture of an Ontario Form 2 Information package decisively corroborates the deductions advanced herein regarding the systematic removal of substantive pages and the deliberate obfuscation of the true warrant. The Form 2 is not a mere compilation of administrative paper; it is a meticulously calibrated statutory matrix designed to permanently and immutably codify the precise legal jeopardy of the subject.

54. The inaugural page delineates the substantive criminal charges, rigorously enumerating the identity of the accused, the date of the alleged infraction, and the precise statutory text governing the purported counts. The subsequent third and fourth pages encapsulate the jurat, the release mechanisms, and the Crown Election. This specific anatomical section constitutes the absolute, most critical component of the criminal process, as it contains the physical signature block wherein the affiant swears the solemn oath and the jurist validates the administration of that oath. The deliberate excision of this specific page thoroughly sanitizes the documentary history, permanently

5692 erasing the original signature, the corroboration of the release mechanism, and the initial prosecutorial election from the purview of reviewing courts.

55. The disposition page chronicles the ultimate adjudication, plea, or sentence corresponding to each specific, enumerated count. Its unceremonious removal further sanitizes the *acta*, ensuring that any subsequent judicial verification regarding the original number of counts presented to the SCJ judge—as juxtaposed against the counts ultimately filed weeks later at the OCJ—remains entirely impossible. This structural sabotage purposefully masks potential prosecutorial overcharging or the subsequent, unrecorded abandonment of unsupportable allegations.

56. The fifth page, designated exclusively and explicitly for administrative purposes, is customarily auto-populated by the records management system of the law enforcement agency (e.g., Niche RMS) prior to the physical printing of the document. The information number is strictly left blank by law enforcement, legally mandated to be physically inscribed by the OCJ registry personnel solely upon official filing into the provincial tracking system. The listed return date signifies the inaugural appearance date, whereas the designated courtroom refers exclusively to the OCJ intake courtroom, representing a geographic locus completely distinct from the SCJ chambers wherein the warrant was originally procured.

57. The documentary record presently before this tribunal evinces only a diminutive, highly irregular administrative checkbox indicating "**Warrant 1st**" (warrant in the first instance). It is a foundational tenet of criminal procedure that the Form 2 Information package does not legally encompass the actual, executable arrest warrant. The Information is merely the sworn foundational pleading containing the factual allegations requisite to justify the prospective issuance of the warrant. The warrant itself is an entirely distinct statutory command document, strictly and universally mandated to be a Form 7, which operates as the coercive instrument of state power.

58. Upon the execution of the Form 7, the physical warrant must legally be returned to the issuing tribunal to be formally recorded as executed, thereby concluding the life cycle of the command. Consequently, to procure an authenticated copy of the actual Form 7, one cannot rely upon the manipulated Information package filed belatedly at the OCJ; one must direct the request specifically to the Originating Court Office—a fundamental administrative request the SCJ has heretofore been suspiciously and uniformly incapable of fulfilling, further strengthening the presumption of spoliation.

59. The complex factual matrix herein establishes a compelling, irrefutable synthesis of deliberate documentary obfuscation achieved through the strategic, bad-faith exploitation of the jurisdictional overlap between the SCJ and the OCJ. Standard operational procedure unambiguously necessitates that law enforcement officers present routine applications for arrest warrants to a JP within the OCJ. These statutorily appointed jurists are intimately acquainted with the rigorous statutory thresholds required to justify the deprivation of liberty and process these applications with standardized consistency.

60. Diverting this routine process to an SCJ jurist—specifically one presiding exclusively over the family docket who is entirely unaccustomed to the nuances of routine criminal intake—constitutes highly irregular conduct and the strategic circumvention of jurisdictional imperatives, colloquially and jurisprudentially condemned as forum shopping. This maneuver affords law enforcement a distinct, unearned tactical advantage. A family law jurist, habituated to civil evidentiary standards and lengthy affidavit evidence, may rely more heavily upon the uncorroborated verbal assertions of law enforcement personnel rather than rigorously scrutinizing the strict, liberty-engaging nuances of the *Criminal Code*. Furthermore, as the SCJ explicitly lacks an immediate, automated docketing pipeline to the OCJ provincial systems, a profound structural disconnect is intentionally engineered. This engineered disconnect forged the exact temporal void wherein law enforcement retained unmonitored custody of the Information package prior to its official registration as a publicly accessible OCJ record.

61. Pursuant to section 29(1) of the *Criminal Code*, it is the strict, unambiguous, and non-delegable legal obligation of any state agent executing a warrant to physically possess the document and to produce it for inspection upon request. This specific statutory duty is inextricably intertwined with the fundamental constitutional right of the accused under section 10(a) of the *Charter* to be informed promptly of the specific, documented reasons for their detention. A failure to produce the warrant when requested vitiates the lawfulness of the detention.

62. If the SCJ registry personnel or law enforcement generated an **Intake Court Endorsement** rather than a statutorily compliant Form 7 command document, the resulting instrument is fundamentally procedurally defective and incapable of sustaining a lawful arrest. Cognizant of this glaring, fatal defect, law enforcement possessed a powerful, self-serving animus to fabricate pretexts for actively withholding the warrant during the arrest phase.

5694 They were undoubtedly aware that an accused possessing sophisticated legal acumen and familiarity with the *Criminal Code* would instantly identify the document as legally void, thereby immediately exposing the detention as arbitrary, unlawful, and subject to immediate civil remedy.

VII. EVIDENTIARY VOIDS: THE PHANTOM INFORMANT AND UNAUTHENTICATED OATHS

63. The foundational evidentiary voids established by the certified documentary record provide an unequivocal roadmap demonstrating profound procedural malfeasance. Written correspondence obtained from Crown Counsel Ananthan Sinnadurai, acting on behalf of the Ministry of the Attorney General, explicitly confirmed that a comprehensive, exhaustive search of OCJ records concerning the purported informant, Mrs. Frugoni-Rojas, yielded absolute zero responsive records for the relevant temporal window of August through October. In the realm of administrative law and evidence, a "nil" response from a formal governmental records inquiry operates as highly persuasive, nearly conclusive evidence that the purported administrative event did not occur within that jurisdiction.

64. Because the evidentiary record confirms the absolute absence of any oath administered by the purported informant during the relevant period, it flows chronologically, logically, and inevitably that no record exists of Justice of the Peace Jiri—or any other OCJ jurist—receiving a sworn oath from her. The swearing event depicted upon the substituted backing page is a phantom occurrence, an entirely non-existent fiction within the tracking architecture of the tribunal. This fact conclusively proves the document was backdated, fabricated post facto, or generated completely outside the authorized auspices of the OCJ.

65. To an outside observer, the prospect of a mere administrative clerk functioning as an informant without an iota of personal knowledge of the investigation appears inherently flawed; however, this represents a highly scrutinized conduit mechanism currently tolerated under the *Criminal Code*. Designated civilian court officers routinely swear Informations based solely upon "information and belief." The fatal systemic flaw inherent in this methodology is the absolute reliance upon the verbatim veracity of the law enforcement file placed before them. This systemic rubber-stamping permanently divorces the solemnity of the judicial oath from objective truth, significantly escalating the risk of arbitrary detention. It provides the exact mechanism by which blatant factual fabrications—

5695 such as the non-existent communications alleged herein—manifest seamlessly upon sworn documents, as the affiant possesses zero independent capacity to verify the claims they are swearing to be true.

VIII. PRE-EXISTING CONFLICTS OF INTEREST AND RETALIATORY ANIMUS

66. The profound procedural anomalies, fabrications, and delays delineated above do not materialize in a sterile vacuum. They must be rigorously contextualized within the broader, highly antagonistic factual matrix involving severe conflicts of interest implicating the presiding judicial officer and collateral civil litigation. These intertwined factors collectively supply the compelling, irrefutable motive for the state-sanctioned malfeasance and documentary obfuscation.

67. The accused, possessing extensive civil litigation experience, previously assisted his ex-fiancée in highly contentious, high-stakes family law proceedings against her former spouse. Crucially, the opposing spouse was represented by the prominent firm Epstein Cole LLP. During this exact historical epoch, Madam Justice Shore served as a senior partner at Epstein Cole LLP, heavily invested in the firm's success. The legal strategies aggressively employed by the accused secured a massive financial victory, effectively defeating the efforts of Epstein Cole LLP and engendering a deeply adversarial prior relationship with the law firm and its partners. This underlying dynamic crystallizes severe, actionable concerns regarding judicial impartiality, operating in direct, flagrant contravention of the *Ethical Principles for Judges* established by the Canadian Judicial Council, which mandate immediate recusal where past professional associations yield a reasonable apprehension of bias, a standard firmly entrenched in Canadian law since *Committee for Justice and Liberty v. National Energy Board*, [1978] 1 SCR 369.

68. Furthermore, this localized nexus of judicial animosity is inextricably linked to ongoing, high-value civil insurance litigation arising from a catastrophic, near-fatal motor vehicle collision in 2022. The defeated opposing party in the aforementioned family law dispute concurrently managed the specific corporate insurance department adjudicating the collision claim. This extraordinary convergence intertwines the civil hostilities with the irregular criminal proceedings, creating an environment ripe for retaliatory action.

69. The retaliatory animus reached its absolute zenith following an escalating tenancy dispute wherein the accused secured an urgent, binding order from the Landlord and Tenant Board asserting his rights. Rather than facilitating

5696 the peaceful execution of this lawful civil order, law enforcement orchestrated a deceptive ruse on October 2, 2024, to effectuate an arrest predicated entirely upon the forum-shopped, defective warrant issued by Madam Justice Shore. The utilization of coercive language and threats of prolonged pre-trial custody by arresting officers capitalized upon the deliberately defective paperwork to maximize psychological duress and compliance.

70. Despite coordinated, targeted intimidation—including a specific theft of legal files orchestrated by individuals connected directly to the civil litigation—the accused formally escalated the civil matter by filing a Notice of Constitutional Question. The overarching objective of the irregular, improperly documented criminal proceedings became glaringly apparent: to orchestrate a chilling effect, utilizing the coercive power of the state to prevent the accused from aggressively advancing his civil litigation to the Divisional Court.

71. The true motive underlying the elaborate obfuscation of the paperwork is entirely self-evident when the timelines are overlaid. Had the original Form 2 and Form 7 borne the authentic signature of Madam Justice Shore, an immutable documentary link would have been permanently established in the public record, irrevocably proving the jurist who issued the irregular criminal warrant possessed a severe, pre-existing professional conflict of interest against the accused. The subsequent excision of the original jurat and the desperate substitution of the **Intake Court Endorsement** served a singular, protective imperative: to sever this toxic documentary nexus before the file entered the transparent, publicly auditable OCJ intake system, thereby shielding the jurist from inevitable scrutiny by the Canadian Judicial Council.

IX. THE INTAKE COURT ENDORSEMENT: A JURISDICTIONAL IMPOSSIBILITY

72. The impugned document proffered to law enforcement to justify the severe, profound deprivation of liberty is titled an "**Intake Court Endorsement**". This highly specific and extraordinarily unusual civil nomenclature operates as the evidentiary apex—the absolute "smoking gun"—proving conclusively that the document did not originate from standard OCJ criminal procedures, but rather was hastily repurposed from civil templates.

73. The specific phrase "**Intake Court Endorsement**" is entirely absent from the text of the *Criminal Code*, the *Criminal Rules of the Ontario Court of Justice*, and the *Criminal Proceedings Rules for the Superior Court of Justice (Ontario)*. It is a linguistic and procedural construct completely alien to criminal procedure. As consistently

5697 applied across civil and family law practice directions province-wide, an intake court endorsement is utilized almost exclusively in SCJ family law matters to delineate rapid interim directions to the parties regarding custody or conferences.

74. To contextualize the gravity of this impossibility, reference must be made to the Supreme Court of Canada's foundational pronouncements on jurisdictional boundaries. In *MacMillan Bloedel Ltd. v. Simpson*, [1995] 4 SCR 725 at para 30 (*MacMillan Bloedel*), the Court elucidated the inherent jurisdiction of superior courts, sharply contrasting it with the strictly statutory authority conferred upon inferior tribunals. Applying this venerable doctrine to the present circumstances, while the Ontario Superior Court of Justice undoubtedly possesses inherent jurisdiction, it cannot summarily and arbitrarily graft civil family law procedural mechanisms onto the strictures of the *Criminal Code* to circumvent the explicit statutory preconditions for the issuance of criminal process. Consequently, any document purporting to be an intake court endorsement deployed within a criminal context to effect an arrest is strictly *ultra vires* and fundamentally void *ab initio*, rendering the subsequent execution of such process a legal nullity.

75. Furthermore, it is a jurisdictional impossibility for a justice of the peace presiding in the OCJ in Brampton to possess the statutory authority, the institutional system templates, or the procedural mechanism to issue a family-law-style endorsement for a criminal charge originating in Toronto. The utilization of this specific civil terminology invariably corroborates the premise that an SCJ family law jurist generated the initial direction utilizing the sole templates available to her registry staff, which were subsequently, clumsily misappropriated onto Toronto Police Service letterhead to masquerade as lawful criminal process.

X. STATUTORY NON-COMPLIANCE AND DIGITAL SIGNATURE INVALIDITY

76. While section 32 of the *Interpretation Act*, RSC 1985, c I-21 (the "*Interpretation Act*") dictates that minor deviations from prescribed forms do not automatically invalidate the instrument, the **Intake Court Endorsement** fundamentally deviates from the very substance of a true Form 7 in nine distinct, fatal respects, thereby obliterating its legal authority entirely.

77. The opposing counsel may attempt to invoke section 32 of the *Interpretation Act* to characterize these failures as mere curable administrative defects. However, the jurisprudence is unequivocal that section 32 cannot cure the

5698 wholesale omission of mandatory, substantive elements that engage the liberty of the subject. The impugned document comprehensively fails to: include the statutory designation "FORM 7"; direct the order explicitly to peace officers in the territorial division; particularize the date of birth of the subject to prevent wrongful arrest; delineate the specific offences charged; articulate the statutory legal basis for the warrant; contain the mandatory, active command to immediately arrest; stipulate the precise date of physical execution; identify the geographic locus of the signature; and, crucially, bear the authentic, verifiable signature of the issuing judicial officer. Lacking these nine foundational, statutorily mandated elements, the document is facially invalid, rendering any arrest predicated upon it a flagrant, unconstitutional breach of section 9 of the *Charter*.

78. Furthermore, the printed text "**Digitally signed by Justice of the Peace George Jiri**" lacks any semblance of legal validity. Under the strict, heavily regulated parameters of section 31.4 of the *Canada Evidence Act*, RSC 1985, c C-5, section 31 of the *Personal Information Protection and Electronic Documents Act*, SC 2000, c 5, and the *Secure Electronic Signature Regulations*, SOR/2005-30, a valid digital signature necessitates a cryptographic Public Key Infrastructure entirely absent from this fabricated document. It requires a one-way mathematical hash function to ensure document integrity. The unencrypted text presently displayed is legally analogous to a blank page, rendering the document wholly incapable of commanding a peace officer.

79. The modern legal framework established in *R. v. Smith*, 2020 ONCJ 611 (*Smith*) aligns perfectly with these specific anomalies, providing a direct pathway to findings of documentary fabrication by state agents. In *Smith*, the tribunal definitively ruled that a signature is a fundamental, material part of a document, and a document lacking a genuine signature but purposefully presented as authentic constitutes a false document pursuant to section 321 of the *Criminal Code*. Utilizing this fabricated **Intake Court Endorsement** to justify detention fully satisfies the *mens rea* for uttering a forged document, as the intention to deceive the justice system regarding the authority of the instrument is legally sufficient for a finding of profound malfeasance.

XI. THE DELIBERATE RUSE AND THE CANADIAN POLICE INFORMATION CENTRE METADATA TRAP

80. The heavily condensed timeline of September 23, 2024, reveals a panicked seventy-minute window during which the defective paperwork was ostensibly drafted. Following a brief oral order from Madam Justice Shore, the administrative staff in the Family Registry—unfamiliar with criminal Form 7 templates and lacking access to the

criminal icon system—utilized the civil **Intake Court Endorsement** format to memorialize the direction and rapidly transmit it to law enforcement.

81. Upon receipt of this legally defective document, Detective Virani immediately recognized the operational impossibility of executing a standard, forced-entry tactical arrest, as the paperwork was fatally flawed on its face and would not survive immediate judicial scrutiny or a challenge from a legally literate accused. Consequently, law enforcement engineered a property ruse, luring the accused to the controlled environment of the station under false pretenses. While police trickery is occasionally permissible in investigatory contexts under the doctrine established in *R. v. Rothman*, [1981] 1 SCR 640 (*Rothman*), it unequivocally crosses the threshold of legality when utilized specifically to circumvent the absence of a lawful statutory warrant and to actively withhold the physical document from an accused to prevent its immediate legal deconstruction.

82. The Canadian Police Information Centre architecture operates as a highly secure, immutable digital ledger maintained under federal RCMP auspices. Opposing counsel might attempt to minimize the evidentiary weight of this database by characterizing it as a mere secondary administrative tool. Nevertheless, the metadata generated within this system is legally binding, time-stamped, and permanently auditable. To operationalize the arrest across divisions, law enforcement was compelled to enter the warrant into this system, a process demanding the input of the originating agency, the level of court, the specific jurisdiction, and the authorizing justice. This digital ledger constitutes an unavoidable trap; regardless of subsequent physical document destruction or substitution, the original server-side logs will definitively reflect that the warrant originated from the SCJ on that specific date, completely eviscerating any state narrative asserting the SCJ possessed no involvement.

XII. INSTITUTIONAL OBFUSCATION AND THE E-INTAKE IMPOSSIBILITY

83. The deliberate institutional obfuscation is further evidenced by the bureaucratic misdirection encountered by the accused at the courthouse itself. Upon the initiation of direct inquiries by the accused to the SCJ judicial correspondence registry seeking the true originating order, staff explicitly diverted the inquiry away from the Family Registry, aggressively directing the accused to the second-floor criminal intake. The subsequent evasive, highly irregular, and confused behavior of the second-floor staff is entirely consistent with deliberate bureaucratic

misdirection; they lacked custody of the file precisely because the oral order was handled exclusively and clandestinely by the first-floor Family Registry.

84. The recent, mandatory province-wide implementation of the criminal e-intake portal stands as definitive, systemic proof that standard OCJ processes were entirely bypassed in this matter. The e-intake system enforces rigid, automated, rules-based geographic routing that would never, under any programmed parameters, inexplicably assign a Toronto Police application to a JP situated in Brampton.

85. More crucially, if a warrant is approved through this authorized channel, the portal automatically generates a standardized, fully compliant Form 7 as a locked, cryptographically secure PDF. The digital architecture of the e-intake system is literally programmed to be incapable of outputting a manually typed **Intake Court Endorsement** pasted onto police letterhead. The complete absence of standard e-intake routing logs destroys any potential Crown argument characterizing this as a harmless administrative error by OCJ staff, proving the document was entirely manufactured outside the authorized provincial parameters.

XIII. THE BIFURCATION OF ENDORSEMENTS AND ORDERS

86. Canadian jurisprudence maintains an unbridgeable legal bifurcation between a judicial endorsement and a formal statutory order, a distinction that fundamentally invalidates the use of the impugned document for an arrest. Pursuant to rule 2.01 of the *Criminal Proceedings Rules for the Superior Court of Justice (Ontario)* (the "*CPR*"), an order is explicitly defined as the formal, binding legal instrument commanding an action. Conversely, an endorsement is merely a directional fiat—an instruction to the registry mapping out the basis upon which a formal order should ultimately be drawn. It is akin to a physician's chart notes versus the actual prescription.

87. To operate as an immediate arrest warrant under the *Criminal Code*, an oral order or written endorsement must strictly satisfy the rigid statutory prerequisites of a Form 7 on its face. The **Intake Court Endorsement**, stating solely "Warrant In The First: Issue", constitutes a mere judicial instruction directing the registry to create a warrant in the future. It thoroughly lacks the mandatory active commands required of a true statutory order, rendering the subsequent arrest reliant upon it fundamentally unlawful and an exercise in arbitrary state power.

XIV. EQUITABLE TOLLING AND THE LIMITATION PERIOD TRAP

88. While opposing counsel may advance the predictable argument that the application to quash is statutorily time-barred pursuant to the strict thirty-day limitation period prescribed by rule 43.04(1) of the *CPR*, such an assertion is fundamentally flawed and morally bankrupt when analyzed through the lens of equitable doctrines.

89. The limitation period under the *CPR* is explicitly and inextricably tethered to a formally executed order. As the impugned document has been demonstrated to be merely a directional endorsement fundamentally lacking the commanding statutory requirements of an order, the condition precedent for the commencement of the limitation period has never legally materialized. One cannot be out of time to challenge an order that was never validly issued.

90. Furthermore, the supreme equitable doctrine of *fraus omnia corrumpit*—fraud vitiates everything—operates to perpetually toll any procedural limitations where the foundational legal instrument has been fabricated, spoliated, or intentionally withheld by agents of the state, as was eloquently elucidated by the Supreme Court of Canada in *Landreville v. The Queen*, [1977] 2 SCR 452 at para 15. It is a self-evident conclusion that the Crown cannot weaponize a strict procedural limitation period to shield state-sanctioned spoliation and jurisdictional overreach. The deliberate concealment and fabrication inherently nullify the procedural clock, stripping the Crown of their primary procedural shield and rendering the application to quash procedurally valid, timely, and properly before the court.

XV. NULLITY AB INITIO AND THE CERTIFICATION PARADOX

91. The physical manipulation and back-channeling of the Information package explicitly breaches the strict procedural e-filing mandates governing the SCJ, resulting in a total loss of jurisdiction. Under rule 2.01 of the *CPR*, the definition of an indictment broadly and explicitly encompasses an information. Consequently, originating criminal documents are strictly required to be e-filed electronically to ensure a permanent, auditable digital record. The failure to e-file the indictment as required renders the initial submission procedurally void.

92. By bypassing mandatory filing rules and utilizing civil templates to avoid criminal procedural scrutiny, the jurist acted entirely outside the permissible scope of her administrative office. Pursuant to the ancient jurisdictional maxim *factum a judice quod ad officium ejus non pertinet, ratum non est*—an act of a judge which does not pertain

5702 to his office is of no force—the resulting directions carry absolutely no legal weight. The proceeding occurred *coram non judice*—before one without competent jurisdiction over the improperly filed matter—rendering the endorsement an absolute, incurable legal nullity from its inception.

93. The accused has executed a highly technical compliance maneuver under the *Criminal Proceeding Rules* to permanently trap the tribunal in a bureaucratic paradox of its own design. By formally serving a rule 43.03 notice upon the first-floor Manager of Court Operations, which functions legally as the Originating Court Office, the accused has issued a statutory subpoena commanding the return of all foundational documents to the reviewing court.

94. The first-floor Manager of Court Operations is now confronted with an impossible, binary dilemma. Should they admit nullity via deemed non-filing, they must certify they possess zero copies of the Information package, formally certifying the document is deemed not to have been filed pursuant to rule 4.05(6) of the *CPR*, thereby exposing the entire process as a phantom event conducted *coram non judice*. Conversely, should they admit the unauthorized jurisdictional breach and produce the **Intake Court Endorsement**, they irreversibly cement the unauthorized involvement of the SCJ and the fatal lack of a proper Form 7 into the formal criminal record. In either paradigm, the Crown's reliance upon the fabricated record is completely vitiated.

95. The profound procedural anomalies herein reflect a disturbing, systemic pattern of non-transparent adjudicative findings recorded obliquely via email or case history reports, mirroring the highly irregular methodologies observed in *McIntosh v. Shore, McWatt and Morawetz*, 2023 ONSC 5122. It is noted with profound concern that the judicial officer in that matter was represented by the identical legal counsel presently responding to access to information requests directed to the second-floor registry of the courthouse situated at 361 University Avenue. In light of the insurmountable procedural breaches, overt spoliation, and absolute jurisdictional nullities comprehensively chronicled herein, it is respectfully submitted that the proceedings constitute an egregious, unconstitutional abuse of process necessitating the immediate quashing of the impugned process to restore the *status quo ante*.

A. THE ORIGINATING COURTHOUSE AND THE FAMILY-LAW REGISTRY

96. On September 23, 2024, a document titled "Intake Court Endorsement" (the INTAKE COURT ENDORSEMENT (SEPT 23 2024)) was generated within the **1st-floor Family Law Registry** of the SCJ at 361 University Avenue. This registry is **exclusively family-law** in mandate. It does not handle civil matters and has **no criminal intake function**.

97. The SCJ 361 University Courthouse criminal office (Room 241) confirmed that it has **no record** of any Information, Indictment, or warrant associated with the Applicant. This is consistent with the fact that the Impugned Endorsement originated in the Family Law Registry, not the criminal registry.

98. The Family Law Registry confirmed that it alone has custody and control of the underlying endorsement. This confirms that the Impugned Endorsement was generated within the family-law administrative silo, not within the criminal intake system.

99. The Applicant's correspondence with the SCJ 361 University Avenue Court Office confirms that the Family Law Registry is the only division with custody and control of the underlying endorsement, thereby confirming its family-law origin.

B. THE DOCTRINE OF MAGISTERIAL CAPACITY AND CUSTODIAL CONTINUITY

100. While SCJ judges possess ex officio status as justices of the peace, the exercise of this power does not vest the SCJ with trial jurisdiction over a summary conviction matter. All criminal proceedings in Ontario must commence in the OCJ.

101. Where an Information is sworn before an SCJ judge acting as a magistrate, the police must file the Information with the OCJ clerk **forthwith**. The six-week delay between the arrest and the first appearance represents a **procedural black hole** during which the Information was vulnerable to alteration.

102. Any divergence between the counts reviewed by the Swearing Justice and those eventually filed constitutes **spoliation**. Under *omnia praesumuntur contra spoliatorem*, the Court must presume that the suppressed pages contained information detrimental to the Crown.

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C. STRUCTURAL DECONSTRUCTION OF THE FORM 2 AND THE SURROGATION OF STATUTORY INSTRUMENTS

103. A Form 2 Information is a meticulously calibrated statutory instrument. The Applicant identified that **Page 3 of 5** was excised and replaced with the Impugned Endorsement — a family-law construct foreign to criminal procedure.

104. The Impugned Endorsement fails to satisfy **nine mandatory criteria** of a Form 7 Warrant, including the absence of a statutory title, direction to peace officers, offence particulars, statutory grounds, command to arrest, place of execution, and a verifiable judicial signature.

105. A document that fails in nine material respects to conform to the prescribed statutory form cannot be redeemed via s. 32 of the *Interpretation Act*. These deviations go to the essence of the instrument's authority.

D. FORGERY, FABRICATION, AND THE SMITH DOCTRINE

106. The Impugned Endorsement purports to be "Digitally signed by Justice of the Peace George Jiri." This is a fabrication. The document lacks the cryptographic hash functions and third-party certification required for a secure electronic signature.

107. In *R v Smith*, the Court held that a signature on an official document is a **material part** of that instrument. A document that purports to be made by a person who did not authorize its creation is a **false document**.

108. The typing of a justice's name in Arial font, absent authorization or secure certification, constitutes the creation of a false document. Its use to deprive a citizen of liberty satisfies the mens rea for uttering a forged document under s. 368 of the *Criminal Code*.

E. THE SYSTEMIC IMPOSSIBILITY OF COMPLIANCE WITHIN THE E-INTAKE PARADIGM

109. The criminal E-Intake portal automatically generates a standardized Form 7 Warrant as a locked PDF. It is **systemically impossible** for the E-Intake system to output a manually typed "Intake Court Endorsement."

110. The existence of such a document proves that the standardized digital safety nets were intentionally bypassed.

F. JUDICIAL IMPARTIALITY AND THE NEXUS OF ANIMOSITY

111. Madam Justice Shore previously acted as senior counsel at a firm that represented a litigant adverse to the Applicant in high-stakes civil litigation. The failure to disclose this prior adversarial relationship violates the Ethical Principles for Judges and raises a reasonable apprehension of bias.

112. The removal of the Jurat page severed the documentary link between the Swearing Justice and the irregular warrant, shielding her from scrutiny.

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G. ADMINISTRATIVE CHICANERY AND THE PROCEDURAL ENTRAPMENT OF RULES 5 AND 43

113. The Applicant served the Manager of Court Operations at the **1st-floor Family Law Registry** pursuant to Rule 5.02(1)(c), as that is the locus of the adjudication.

114. Rule 43.03 now compels the Manager to return true copies of the record to the 2nd-floor Criminal Intake office, creating a **procedural checkmate**

a. If the Manager certifies that no record exists → the Information is deemed not filed under Rule 4.05(6); and

b. If the Manager produces the Impugned Endorsement → the State confirms the use of an unauthorized form.

H. EQUITABLE MAXIMS AND THE TOLLING OF LIMITATION PERIODS

115. Under *fraus omnia corrumpit*, no party may benefit from its own malfeasance. The Crown cannot invoke limitation periods when it concealed the originating document.

VOLUME 3 — ISSUES

116. The issues raised by this Application are foundational to the integrity of the criminal justice system and the constitutional architecture of Canada. They include but are not limited to:

a. **Whether the Impugned Endorsement is a lawful criminal process:**

   i. The Court must determine whether a document styled as an "Intake Court Endorsement," generated within the SCJ Family Law Registry, can constitute a warrant or judicial authorization under the *Criminal Code*;

b. Whether the Impugned Endorsement in its authentic and actual format and writing at the time is merely a determination at best or falls under the ambit and definition of an Order;

   i. This Honourable Court must determine whether the Impugned INTAKE COURT ENDORSEMENT (SEPT 23 2024) is a legal document in the context of an intake court prior to arrest;

c. **Whether the proceeding is deemed never to have been filed under Rule 4.05(6)**

   i. OCJ Brampton has no record of the False Information Package;

   ii. OCJ 10 Armoury Street Courthouse has a record of the False Information Package but only as of after November 2024. Ergo, Mr. Henriquez's inputs were manipulated and coerced by the TPS.

   iii. SCJ 361 University Courthouse (criminal registry court office) has no record of any Information or warrant. The Crown admits no Information was filed between August and October 2024. The Court must determine whether the proceeding legally exists.

d. **Whether the alteration and substitution of sworn pages constitutes spoliation.**

i. The Court must determine whether the removal of Page 3 of 5 — the Jurat page — and its replacement with the Impugned Endorsement renders the Information a nullity.

e. **Whether the involvement of an SCJ family-law judge renders her acts Factum A Judice, Quod Ad Officium Jure Non Pertinet, Ratum Non Est, the process *coram non judice*.**

i. The Court must determine whether Madam Justice Shore, acting in a family-law capacity, possessed jurisdiction to authorize criminal process without a s. 599 transfer order.

f. **Whether the Crown's reliance on s. 599 of the *Criminal Code* is legally impossible.**

i. The Court must determine whether s. 599 can cure an intake-level jurisdictional defect in a summary conviction matter.

g. **Whether the E-Intake system makes the Impugned Endorsement systemically impossible.**

i. The Court must determine whether the existence of a manually typed "Intake Court Endorsement" proves that the standardized digital safety nets were bypassed

h. **Whether the Applicant's *Charter* rights under ss. 7, 8, 9, and 11(b) were violated.**

i. The Court must determine whether the Applicant's arrest, detention, and delay were arbitrary, unreasonable, and contrary to fundamental justice

i. **Whether prerogative relief (certiorari, prohibition, mandamus) must issue.**

i. The Court must determine whether the jurisdictional defects are so fundamental that the proceeding must be quashed in limine.

j. **Whether the record must be restored *Nunc pro tunc*.**

i. The Court must determine whether the state may benefit from its own concealment or whether the record must be restored to its lawful state as of September 23, 2024.

VOLUME 4 — LAW & ARGUMENT

A. CONSTITUTIONAL ARCHITECTURE AND THE PRIMACY OF THE CRIMINAL INTAKE SYSTEM

117. The criminal justice system in Ontario is constitutionally and statutorily structured around a **single point of intake**: the Ontario Court of Justice. This is not a matter of administrative convenience; it is a constitutional safeguard. The OCJ is the statutory creature designated for intake, bail, and initial docketing. The SCJ, by contrast, is a court of inherent jurisdiction whose criminal authority is engaged only after proper intake has occurred.

118. The use of the SCJ Family Law Registry — a registry with **no criminal jurisdiction in terms of operations whatsoever** — to generate a criminal instrument is a structural impossibility within the constitutional architecture. It violates:

a. the separation of criminal and family jurisdictions;

5707 b. the Open Court Principle;

c. the statutory routing of criminal process; and

d. the constitutional requirement that criminal proceedings commence in the OCJ

119. The Supreme Court of Canada has repeatedly affirmed that the Rule of Law requires **predictable, transparent, and lawful procedures** for the deprivation of liberty. (*Reference re Manitoba Language Rights*, *BCGEU*, *Doucet-Boudreau*). A criminal process originating in a family-law registry is the antithesis of this requirement.

B. JURISDICTIONAL NULLITY: A PROCEEDING THAT NEVER LEGALLY EXISTED

120. A criminal proceeding cannot exist without a filed Information or an Indictment. This is not a technicality; it is the constitutional moment at which the state acquires jurisdiction over the person. A breach of the very Criminal Proceeding Rules so authorized by Chief Justice Morawetz is of the most egregious violations on its face (pardon the pun) but when it involves the Chief Justice himself, indirectly or directly, implicitly or explicitly, it rises to an assault on our democracy.

121. Herein, the facts remain as of today's date:

a. The SCJ (Toronto Region) criminal Court Office has no record of any Information;
b. SCJ 393 University Avenue Courthouse has no record of any Information, Information Package or Intake Court Endorsement;
c. The OCJ has no record of any Information filed between August and October 2024; and
d. Crown counsel Sinnadurai admitted that no Information or INTAKE COURT ENDORSEMENT (SEPT 23 2024) was filed during this period.

122. Under Rule 4.05(6), where the originating court office has no record of a filing, the document is **deemed not to have been filed**. The proceeding therefore never legally commenced.

123. A proceeding that never commenced cannot be cured, revived, or retroactively validated. It is a **jurisdictional nullity**.

C. THE DOCTRINE OF MAGISTERIAL CAPACITY AND THE LIMITS OF EX OFFICIO AUTHORITY

124. While SCJ judges possess ex officio status as justices of the peace, this authority is **strictly limited** to the act of administering the oath and reviewing the Information. It does not transform the SCJ into a criminal intake court.

125. Once the oath is administered, the police must file the Information with the OCJ. The SCJ has no statutory authority to retain, process, or docket the Information.

126. The six-week delay between the swearing of the Information and/or the signing of a Criminal Code Form 2 "Information" the first appearance is a **procedural black hole** during which the Information was vulnerable to alteration. This delay is incompatible with s. 505 of the *Criminal Code* ("as soon as practicable").

127. The Crown may argue that the delay is administrative. It is not. It is the temporal window during which the Jurat page was removed and replaced with the Impugned Endorsement.

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D. SPOLIATION: THE REMOVAL OF THE JURAT PAGE IS FATAL

128. When utilizing the Lincoln County Law Association, Adult Common Law Information Package, which is a six page document, page 4 of 6 is the **heart** of the Information Package. It contains:

a. the oath;

b. the signature of the informant;

c. the signature of the justice;

d. the Crown election; and

e. the confirmation under s. 508.

129. Its removal is not a clerical error; it was an intentional **spoliation** of sworn judicial acta. Under *omnia praesumuntur contra spoliatorem*, the Court must presume that the removed page contained information adverse to the Crown.

130. An Information that has been materially altered after the oath is not an Information at all. It is a **false document**.

131. A proceeding based on a false Information is a nullity.

132. Even worse, a criminal Proceeding based on a false Information, false INTAKE COURT ENDORSEMENT (SEPT 23 2024), wherein the logo for the SCJ is replaced with that of the OCJ renders.

E. SECTION 599 OF THE CRIMINAL CODE IS STATUTORILY IMPERMEABLE

133. Section 599 applies only to courts "before which an accused is or may be indicted." The Crown elected to proceed summarily. A summary conviction matter can never result in an indictment. Section 599 is therefore **categorically inapplicable** as it relates to any transmission of the record from the SCJ 361 University Courthouse (1st floor). It is a "Change of Venue" provision, not an administrative transmission mechanism. It cannot cure an intake-level jurisdictional defect. To invoke s. 599 to justify routing a sworn Information through the **SCJ Family Law Registry** is to engage in a legal fiction that the Court must reject.

F. STRUCTURAL DECONSTRUCTION OF THE FORM 2 AND THE SURROGATION OF STATUTORY INSTRUMENTS

134. A Form 2 Information is a statutory instrument with mandatory structural components. The Applicant identified that **Page 3 of 5** was excised and replaced with the Impugned Endorsement — a family-law construct foreign to criminal procedure. The Impugned Endorsement fails to satisfy **nine mandatory criteria** of a Form 7 Warrant. These failures go to the essence of the instrument's authority. A document that fails in nine material respects to conform to the prescribed statutory form cannot be redeemed via s. 32 of the *Interpretation Act*. These are not formatting errors; they are **substantive jurisdictional defects**.

G. FORGERY, FABRICATION, AND THE SMITH DOCTRINE

5709 The Impugned Endorsement purports to be "Digitally signed by Justice of the Peace George Jiri." This representation is facially false. The document contains no cryptographic hash, no certificate authority metadata, no Adobe PKI signature block, and no secure electronic signature as required by the *Canada Evidence Act* and the *Personal Information Protection and Electronic Documents Act*.

136. In *R v Smith*, 2020 ONCJ 611, the Court held that a signature on an official document is a **material part** of that instrument. A document that purports to be made by a person who did not authorize its creation is a **false document** for the purposes of ss. 366–368 of the *Criminal Code*.

137. The Impugned Endorsement is a false document. It was created without judicial authorization, using a non-court software suite (GcPDF), and bears a fabricated signature. Its deployment to justify the Applicant's arrest satisfies the mens rea for uttering a forged document under s. 368.

138. The Crown may argue that the officers relied on the document in "good faith." This is untenable. Section 29 of the *Criminal Code* requires the production of a valid warrant upon arrest. A seasoned officer would immediately recognize that an "Intake Court Endorsement" is not a Form 7 Warrant. The reliance on this document was not an error of judgment; it was a deliberate bypass of judicial safeguards.

H. THE SYSTEMIC IMPOSSIBILITY OF THE IMPUGNED ENDORSEMENT WITHIN THE E-INTAKE PARADIGM

139. Ontario's criminal E-Intake portal automatically generates a standardized, locked Form 7 Warrant when a justice approves an application. The system is designed to prevent manual alteration, unauthorized templates, or non-standard forms.

140. It is **systemically impossible** for the E-Intake system to output a manually typed "Intake Court Endorsement" on Toronto Police Service letterhead. The existence of such a document proves that the standardized digital safety nets were intentionally bypassed.

141. Furthermore, the E-Intake system features automated geographic routing. An Information originating in Toronto cannot be routed to a Justice of the Peace in Brampton (JP Jiri) without a manual override. This confirms the existence of a "shadow" filing process outside the audited parameters of the Ontario court system.

142. The Impugned Endorsement is therefore not merely irregular; it is **technologically impossible** within the lawful intake architecture.

I. THE OPEN COURT PRINCIPLE AND THE CONSTITUTIONAL REQUIREMENT OF TRANSPARENCY

143. The Open Court Principle, affirmed in *Sherman Estate v Donovan*, 2021 SCC 25, requires that judicial proceedings be transparent, accessible, and publicly verifiable. The clandestine creation of a criminal instrument within a family-law registry — a location with no public criminal docket — violates this principle.

5710 The Applicant was deprived of the ability to verify the existence, authenticity, or legality of the instrument used to justify his arrest. This violates:

a. the Open Court Principle;
b. 7 of the *Charter* (fundamental justice);
c. 9 of the *Charter* (arbitrary detention); and
d. 10(a) of the *Charter* (right to be informed of the reason for arrest)

145. A criminal process that cannot be publicly verified is constitutionally defective. It is void ab initio – from the time of its defectiveness.

J. CONFLICT OF INTEREST AND REASONABLE APPREHENSION OF BIAS

146. Madam Justice Shore previously acted as senior counsel at a firm that represented a litigant adverse to the Applicant in high-stakes civil litigation. The Applicant's intervention in that litigation resulted in significant financial detriment to the firm's client. Under the *Ethical Principles for Judges*, a judge must recuse themselves where a reasonable apprehension of bias arises. The failure to disclose this prior adversarial relationship, combined with the irregular routing of the Information through the SCJ Family Law Registry, raises a reasonable apprehension of bias. The removal of the Jurat page severed the documentary link between the Swearing Justice and the irregular warrant, shielding her from scrutiny. This is consistent with an attempt to obscure the identity of the issuing justice. A criminal process tainted by bias is a nullity.

K. ADMINISTRATIVE LAW PRINCIPLES AND THE ILLEGALITY OF REGISTRY CONDUCT

147. Registry staff have no authority to create, modify, or issue criminal process. Their role is strictly ministerial. The creation of the Impugned Endorsement within the Family Law Registry constitutes an **ultra vires administrative act**. Administrative bodies or creatures of statutes cannot exercise powers they do not possess. (*Dunsmuir v New Brunswick*, *Vavilov*). The Family Law Registry has no statutory authority to issue criminal process and/or to receive the filing of an Indictment or an Information (Criminal Code Form 2).

148. Moreover, in the context of an "application" by way of an "Ex Parte In Camera Hearing", Madam Justice Shore whether acting as an ex officio JP or OCJ Judge or in the context of a specialized type of search warrant, production order or otherwise under section 487.1 of the Criminal Code.

149. The Crown may argue that the registry acted under delegated authority. This is impossible. Delegation cannot exceed the scope of the delegator's jurisdiction. A family-law registry cannot be delegated criminal authority it does not possess.

150. The Impugned Endorsement is therefore void for administrative illegality.

L. INHERENT JURISDICTION AND THE COURT'S DUTY TO RECTIFY A CORRUPTED RECORD

151. The SCJ possesses inherent jurisdiction to control its own process and to prevent abuses of its authority. (*MacMillan Bloedel*, *Crevier*, *Doucet-Boudreau*).

152. Where the judicial record has been corrupted, altered, or fabricated, the Court has a **non-delegable duty** to

a. expunge the corrupted material;

b. reconstruct the authentic record; or

c. prevent the state from benefiting from its own misconduct.

153. In *R v Hayes*, the Supreme Court held that courts must reconstruct missing or defective records to preserve the integrity of the judicial process. This duty applies with even greater force where the defect arises from state misconduct.

154. The Court must therefore reconstruct the record ***Nunc pro tunc*** to its lawful state as of September 23, 2024, to the extent that the Manager of Court Operations does not comply with her duties.

M. CHARTER BREACHES: SECTIONS 7, 8, 9, AND 11(B)

155. Section 7: The Applicant was deprived of liberty based on a fabricated instrument. This violates the principles of fundamental justice.

156. Section 8: A search or seizure predicated on a non-existent warrant is unreasonable. While there is a search incident to arrest, any such seizure of property form the Applicant's residence post September 20, 2024, was without a valid search and seizure warrant. Moreover, this is where the fraudulent misrepresentation that the Applicant was "NFA" cuts against the municipal Executive Branch (the "Municipal Executive Branch") in that it cannot have it both ways considering the Applicant's property was inside his resident where he was the sole resident.

157. Section 9: The Applicant's detention was arbitrary. A detention based on a false document is per se arbitrary.

158. Section 11(b): As the False Information Package did not contain the required pages therein (at least two missing), there is no ability to have had a record for any such trial. It is automatic default against the Crown. The clock never started running but even when it did, it was an abuse of process on all court level that were touched by the same.

159. Section 12: cruel and unusual treatment (not punishment as there was nothing to punish).

160. These breaches are not technical; they are structural. They undermine the constitutional architecture of criminal justice.

N. PREROGATIVE RELIEF: CERTIORARI, PROHIBITION, AND MANDAMUS

5712 Certiorari must issue to quash the Impugned Endorsement and the altered Information. The defects are jurisdictional, not procedural. Prohibition must issue to prevent further reliance on the Impugned Endorsement. A court cannot permit the state to act on a nullity. Mandamus must compel the Registrar to produce the original Form 7 Warrant, the sworn Information, and all associated audit trails under Rule 43.03. These remedies are not discretionary. They are required to preserve the integrity of the administration of justice.

O. NUNC PRO TUNC RELIEF

162. The record must be restored ***Nunc pro tunc*** to September 23, 2024. This prevents the state from benefiting from its own concealment and restores the Applicant to the position he would have occupied had the state complied with the law.

163. *Nunc pro tunc* relief is appropriate where:

a. the state has concealed the originating document;

b. the record has been corrupted;

c. the proceeding is a nullity; and

d. the Applicant's *Charter* rights have been violated

164. This is such a case.

165. It is always imperative to remember the distinction between a "proceeding" and a "prosecution" with the former being all encompassing but the prosecution being relevant to the Crown. It is also important to note the authority in *Benedict v. Ontario* wherein the Crown was found to be indivisible.

VOLUME #5: WHERE THE "OLD SCHOOL" MEETS THE "NEW SCHOOL" ALBEIT BY FALSIFICATION POST FACTO

PART I: PRELIMINARY MATTERS, JURISDICTIONAL FRAMEWORK

166. In the formulation of the jurisprudential arguments advanced herein, strict cognizance has been taken of the foundational materials, forensic evidence, and binding authorities. The ensuing analysis is predicated upon an exhaustive review of the enumerated instruments, which collectively form the evidentiary and legal substrate of this application. It is posited that the Superior Court of Justice possesses the inherent jurisdiction, and indeed the constitutional imperative, to meticulously scrutinize its own *acta* (public records) to ensure that the foundational instruments of state prosecution are untainted by procedural vitiation or cyber-manipulation.

167. The epistemological weight of a criminal charge relies absolutely upon the unimpeachable integrity of the initiating document. When the presumption of regularity—*omnia praesumuntur rite et solemniter esse acta*—is empirically rebutted by forensic evidence of state-actor manipulation, the burden invariably shifts to the Crown to demonstrate that the court possesses the requisite jurisdiction to proceed.

PART II: THE SPATIAL AND JURISPRUDENTIAL NEXUS APPERTAINING TO JUDICIAL ENDORSEMENTS

2.1 Historical Validation of the Record: The Precedent Established by Chief Justice Morawetz

168. It is advanced as a foundational tenet of Anglo-Canadian jurisprudence that the validity underpinning any judicial proceeding is inexorably tethered not merely to the existence of a signatory mark, but rather to the geographical, spatial, and contextual placement thereof upon the originating instrument. A signature untethered from its substantive text is a jurisprudential phantom. The historical and legally sound praxis of the Ontario Superior Court of Justice necessitates an unbroken physical—or, in the contemporary alternative, a cryptographically intrinsic digital—nexus between the charging document and the corresponding judicial endorsement.

The Evidentiary Weight Assigned to the Physical "Backsheet"

169. Such an exacting standard is ostensibly best exemplified by the entrenched praxis of senior jurists, inclusive of Chief Justice Morawetz, whose historical endorsements were purposefully and invariably inscribed upon the physical doors, or the backsheet (the "**Physical Backsheet**"), of the *Information* or application record.

170. Whereupon said endorsement was thusly affixed to the Physical Backsheet, an incontrovertible evidentiary chain was established *prima facie*: the judicial endorsement was physically and permanently conjoined to the specific, sworn contents of the enveloping document. The paper itself served as the unifying medium, binding the *actus reus* and *mens rea* particulars to the judicial imprimatur.

171. It is posited that this action was never executed as a mere administrative afterthought or clerical formality. Rather, it constituted a deliberate, jurisprudential act intended to formally seal the *acta* of the court, signaling to all downstream legal actors that the specific allegations contained within the four corners of the document had been subjected to independent judicial scrutiny and validly sworn under oath.

The Requisite of Intrinsic Connection and the Mitigation of Post-Facto Alteration

172. The reverse of the aforementioned Physical Backsheet functioned as the authentic and exclusive canvas upon which the jurisdiction of the court was manifested. It provided unequivocal, tangible evidentiary proof that the presiding jurist had physically possessed, reviewed, contemplated, and acted upon the precise instrument presented before them. The tactile connection and spatial proximity of the ink to the sworn allegations are averred to constitute the requisite validation of the court record.

173. Within the analog paradigm, this spatial nexus served a profound anti-fraud function. It ensured that the document could not be subjected to post-endorsement alteration, substitution, or appendation without extant detection (such

5714 as the removal of binding staples, the severing of the parchment, or the presence of visible erasure marks). The signatory validation purportedly extended to the entirety of the document precisely, and exclusively, because it was intrinsically bound thereto. To sever the signature from the charge is to sever the jurisdiction from the court.

PART III: THE FATAL SEVERANCE IDENTIFIED WITHIN THE IMPUGNED "INFORMATION PACKAGE"

3.1 The Digital Disconnect: A Jurisdictional Rupture

174. Upon the application of the aforementioned jurisprudential standard—derived from the historical Morawetz endorsements—to the impugned Information Package in the matter at bar, the jurisdictional deficiency of the digital document becomes patently and alarmingly discernible.

175. The advent of the digital epoch does not abrogate the requirement for an intrinsic connection; rather, it necessitates the translation of such analog requirements into rigorous, uncompromising parameters of cryptographic and structural continuity. A valid digital document must possess a mathematically verifiable hash that locks the signature to the text concurrently.

176. In stark contradistinction to a physical endorsement situated upon the reverse of a validly sworn *Information*—or a properly executed cryptographic signature that mathematically secures the entirety of a portable document format file (the "**PDF**")—the software-generated Information Package deployed herein wholly and fatally severs the judicial signature from the charging instrument.

177. The imperative mandate articulated by the Supreme Court of Canada in *R. v. Araujo*, 2000 SCC 65 (the "*Araujo Doctrine*")—wherein it is established that prior judicial authorizations function as foundational prerequisites for state action and are subject to the strictest of construction—is fundamentally vitiated when the authorizing signature is disjointed from the substantive text it ostensibly authorizes. If the judicial authorization cannot be structurally and forensically linked to the *actus reus* and *mens rea* particulars of the charge, the state's authority to proceed is extinguished *in limine* (at the threshold).

Severance from the "Information-To-Wit": An Unsworn Void

178. As delineated meticulously within Appendix E of the Application Record, the signature of the Justice of the Peace manifests in absolute isolation upon Page 3 of the Information Package. Crucially, said isolated page is entirely bereft of the information to wit (the "**Information-To-Wit**")—the substantive, sworn charging paragraphs detailing the requisite particulars, including the spatial, temporal, and factual elements of the alleged transgression.

179. Within the purview of Canadian criminal jurisprudence, an *Information* does not function as a generalized writ or a broad warrant of apprehension reminiscent of the abhorrent Star Chamber. It is a highly particularized statutory

5715 instrument alleging the commission of a specific act by a named individual, traditionally heralded by the formal legal declaration "to wit" (namely, or that is to say).

180. It is submitted that an oath cannot be validly sworn in a vacuum. A jurist must swear an oath *over* specific facts. By effectuating the digital and spatial isolation of the judicial signature from the Information-To-Wit, the utilized software engenders an unsworn void. The judicial officer, operating within this manufactured void, effectively endorsed nothing of substance.

181. A digital signature manifesting upon a distinct, separate page—entirely devoid of the substantive charging text—fails to satisfy the foundational epistemological and legal requisites of a valid endorsement. It may be logically extrapolated as the digital equivalent of an adjudicator affixing a signature to a blank parchment situated in a separate locus from the substantive particulars, subsequent to which the twain are administratively adjoined by prosecutorial fiat to fabricate a veneer of lawful authority.

3.2 The Procedural Handover and the "Place of Filing" Mandate

182. To apprehend the mechanics of this sophisticated forgery, the undisputed provenance of the source document must first be established. Digital forensics relies unequivocally upon the establishment of a reliable, unassailable baseline of truth. The original baseline file was generated exclusively by the 1st-floor Family Registry at the Superior Court of Justice (361 University Avenue) to process an order originally promulgated by the Chief Justice.

The Strict Bifurcation of Court Registries and Administrative Apparatuses

183. It is vital to explicitly classify this originating locus as the Family Registry—and categorically not a criminal registry. The Canadian judiciary is architecturally structured to ensure that criminal matters are subjected to rigorous statutory divisions. Following the structural modernization of the Ontario courts, family, civil, and criminal matters were strictly bifurcated into distinct registries, governed by distinct statutory rules of procedure, and operated upon entirely incompatible administrative software systems.

184. As highlighted in successive Auditor General reports concerning court operations and facilities, these digital systems do not organically interact. For instance, family courts utilize the FRANK tracking system, whereas criminal courts deploy the ICON system. This architectural separation constitutes a deliberate, structural firewall designed to preclude the cross-contamination of legal authority and to safeguard the independence of the separate judicial branches (specifically, the federally appointed Superior Court of Justice versus the provincially appointed Ontario Court of Justice).

185. An instrument generated within the Family Registry possesses no inherent statutory authority to initiate criminal proceedings pursuant to the *Criminal Code* of Canada. It is incapable of crossing the jurisdictional divide between the Superior Court and the Ontario Court of Justice absent formal, highly regulated statutory mechanisms—none

5716 of which were employed in the present matter. The mere presence of a family-formatted document deployed within the prosecution of a criminal indictment immediately signals a severe and fatal procedural deviation.

Rule 4.05(1) and the Immutable Digital Footprint

186. The routing of the impugned document was not serendipitous; it was strictly governed by procedural mandates that dictated the Chief Justice's administrative actions, thereby establishing an undeniable digital paper trail. Pursuant to Rule 4.05(1) of the *Rules of Civil Procedure* pertaining to the "Place of Filing":

> *"All documents required to be filed in a proceeding shall be filed electronically by email or by other electronic means provided by the Court... with the court office in which the proceeding was commenced, except where they are filed in the course of a hearing or where these rules provide otherwise."*

187. When Chief Justice Geoffrey B. Morawetz purportedly issued the oral *ex parte* order, but more in the nature of a direction or the simulacrum or semblance of a purported order ("This Information is Accepted on its face... Warrant In The First: Issue"), the judicial assistant assigned to his chambers in that specific instance possessed no legal capacity to act as a clerk of the court for such a purported criminal directive (see: ss. 3.1(1) and (2) of the Criminal Code).

188. Ss. 3.1(1) cuts both ways and it is naturally objective on its face. Whether the act or thing done by a court, justice or judge is good, bad or indifferent, it is effective from the time it is done. Ergo, if an SCJ Judge issues a purported order but is remiss in following the most rudimentary fundamentals of criminal law, specifically criminal procedure (i.e. in this instance, the basic of a Form 7 of the Criminal Code which any elementary school student with a computer could likely draft a hypothetical Criminal Code Form 7 "Warrant For Arrest") then it is effective from the time it is done. Certainly if the police forces enter into CPIC that there is an outstanding arrest warrant for an individual predicated upon the same, then such an individual is subject to the arrest warrant based upon CPIC. With that segue, law enforcement must have a copy of the arrest warrant on his or her person when attempting to or executing the arrest and required to provide a copy of the same upon request of the individual being arrest. This is elementary (no pun intended in reference to the above) criminal law and specifically section 29 of the Criminal Code. The leading case in the area was that of BC Supreme Court and BCCA in *R. v. Bohn* albeit in relation to two different types of warrants: (i) one being a search warrant; and (ii) the other being a warrant pursuant to the former Narcotic Control Act.

189. Because the proceeding was inextricably tethered to this specific jurisdiction, the Chief Justice was statutorily compelled to route the Intake Court Endorsement through the Superior Court of Justice 361 University Avenue, 1st Floor Court Office. Mr. Jeffrey Bohn was the subject to a Crime Stoppers tip alleging hydro bypass and marijuana grow-operation at a residence in British Columbia, specifically the City of Surrey. One of the previous ways to determine whether there were grounds to believe, and of course reasonable (objectively speaking) was for a BC Hydro technician to inspect externally along with performing analyses of the voltage and amperage loss and whether there was an internal bypass. The police obtained a Criminal Code search warrant first which falls under

5717 the language of section 29 of the Criminal Code and then sought and obtained an NCA warrant, which was later replaced by the CDSA.

190. Like the Applicant herein, albeit on much different facts in that the Applicant was lured to the TPS 14th Division detachment on false pretenses in the form of falsely packaged quid pro quo in relation to his property that was somehow "received" by the TPS from his residential property, Mr. Bohn asked for a copy of the search warrant but was not given one. While the BCCA turned its mind to whether the trial judge had accepted, as a fact, that Mr. Bohn had requested to see (more in the nature of have a copy or inspect) the search warrant, it was satisfied that the trial judge accepted that it was probable that the appellant did make such a request.

191. Herein, the Applicant followed up the next day after October 2, 2024, to obtain a copy of the arrest warrant that was represented to him by, ironically, Police Officer Mr. Anthony Romano. The Applicant copied Sergeant Cassidy and D/C Kolankowski, and none of them responded.

192. The Applicant brought his HRTO Application in mid October 2024, and served the TPS on October 24, 2024. The day after service, the Applicants "tools of his trade" in relation to combatting corruption, kidnapping and false imprisonment et al were stolen by an unknown person at the time. The Applicant later in May 2025 discovered, through serendipity and "divine intervention" (in the form of un-redacting the redacted images provided by CAMH in November 2024) that it was Mr. David Karat, the self-professed ADR specialist with the TD Insurance Group (four of the five insurance companies therein). As noted herein, three of the five insurance companies in the TDI Group are the subject of a JRPA Application before the Divisional Court but now subject to further motions in relation to fraud as a result of the Coram Non Judice conference appearances before Madam Justice Shore, who failed to follow a single section of the JRPA and Courts of Justice Act along with the Rules of Civil Procedure in relation to the requirements to convene a case conference, although she referred to it as a "case management conference" [sic] through an individual in Ms. Evelyne Ibula, who ironically last worked at the very same location of the then counsel to the Landlord to the Applicant. In another twist, the Landlord to the Applicant is seen in one of the images on standby in the form of what the Applicant submits was aiding and abetting.

193. It appears on its face that the reasons that some of these individuals formally tethered to Madam Justice Shore in various fashion with particular reference to that of Mr. Papadimitropoulos, since terminated from TD Insurance, who is a client of Epstein Cole LLP and formerly counselled by Madam Justice Shore when she was a lawyer at said law firm was that they felt they were assisting the Chief Justice of the SCJ. Perhaps, the same applied to the likes of CAMH, the Toronto Public Library and other public type landlords or owners including the police.

194. Oddly, some of the harassment of the Applicant by the police and others all of sudden disappeared the moment that Chief Justice Morawetz announced publicly his "retirement" albeit he was not at the age of the retirement at the time. Empirical objective evidence notes that Chief Justice Morawetz retirement effective date was much shorter than almost every other Chief Justice in this country in the last 20 years.

195. Returning to R. v. Bohn, the unanimous BCCA, with Madam Justice Ryan writing the Reasons for Decision, found that section 29(1) of the Criminal Code is imperative, and feasible non-compliance makes execution of the warrant unlawful. The BCCA further found that Failure to produce the warrant on request significantly infringes s. 8 of the

5718 Canadian Charter of Rights and Freedoms. The BCCA overturned the trial judge's decision in R. v. Bohn and found that the section 8 of the Charter, along with the section 10(b) Charter rights, were series because the police knowingly avoided the section 29 requirements to save time reflecting lack of reasonable good faith.

196. But what about when there was no warrant but the police represent to an accused that they have an arrest warrant?

197. That is the primary issue as it relates to the police misconduct herein subject to the TPS being responsible for the falsification of foundational documents in the Information Package and morphing it into the False Information Package.

198. To effectuate the transmission of the Chief Justice's orders to law enforcement, the Family Law Team Leader transcribed the directive onto a standard "Intake Court Endorsement." It was subsequently signed for authentication by the Chief Justice prior to being transmitted electronically directly to the Detective In Charge (Detective Abdulhameed K. Virani of the 52nd Division).

199. This precise routing protocol mathematically explains why the staff at the 361 University Court Office possess intrinsic, primary knowledge of the document's true origins and securely retain the un-redacted metadata within their internal servers. They represent the critical temporal and spatial juncture where a legitimate (albeit procedurally irregular) family directive was relinquished to a police agency that subsequently orchestrated its digital manipulation. Electronic filing inherently generates an immutable footprint, capturing the precise timestamp, the sender, the recipient, and the un-altered baseline state of the attachment.

3.3 Visual Baseline: The Chief Justice's Traditional Signature

200. A forensic review of verified, high-profile orders executed by Chief Justice Morawetz (exemplified by the Laurentian University of Sudbury *CCAA* proceedings, 2022 ONSC 429, and the Urbancorp *CCAA* proceedings, October 2, 2020) reveals a crucial evidentiary fact: Chief Justice Morawetz does not utilize cryptographic Adobe digital signature blocks.

201. His signature block represents a traditional, unencrypted execution. It is characterized by a physical (or scanned physical) signature superimposed directly above his uniquely capitalized and punctuated typed nomenclature: *Chief Justice G.B. Morawetz*.

202. The original Intake Court Endorsement transmitted to the 52nd Division constituted a simple, traditional judicial endorsement block. It was wholly bereft of complex Adobe digital certificates, Public Key Infrastructure (PKI) encrypted ByteRange dictionaries, sophisticated timestamps, or time zone modifiers. Its baseline architecture was structured as follows:

```
+-----------------------------------------------------------------+
|                                                                 |
|   [ Signature of G.B. Morawetz ]                                |
|                                                                 |
|   Chief Justice G.B. Morawetz                                   |
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3.4 Software-Induced Severance and Vector Morphology

203. Upon receipt of this emailed Superior Court PDF, the manipulating actor (operating within the ambit of the Toronto Police Service) confronted a daunting, illicit objective: the necessity to digitally expunge the Superior Court branding and the Chief Justice's nomenclature, forcefully mutating the document to masquerade as a valid Ontario Court of Justice criminal instrument.

The GrapeCity Developer API Extrapolation

204. To accomplish this unauthorized conversion at an industrial scale, a third-party enterprise PDF editing utility was deployed. The metadata embedded within the False Document Package confirms unequivocally that the precise application utilized was Grape.City.Documents.PDF-6.0.2.0.

205. GrapeCity Inc. (subsequently rebranded as MESCIUS) engineers sophisticated .NET libraries strictly designed to empower software developers to programmatically generate, modify, and manipulate PDFs. The GcPDF software functions as a developer application programming interface (the "**API**"), not as an end-user application.

206. Police services and institutional bureaucracies frequently leverage these third-party, server-side APIs for automated document processing precisely because such tools circumvent the strict, manual user-interface warnings, password prompts, and security lockouts inherent within official Adobe Acrobat software. However, the GcPDF API does not constitute a legally recognized nor jurisprudentially sanctioned substitute for Adobe Acrobat when the prevailing objective is the solemn authentication of evidence tendered under oath.

The Z-Index Collapse and Brute-Force Rasterization

207. When the GrapeCity manipulator highlighted the signature block and initiated the algorithmic deletion of the text "Chief Justice G.B. Morawetz", the software's flattening process suffered a critical failure. The anomaly is predicated upon the architectural reality that a PDF is not a flat image, but rather a complex, layered mathematical model. The Chief Justice's transparent electronic signature image was situated upon a higher Z-index layer, physically overlapping the underlying vector text of his name situated upon a lower Z-index layer.

208. When the API was instructed to effectuate the deletion of the top-layer signature image, the software's flattening engine attempted a brute-force rasterization. The GcPDF architecture notoriously struggles with the resolution of

complex overlapping alpha channels (transparencies), embedded font subsetting, and absolute spatial coordinate anchoring (specifically, the Td and Tm PDF operators) within manipulated documents. By forcefully attempting to decouple the overlapping image from the underlying text, the API precipitated a catastrophic vector collapse, irrevocably shattering the mathematical instructions that rendered the typography.

3.5 The Optical Character Recognition (OCR) Glitch: The Transformation of "C J G.B. M"

209. The resulting letters "CL (M)" are not random gibberish, nor do they represent a bureaucratic acronym. They are the mathematically predictable, unavoidable culmination of an Optical Character Recognition (the "**OCR**") and vector morphology failure occurring when third-party software aggressively attempts to excise the string "C J G.B. M" from a layered PDF.

The "J" to "L" Glitch (Stem Shearing)

210. To apprehend this transformation, the computational drawing of typography must be understood. In serif fonts (such as Times New Roman, the standard typography of the courts), letters are not stored as static pixels. They are rendered utilizing mathematical formulas designated as Bezier curves, anchored by directional handles. A capital "J" and a capital "L" share a nearly identical central vertical stem. The letter "J" is specifically delineated by this vertical stem dropping below the baseline and terminating in a sweeping leftward hook (typographically termed a terminal or finial).

211. When GrapeCity attempted the brute-force excision of the overlapping signature image, it precipitated a spatial collapse in the exact locus where the image intersected the text. The invisible bounding box containing the "J" was violently clipped upon its left margin. This severed the vector control points responsible for rendering the curved hook, completely shearing it off. What remained embedded within the document's visual memory was a naked vertical stem flanked by minor horizontal serif anchors at the zenith and nadir.

212. The software's intrinsic OCR engine, attempting to reconstruct the corrupted PDF stream, surveyed this fractured geometric shape. It executed a heuristic confidence-score analysis to map the surviving geometry back to a recognized Unicode glyph. Lacking the defining leftward hook, the algorithm cross-referenced the surviving stem against its internal typography database. Mathematically, a vertical stem bereft of its hook but retaining right-oriented base geometry defaults to the closest matching character yielding the highest confidence score: the letter "L".

The "G.B." to "( )" Glitch (The Rounded Vector Collapse)

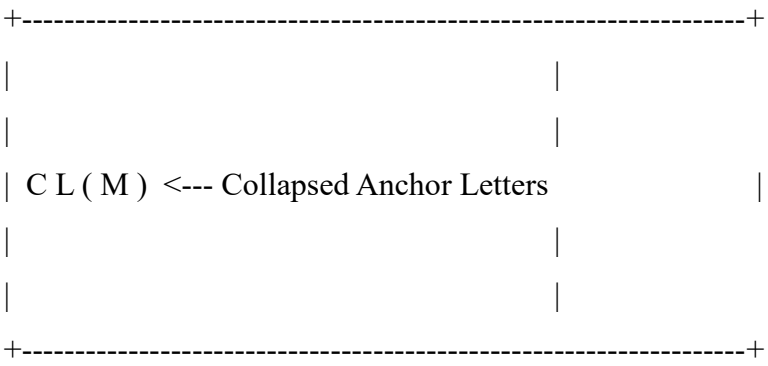
213. The Chief Justice explicitly utilizes his middle initials: G.B. Both of these letters are constructed heavily from complex, sweeping, rounded Bezier curves (typographically designated as bowls or lobes).

57421 Unlike a rudimentary word processing document wherein spaces are treated as actual typed characters, a PDF relies upon a rigid mathematical grid. A "space" between letters constitutes a coded instruction (Tc, Tw, or Td operators) directing the rendering engine to jump a specified number of pixels along the X-axis prior to drawing the subsequent character. When GrapeCity's known "whitespace bug" (enumerated as DOC-6507) was triggered during the excision of the overlapping image, it entirely obliterated these invisible spacing jumps.

215. Bereft of spatial anchors, the letters snapped together, violently collapsing into the identical physical coordinate space. The internal horizontal crossbars, spurs, and straight vertical stems of the "G" and "B" experienced a catastrophic rasterization crash. They were mathematically crushed out of existence due to intense vector compression and pixel-rendering overlap errors. All that survived this digital compression were the mathematically simplest, outermost vector paths.

216. The left-sweeping outer curve of the "G" was isolated, stripped of its crossbar, and interpreted by the desperate OCR engine as an open parenthesis: (. Correspondingly, the right-sweeping outer curve of the "B" was similarly isolated, stripped of its vertical stem, and interpreted as a closed parenthesis:).

217. Thus, the original anchor initials "C J G.B. M" were morphologically degraded, compressed together by the total loss of kerning data, and algorithmically translated into the visible digital artifact: C L (M). This does not constitute a typographical error; it is a permanent digital fossil—a cryptographic scar unequivocally proving a violent collision between an image layer and a text layer during the execution of a botched forgery.



3.6 Hypothesis Testing and the Jurisprudential Exclusion of the Associate Chief Justice

218. Given the profound jurisdictional implications stemming from the accusation of the Chief Justice of Ontario, it is legally imperative to rigorously test this vector morphology hypothesis against alternative judicial actors who possessed the requisite authority and physical placement to have executed the order.

219. One such logical candidate is The Honourable Associate Chief Justice Faye E. McWatt. Appointed to the Superior Court of Justice in 2000, ACJ McWatt possesses extensive criminal law experience and shares the last initial "M". Furthermore, she is intrinsically linked to the Applicant's conflict matrix via the *McIntosh v. Shore, McWatt and Morawetz* litigation.

220. It is posited, however, that forensically and mathematically, the signature could not have belonged to ACJ McWatt. Had ACJ McWatt executed the document, her official signature anchor string would have been structured as "A.C.J. F.E. M" (Associate Chief Justice F.E. McWatt). When subjected to the exact GrapeCity OCR and whitespace

5722 collapse bug (DOC-6507), her nomenclature entirely fails to produce the artifact discovered upon the document, predicated upon two critical structural reasons:

221. **The Missing "A":** The artifact is strictly "CL (M)". If ACJ McWatt had signed the instrument, the capital "A" (representing "Associate") would have constituted the primary anchor letter upon the far-left margin. The "A" is entirely absent from the digital shrapnel.

222. **The "F.E." Rectilinear Glitch Failure:** The most definitive exclusion lies within the structural typography of the middle initials. While "G.B." contains the sweeping curvilinear Bezier curves mathematically requisite to collapse into parentheses ( ), the letters "F" and "E" do not. The letters "F" and "E" are strictly rectilinear; they are constructed entirely of orthogonal, straight vertical stems and sharp 90-degree horizontal crossbars. Even if mathematically crushed by a spatial collapse, an OCR engine would never algorithmically interpret the straight lines and sharp angles of an "F" or an "E" as sweeping, rounded parentheses.

223. Therefore, the vector morphology test conclusively exonerates Associate Chief Justice McWatt. The digital shrapnel "CL (M)" mathematically locks the origin of the document directly and exclusively to Chief Justice G.B. Morawetz.

PART IV: THE DIGITAL SIGNATURE RUSE AND THE FABRICATION OF THE DECOY JURIST

4.1 The Visual Smokescreen and Cryptographic Camouflage

224. Confronted with this catastrophic software glitch, the manipulating actor apprehended a severe dilemma. They were incapable of fully erasing the stubborn letters without corrupting the entire page, an act which would render the PDF entirely unreadable and visibly scarred to any defense counsel or reviewing jurist. Having deleted the bulk of the Chief Justice's nomenclature, they were left with the "CL (M)" digital shrapnel exposed upon the record.

225. To obfuscate this glaring forensic glitch, they deployed an entirely fraudulent, highly sophisticated visual smokescreen. By pasting a complex, bureaucratic-looking "digital certificate" box directly over the "CL (M)" artifact, they explicitly weaponized the visual complexity inherent to a digital signature. The objective was to manipulate the nonsensical "CL (M)" artifact to appear as though it belonged to Court Officer Christyn Frugoni-Rojas, acting as a component of an official, cryptographic timestamp.

4.2 The Subversion of Section 504 of the Criminal Code

226. This action constitutes an absolute procedural fraud that betrays a complete abrogation of established criminal procedure. Pursuant to section 504 of the *Criminal Code*, an *Information* must be laid in writing and under oath before a justice. As evidenced by the standard Adult Common Information Form, an informant swearing an

5723 *Information* in person does not require—nor do they utilize—a floating, highly formatted "digital signature" box randomly situated upon a secondary page of a PDF.

227. The physical Form 2 necessitates a wet-ink signature or a highly specific, certified e-signature contained strictly within the jurat, executed simultaneously before the Justice of the Peace. The "digital signature" deployed herein on Page 2 was utilized exclusively as a visual ruse to overwrite the void precipitated by the removed Superior Court signature and to falsely legitimize the visibly altered document through overwhelming bureaucratic clutter.

```
+-------------------------------------------------------------------+
|                                          |
| Christyn                                 |
| Frugoni-                                 |
| Rojas CL (M)  <--- The Fused Artifact hidden in the fake text     |
|                                          |
                                           | Digitally signed by                    |
                                           | Christyn Frugoni-                      |
                                           | Rojas CL (M)                           |
                                           | Date: 2024:09.23 12:59.50 -04-'00'             |
```

4.3 The Fake Ontario Court of Justice Arms Logo and the Decoy Justice of the Peace

228. A rigorous inspection reveals that the final iteration is a true "Frankenstein" document—a patchwork amalgamation of conflicting jurisdictional authorities and fabricated stamps. The manipulator appropriated a Superior Court document, pasted a fabricated Ontario Court of Justice Arms Logo at the zenith of the page, and included a fabricated Justice of the Peace signature line (purporting to belong to George Jiri) to finalize the illusion.

229. The Ministry of the Attorney General has explicitly conceded that the Form 2 *Information* was never formally filed and that Justice of the Peace Jiri did not, in fact, sign the document. Furthermore, a Form 4 Indictment (originating from the Superior Court) cannot be authorized by a Justice of the Peace (operating within the Provincial Court) due to absolute statutory bars on cross-jurisdictional authority.

230. This evidentiary matrix confirms that law enforcement intentionally utilized a digital "template" bearing JP Jiri's nomenclature—a familiar former colleague who previously collaborated extensively with the police human trafficking team prior to his January 2024 judicial appointment—to manufacture a facially valid-looking decoy for the executing officers in the field. This highly sophisticated misdirection allowed the actual judicial authority (Chief Justice Morawetz) to remain entirely obscured behind a veil of "in chambers" secrecy, thereby blatantly violating the Open Court Principle.

PART V: STATUTORY NON-COMPLIANCE, ABUSE OF PROCESS, AND THE WEAPONIZATION OF SECURITY

231. This spatial, digital, and jurisdictional severance explicitly contravenes the foundational tenets of the *Criminal Proceedings Rules*. Rule 4 of the *Criminal Proceedings Rules* mandates strict, unwavering adherence to prescribed forms (such as Form 2 for an *Information*) to ensure the unimpeachable integrity of the court record.

232. Such statutorily prescribed forms are understood in jurisprudence not as mere administrative guidelines or aspirational suggestions, but as absolute statutory prerequisites conditioning the lawful exercise of coercive state authority. A departure from these forms that strikes at the substance of the charge divests the court of its authority to proceed.

233. **Nota Bene (Addressing the Doctrine of Curability):** *It may be posited by the respondent Crown that the spatial separation of the signatory mark from the charging text constitutes a mere procedural irregularity, theoretically capable of retroactive rectification under the curative provisos of section 601 or section 686(1)(b)(iv) of the Criminal Code. Such an extrapolation is logically and legally infirm. Pursuant to the strict construction mandated by the Supreme Court in R. v. Côté, 2011 SCC 46, while jurisprudence may generously accommodate minor clerical defects or misnomers, an instrument that wholly fails to disclose a valid legal foundation—such as a document altered via unauthorized API manipulation and decoy signatures—is deemed an incurable nullity. A fabricated signature bereft of any structural nexus to the charge is not a curable defect; it constitutes an absolute jurisdictional vacuum. Thus, jurisdiction is severed ipso facto, and cannot be salvaged nunc pro tunc.*

5.2 The Weaponization of the Nullity to Preclude Administrative Oversight

234. The prejudice engendered by this fractured Information Package operates to actively deprive the affected party of administrative justice, civilian oversight, and the fundamental tenets of procedural fairness as articulated in *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 SCR 817. The state's reliance upon this fabricated document effectively destroys the *status quo ante*.

235. As evidenced unequivocally by the LECA Refusal dated May 2, 2025 [Tab 14, Application Record], an independent investigation into grave allegations of inappropriate charging and custodial mistreatment was declined explicitly on the grounds that "there is an outstanding criminal charge related to this complaint."

236. It is logically deduced that this dynamic precipitates a perverse, self-insulating cycle of state impunity. A procedural nullity—a legally void *Information* manipulated via the GrapeCity API to obscure a Chief Justice's involvement—was initially generated by the state apparatus. Notwithstanding this absolute vitiation, said void instrument is purportedly being utilized and characterized by the state as a valid, *res judicata* "outstanding criminal charge."

237. This characterization is weaponized to effectively preclude independent civilian investigation pursuant to the *Community Safety and Policing Act, 2019*. Thus, an instrument that fails the foundational epistemological test of judicial authentication is deployed as an impenetrable shield to insulate state actors from systemic accountability.

238. Because Rule 4.05(1) mandated that the Intake Court Endorsement be routed through the Superior Court of Justice 361 University Avenue court office, the registry staff securely retained the original metadata and un-redacted files. They possess explicit knowledge of what was transmitted to the 52nd Division on September 23, 2024. However, the Applicant's lawful attempts to retrieve the Authentic Information Package were met with a coordinated, highly aggressive, multi-tiered blockade.

The "McIntosh" Conflict of Interest (Annathan Sinnadurai)

239. When the Applicant demanded transparency in the Summer of 2025, the Ministry of the Attorney General deployed legal counsel Annathan Sinnadurai to formulate the response. This assignment was purportedly not random; it represented a profound, paralyzing, and highly strategic conflict of interest.

240. Mr. Sinnadurai previously served as direct legal counsel for Chief Justice Morawetz, Associate Chief Justice McWatt, and Madam Justice Sharon Shore in the closely related, highly contentious litigation of *McIntosh v. Shore, McWatt and Morawetz*. By deploying the exact same counsel who previously defended this specific triad of jurists, the Ministry ensured that the Applicant's inquiries were intercepted by an agent whose primary professional history involved shielding the Chief Justice and Justice Shore from personal liability, rather than upholding the integrity of the public court record.

The JSSO "Freudian Slip" (Guilty Knowledge and Rule 8)

241. When administrative obfuscation proved insufficient, the state apparatus escalated its response. On August 22, 2025, the Applicant transmitted four emails to the Superior Court Correspondence Unit requesting access to the Authentic Information Package. Two emails were directed to Regional Senior Justice (RSJ) Firestone, and two were directed to Chief Justice Morawetz.

242. On August 26, 2025, at 9:19 AM, the Justice Sector Security Office (the "**JSSO**") emailed the Applicant, threatening that further correspondence "could result in some form of legal jeopardy" and characterizing the lawful records requests as "harassment." This correspondence serves as the legal equivalent of a "Freudian Slip." By attempting to intimidate the Applicant, the JSSO inadvertently confessed to Chief Justice Morawetz's specific, adjudicative involvement in the matter:

243. **The Omission of RSJ Firestone:** Pursuant to section 14 of the *Courts of Justice Act*, RSJ Firestone exercises the delegated administrative powers for the Toronto Region. Had the Applicant's emails been viewed merely as the generalized complaints of a frustrated citizen addressing the court's administrative leaders, the JSSO would have logically protected RSJ Firestone. Instead, the JSSO entirely ignored the correspondence directed to Firestone and explicitly named Chief Justice Morawetz three separate times. This implicitly admits that Morawetz was not being

5726 contacted in a generalized administrative capacity; rather, he was being shielded in his specific adjudicative capacity.

244. **The Rule 8 Confession ("Is Presiding"):** The JSSO cited the prohibition against communicating with a judge "with respect to matters that are, or may be, before the Court" (Rule 8), which prohibits out-of-court communication with a judge about a proceeding over which the judge "is presiding." It is legally impossible for a Chief Justice sitting at Osgoode Hall to be "presiding" over a standard criminal intake matter at 361 University Avenue unless, in an *ex parte* and *in camera* hearing, that specific judge issued the order and thereby became "seized" of the application.

245. Under strict criminal procedure (governing *Garofoli* applications to challenge the validity of a warrant), the issuing judge maintains initial jurisdiction over the materials. By leveraging Rule 8 to threaten the Applicant, the JSSO legally defined Chief Justice Morawetz as the "presiding" judge over the September 23, 2024, proceeding the Applicant was inquiring about.

The JSSO and the "Open Police Principle"

246. The weaponization of the JSSO in this context is deeply constitutionally alarming. The JSSO partners directly with the Justice Officials Protection & Investigations Section (JOPIS), a specialized unit within the Ontario Provincial Police (OPP).

247. The transformation of a citizen's administrative request for an authentic court record into a policing matter handled by an OPP-partnered security branch occurs only when the foundational Open Court Principle is subverted. It is systematically replaced by what may be termed the "Open Police Principle"—a paradigm wherein the state leverages law enforcement threat vectors to intimidate and silence litigants who uncover empirical evidence of judicial forgery.

5.4 The Consequence: An Incurable Jurisdictional Nullity and Exemplary Damages

248. The reverse of the Information Package in the present matter does not feature a legally binding endorsement validating a sworn oath. Instead, it presents a grotesque administrative amalgamation that flagrantly fails to satisfy the standards established by common law, the *Criminal Proceedings Rules*, and the historical, fraud-preventing precedents of the Superior Court.

249. To permit such a breach of foundational legal architecture to remain unaddressed would arguably contravene the Supreme Court's directive in *Doucet-Boudreau v. Nova Scotia (Minister of Education)*, 2003 SCC 62, which requires the provision of a "meaningful and responsive" remedy under section 24(1) of the *Charter*.

250. A mere stay of proceedings is entirely insufficient to address the magnitude of this structural vitiation. This profound judicial failure triggers robust constitutional remedies, exposing the state apparatus to formal declarations

5727 of invalidity, structural injunctions, and the imposition of punitive and aggravated civil damages stemming from malicious prosecution, false imprisonment, and the intentional infliction of mental suffering.

251. Proceedings emanating from such an intrinsically severed, fabricated, and aggressively shielded document are considered *coram non judice*—an absolute, incurable nullity from the exact moment of their purported inception. The inevitable, forensically sound, and self-evident jurisprudential conclusion is that the Information Package is entirely void *ab initio*.

VOLUME 6— CONCLUSION ON WHEN CHIEF JUSTICE MORAWETZ (OR IN THE ALTERNATIVE MADAM JUSTICE SHORE OR BOTH) ACTS WERE FACTUM A JUDICE, QUOD AD OFFICIUM JURE NON PERTINET, RATUM NON EST AND ORDERS REQUESTED

252. The Applicant respectfully requests that this Honourable Court grant the following relief:

a. **(a) A Declaration of jurisdictional nullity.**
   i. A **Declaration** that the Impugned Endorsement dated September 23, 2024 is an **irremediable nullity**, having been created within the SCJ Family Law Registry, a body with no criminal jurisdiction, and bearing none of the statutory indicia of a warrant under the *Criminal Code*.

b. **A Declaration that the proceeding is deemed never to have been filed.**
   i. A **Declaration** under Rule 4.05(6) of the Criminal Proceedings Rules that the Information is **deemed not to have been filed**, as no court office of competent criminal jurisdiction possesses any record of its filing

c. **(c) Certiorari.**
   i. An order in the nature of certiorari quashing:
   ii. the Impugned Endorsement;
   iii. the altered Form 2 Information;
   iv. any derivative process predicated upon the altered Information; and
   v. any warrant or arrest predicated upon the Impugned Endorsement.

d. **Prohibition and Permanent Injunctive (Quia Timet)**
   i. An order in the nature of prohibition preventing the Crown, police, or any state actor from relying upon, re-filing, or attempting to retroactively validate the Impugned Endorsement or the altered Information.
   ii. **(e) Mandamus.**
      1. An order in the nature of mandamus compelling the Registrar and Manager of Court Operations to:
      2. produce the original sworn Information as it existed at the moment of oath;
      3. produce the original Form 7 Warrant (if any);
      4. produce all audit trails, metadata, and electronic logs associated with the creation, modification, or circulation of the Impugned Endorsement;
      5. produce all records, documents, things, papers that touch this matter required under Rule 43.03.
   iii. **(f) *Charter* Declarations.**
      1. A **Declaration** that the Applicant's rights under ss. 7, 8, 9, 10, 11, 12 and 15 of the *Charter* were violated by:
         a. the use of a fabricated instrument to justify arrest;
         b. the arbitrary detention and imprisonment predicated on a variety of false documents;
         c. the unreasonable search and seizure;
         d. the six-week "procedural black hole" created by the failure to file the Information Package and when the TPS did, it did so in a manner that was consistent with fantasy;

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iv. **(g)** ***Nunc pro tunc*** **relief.**

1. An order restoring the judicial record ***Nunc pro tunc*** to its lawful state as of September 23, 2024, prior to the spoliation of the Jurat page and the substitution of the Impugned Endorsement.

v. **(h) Any further relief**

1. Such further and other relief as this Honourable Court deems just and equitable

RELIANCE UPON MATERIALS HEREIN

253. The Applicant relies upon the following:

a. Rule 43.03 Certificate (1st Floor Family Registry): Establishes the non-existence of a filed record for the Proceeding
b. Admissions of Crown Counsel A. Sinnadurai (June 25, 2025, and July 4, 2025): Confirms a "nil" search result for Informations sworn by CO Frugoni-Rojas during the material time
c. The "False Information Package" (4810 998 24 48129169): Primary exhibit exhibiting 43 specific errors, forged JP signatures, and software-generated Arial signatures.
d. RCMP CPIC logs: Analytical logs establishing the Terminal ID and User ID responsible for document metamorphosis.
e. Integrated FIP Analysis Chart (Integrated FIP Analysis Chart - 934 pm.docx): Comprehensive forensic audit of 160+ enumerated errors vs. standard pro-forma templates.
f. Forensic Technical Analysis of Automated Document Generation (Forensic Technical Analysis...docx): Evaluation of GrapeCity Documents for PDF SDK 6.0.2.0 as the document producer.
g. GMAIL Chief Justice Morawetz Request (August 22, 2025): Documenting the refusal of the SCJ RMO to provide recordings (uploaded as GMAIL-~1.PDF)
h. Amended Transcript Order Form (R v McLean - ATO): Forensic breakdown of the "70-minute fabrication window" (uploaded as R v McLean - 1st Amended Order Form...).
i. **Declaration** #1 (October 10, 2025), **Declaration** #2 of the Applicant (November 14, 2025) and Affidavit of Service/Affidavit of the Applicant on November 21, 2025, in McLean v. TDHA et al before the Divisional Court by way of statutory application (JRPA) (24-718-JR) wherein Madam Justice Shore engaged in the Unauthorized CMJ Interloper status by way of an email from Ms. Evelyne Ibula (a non-appointed individual under the PSOA 2006) who had a last known vocational location of Martin Barristers at Suite 1100, 55 University Avenue, Toronto, Ontario (nota bene: the very same location as the then counsel to the Landlord, who was part of the unauthorized lockouts of the Application from the residential apartments and the Minto Buildings located at 775 King Street West, City of Toronto, Province of Ontario, M5V 2K3;
j. The Crown (SCJ and OCJ) records, documents, papers and things that touch this matter;
k. The police forces' relevant records, documents, papers and things that touch this matter; and
l. Such other documents, evidence, records et al that are relevant to this matter.

All of which is respectfully submitted by the Applicant on April 29, 2026



Mr. Kevin A. McLean (BA, JD, CIM)

LIST OF AUTHORITIES DENOTED HEREIN

A. Legislation

- *Criminal Code*, RSC 1985, c C-46
- *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*
- *Courts of Justice Act*, RSO 1990, c C.43
- *Interpretation Act*, RSC 1985, c I-21
- *Canada Evidence Act*, RSC 1985, c C-5
- *Personal Information Protection and Electronic Documents Act*, SC 2000, c 5
- *Criminal Proceedings Rules for the Superior Court of Justice (Ontario)*
- *Family Law Rules*, O Reg 114/99

B. Jurisprudence — Supreme Court of Canada

- *R v Paterson*, 2017 SCC 15
- *Sherman Estate v Donovan*, 2021 SCC 25
- *R v Jordan*, 2016 SCC 27
- *R v Grant*, 2009 SCC 32
- *R v Collins*, [1987] 1 SCR 265
- *R v Storrey*, [1990] 1 SCR 241
- *MacMillan Bloedel Ltd v Simpson*, [1995] 4 SCR 725
- *Crevier v Quebec (AG)*, [1981] 2 SCR 220
- *Doucet-Boudreau v Nova Scotia*, 2003 SCC 62
- *Reference re Manitoba Language Rights*, [1985] 1 SCR 721
- *BCGEU v British Columbia*, [1988] 2 SCR 214
- *R v Feeney*, [1997] 2 SCR 13
- *R v Oakes*, [1986] 1 SCR 103

C. Jurisprudence — Ontario Courts

- *R v Smith*, 2020 ONCJ 611
- *R v Hayes*, 2016 ONCA 585
- *R v Kutynec*, (1992), 70 CCC (3d) 289 (Ont CA)
- *R v Vukelich*, 1996 CanLII 888 (BCCA) (cited for procedural fairness principles)
- *R v McHale*, 2010 ONCA 361
- *R v D.S.*, 2023 ONSC (re: electronic warrant integrity)
- *R v Riley*, 2017 ONCA 650

D. Administrative Law Authorities

- *Dunsmuir v New Brunswick*, 2008 SCC 9
- *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65
- *Baker v Canada (Minister of Citizenship and Immigration)*, [1999] 2 SCR 817

E. Principles and Secondary Sources

- *Ethical Principles for Judges*, Canadian Judicial Council
- Ontario Court of Justice Criminal E-Intake System Documentation
- Ministry of the Attorney General, Criminal Procedure Manual
- GrapeCity Documents for PDF (GcPDF) Technical Specifications (forensic reference)

APPENDICES

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APPENDIX A: Analysis of "False Information Package" Discrepancies (Schedule A)

Error Category	Specific Deficiency Point	Location in False Information Package	Comparison / Implication
Page & Footer Inconsistencies	Footer is demonstrably different; Footer fails to include a single space; Illegibility in "save toner mode"	Pages 1 & 5 vs. Page 2 of 5 Footer (rev. 10/20); Only footer on Page 2 of 5 remains legible	Inconsistent footers; Error in form designation ("C-e" vs "C e"); Evidence of potentially "missing text and false documentation."
	Erroneous footer	Page 3 of 5	Reproduction of the header from Page 1 of 5.
Formatting & Input Errors	Erroneously includes two commas after "NFA *sic* "	Page 1 of 5 (Address line)	Incorrect formatting where the Accused's address was entered.
	"NFA" (No Fixed Address) is included	Page 1 of 5	Inconsistent with reference to Applicant's driver's license number on Page 5.
	Superfluous numeral "(1)"	Page 1 of 1	Incorrectly precedes the Accused's name.
Legal & Jurisdiction Deviations	False Case Identification Number; "Intake Court Endorsement" terminology used	Page 3, "Police Case ID: 457197"; Page 3	Uses six digits instead of required seven; Family law terminology used as "deliberate diversion" from SCJ judge authority.
Digital Signature & Manipulation	"Digitally signed by George Jiri"	Page 3 of 5	Plain text in Arial font; utterly fails PKI/Hash requirements of PIPEDA.

5788 APPENDIX B: METADATA AND KNOWN DEFICIENCIES OF DOCUMENT PRODUCER (SCHEDULE B)

GrapeCity Issue Category	Specific Deficiency/Reported Problem	Implication in Context
Software Identification / Memory Issues	Application & Producer: Grape.City.Documents.PDF-6.0.2.0; Reported "Insufficient memory" exceptions.	Confirms use of programmatic .NET library, not standard end-user tool like Adobe Acrobat; could lead to unstable generation or corruption.
Anchor Point Corruption	Vertical text drifting (e.g., "[] At Bail Review date")	Confirms document was linearised or modified post-facto in an unauthorized script environment.
Footer Paradoxes	Header template renders in footer; "about:blank" glitches	Corroborates the misplacement of the Page 1 header onto Page 3 of the FIP.

- **Algorithmic Capacity:** GcPDF version 6.0.2.0 is a specialized SDK (Software Development Kit) used for back-end document automation. The presence of this metadata proves the FIP was generated via an automated script in a private office environment, bypassing the ICON/FRANK secured terminal workflow.
- **Vertical Drifting:** The text "[] At Bail Review date" on Page 4 is floating between fields. This "drift" is a known defect in GrapeCity's PDF producer when modifying existing PDF structures without maintaining anchor-point integrity.
- **Font Transitioning:** The document exhibits programmatic transitioning between Arial (Pages 1, 3, 5), Times New Roman (Page 2), and Courier—a technical "fingerprint" of manual programmatic insertion rather than standardized output.
- **PIB RCMP PPU 005 Logs:** The CPIC transaction logs remain the "Single Source of Truth." If 14 Division cleared the arrest but Det. Virani (52 Division) approved the release, the transaction metadata will expose the specific Terminal IDs and User IDs responsible for the document metamorphosis.

- **Terminal ID (TID):** Identifies the specific hardware unit used to initiate a CPIC transaction. A TID mismatch between the "Arrest" and "Release" confirms Forum Shopping.
- **Originating Agency Identifier (ORI):** Unique 9-character code. **ON30247** (52 Division - Virani) vs. **ON30243** (14 Division - Custodial).
- **Warrant Type Metadata:** CPIC logs distinguish between a statutory *Form 7* Warrant and a regional "Intake Endorsement." The absence of a *Form 7* entry on September 23, 2024, proves the detention was predicated on a jurisdictional nullity.

APPENDIX E: INTEGRATED FIP ANALYSIS - SUMMARY OF 160+ ERRORS

1. **Barcode Fraud:** Police Case ID: 457197 uses 6 digits, failing the 7-digit ICON/CCO standard.
2. **Linguistic Punctuation Inconsistency:** Improper period in English ("Information of.") vs correct colon in French (Dénonciation de :).
3. **Truncated Police Agency Name:** Page 5 renders "TORONTO POLICE SERVIC [SIC]."
4. **Floating Bail Text:** Page 4 exhibits vertical text drift characteristic of anchor-point corruption in GcPDF.
5. **Signature Separation:** The JP signature appears on Page 3 under a Family Law heading ("Intake Court Endorsement"), rather than witnessing the laying of the Information under oath.

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[i] The imposition of the Nunc Pro Tunc Relief is strictly necessitated to unequivocally vitiate the jurisdictional vacuum precipitated by the state apparatus and to resurrect the status quo ante that existed prior to the dissemination of the fundamentally defective and definitively extrajudicial intake court endorsement (the "Intake Court Endorsement"). Furthermore, such retrospective operationalization is a paramount necessity to ensure that the administrative theft of time and the strategic obfuscation of the official record do not precipitate a permanent abrogation of substantive legal rights or the irrevocable extinguishment of remedies strictly contingent upon limitation periods;

[ii] This procedural accommodation is strictly necessitated to rectify the physical and jurisprudential incapacity to act, an incapacity entirely occasioned by the state's calculated sequestration of the originating record and the strategic obfuscation surrounding the aforementioned Intake Court Endorsement. It is further posited, ipso facto, that the complete absence of the requisite warrant in form 7 (the "Form 7 Warrant") effectively tolled the legal capacity to mount a procedural challenge. This deliberate omission engendered an impenetrable evidentiary void (the "Black Hole") within the judicial record for a duration exceeding six weeks, thereby necessitating the requested temporal extension to avert an irrevocable miscarriage of justice;

[iii] The techniques used by the police officers—intimidation, falsified documents, use of intrusive technology, and manipulation via the Youth Protection Services—constitute procedural abuses that violate decency and the rule of law. The applicant requests a stay of proceedings as the ultimate remedy (paras. 6-8 , 10-11 , 200-201) .

Crown: Police actions are justified in the context of a complex investigation, concerning serious crimes, with legally framed measures, and do not in any way compromise the integrity of the judicial system (paras. 178-179 , 282).

Certainly, the use of false judicial authorizations is likely to undermine public confidence in the administration of justice.

Society cannot tolerate police officers being able to falsify court orders on their own initiative.

Police Ethics Commissioner v. Joly Tessier, 2024 QCTADP 49

(Section 25.1 of the Criminal Code allows for limited circumstances of intentional offences under 25.1 but section 25.1(10) must be employed. But there are exceptions:

Limitation

(11) Nothing in this section justifies

(a) the intentional or criminally negligent causing of death or bodily harm to another person;

(b) the wilful attempt in any manner to obstruct, pervert or defeat the course of justice; or

Tab 91

Form 5
NOTICE OF APPLICATION AND CONSTITUTIONAL ISSUE

(*Criminal Proceedings Rules*, Rule 27.03)

ONTARIO
SUPERIOR COURT OF JUSTICE

Toronto
Region

Unknown or "457197' (24)
Court File No. (if known)

BETWEEN:

HIS MAJESTY THE KING

- and -

Mr. Kevin A. McLean
(specify name of accused)

TAKE NOTICE that the **Applicant (Mr. Kevin A. McLean (BA, JD, CIM)** will bring an application on
(identify party)

THURS day, the **19** day of **June**, yr. **2026**, at
(specify month)

50 Eagle Street West Newmarket, ON L3Y 6B1 (Central East Region, Newmarket Courthouse (SCJ))
(specify address of courthouse)

for an order granting **(see: Schedule A)**
(set out precise relief sought)

THE GROUNDS FOR THIS APPLICATION ARE:

1. That **see: Schedule A)**
2. That **see: Schedule A)**
3. Such further and other grounds as counsel may advise and this Honourable Court may permit.

THE CONSTITUTIONAL ISSUES TO BE RAISED ARE:

(state concisely each issue to be raised)

1. **see: Schedule A)**
2. **see: Schedule A)**
3. **see: Schedule A)**

THE CONSTITUTIONAL PRINCIPLES TO BE ARGUED ARE:

1. **see: Schedule A)**
2. **see: Schedule A)**
3. **see: Schedule A)**

STATUTORY PROVISIONS OR RULES UPON WHICH THE APPLICANT PLACES RELIANCE ARE:

1. **see: Schedule A)**

IN SUPPORT OF THIS APPLICATION, THE APPLICANT RELIES UPON THE FOLLOWING:

(set out documents such as transcripts, etc. upon which the applicant relies)

1. **see: Schedule A**

THE RELIEF SOUGHT IS:

1. An Order allowing the application and granting

   (indicate particular relief sought)

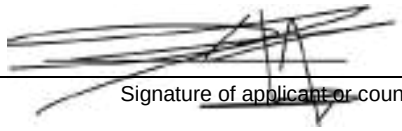
   see: Schedule A

THE APPLICANT MAY BE SERVED WITH DOCUMENTS PERTINENT TO THIS APPLICATION

1. By service in accordance with rule 5, through
   Mr. Kevin A. McLean (BA, JD, CIM)
   Phone number: (647) 370-9354
   Fax: 416.981.7117
   Email: mcleansettlement@gmail.com and any other dedicated email (in lieu of the former or by addition) so provided

(specify address)

DATED at **TORONTO**, Ontario, this **29** day of **APRIL**, 20 **26**.



Signature of applicant or counsel

Mr. Kevin A. McLean (BA, JD, CIM)
Phone number: (647) 370-9354
Fax: 416.981.7117
Email: mcleansettlement@gmail.com and any other dedicated email (in lieu of the former or by addition) so provided

(set out name and address, as well as telephone number and email)

To The Attorney General of Ontario
Constitutional Law Branch
Legal Services Division
720 Bay Street, 4th Floor
Toronto, Ontario M5G 2K1

The Attorney General of Canada
120 Adelaide Street West
Suite 400
Toronto, Ontario M5H 1T1
Email: NCQ-AQC.Toronto@justice.gc.ca

(or Justice Building
284 Wellington Street
Ottawa, Ontario K1A 0H8
Email: AGC_PGC_OTTAWA@JUSTICE.GC.CA*)*

and/or

SCHEDULE “A” TO FORM 5 OF THE CRIMINAL PROCEEDING RULES: NOTICE OF APPLICATION AND CRIMINAL PROCEEDING RULES

File Number: 24-457197 or to be provided)

ONTARIO

SUPERIOR COURT OF JUSTICE

(CRIMINAL DIVISION)

(COMMENCED IN THE TORONTO REGION: SCJ 361 University Avenue Courthouse, 1ST FLOOR)

(TO BE HEARD AT CENTRAL EAST REGION, NEWMARKET COURTHOUSE)

BETWEEN

HIS MAJESTY THE KING

RESPONDENT

AND

Mr. Kevin A. McLean (BA, JD, CIM)

ACCUSED (APPLICANT)

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NOTICE OF CONSTITUTIONAL QUESTION

STATUTORY JURISDICTION AND CONSTITUTIONAL PREDICATE

A. Foundational Authorities and the Jurisdictional Nexus

1. Pursuant to the mandatory notification mechanisms delineated within section 109 of the *Courts of Justice Act*, RSO 1990, c C.43, and invoking the plenary remedial jurisdictions enshrined within sections 24(1) and 24(2) of the *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11 (the "***Charter***"), formal notice is hereby promulgated. Operating strictly under the binding doctrine of *stare decisis* as mandated by the hierarchical jurisprudence of the Supreme Court of Canada, the Court of Appeal for Ontario, and the Superior Court of Justice (if applicable by horizontal stare decisis), the Applicant seeks that the constitutionality of the acts, conduct, adjudicative pronouncements, and deliberate omissions effectuated by the various governmental entities and undisclosed judicial officers associated inextricably

with the **INTAKE COURT ENDORSEMENT (SEPT 23 2024) and any other "endorsements" and/or undisclosed warrants, orders et al** shall be robustly, comprehensively, and relentlessly challenged until a final judicial determination is made invoking res judicata and issue estoppel.

2. The impugned state conduct encompasses the entirety of the concealed procedural frameworks, the clandestine adjudicative determinations, and the egregious procedural deviations rendered by a jurist whose identity remains purposefully, and unconstitutionally, undisclosed to the applicant (the "**Applicant**"). It is submitted that such constitutional inquiry extends unequivocally and without limitation to all derivative executive actions flowing sequentially from the aforementioned opaque processes. This includes all operational deployments currently known and those anticipated to be subsequently discovered, commencing temporally on or about September 20, 2024, culminating materially in the execution of the fabricated **INTAKE COURT ENDORSEMENT (SEPT 23 2024)**, and propagating an ongoing, continuous matrix of constitutional infringements thereafter.

B. The Subversion of the Open Court Principle and the Rule of Law

3. It is a foundational and inviolable postulate of Canadian constitutional law, serving as the bedrock of the adjudicative framework, that the administration of justice must be conducted transparently and subject to public scrutiny. The deliberate obfuscation of a presiding judicial officer's identity constitutes a profound and existential affront to the open court principle. Such clandestine adjudicative mechanisms, reminiscent of the historically repudiated Court of Star Chamber, fundamentally undermine the rule of law and operate to irreversibly sever the indispensable bond of public confidence in the judicial apparatus. When the identity, jurisdictional appointment, and statutory authority of the adjudicator are actively concealed behind a veil of administrative secrecy, the resultant legal directives are instantaneously stripped of their requisite institutional legitimacy. This orchestrated anonymity renders the entirety of the proceedings structurally defective *ab initio*, depriving the adjudicative acts of any presumptions of regularity that might otherwise attach to formalized state action.

II. ENUMERATION OF CONSTITUTIONAL INFRINGEMENTS

Comprehensive Identification and Extrapolation of Charter Violations

4. It is strictly and affirmatively submitted that the toronto police service (the "**TPS**"), the individual respondents formally affiliated with the TPS, and any non-governmental entities subsequently determined or declared by the human rights tribunal of ontario (the "**HRTO**") to have acted as agents, instrumentalities, or authorized delegates of the TPS, have directly, intentionally, and egregiously contravened the following fundamental constitutional guarantees enshrined within the *Charter*:

   i. Section 2(b) of the *Charter*, manifesting profoundly as the impermissible suppression of expressive freedoms through the deployment of coercive state apparatuses. The utilization of legally vacuous enforcement mechanisms functions as a prior restraint on protected discourse, thereby chilling the Applicant's fundamental democratic participation and expressive autonomy;
   ii. Section 7 of the *Charter*, effectuated systematically through the arbitrary deprivation of liberty and the profound compromise of the security of the person. These deprivations were perpetrated via procedurally vacuous adjudicative mechanisms, characterized by a complete denial of fundamental justice, the evisceration of the *audi alteram partem* principle, and the imposition of profound psychological duress upon the Applicant;
   iii. Section 8 of the *Charter*, characterized unequivocally by the unauthorized, highly intrusive, and unwarranted physical and digital penetrations of the Applicant's constitutionally protected privacy spheres. These incursions were executed entirely absent any valid, legally recognizable, or constitutionally sound judicial pre-authorization, thereby operating as unreasonable state intrusions strictly prohibited by the supreme law of the land;
   iv. Section 10 of the *Charter*, instantiated by the calculated failure of state actors to provide immediate, intelligible, and legally coherent reasons for the deprivation of the Applicant's liberty, coupled with the concomitant, systemic obstruction of the Applicant's fundamental right to retain and instruct legal counsel without perilous delay;

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v. Section 11 of the *Charter*, breached egregiously by the formal institution of penal processes that are entirely lacking in fundamental evidentiary substantiation, jurisdictional competence, and procedural regularity. The utilization of fabricated charging instruments inherently violates the specific right to be informed without unreasonable delay of the specific offence, as the underlying prosecutorial documents are mere administrative fictions;

vi. Section 12 of the *Charter*, arising directly from the imposition of state treatments that are demonstrably cruel, unusual, and grossly disproportionate to any legitimate penological or administrative objective. To subject a citizen to the coercive power of an invisible, unaccountable state machinery constitutes a degrading subjugation incompatible with human dignity; and

vii. Section 15 of the *Charter*, reflecting the demonstrably discriminatory application of coercive state investigative and prosecutorial powers based upon enumerated or analogous grounds, thereby unequivocally denying the Applicant the equal protection and equal benefit of the law;

(collectively, the "***Charter* Violations**").

B. THE CATEGORICAL INAPPLICABILITY OF SECTION 1 JUSTIFICATORY MECHANISMS

5. It is further posited, as an incontrovertible, self-evident, and mathematically precise legal conclusion, that the aforementioned *Charter Violations* are intrinsically incapable of being demonstrably justified in a free and democratic society. Applying the rigorous, multi-pronged analytical framework mandated continuously by the Supreme Court of Canada, the impugned state conduct completely and fundamentally fails to satisfy the paramount proportionality requirement. The deployment of fictitious judicial endorsements, the reliance upon phantom adjudicators, and the orchestration of undisclosed tribunals cannot, under any rational or logical metric, be connected to any pressing and substantial legislative objective. Furthermore, such extreme deviations from constitutional norms utterly fail the minimal impairment threshold, resulting in deleterious effects that are entirely disproportionate to any conceivable salutary benefits. Consequently, the justificatory mechanisms encapsulated within section 1 of the *Charter* are wholly inapplicable *in limine*, requiring no further substantive judicial deliberation to dismiss any theoretical state defense.

III. REMEDIAL INTERVENTIONS AND EQUITABLE RELIEF SOUGHT

Plenary Application for Section 24(1) Equitable Relief

6. Comprehensive and uncompromising redress is unequivocally sought pursuant to section 24(1) of the *Charter*, demanding the immediate issuance of declarations of constitutional invalidity, writs of *certiorari* to formally quash the underlying fabricated proceedings, and permanent injunctions. This robust equitable redress is requisitioned to secure definitive interim, interlocutory, and permanent relief, precisely intended to strictly enjoin the perpetuation of the *Charter Violations* and to unequivocally terminate the Applicant's ongoing subjugation to the aforementioned *ultra vires* state processes.

B. EXCLUSION OF EVIDENCE PURSUANT TO SECTION 24(2) AND RESTORATION OF THE STATUS QUO

7. Concurrently, relief is sought pursuant to section 24(2) of the *Charter*, specifically applicable in relation to all tangible and intangible property of the Applicant that was unlawfully seized, appropriated, arbitrarily detained, and potentially subjected to forensic search absent a valid, constitutionally sound judicial warrant under section 487.1 of the *Criminal Code*, RSC 1985, c C-46, or any other recognized statutory authority, spanning the temporal period of September 20, 2024, to October 2, 2024, and potentially extending continuously thereafter. Appropriate remedial declarations must be meticulously fashioned to affirmatively nullify the constitutional transgressions and to estop the future prosecutorial or investigative utilization of any evidentiary fruits derived from the continued unlawful arrests, unlawful searches, and unlawful seizures.
8. Analyzing the state-sponsored transgressions under the requisite jurisprudential metrics assessing the seriousness of the state's conduct and the impact on the Applicant's protected interests, the admission of evidence procured through such calculated, bad-faith *ultra vires* machinations would inflict catastrophic damage upon the integrity of

the judicial system, bringing the administration of justice into profound disrepute. The equitable imperative to restore the *status quo ante* necessitates the immediate invalidation of the aforementioned executive actions *ipso facto*, thereby necessitating the unconditional return of all seized materials, the permanent expungement of associated investigative records, and the formalized obliteration of the impugned judicial endorsements.

IV. CONSTITUTIONAL VIOLATIONS OF JUDICATURE PROVISIONS AND THE DOCTRINE OF ABSOLUTE NULLITY

Egregious Usurpation of the Inherent Superior Court Jurisdiction

9. A supplementary, overarching, and fundamentally structural constitutional inquiry shall be rigorously advanced regarding whether the adjudicative actions—both inherently *ultra vires* and ostensibly authorized—undertaken by undisclosed or disclosed Justices of the Peace, Judges of the Ontario Court of Justice, Judges of the Superior Court of Justice, or any *ad hoc* appellate jurists assigned by statutory delegation, constituted an egregious usurpation of the core judicature provisions enshrined immutably within sections 96 to 100 of the *Constitution Act, 1867* (UK), 30 & 31 Vict, c 3. The delegation of core adjudicative functions, inclusive of the authorization of penal processes, to fictitious entities, unidentifiable actors, or concealed tribunals effectively hollows out the inherent supervisory jurisdiction constitutionally guaranteed exclusively to superior courts, destabilizing the fundamental separation of powers.

Strict Classification of Procedural Deviations as Absolute Nullities

10. It is respectfully but firmly submitted that any equitable or legal remedies flowing from such structural constitutional breaches must categorically and automatically be granted. The impugned procedural deviations, characterized by jurisdictional falsification and adjudicator anonymity, are strictly classified as an absolute nullity. It is a fundamental tenet of jurisprudence that where a situation exists between an irregularity and a nullity, judicial interpretation must strictly lean towards designating the act as an absolute nullity if the conduct represents a direct, deliberate, and substantive contravention of a binding statute, a regulatory framework, a foundational common law rule, or a paramount equitable principle. The actions enumerated herein are entirely incapable of being rationalized, cured, or retroactively legitimized as mere administrative or procedural irregularities under any statutory curative provisions. Given that such acts constituted a direct and egregious contravention of binding statutory frameworks and structural constitutional imperatives, the entire adjudicative facade is fundamentally divested of legal substance and is thereby rendered void *ab initio*.

V. FORUM SELECTION AND PROCEDURAL SCHEDULE

Delineation of Adjudicative Venue

12. The substantive constitutional questions and applications for extraordinary remedies delineated comprehensively herein shall be adjudicated at a date and time to be subsequently fixed, or alternatively, as proposed contemporaneously, before a presiding justice at the Superior Court of Justice situated at 361 University Avenue, Toronto, Ontario. It is submitted that the proceedings may be conducted by any procedural mechanism deemed to serve the paramount, overarching interests of justice, strictly incorporating the preservation of the absolute right to seek expedited, emergent relief by way of a formal notice of motion.

Explicit Reservation of Interim and Interlocutory Rights

13. The unalienable right to seek immediate interim equitable and legal relief is expressly and unambiguously reserved, with requisite formal notice to be served upon the respondent and any ancillary interested parties. This reservation is subject strictly to specific procedural exemptions pertaining exclusively to the service of additional judicial officers and secondary venues, precisely as dictated by the mandatory provisions contained within the *Criminal Proceedings Rules for the Superior Court of Justice (Ontario)*.

Inextricable Integration with the Foundational Form 1 Application

14. Reliance is firmly, extensively, and exclusively placed upon the material facts, substantive legal bases, and the rigorous jurisprudential analysis delineated *infra*. This constitutional instrument must be continuously construed in inextricable conjunction with the Form 1 application mandated by the *Criminal Proceedings Rules for the Superior Court of Justice (Ontario)*, executed on March 16, 2026, and delivered contemporaneously herewith. Evidentiary reliance is categorically placed upon the entirety of the corpus of documentation contained therein, alongside all digital and physical records presently within the custody, control, or constructive possession of the originating judicial registry. This incorporates unequivocally those materials strictly necessitated for disclosure pursuant to a formal Rule 43.03 certificate, and demands the compulsory production of all related *ex parte* administrative metadata.

The Post Facto Falsification of Jurisdictional Prosecutorial Instruments

15. It is averred with profound gravity and evidentiary substantiation that the impugned criminal proceedings were ostensibly commenced via the declaring or laying of an unprovided, legally non-existent, and undisclosed Form 2 Information or Form 4 Indictment pursuant to the strictures of the *Criminal Code*, RSC 1985, c C-46, functioning in conjunction with the fabricated **INTAKE COURT ENDORSEMENT (SEPT 23 2024)**. However, it is fundamentally asserted that these foundational prosecutorial instruments were falsified *post facto*. The subsequent fabrication of charging documents represents a catastrophic failure of prosecutorial integrity. The laying of an Information constitutes the indispensable bedrock for the acquisition of statutory jurisdiction; absent a genuinely sworn and temporally accurate instrument, the court acquires zero jurisdiction over the person or the subject matter.

Decisive Application of the Doctrine of Vitiating Fraud

16. Applying the rigorous equitable and common law doctrines governing vitiation by deception, explicit and binding reliance is placed upon the Supreme Court of Canada's jurisprudence articulated in *Landreville v Boucherville (Town of)*, [1978] 2 SCR 801 (the "*Landreville Decision*"). The *Landreville Decision* affirmatively, explicitly, and irreversibly adopts the seminal appellate authority established in *Lazarus Estates Ltd v Beasley*, [1956] 1 QB 702 (CA) at 712 (the "*Lazarus Decision*"). As incontrovertibly articulated by Lord Denning in the *Lazarus Decision*, "fraud unravels everything."
17. Applied directly and uncompromisingly to the material facts at bar, the deliberate *post facto* falsification of formal judicial records, combined with the strategic, deceptive utilization of a completely fictitious judicial officer (identified cryptically and fallaciously as 'JP Jiri' in the fabricated endorsement), constitute an unequivocal, systemic adjudicative fraud. Such profound documentary manipulation and institutional obfuscation strike lethally at the very substratum of the judicial process, poisoning the well of justice beyond any capacity for remediation.

The Inevitable Extrapolation of Coram Non Judice and Procedural Unfairness

18. This fraudulent orchestration operates relentlessly and automatically to vitiate the entirety of the proceedings *ab initio*, rendering the actions of the undisclosed judge, the fictitious Justice of the Peace, and the complicit administrative registry an absolute nullity. By direct, inexcusable contravention of absolute statutory mandates and core common law precepts, the aforementioned acts are characterized conclusively by the ancient and binding maxim *factum a judice, quod ad officium jure non pertinet, ratum non est* (an act of a judge which does not pertain to his jurisdiction is of no force). Consequently, no legitimate office of the prosecutor ever possessed lawful carriage of these manufactured proceedings, and all subsequent judicial convenings, inclusive of any clandestine *ex parte in camera* hearings, were strictly, undeniably, and incurably *coram non judice*.
19. Regarding the evidentiary record of the aforementioned clandestine *in camera* proceedings, specific administrative representations were promulgated to the Applicant indicating that the undisclosed jurist presided over the hearing exclusively within the impenetrable sanctity of judicial chambers, thereby purposefully precluding the generation

5762 and availability of an official stenographic or digital transcript. This deliberately engineered informational asymmetry fundamentally and fatally compromises the *audi alteram partem* principle. Notwithstanding the formal tender of financial consideration by the Applicant to secure digital audio recordings of said proceedings, the court administration has consistently, inexcusably, and unlawfully failed to effectuate the delivery of the requested auditory records. This calculated obstruction constitutes an egregious *prima facie* breach of procedural fairness, effectively foreclosing the Applicant's fundamental, constitutionally entrenched right to make full answer and defence, and thereby cementing the absolute nullity of the underlying executive actions.

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STATEMENT OF CONSTITUTIONAL ISSUES

Pursuant to the explicit statutory mandate articulated within section 109 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, and the sweeping, inherent remedial provisions enshrined in section 24 of the *Canadian Charter of Rights and Freedoms* (the "*Charter*"), the following exhaustive, meticulously enumerated constitutional interrogatories are hereby formally submitted for authoritative, appellate-level judicial determination.

These interrogatories necessitate a profound, exacting, and unyielding examination as to whether an averred continuum of extraordinary, pervasive state action—characterized by a purported, unprecedented jurisdictional usurpation, the alleged deliberate fabrication and spoliation of originating legal instruments, and the consequential, severe deprivation of physical liberty—contravenes the fundamental structural separation of powers and the inviolable liberties guaranteed by the *Charter*. It is robustly posited for the Court's urgent consideration that the cumulative, compounding effect of such averred conduct operates to entirely sever the state's actions from any recognizable foundation in positive law, thereby rendering the underlying proceedings incontrovertibly *coram non judice* (before one who is not a judge).

Such a classification, if definitively substantiated by the evidentiary record, would establish the proceedings as an absolute nullity (*void ab initio*). Furthermore, it is submitted that such conduct transcends mere procedural irregularity, representing a profound, systemic affront to the administration of jurisprudence, the institutional integrity of the courts, and the bedrock principles of the rule of law upon which the Canadian constitutional architecture is erected. The Court is thereby called upon to exercise its inherent supervisory jurisdiction to categorically declare these alleged maneuvers as fundamentally irreconcilable with the postulates of a free and democratic society.

I. THE OPEN COURT PRINCIPLE, INSTITUTIONAL INTEGRITY, AND THE PROHIBITION OF SECRET PROCEEDINGS (SECTION 2(B))

1. Whether the averred fabrication, spoliation, and surreptitious "shadow-filing" of originating instruments by the Executive Branch—inclusive of the foundational *Information* and its corollary jurats—subverts the Open Court Principle as immutably guaranteed by section 2(b) of the *Charter*. Specifically, an adjudication is required to meticulously determine whether the alleged establishment, cultivation, and maintenance of a parallel, unrecorded, or otherwise entirely inaccessible administrative docket effectively insulates the coercive penal apparatus of the state from the requisite public, media, and adversarial scrutiny that serves as the indispensable cornerstone of judicial accountability and democratic oversight.

Should such clandestine operations be found to have been conducted cloaked from public view, a further, penetrating determination is necessitated as to whether these actions constitute a modern jurisprudential equivalent of the historical Star Chamber—an institution universally repudiated for its reliance upon secret indictments and unassailable prosecutorial fiat. It must be comprehensively evaluated whether the intentional shielding of prosecutorial origination from the public domain, coupled with the systemic obfuscation of the court record, fundamentally betrays the institutional integrity of the judiciary. Consequently, the Court must ascertain whether such foundational deceit renders the affected judicial records a constitutional nullity that is inherently, irrevocably, and perpetually incapable of grounding lawful state action, issuing valid warrants, or sustaining any deprivation of citizen liberty.

II. UNREASONABLE SEARCH AND SEIZURE VIA DECEPTION AND THE WEAPONIZATION OF LEGAL FICTION (SECTION 8)

2. Whether a continuous, escalating, and unbroken continuum of coercive state conduct—comprising an alleged deceptive property ruse, an unauthorized residential dispossession effectuated entirely without lawful pretext, and the subsequent, highly irregular imposition of a fabricated "No Fixed Address" (NFA) designation upon an individual with an established domicile—constitutes a flagrant, egregious, and calculated infringement upon the sacrosanct right to be secure against unreasonable search and seizure, as enshrined in section 8 of the *Charter*.

Furthermore, it must be rigorously and objectively ascertained whether the averred weaponization of the NFA legal fiction—utilized to purportedly and deliberately circumvent the stringent, constitutionally mandated prior-authorization prerequisites for residential searches (commonly recognized as the *Hunter v. Southam* standard)—and executed wholly in the absence of valid prior authorization by a neutral, independent, and impartial arbiter, fundamentally vitiates any presumption of *bona fide* state action. An authoritative adjudication is strictly sought as to whether the deliberate administrative classification of an individual as unhoused, executed for the express, ulterior, and unlawful purpose of artificially lowering their expectation of privacy and bypassing requisite judicial safeguards, unlawfully encroaches upon the highest reasonable expectation of privacy recognized at common law: the inviolable sanctity of the private dwelling.

III. ARBITRARY DETENTION AND THE DOCTRINE OF PROCEDURAL NULLITY (SECTION 9)

3. Whether the physical, psychological, and continuing confinement of the accused, predicated exclusively upon a purported, highly anomalous, and legally unprecedented administrative "Intake Court Endorsement," constitutes an arbitrary detention and a substantive, irremediable nullity pursuant to section 9 of the *Charter*.

Given the bedrock jurisprudential imperative dictating that criminal arrest powers and the attendant deprivations of ambulatory liberty must be construed *strictissimi juris* (with the absolute strictest, most mathematically precise interpretation of penal statutes), it must be scrupulously determined whether the deployment of family-law administrative endorsements—instruments that are fundamentally, inherently, and structurally devoid of any statutory custodial authority under the *Criminal Code*—to effectuate a criminal deprivation of liberty transmutes the conduct of the state into a purely extra-legal apprehension. It is formally submitted for adjudication that such reliance upon non-penal, administrative instruments to sanction severe penal consequences results in a detention that fundamentally lacks any anchor in valid positive law. Such actions, it is averred, operate merely as an exercise of brute, unconstrained state power entirely unmoored from explicit legislative authorization, thereby rendering the detention arbitrary in its purest constitutional sense.

IV. THE RIGHT TO BE INFORMED AND THE VITIATION OF LAWFUL AUTHORITY (SECTION 10(A))

4. Whether the persistent, deliberate, systemic, and ongoing omission by state agents to produce the authorizing legal instrument (namely, the warrant, the foundational endorsement, or any verifiably authenticated writ) upon explicit, repeated, and statutorily protected demand, vitiates the lawful foundation of the initial apprehension, thereby directly and fatally infringing the constitutional entitlement to be promptly informed of the reasons for detention pursuant to section 10(a) of the *Charter*.

In circumstances wherein state actors are purportedly incapable of producing the originating mandate, it must be adjudicated whether the initial arrest and the entirety of all subsequent custody are rendered continually, retroactively, and uninterruptedly unlawful. Consequently, a binding judicial determination is urgently required as to whether the failure to furnish the empowering document completely dissolves any jurisprudential protection, common-law immunity, or statutory shield otherwise afforded to state agents. It must be evaluated whether such agents are inherently and logically unable to demonstrate a good faith reliance upon a facially valid warrant when the existence of the warrant itself is actively concealed, epistemologically opaque, or functionally non-existent, thereby exposing the detention as a continuing constitutional tort.

V. NOTICE OF SPECIFIC OFFENCE, FULL ANSWER AND DEFENCE, AND UNREASONABLE DELAY (SECTIONS 11(A) AND 11(B))

5. Whether the presentation of contradictory, mutable, and allegedly fabricated charging instruments across successive judicial appearances constitutes a profound, prejudicial failure to inform the accused of the specific offence without unreasonable delay under section 11(a) of the *Charter*. It must be exhaustively analyzed whether this state-engineered fluidity of charges—operating as a perpetually moving target—severely and irremediably prejudices the capacity of the accused to retain competent counsel, comprehensively comprehend the exact nature of the penal jeopardy faced, and marshal the evidentiary resources necessary to mount a full answer and defence.

Consequently, it must be evaluated whether the systemic ambiguity, jurisdictional obfuscation, and procedural distortions purportedly engineered by the state—through the utilization of multiple, conflicting, and potentially unsworn *Informations*—contribute to an overarching, unreasonable delay that must be strictly, entirely, and unequivocally apportioned to the Crown. It must be conclusively determined whether this state-induced procedural labyrinth inevitably and demonstrably exceeds the presumptive eighteen-month ceiling established by the Supreme Court of Canada in *R. v. Jordan*, thereby fundamentally contravening section 11(b) of the *Charter* and necessitating an immediate, mandatory, and non-discretionary stay of all proceedings to preserve the fundamental integrity of the justice system.

VI. CRUEL AND UNUSUAL TREATMENT VIA UNAUTHORIZED CONFINEMENT AND EXTRA-JUDICIAL CONDITIONS (SECTION 12)

6. Whether the imposition of severe, indefinite restrictive conditions and coercive state oversight—functioning as a *de facto* continuous confinement, constructive house arrest, or pervasive monitoring apparatus—flowing directly from proceedings averred to have been conducted entirely *coram non judice*, amounts to cruel and unusual treatment under section 12 of the *Charter*.

It must be meticulously determined whether subjecting an individual to a convoluted, labyrinthine reality governed by legal processes that are fundamentally non-existent in law, and utterly devoid of any meaningful avenues for procedural review, appellate relief, or *habeas corpus* intervention, constitutes an abuse of state power so profound that it unequivocally shocks the conscience of the community. An adjudication is strictly required to confirm whether the enforcement of phantom judicial orders and simulated judicial edicts against a citizen grossly offends objective societal standards of decency and human dignity, thereby triggering the absolute protections against cruel and unusual treatment and demanding immediate equitable intervention.

VII. THE ABSOLUTE INAPPLICABILITY OF SECTION 1 JUSTIFICATION TO FUNDAMENTAL NULLITIES

7. Whether the aforementioned *Charter* infringements are inherently, categorically, and fundamentally incapable of justification pursuant to the saving provisions of section 1 thereof. It must be definitively determined whether state action, when characterized by overt jurisdictional usurpation, the alleged deliberate fabrication of judicial records, and systemic institutional bad faith, operates at all times as an absolute nullity (*void ab initio*).

As such actions are forcefully posited to be entirely extra-legal and completely detached from the legitimate legislative framework of the state, it must be comprehensively analyzed whether they inherently and automatically fail the very first, foundational threshold of the *Oakes* test, insofar as they cannot, by legal definition, constitute limits that are "prescribed by law." Consequently, a definitive, precedent-setting adjudication is required as to whether the state is permanently and equitably estopped from attempting to justify these egregious constitutional breaches as demonstrably justified in a free and democratic society, predicated upon the unassailable maxim that a democratic society cannot, under any jurisprudential theory, validate or sanction state actions taken completely outside the bounds of its own enacted laws.

VIII. SEPARATION OF POWERS, JUDICIAL INDEPENDENCE, AND APPREHENSION OF BIAS (CONSTITUTION ACT, 1867, S. 96)

8. Whether the *sua sponte* assumption of criminal intake, prosecutorial direction, and overarching case management functions by a singular Justice of the Superior Court constitutes an *ultra vires* usurpation of jurisdiction that fatally and irrevocably violates the structural separation of powers embedded within the fundamental architecture of the *Constitution Act, 1867*. Specifically, it must be determined whether a judicial officer acting *sans* proper statutory assignment, deploying family law administrative constructs to unlawfully effectuate a criminal arrest, and operating under circumstances giving rise to an overwhelming, objective reasonable apprehension of actual bias, fundamentally abrogates the constitutional guarantee of judicial independence. Rooted firmly in the ancient maxim *nemo debet esse judex in propria causa* (no one shall be a judge in their own cause), it must be meticulously ascertained whether a judicial officer concurrently acting in the mutually exclusive roles of investigator, director of proceedings, and ostensibly impartial arbiter irrevocably compromises the impartiality of the tribunal. Should such an impermissible conflation of executive, investigatory, and

5767 judicial functions be found, the Court must conclusively determine whether it thereby divests the presiding officer of all jurisdiction, irreparably stripping the court of its authority and rendering all resulting orders, warrants, and endorsements *functus officio*, wholly inoperative, and legally void in perpetuity.

VOLUME #1: OVERVIEW OF THE JURISDICTIONAL NULLITIES, ACTS OF JUDGE(S) WHICH WERE FACTUM A JUDICE, QUOD AD OFFICIUM JURE NON PERTINET, RATUM NON EST AND CORAM NON JUDICE CONSTITUTIONAL INFRACTIONS

THE IRREFRAGABLE CHAIN OF CUSTODY AND THE RULE OF LAW

1. It is advanced for the consideration of this Honourable Court that the foundational integrity of the Canadian jurisprudential architecture, alongside the paramount doctrine of the rule of law (the "**Rule of Law**"), remains inextricably bound to the irrefragable chain of custody pertaining to sworn documentary evidence. Such systemic integrity necessitates an unyielding and uncompromising adherence to the exhaustive statutory framework governing the profound deprivation of physical liberty, acting in concert with the unassailable, objective impartiality demanded of any adjudicative tribunal. The delicate social compact upon which the administration of justice is structurally predicated requires absolute transparency, rigid procedural exactitude, and an unbroken, verifiable evidentiary pedigree in all instances wherein the formidable coercive apparatus of the state is mobilized against a private citizen.
2. The procedural architecture governing criminal law, most notably concerning the issuance of originating processes, must be construed not as merely directory, but rather as fundamentally and rigidly mandatory. The solemn swearing of an information (the "**Information**") before a duly designated judicial officer, subsequently verified by an unblemished and unaltered jurat, functions as the absolute *sine qua non* prerequisite for lawful state intervention. This prescribed statutory mechanism constitutes the solitary, exclusive conduit through which the state may lawfully traverse the constitutionally entrenched liberty interests of the individual. Consequently, it is posited that any inexplicable deviation, structural alteration, or deliberate spoliation of this foundational documentary record instantaneously ruptures the requisite chain of custody, thereby irremediably stripping the ensuing proceedings of any legitimate constitutional foundation.
3. In circumstances where these foundational constitutional pillars are subjected to systemic circumvention—whether effectuated via egregious, systemic administrative malfeasance, institutional incompetence, or through surreptitious, deliberate obfuscation ostensibly catalyzed by deeply entrenched, pre-existing conflicts of interest—the resultant state actions cannot be classified as mere curable procedural irregularities or trifling technical deviations of administrative form. Rather, it is advanced that such profound procedural aberrations manifest as absolute jurisdictional nullities, thereby rendering the underlying legal proceedings entirely void *ab initio*.
4. It is a settled legal axiom that an adjudicative tribunal remains perpetually incapable, under any recognized constitutional paradigm or equitable doctrine, of deriving lawful authority from a process that has been fundamentally contaminated *in limine*. An originating court is rendered bereft of both *jurisdiction ratione materiae* (subject-matter jurisdiction) and *jurisdiction ratione personae* (personal jurisdiction) where the authorizing instruments have been irreparably compromised. Accordingly, penal consequences or restrictions upon liberty cannot be legitimately imposed by the state when such strictures are predicated upon a foundation constructed in its entirety from fabricated, spoliated, and legally vacuous documentation.

B. ANTICIPATORY REBUTTAL: THE INAPPLICABILITY OF CURATIVE STATUTORY PROVISIONS

5. It is anticipated that a counter-argument may be advanced suggesting that the defective originating processes constitute mere procedural anomalies, ostensibly capable of remediation pursuant to the curative provisions delineated within the *Criminal Code*, RSC 1985, c C-46, s. 686(1)(b)(iv). Nevertheless, such a proposition is posited to be analytically unsustainable when subjected to rigorous jurisprudential scrutiny. The deliberate, state-sponsored fabrication of the Information, paired with the intentional extraction of sworn jurat pages, transcends the boundaries of mere technical non-compliance or inadvertent clerical oversight.
6. Through the application of the deductive syllogism formulated by the Supreme Court of Canada regarding abuses of process, as comprehensively elucidated in *R. v. Babos*, 2014 SCC 16 (*Babos*), it is established that deliberate state misconduct operates to entirely vitiate lawful authority. The jurisprudence in *Babos* emphatically reinforced

5769 the paramount necessity of maintaining public confidence within the administration of justice, dictating that state conduct which egregiously transgresses fundamental notions of fair play must be unequivocally repudiated. Within the present factual matrix, the deliberate mutilation of the Information subverts the essential truth-seeking function of the judiciary, thereby rendering any *ex post facto* application of statutory curative provisions entirely incongruous and legally impermissible.

7. A statutorily invalid instrument is incapable of being retroactively legitimized by subsequent judicial fiat wherein the foundational defect is anchored in intentional administrative obfuscation. Consequently, the ancient equitable doctrine of *fraus omnia corrumpit* is irrevocably engaged. Fraud, specifically fraud perpetrated upon the tribunal via documentary spoliation, comprehensively unravels all subsequent legal consequence. As a direct corollary, the Crown is *ipso facto* divested of any residual jurisdiction to proceed, given that the curative mechanisms embedded within the *Criminal Code* were manifestly not promulgated to furnish sanctuary for calculated administrative deceit.

C. DELIBERATE SPOLIATION AND THE FABRICATION OF ORIGINATING PROCESSES

8. A meticulous and exhaustive examination of the evidentiary record elucidates a cascading, highly orchestrated sequence of profound procedural anomalies, deliberate documentary spoliation, and blatant, irredeemable statutory breaches executed by agents of the state. The intentional fabrication of the Information, occurring in tandem with the extraordinary, *ultra vires* utilization of an entirely unauthorized, civil family-law directive to effectuate a targeted criminal arrest, may be characterized as an unparalleled abuse of process. The deployment of a superior court civil directive as a mechanism to circumvent the rigorous prerequisites inherent to a provincial criminal warrant represents an egregious usurpation of the judicial function and a catastrophic conflation of distinct, non-overlapping jurisdictional authorities.
9. It is submitted that such conduct flagrantly offends the foundational tenets of fundamental justice enshrined within section 7 of the *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11 (the "***Charter***"), and is ostensibly repugnant to the collective conscience of the community. The deprivation of physical liberty predicated exclusively upon a manufactured administrative contrivance fundamentally destabilizes the citizenry's legitimate expectation of, and reliance upon, predictable and lawful state conduct.
10. By rigorously dissecting the physical alterations imposed upon the sworn instruments, the jurisdictional impossibilities inherent to the inter-court routing mechanisms utilized, and the undeniable, immutable metadata footprints preserved permanently within centralized law enforcement databases (viz., the Canadian Police Information Centre system), it is demonstrated *prima facie* that the originating processes are hopelessly and incurably defective. The digital *acta* preserved within these centralized repositories irreconcilably contradict the physical documentation presented to the tribunal, further illuminating the ostensibly deliberate and calculated nature of the spoliation.
11. The targeted physical extraction of the original jurat, followed by the subsequent substitution of a fabricated administrative endorsement, appears to have been executed with the specific design of permanently severing the auditable documentary linkage identifying the specific judicial officer who issued the irregular, liberty-depriving criminal warrant (the "**Warrant**"). This systemic obfuscation was seemingly designed to explicitly shield the conduct from both institutional auditing and appellate scrutiny, representing a comprehensive breakdown of the institutional safeguards structurally engineered to protect the citizenry from arbitrary and unchecked state power.

D. APPREHENSION OF BIAS AND PRE-EXISTING CONFLICTS OF INTEREST UNDISCLOSED BY THE NATURE OF THE "EX PARTE IN CAMERA HEARING", "EX PARTE IN CAMERA UNRECORDED HEARINGS", AND "EX PARTE IN CAMERA UNRECORDED HEARINGS UNRETAINED INDICTMENT PROCESS"

12. The profound procedural pathologies detailed herein—encompassing deliberate, tactical forum-shopping at the superior court level and strategically delayed filing protocols—did not precipitate within a jurisdictional vacuum. Such anomalies must be critically contextualized within the broader factual matrix concerning alleged pre-existing professional conflicts of interest involving the presiding judicial officer, Madam Justice Shore (the "**Presiding Jurist**"), and concurrently active civil litigation matters. Fiduciary and ethical obligations, as strictly promulgated

by the Canadian Judicial Council, mandate the absolute avoidance of scenarios wherein historical adversarial relationships might contaminate, or appear to contaminate, present adjudicative impartiality.

13. The accused (the "**Accused**"), a former practicing litigator possessing extensive legal expertise, had heretofore rendered highly effective legal assistance in a contentious, exceptionally high-stakes family law separation. The opposing party in that preceding litigation was represented directly by Epstein Cole LLP. Crucially, the Presiding Jurist, who allegedly issued the highly irregular underlying Warrant, functioned as a senior partner at that exact law firm during the specific temporal period in question.

E. ANTICIPATORY REBUTTAL: CRYSTALLIZATION OF ACTUAL BIAS

15. It is foreseeable that an inquiry may be raised as to whether a historical professional association is sufficient to surpass the stringent threshold requisite for establishing a reasonable apprehension of bias, as rigorously articulated by the Supreme Court of Canada in *Wewaykum Indian Band v. Canada*, 2003 SCC 45 at para 60 (*Wewaykum*). While remote professional affiliations may frequently prove insufficient to displace the robust presumption of judicial impartiality, it is posited that the unique and compelling factual matrix presently at bar completely satisfies and demonstrably exceeds the *Wewaykum* standard.
16. The apprehension of bias herein is not predicated solely upon a dormant, historical partnership; rather, it is inextricably intertwined with, and crystallized by, the contemporaneous, surreptitious destruction of the authorizing jurat and the highly anomalous, completely unauthorized intervention, by secretive and unauthorized assignment, by the Presiding Jurist into parallel civil insurance proceedings. These collateral proceedings, governed strictly by the *JRPA, Courts of Justice Act* and *Rules of Civil Procedure*, RRO 1990, Reg 194, were subjected to irregular judicial interference by his proxy and "puppet" explicitly on January 7, 2025.
17. Applying the perspective of the reasonable, informed, and right-minded person—which remains the cornerstone of the *Wewaykum* analytical framework—this coordinated, extra-judicial maneuvering undeniably demonstrates an actionable, localized retaliatory animus. The utilization of judicial authority to traverse jurisdictional boundaries and interfere with parallel civil matters fatally contaminates the adjudicative process, entirely displacing the standard presumption of judicial impartiality.

F. PARALLEL CIVIL LITIGATION AND EXTRA-JUDICIAL RETALIATION

18. This historical adversarial nexus is further compounded and exacerbated by concurrent, high-value civil litigation stemming from a near-fatal motor vehicle accident involving the Accused. The opposing party from the aforementioned family law dispute concurrently functioned in an authoritative, managerial capacity within the precise insurance department strictly responsible for the administration of the motor vehicle claim. The intersection of this ongoing, high-value civil insurance litigation with the deeply flawed criminal proceedings reveals a highly volatile, weaponized nexus of localized animosity.
19. Following a retaliatory residential lockout and the subsequent legally sound procurement of an urgent restorative order from the Landlord and Tenant Board on September 20, 2024, the state apparatus was swiftly and aggressively mobilized. Although the *Residential Tenancies Act, 2006*, SO 2006, c 17, provides explicit mechanisms for the restoration of possession, these statutory administrative avenues were intentionally circumvented by law enforcement personnel.
20. Rather than facilitating the lawful execution of the administrative tribunal's restorative order to maintain the peace, law enforcement officers engaged in an elaborate, deceptive, and highly coercive property ruse on October 2, 2024. This operation was specifically engineered to artificially lure the Accused into a controlled, adversarial environment to effectuate an ambush arrest, utilizing the structurally defective, forum-shopped Warrant as the sole legal justification. The deployment of overwhelming state police power to effectuate what ostensibly amounted to an extra-judicial eviction constitutes a profound dereliction of statutory duty.

G. ANTICIPATORY REBUTTAL: VITIATION OF GOOD FAITH RELIANCE

21. It is anticipated that the Crown may attempt to salvage the admissibility of any consequentially obtained evidence by invoking the doctrine of good faith reliance on the part of the arresting officers, ostensibly mitigating the severity

5771 of the constitutional breach under a section 24(2) analysis pursuant to *R. v. Grant*, 2009 SCC 32 at para 71 (*Grant*). This hypothesis, however, is posited to be wholly unsupportable and logically fractured.

22. The comprehensive, constitutionally mandated tripartite analytical framework explicitly established in *Grant* operates as an indispensable teleological instrument, meticulously calibrated to safeguard the overarching integrity and long-term repute of the administration of justice. This obligatory jurisprudential doctrine compels a rigorous, multi-tiered scrutiny encompassing three discrete yet inextricably linked analytical prongs. Initially, a granular assessment of the magnitude and culpability of the *Charter*-infringing state conduct is demanded. Subsequently, the tribunal must adjudicate the profoundness of the deleterious impact inflicted by the constitutional breach upon the deeply protected liberty and privacy interests of the Accused. Ultimately, these considerations must be juxtaposed against the collective societal prerogative in ensuring the adjudication of the controversy upon its substantive merits. In the immediate factual matrix, the primary branch of this equitable calculus assumes paramount significance, as it inextricably necessitates an uncompromising evaluation of the seriousness of the state conduct. Any presumption of good faith is absolutely vitiated by the conduct of the officers *in situ*. Despite persistent, statutorily grounded demands made pursuant to the explicit mandates of section 29 of the *Criminal Code*—which strictly requires the production of a warrant upon execution—the executing officers vehemently and aggressively refused to produce the physical Warrant.
23. This deliberate refusal actively denied the Accused the fundamental constitutional right to review the instrument authorizing the detention, thereby irreparably magnifying the impact upon the constitutionally protected interests of the Accused. It is a logical and legal impossibility for law enforcement to claim good faith reliance upon a warrant while simultaneously and deliberately concealing that selfsame, structurally defective document from the detained citizen. Such conduct ostensibly elevates the *Charter* infringement from a state of inadvertent negligence to one of deliberate state overreach, thereby heavily favoring the exclusion of all resulting evidence to preserve societal confidence in the justice system.

H. CONCLUSION AND EQUITABLE IMPERATIVES

24. The subsequent trajectory of events—including the highly targeted, suspicious expropriation of sensitive legal files and the fraudulent exploitation of library credentials—strongly evinces a cohesive, orchestrated campaign of extra-judicial retaliation. The weaponization of state apparatuses to execute personal or localized grievances is submitted to represent the ultimate subversion of the *Charter* and the foundational principles of Canadian jurisprudence. This pervasive, systemic contamination mandates the immediate, uncompromising restoration of the *status quo ante* through the definitive quashing of all underlying warrants, endorsements, and continuing liberty constraints. It is advanced that the Crown is entirely bereft of lawful jurisdiction due to the insurmountable accumulation of *ab initio* nullities. Consequently, it is respectfully submitted that the proceedings must be declared a complete nullity, thereby restoring the Accused to a state of absolute liberty unencumbered by the tainted mechanisms of state coercion.

I. JURISDICTIONAL FATALITIES AND THE DOCTRINE OF ABSOLUTE NULLITY

Coram Non Judice and the Strictissimi Juris Interpretation of Statutory Grants

25. It is posited as an incontrovertible and foundational precept of the common law that tribunals and judicial bodies, being endowed solely with circumscribed statutory authority, are invariably necessitated to operate strictly within the inflexible boundaries of their enabling legislation; consequently, any substantive deviation from these mandatory statutory prerequisites inevitably precipitates an immediate state of *coram non judice*.
26. This axiomatic legal doctrine, which demands a *strictissimi juris* interpretation of all statutory grants of power, was unequivocally established by the House of Lords in the seminal jurisprudence of *Taylor v Clemson* (1844), 11 Cl & Fin 610, 8 ER 1233 (HL) (*the "Taylor Decision"*).
27. A complex dispute concerning the compulsory expropriation of real property by a railway corporation pursuant to a specific act of parliament was adjudicated within the *Taylor Decision*, wherein the central, justiciable issue pertained strictly to the validity of a warrant directing a sheriff to impanel a jury for the assessment of land valuations.

28. To fully apprehend the profound gravity and enduring relevance of this jurisprudence, it is necessitated that the historical appellate structure of the United Kingdom be acknowledged, specifically referencing the evolution of the Exchequer Chamber, which served as the intermediate court of appeal prior to the ultimate intervention of the House of Lords.
29. Following the structural consolidation achieved by the enactment of the *Law Terms Act 1830* (UK), 11 Geo IV & 1 Will IV, c 70, the appellate courts were uniquely positioned to rigorously scrutinize the jurisdictional limitations of statutory bodies; during an epoch characterized by rapid industrial expansion and the consequent, unprecedented encroachment upon private property rights, rigid precedents were established by these courts that remain strictly binding upon all contemporary Canadian tribunals.
30. It was articulated with absolute precision by the House of Lords in the *Taylor Decision* that when statutory jurisdiction is exercised by a judicial or administrative body—particularly regarding those extraordinary powers which infringe upon fundamental common law rights or liberties—strict compliance with the legislated conditions precedent is an absolute, non-derogable prerequisite to the valid assumption of jurisdiction.
31. It was further promulgated by the appellate jurists that the failure to strictly observe the explicit mandates of enabling legislation, akin to the rigorous constraints imposed by the modern *Expropriation Act*, RSO 1990, c E.26, or its historical equivalents, irrevocably strips the tribunal of its adjudicative authority from the very inception of the proceedings.
32. The rationale underpinning this rigid jurisprudential architecture is predicated upon the essential protection of the citizenry from the arbitrary or unauthorized exercise of state power; it is recognized that statutory tribunals possess no inherent jurisdiction and are entirely creatures of statute, thereby rendering their authority completely and perpetually contingent upon perfect procedural adherence.
33. Consequently, acts undertaken in the absolute absence of such foundational jurisdictional grounding are characterized definitively as *coram non judice*, rendering the ensuing legal proceedings entirely void, bereft of any juridical efficacy, devoid of legal force, and utterly lacking any coercive power over the targeted subject individual.

J. THE ONTOLOGICAL DISTINCTION BETWEEN VOIDABLE IRREGULARITIES AND ABSOLUTE NULLITIES

34. The aforementioned legal postulate is encapsulated comprehensively by the ancient and unwavering legal maxim, *factum a judice, quod ad officium jure non pertinet, ratum non est*, signifying unequivocally that an act executed by a judicial officer that transcends the lawful, statutorily defined parameters of their office is intrinsically invalid and possesses no binding authority upon the citizenry.
35. This exact jurisdictional doctrine was affirmed by the Supreme Court of Canada in the jurisprudence of *McLean v Bradley*, 1878 CanLII 22, [1878] 2 SCR 535 (*the "Bradley Decision"*), wherein it was conclusively established that adjudicative determinations rendered absent foundational jurisdiction constitute unmitigated nullities that are entirely *void ab initio*.
36. In the *Bradley Decision*, the erudite reasoning extracted directly from the *Taylor Decision* was explicitly adopted by the Supreme Court of Canada, per Richards C.J., alongside the concurring panel comprising Ritchie, Strong, Taschereau, Fournier, and Henry JJ., thereby bridging the jurisprudential continuity between the pre-Confederation United Kingdom and the modern Canadian legal apparatus.
37. Specifically invoking the authoritative commentary preserved within Broom's Legal Maxims, it was pronounced unequivocally by the Supreme Court of Canada that where a tribunal lacks jurisdictional competence over a cause, the entirety of the proceeding is rendered *coram non judice*, rendering the adjudicator effectively indistinguishable from an unauthorized interloper or a private citizen bereft of state authority.
38. It was further elucidated within the *Bradley Decision* that a complete absence of jurisdiction completely strips the impugned judicial orders of any protective veneer, judicial privilege, or statutory immunity that typically shields judicial pronouncements.
39. This absolute divestment of authority operates to expose the executing parties, extending beyond the jurist to encompass law enforcement officers, judicial administrative staff, and court officials, to potential civil liability for egregious transgressions such as false imprisonment, trespass to the person, or misfeasance in public office.
40. Crucially, the doctrine dictates that such a profound jurisdictional vacuum absolves the targeted subject of any legal, statutory, or moral obligation to yield obedience to the defective precept; it is maintained that there exists no duty, either at common law or within the penal statutes, to comply with a directive that lacks the indispensable *sine qua non* of lawful judicial authorization.

5773 When applied directly to the factual matrix at bar, the systemic failure to meticulously adhere to the statutorily mandated preconditions for the issuance of criminal process ensures that the resultant legal instruments are not merely voidable administrative errors, but rather, they constitute absolute, fundamental nullities.

42. Pursuant to the maxim *ex nihilo nihil fit*—out of nothing, nothing comes—the original position, or *status quo ante*, is legally preserved with pristine integrity, functioning precisely as if the impugned judicial acts and subsequent *acta* never transpired in the physical or legal reality.
43. While it is acknowledged that minor procedural deviations or non-jurisdictional errors of law are frequently categorized by modern administrative jurisprudence as mere voidable irregularities to preserve systemic stability, protect third-party reliance, and promote judicial economy, it must be asserted that the classification of an absolute nullity perseveres invariably for circumstances wherein a mandatory, jurisdictional condition precedent remains wholly unfulfilled.
44. The *de facto* doctrine, which is occasionally utilized to salvage defective administrative actions, cannot be invoked to resurrect a proceeding that fundamentally lacked the foundational mechanism of commencement; when a statutory hurdle is leaped entirely by a judicial officer, bypassing the very gateway to their jurisdiction, the resulting pronouncement is, *ipso facto*, born dead, and cannot be subsequently cured, ratified, or retroactively imbued with validity by subsequent procedural steps or mere acquiescence.

K. APPLICATION OF THE JURISPRUDENCE TO THE PROCEDURAL IRREGULARITIES BEFORE THE SUPERIOR COURT OF JUSTICE

45. Upon the rigorous application of these sophisticated syllogisms and the meticulous extrapolation of established legal principles to the specific procedural anomalies presently at issue, it is observed that the foundational requisite, historically necessitated for the lawful commencement of valid criminal proceedings, was egregiously and systematically circumvented.
46. More precisely, it is submitted that a mandatory information package (the "**Information Package**"), which functions inherently as the essential evidentiary and procedural prerequisite for the lawful engagement of the judicial apparatus, was purportedly never submitted electronically unto the designated court office for the procurement of an intake court endorsement (the "**Intake Court Endorsement**") on the critical date of September 23, 2024.
47. The function of the intake court is not to be construed as a mere administrative formality; rather, it constitutes a vital, statutorily mandated gatekeeping function designed by the legislature to interpose a neutral judicial arbiter between the investigative zeal of the state and the liberty of the citizen, thereby ensuring that arbitrary or unfounded state action is halted *in limine*.
48. In the strict absence of the lawful making, issuance, signing, and entering of a form 6 summons (the "**Form 6 Summons**") or a form 7 arrest warrant (the "**Form 7 Arrest Warrant**") through these proper, transparent channels, the procedural machinations that subsequently transpired were inherently and incurably defective.
49. Despite being superficially finalized from a temporal perspective pursuant to the procedural mechanisms enumerated within the *Criminal Code*, RSC 1985, c C-46, these clandestine acts constituted undertakings that were incontrovertibly *factum a judice, quod ad officium jure non pertinet, ratum non est* and entirely *coram non judice*.
50. Consequently, the entirety of the attendance convened before the Honourable Madam Justice Shore, which was irregularly situated within the private environs of her chambers rather than an open courtroom, was rendered *coram non judice*; it is emphasized that the absolute sanctity of the judicial process necessitates strict adherence to established intake protocols, which are meticulously engineered to shield individuals from arbitrary, unscrutinized state action.
51. Furthermore, the profound gravity of this jurisdictional usurpation has been formally conceded upon the evidentiary record by legal counsel representing the Law Society of Ontario, acting explicitly on behalf of the Honourable Madam Justice Shore, wherein an admission was proffered dictating that the impugned document was never properly filed with the *Ontario Court of Justice* throughout the entire epoch spanning August to October 2024.
52. This profound administrative lacuna, having been incontrovertibly admitted on the evidentiary record, completely obliterates any presumptive shield of regularity that might otherwise logically attach to the actions of a superior court judge, thereby leaving the proceedings thoroughly denuded of lawful authority.
53. The judicial proceedings convened before the *Superior Court of Justice* were thereby rendered *void ab initio*, functioning impermissibly as an *ex parte* and *in camera* hearing.

54. Such covert adjudicative processes, having been conducted entirely outside the purview of the public and the accused, operated to the profound and demonstrable prejudice of the applicant (the "**Applicant**"), completely eviscerating the foundational constitutional tenets of the open court principle, natural justice, and the fundamental right to be heard.
55. Furthermore, it is presented as a logical, inescapable, and necessary extrapolation that facilitating the physical presence of Detective Abdulhameed K. Virani (the "**Detective Virani**") within the restricted, secure chambers of the *Superior Court of Justice* necessitated the illicit, active involvement and clandestine coordination of Court Officer Mrs. Frugoni-Rojas (the "**Court Officer Frugoni-Rojas**").
56. This illicit coordination fundamentally compounds the egregious procedural irregularities, demonstrating a systemic, concerted bypass of mandatory court intake apparatuses by multiple state actors operating in tandem to maliciously circumvent indispensable statutory safeguards.
57. Subsequently, as a direct consequence of this poisoned procedural genesis, a form 10 undertaking (the "**Form 10 Undertaking**") was imposed upon the Applicant, which was allegedly drafted deceitfully and strictly *ultra vires* by Sergeant Sean Cassidy of the Toronto Police Service (the "**Sergeant Cassidy**").
58. This highly restrictive instrument was inextricably and fatally linked to the *void ab initio Intake Court Endorsement*, representing the forbidden, contaminated fruit of a thoroughly poisoned procedural tree that was entirely bereft of any grounding in lawful jurisdiction.
59. This defective procedural framework was further predicated upon a demonstrably fraudulent form 2 information (the "**Form 2 Information**") directly attributed to *Court Officer Frugoni-Rojas*.
60. Because these foundational, initiating instruments were absolute nullities from their very inception, being entirely devoid of the requisite judicial endorsement from the constitutionally designated intake body, a state of perpetual liberation from any legal, statutory, or equitable compulsion to obey the derivative orders or the *Form 10 Undertaking* is thereby conferred upon the Applicant.
61. This absolute absolution from compliance is advanced as a constitutional and jurisdictional imperative that is respectfully submitted for the immediate apprehension, rigorous scrutiny, and immediate remedial action of the Chief Justice of the *Ontario Court of Justice*, with the sole objective of restoring the unimpeachable integrity of the administration of justice.

L. COUNTERVAILING DOCTRINES AND THE REBUTTAL OF THE COLLATERAL ATTACK PROHIBITION

62. It is meticulously anticipated that countervailing arguments might be advanced by opposing counsel, or by the Presiding President of the *Ontario Superior Court of Justice (Divisional Court)*, positing that orders emanating from a superior court judge are invariably shielded by the robust doctrine of inherent jurisdiction.
63. Such an argument would predictably assert, relying upon principles analogous to those articulated in the jurisprudence of *R v Wilson*, [1983] 2 SCR 594, an absolute necessity for strict, unwavering obedience to the judicial order until it is formally reviewed and explicitly set aside by a competent appellate authority.
64. Consequently, attempts would ostensibly be made by opposing authorities to categorize the present, substantive grievances as an impermissible collateral attack upon a binding judicial decree, asserting that formal quashing must be sought rather than permitting the order to be treated as a definitive nullity.
65. This potential refutation, however, is decisively and totally circumvented by the established, highly specialized, and non-obvious legal theory delineating the precise dichotomy existing between the inherent jurisdiction of a superior court and the restrictive nature of specific statutory grants of power.
66. When a purely statutory power is exercised by a judge of a superior court—such as the discrete issuance of search warrants, informations, or summonses pursuant to the strictly delineated, exhaustive provisions of the *Criminal Code*, RSC 1985, c C-46—it is held that the jurist temporarily steps outside their broad, inherent equitable or common law jurisdiction, and therefore absolutely does not operate under the broad, protective aegis of inherent jurisdiction.
67. Instead, it is dictated by rigorous appellate jurisprudence that in executing such highly specific, legislatively defined procedural mechanics, the jurist acts strictly *persona designata*, functioning precisely and exclusively as a specialized statutory tribunal.
68. In this restricted capacity, it is mandated that the jurist, regardless of their esteemed office, is bound by the exact same rigorous, inflexible statutory prerequisites, conditions precedent, and procedural gateways that strictly constrain an inferior tribunal, a provincial court judge, or a justice of the peace.

69. Where a judicial officer, irrespective of their general hierarchical standing, prestige, or inherent authority in other disparate contexts, acts entirely outside the highly circumscribed statutory parameters granting them the specific, localized authority to issue criminal process, the resultant acts are observed to transcend mere voidable errors of law or mistaken exercises of discretion.
70. Rather, these acts manifest as complete jurisdictional usurpations, severing the act entirely from the judicial office and thereby rendering the resulting decrees legally nonexistent.
71. Such profound and fundamental defects operate to render the resulting orders absolute nullities that are entirely susceptible to collateral challenge *in limine*; the impugned orders, fundamentally lacking the foundational intake endorsement, are noted to lack even the *prima facie* characteristic, appearance, or colour of a valid judicial decree.
72. Consequently, the rule against collateral attack, which was historically designed to protect the finality and integrity of valid but substantively flawed judgments, is rendered entirely inapplicable to acts that are substantively, fundamentally, and unequivocally *coram non judice*; it is a logical impossibility to collaterally attack an entity that, in the discerning eyes of the law, has never existed.
73. Finally, regarding the palpable and highly prejudicial misapprehension of law articulated by former registrar Gentles (the "**Former Registrar Gentles**") concerning the jurisdictional competence of the *Ontario Superior Court of Justice (Divisional Court)* over criminal matters, it is imperative that a fundamental, structural distinction be delineated with absolute, unyielding precision to rectify this systemic institutional error.
74. While it is correctly posited under the general framework of the *Rules of Civil Procedure*, RRO 1990, Reg 194, that the substantive jurisdiction to adjudicate direct criminal appeals from convictions or sentences is not generally possessed by the *Ontario Superior Court of Justice (Divisional Court)*, a profound and necessary bifurcation is acknowledged concerning the court's administrative oversight and its supervisory jurisdiction over the liberty of the subject.
75. Profound supervisory authority is retained by the *Ontario Superior Court of Justice (Divisional Court)*, which is frequently exercised pursuant to the *Judicial Review Procedure Act*, RSO 1990, c J.1, over the administrative actions of state bodies, implicitly including those actions that wrongfully intersect with the criminal justice system through the employment of *void ab initio* instruments.
76. It is demanded that an unequivocal, jurisprudential distinction be drawn between a judge sitting as a constituent appellate member of the *Ontario Superior Court of Justice (Divisional Court)* tasked with reviewing a substantive criminal trial, and the administrative custody, control, or prerogative review of a purportedly valid, yet fundamentally defective *Form 7 Arrest Warrant*.
77. This vital demarcation serves to emphasize the critical, inescapable necessity for meticulous jurisdictional differentiation when the complex intersection of civil prerogative review mechanisms and fundamentally flawed, abusive, and *ultra vires* criminal processes executed by agents of the state must be navigated.
78. It is concluded that to conflate the lack of criminal appellate jurisdiction with a total abdication of supervisory review over fraudulent warrants would be tantamount to orchestrating a complete abandonment of the historical mandate held by the Divisional Court to curtail administrative overreach and protect the citizenry from the execution of documents generated entirely *coram non judice*.

M. JURISDICTIONAL AND CONSTITUTIONAL SUBMISSIONS

Application of the Paramountcy Doctrine and Judicial Authority

The Constitutional Supremacy of Federal Jurisdiction

79. A foundational axiom of the Canadian constitutional architecture dictates that federal legislative instruments systematically and unequivocally supersede provincial enactments wherever an operational, purposive, or adjudicative conflict is established. Such a constitutional imperative is rigorously enforced pursuant to the paramountcy doctrine (the "**Paramountcy Doctrine**"), a jurisprudential mechanism permanently precluding the provincial dilution of federal authority. In strict accordance with the statutory demarcations delineated within the *Criminal Code*, RSC 1985, c C-46, a jurist appointed to the Superior Court of Criminal Jurisdiction is concurrently designated, by automatic operation of law, as a judicial officer of the Superior Court of Justice of Ontario. Consequently, it is postulated that a judicial officer, even whilst simultaneously executing administrative or appellate responsibilities within a strictly delimited Divisional Court rotation, is statutorily empowered by the

5776 aforementioned federal enactment to preside over, deliberate upon, and adjudicate an ex parte application (the "**Ex Parte Application**") that is legitimately conducted *in camera*.

80. The intersection of federal criminal procedure and the provincial administration of justice, as mandated by section 91(27) and section 92(14) of the *Constitution Act, 1867* (UK), 30 & 31 Vict, c 3, is understood to necessitate a harmonious, albeit strictly hierarchical, interpretation of judicial capacity. Furthermore, justices of the Court of Appeal for Ontario may be legally authorized, by the concurrent and synergistic operation of the *Criminal Code*, RSC 1985, c C-46, and the *Courts of Justice Act*, RSO 1990, c C.43, to adjudicate upon an Ex Parte Application aimed at initiating clandestine criminal proceedings against a specified individual, thereby compelling the subsequent, involuntary attendance thereof before the Superior Court of Justice. This extraordinary jurisprudential authorization is operationalized exclusively through an ad hoc designation (the "**Ad Hoc Designation**"), formally executed pursuant to section 13(1) of the *Courts of Justice Act*, RSO 1990, c C.43. The aforementioned provision explicitly dictates that the Chief Justice of Ontario, acting exclusively with the requisite formal concurrence of the Chief Justice of the Superior Court of Justice, possesses the administrative prerogative to assign a jurist of the Court of Appeal to perform the substantive adjudicative functions of a jurist of the Superior Court of Justice.
81. To further fortify such structural integration, section 13(2) of the *Courts of Justice Act*, RSO 1990, c C.43, unequivocally mandates that a jurist of the Court of Appeal is, by virtue of holding said distinguished office, simultaneously a jurist of the Superior Court of Justice, thereby inherently possessing the exhaustive jurisdiction, overarching power, and absolute authority associated therewith. Such an integrated judicial architecture ensures that the execution of federal criminal jurisdiction cannot be frustrated or otherwise impeded by the compartmentalized, provincial administrative assignments of individual judicial officers.

N. THE ABSOLUTE IMPERATIVE OF PROCEDURAL TRANSPARENCY

82. The fundamental contention articulated herein is ostensibly not predicated upon an erroneous assertion that the presiding jurist, Madam Justice Shore, was legally precluded by either federal statute or provincial legislation—specifically invoking section 18(3) of the *Courts of Justice Act*, RSO 1990, c C.43, which legislatively stipulates that every jurist of the Superior Court of Justice is additionally and simultaneously a jurist of the Divisional Court—from entertaining an Ex Parte Application initiated by the executive branch. It is conceded that the statutory authority exists to authorize criminal charges and subsequent arrest warrants whilst operating ostensibly under a Divisional Court mandate. Rather, the unequivocal legal imperative dictates that said judicial officer was strictly obligated, under the unyielding tenets of natural justice and procedural fairness, to formally and comprehensively disclose the existence of such clandestine, liberty-imperilling proceedings to the applicant within the immediate context of the concurrent judicial review procedure act proceeding (the "***JRPA* Proceeding**").
83. The extraordinary nature of *ex parte* and *in camera* proceedings inherently demands an elevated, uncompromising duty of absolute candour from both the executive actors and the presiding judicial authority. Where an adjudicator operates concurrently across disparate jurisdictional spheres involving identical parties, the deliberate segmentation of knowledge is deemed to constitute a grave miscarriage of procedural integrity. The total failure to effectuate such mandatory procedural disclosure structurally annihilates the foundation of the civil matter, thereby rendering the underlying proceedings fundamentally deficient *in limine*.
84. Should a potential counter-argument be advanced by opposing counsel or the presiding President of the Divisional Court, postulating that the concurrent exercise of federal criminal jurisdiction and provincial appellate administrative jurisdiction engenders an irreconcilable procedural conflict, such an assertion must be firmly rejected. Such an argument would baselessly suggest that the structural separation of court rotations necessitates, or conceptually justifies, the negation or suspension of the disclosure obligation within the civil context to preserve the secrecy of the criminal investigation. This hypothesis is entirely bereft of jurisprudential merit and deeply offensive to the foundational tenets of the rule of law. The integration of judicial functions, as governed by the Paramountcy Doctrine, dictates that the overarching, constitutional duty of procedural fairness and adjudicative transparency cannot be bifurcated, strategically diluted, or otherwise diminished by the specific rotational designation of the presiding jurist. The duty of disclosure is inextricably and permanently linked to the preservation of natural justice; thus, the administrative rotation of the jurist does not, and legally cannot, *ipso facto* extinguish the constitutional imperative to inform an affected party of concurrent legal manoeuvres that profoundly and irreparably imperil fundamental liberty interests. The resultant non-disclosure crystallizes into an insurmountable jurisdictional defect.

The Foundational Precedent of Pong v Quong

85. The absolute necessity of strict, unwavering jurisdictional adherence is unequivocally illuminated by the authoritative, binding pronouncement of the Supreme Court of Canada in *Pong v Quong*, 1927 CanLII 475 (SCC) at 272 (the "*Pong Decision*"). Adjudicated on March 15, 1927, and delivered orally by Chief Justice Anglin on behalf of a unanimous coram comprising Justices Duff, Mignault, Newcombe, and Rinfret, the *Pong Decision* elucidates the immutable, non-negotiable boundaries of adjudicative authority. The complex factual matrix underlying this foundational jurisprudence involved a landlord (the "**Landlord**"), formally identified as Mrs. Thomson, and a tenant (the "**Tenant**"), Mr. Pong, who maintained a formal tenancy agreement strictly in trust for the respondent, Mr. Quong. The aforementioned equitable arrangement dictated that the Tenant held the leasehold interest exclusively as a trustee (the "**Trustee**") for the respondent's sole benefit, thereby giving rise to an implied, unyielding fiduciary obligation, particularly concerning the essential preservation and subsequent renewal of the leasehold interest upon its contractual expiration.
86. The central, substantive grievance adjudicated within the *Pong Decision* pertained directly to a clandestine transaction wherein the Trustee unlawfully assigned the leasehold to an unauthorized third party, thereby fundamentally contravening the stringent fiduciary duty of utmost good faith owed exclusively to the respondent, who was recognized at law and in equity as the tenant in possession (the "**Tenant In Possession**"). It was conclusively determined by the Supreme Court of Canada that, despite the conspicuous absence of an explicit renewal clause codified within the written lease apparatus, the unauthorized assignment thereof implicitly engaged and subsequently violated the reasonable, legally protected expectation of the Tenant In Possession to secure a renewal.
87. This conceptualization of fiduciary constraint was explicitly and deliberately anchored by the Supreme Court of Canada in the venerable equitable principles meticulously delineated in *Griffith v Owen*, [1907] 1 Ch 195 at 200 (the "*Griffith Decision*"). The *Griffith Decision* permanently circumscribes the capacity of all fiduciaries, specifically encompassing life tenants and trustees, to derive personal aggrandizement or opportunistic advantage from their privileged positions. This limitation thereby reinforces the draconian strictures established by the foundational trust doctrine originally articulated in *Keech v Sandford*, [1726] EWHC Ch J76 (the "*Keech Rule*"), which strictly prohibits a trustee from renewing a lease for personal benefit, even in instances wherein the landlord explicitly refuses to renew for the benefit of the *cestui que trust*.

Analogizing Jurisdictional Usurpation

88. The systematic application of the jurisprudential principles synthesized within the *Pong Decision* to the present factual matrix necessitates a rigorous, unsparing examination of the jurisdictional capacity of the presiding adjudicator. In the *Pong Decision*, the originating dispute materialized entirely within the narrowly prescribed statutory purview of the *Landlord and Tenant Act*, RSO 1914, c 155, thereby necessitating a highly restricted statutory determination exclusively regarding the Landlord's immediate entitlement to physical possession of the premises. The presiding jurist, Judge Denton of the County Court, unilaterally undertook to adjudicate the extraordinarily complex equitable relationship, consequential fiduciary duties, and resulting trust obligations subsisting between the Trustee and the Tenant In Possession.
89. It was decreed by the Supreme Court of Canada, with absolute finality, that Judge Denton possessed absolutely no statutory or inherent jurisdiction to entertain, evaluate, or pronounce judgment upon such collateral equitable matters, save perhaps in the highly restricted, mutually agreed-upon capacity of a private arbitrator or an explicitly designated *persona designata*. Translating these binding, incontrovertible principles to the current scenario, it is jurisprudentially evident that when a jurist undertakes to execute authorizations or withhold critically substantive information without the requisite substantive or procedural transparency, the resulting judicial acts, or *acta*, are rendered entirely and irreparably *ultra vires*.
90. The deliberate, conscious absence of disclosure within the *JRPA* Proceeding is conceptually and functionally analogous to an outright usurpation of jurisdiction. Just as Judge Denton's unauthorized, extracurial foray into complex equitable trust principles vitiated the adjudicative authority thereof and destroyed the legal validity of the

5778 resulting orders, the failure to observe the foundational requirements of natural justice by improperly bifurcating concurrent knowledge renders the immediate proceedings fatally susceptible to invalidation. Jurisdiction is not merely the statutory authority to hear a matter; it encompasses the mandatory adherence to the constitutional prerequisites of procedural fairness, without which the tribunal fundamentally ceases to function as a lawfully constituted court.

P. CONSTITUTIONAL EVOLUTION OF SECTION 96 COURTS

Historical Demarcations of Adjudicative Power

91. The historical evolution of judicial authority within the Canadian federation further fortifies and contextualizes this rigorous legal paradigm. Prior to Confederation, courts of general jurisdiction possessed inherent, virtually limitless, and expansive adjudicative powers, encompassing the totality of law and equity. Conversely, county courts (the "**County Courts**") were exclusively and inherently creatures of statute. They were strictly circumscribed by legislatively defined, inflexible pecuniary limitations and rigid subject matter constraints, designed primarily by colonial legislatures to merely expedite mid-level civil claims and rapidly process lesser, summary criminal offences across expanding rural geographies.
92. Following the watershed enactment of the *Constitution Act, 1867* (UK), 30 & 31 Vict, c 3, section 96 profoundly altered the adjudicative landscape by empowering the Governor General to appoint judicial officers exclusively to superior, district, and county tribunals. This federal appointment power was designed to guarantee the independence and superlative competence of the judiciary handling the most consequential matters of state and private right. The precise constitutional parameters, limitations, and protections of these federal appointments were meticulously analyzed, historically contextualized, and definitively affirmed in *Reference re Residential Tenancies Act, 1979*, [1981] 1 SCR 714 at 728 (the "*Residential Tenancies Reference*").

The Erroneous Concept of Persona Designata

93. Within the *Residential Tenancies Reference*, an administrative commission advanced a fundamentally defective, constitutionally offensive proposition. It was posited that the substantive authority to mandate physical evictions had been historically conferred upon County Courts adjudicators not in their capacity as judges, but strictly as *persona designata*—individuals functioning administratively outside formal judicial office. By advancing this theory, the commission attempted to theoretically situate such profound coercive powers entirely outside the exclusive, federally protected constitutional domain of section 96 superior tribunals, thereby attempting to justify the wholesale transfer of such jurisdiction to a provincial administrative board.
94. This deeply flawed legislative postulate was rightfully and comprehensively dismantled by the Supreme Court of Canada. The Court decreed, following an exhaustive historical inquiry, that the pre-Confederation jurisdiction concerning overholding tenants constituted nothing more than a mere procedural modification and statutory simplification of the traditional, ancient ejectment powers that were intrinsically and exclusively vested within superior courts. Therefore, the assertion that such inherent, coercive powers could be seamlessly and constitutionally transferred to an inferior, provincially appointed administrative tribunal was legally fallacious and inherently *ultra vires* the provincial legislature.
95. The administrative commission's misguided reliance solely upon pre-Confederation localized practices, whilst simultaneously disregarding the explicit, overriding constitutional wording of section 96 of the *Constitution Act, 1867*—which comprehensively encompasses and protects the appointment of judges for superior, district, and county courts—demonstrated a profound misunderstanding of the structural constitutional architecture of Canada. This historical analysis unequivocally reinforces the principle that jurisdiction cannot be artificially manufactured, creatively reinterpreted, or silently assumed where the constitutional and statutory scaffolding does not explicitly grant it.

Q. THE INCURABILITY OF JURISDICTIONAL DEFECTS THROUGH CONSENT OF LITIGANTS, PARTIES, AMICUS CURAEU AND/OR INTERVENORS (PARTY LEVEL)

96. A critical, remarkably illustrative procedural anomaly emerged during the lower court proceedings strictly scrutinized in the *Pong Decision*. During the initial hearing, counsel for the respondent proffered conditional, explicit consent to actively allow the lower court jurist to adjudicate the deeply complex equitable trust dispute, predicated explicitly upon the mutual understanding and foundational preservation of an effective, subsequent appellate avenue. The Supreme Court of Canada categorically and forcefully rejected this procedural machination. The Court established definitively that a substantive or foundational jurisdictional deficit cannot, under any legal or equitable circumstances, be rectified, cured, or validated by the mutual concurrence, strategic acquiescence, or explicit contractual agreement of the litigating parties.
97. Where a judicial officer presides over a legal matter whilst being fundamentally devoid of the express statutory authorization or having fundamentally breached the mandatory prerequisites of natural justice, the proceedings are unequivocally and irreparably conducted *coram non judice*. This foundational Latin maxim, translating precisely and literally to "not before a judge," signifies a total, comprehensive, and irremediable lack of legal jurisdiction. It is paramount to distinguish this absolute nullity entirely from an erroneous, flawed, yet legally permissible, exercise of an existing, validly granted jurisdictional mandate. An error within jurisdiction may be appealed; an action taken without jurisdiction simply is deemed non-existent at law.

The Impossibility of Estoppel and Waiver

98. It is fully anticipated that opposing counsel might creatively advance the fallacious, equitable argument that profound procedural defects, explicitly including the catastrophic failure to disclose concurrent, clandestine proceedings, can theoretically be retroactively cured through the ongoing, oblivious participation of the affected parties. Alternatively, it may be argued that the equitable doctrine of estoppel might operate to preclude a subsequent, collateral challenge to the deeply compromised authority of the tribunal. This theoretical postulation is thoroughly, absolutely, and conclusively nullified by the rigorous application of the doctrine of *coram non judice*.
99. As established incontrovertibly in the *Pong Decision*, and continuously upheld in subsequent appellate jurisprudence, proceedings orchestrated without foundational procedural jurisdiction are inherently void *ab initio*, resulting in an absolute legal nullity from the very moment of their inception. The judiciary is strictly, unconditionally bound by the inflexible constraints of statutory delegation and overarching constitutional imperatives; therefore, absolutely no quantum of consent, no degree of waiver, and no application of equitable estoppel can miraculously manufacture jurisdiction where the legislative branch, or the foundational principles of fundamental justice, have deliberately and structurally withheld it. Consequently, any judicial order or directive rendered under such fundamentally defective, opaque circumstances generates no binding legal obligations whatsoever, commands no obedience, and must inevitably and immediately mandate a complete reversion to the status quo ante (the "**Status Quo Ante**").

The Structural Integrity of the Appellate Process

100. The structural integrity, legitimacy, and functional coherence of the entire appellate process are inexorably, permanently tethered to the foundational, underlying validity of the jurisdiction of the originating tribunal. In the *Pong Decision*, the Appellate Division of the Supreme Court of Ontario appropriately and astutely concluded that the initial, expansive adjudication by the County Court jurist regarding the collateral, complex trust relationship was, in its entirety, an act undertaken *coram non judice*. Ergo, the previous, defective determination possessed zero preclusive effect—neither *res judicata* nor issue estoppel—upon any subsequent, legitimately constituted judicial proceedings. Because the initial order was a phantom decree, the respondent was legally and unconditionally entitled to pursue a fresh, independent action entirely free from the prejudicial taint of the nullified, unauthorized order. This jurisprudential paradigm explicitly reinforces the immutable principle that judgments infected by a total lack of procedural or substantive jurisdiction are decidedly not merely voidable determinations subject to deferential, discretionary appellate review. Rather, they are absolute, unmitigated nullities that provide absolutely no substantive, evidentiary, or legal foundation for subsequent legal enforcement, execution, or reliance by any party or state apparatus.

The Rejection of the "Mere Irregularity" Postulate

101. Finally, it may be defensively contended by the presiding judicial authority, or representative counsel thereof, that the profound failure to disclose the Ex Parte Application within the context of the *JRPA* Proceeding represents a mere, curable procedural irregularity, ostensibly insufficient to warrant the drastic, total nullification of the substantive adjudicative outcome. This dangerously dismissive assertion must be rigorously, systematically, and categorically contested at every jurisprudential juncture. The foundational principles of natural justice, the strictures of procedural fairness, and the uncompromising dictates of the rule of law are emphatically not ancillary, optional considerations to be casually balanced against administrative expediency or institutional convenience; they are the absolute, non-negotiable bedrock upon which the entire epistemological legitimacy of the judicial apparatus relies. When an adjudicator deliberately or inadvertently fails to disclose parallel, clandestine, state-sponsored proceedings that directly and immediately threaten the liberty, security, and fundamental constitutional rights of the applicant, the resulting procedural asymmetry is understood to create an insurmountable, fatal jurisdictional vacuum. Such proceedings are *prima facie* invalid and constitutionally repugnant, as the applicant is entirely deprived of the fundamental, guaranteed right to be heard before an impartial, uncompromised, and fully transparent tribunal. Thus, the deliberate suppression or omission of material jurisdictional facts elevates the transgression exponentially from a mere, correctable procedural misstep to a profound, incurable jurisdictional failure. This monumental dereliction renders the subsequent judicial pronouncements wholly void, entirely unenforceable, functionally illegitimate, and deeply offensive to the proper administration of justice.

Conclusion: The Status Quo Ante

102. The extensive modernization of the Canadian judicial landscape, predominantly characterized by the progressive, sweeping amalgamation of historically distinct district and county courts into unified, omnicompetent Superior Courts of Justice—a monumental process effectuated sequentially across the provinces from the late twentieth century onwards—further solidifies and centralizes the exclusive, comprehensive authority of federally appointed jurists. Nevertheless, it must be acknowledged that this massive consolidation of judicial power amplifies, rather than diminishes or obfuscates, the absolute necessity for scrupulous, unyielding adherence to procedural transparency, natural justice, and strict statutory limitations.

103. The jurisprudential legacy of the *Pong Decision* endures not as a mere historical curiosity, but as an immutable, vital safeguard against judicial overreach and administrative opacity. It confirms permanently that regardless of the sophisticated administrative integration of the modern courts, any judicial action undertaken without transparent, statutory, and constitutional sanction remains a fundamental, incurable nullity. The rule of law demands unequivocally that all judicial exercises of coercive power be demonstrably and publicly anchored in legitimate, fully disclosed authority, lest the resulting determinations be rightfully and immediately dismissed as invalid acts enacted *coram non judice*. Such a profound failure of jurisdictional integrity is recognized to necessitate, without exception or equitable mitigation, an immediate, total reversion to the Status Quo Ante.

VOLUME #2: STATEMENT OF ISSUES AND ANSWERS

ISSUE #1: THE INAPPLICABILITY OF SECTION 599 OF THE *CRIMINAL CODE* AND THE CONSEQUENT JURISDICTIONAL NULLITY OF THE ADMINISTRATIVE TRANSFER

A. THE STATUTORY ARCHITECTURE AND THE IMPLICATIONS OF PROSECUTORIAL ELECTION

104. The threshold jurisdictional inquiry necessitates an exhaustive and meticulous analysis regarding whether *section 599* of the *Criminal Code*, RSC 1985, c C-46 (the "***Criminal Code***") is statutorily applicable to the procedural routing of a hybrid offence (the "**Hybrid Offence**"), or a plurality of hybrid offences (the "**Hybrid Offences**"), wherein the prosecutorial authority unequivocally elected to proceed summarily within the Ontario

5781 Court of Justice (the "**Ontario Court of Justice**") situated at the 10 Armoury Street Courthouse. This election, being a definitive exercise of the Crown's discretionary power, effectuated an absolute and irreversible attornment to jurisdiction from the Superior Court of Justice (the "**Superior Court of Justice**") to the Ontario Court of Justice. Consequently, any retroactive invocation of *section 599* by the state apparatus constitutes a fundamental, fatal misapprehension of the bifurcated statutory architecture governing Canadian criminal procedure, as the summary nature of the proceedings creates a jurisdictional bar against the application of provisions reserved for indictable matters.

105. It is advanced with the utmost emphasis that *section 599* of the *Criminal Code* is strictly, inherently, and unambiguously inapplicable to the present factual matrix; any reliance thereon by the state is patently *ultra vires* and constitutes an institutional encroachment upon the constitutional mandate of the judiciary. *Section 599* explicitly restricts its extraordinary jurisdictional purview exclusively to a tribunal before which an accused "**is or may be indicted**." In the context of the Canadian criminal justice system, the structural demarcation between summary conviction offences and indictable offences is an absolute, foundational precept that dictates not only court jurisdiction and trial routing but also the fundamental procedural rights of the accused and the maximum penal consequences of a conviction. Because the Crown elected to proceed summarily upon the formal record, the accused is structurally and statutorily insulated from indictment *ipso facto*. The use of the archaic term "**found**," as articulated in *section 599*, possesses a precise procedural significance functionally equivalent to the modern procedural term "**preferred**"; this signifies the formal, public act of lodging a written instrument of indictment (the "**Indictment**") with the Superior Court registry, a status that can only be divested by a valid, superseding judicial mechanism of equal or higher authority. The purpose of venue, being the geographical location of the trial, is to ensure access to justice and the preservation of the constitutional right of an accused to a fair, efficient, and localized adjudication. It is anticipated that the state may invoke the *ratio decidendi* of *R. v. Dudley*, 2009 SCC 58 (the "**Dudley Decision**") to argue that a Hybrid Offence is deemed indictable until the moment of election, ostensibly engaging the "**may be indicted**" language of *section 599*. This proposition is fundamentally vitiated by the requirement for a formalized application *in limine*. An administrative migration of the record, executed *in camera* and entirely bereft of adversarial scrutiny or judicial oversight, cannot be retroactively sanitized; the procedural imperative of a formal application is the *sine qua non* of a lawful venue alteration. Any deviation from these codified steps constitutes a palpable erosion of the Rule of Law and a violation of the principle of *audi alteram partem*.

B. THE PREREQUISITES FOR A LAWFUL CHANGE OF VENUE AND TRANSMISSION OF RECORD

106. In relation to *section 599* of the *Criminal Code*, two distinct, non-delegable procedural requirements must be satisfied. Firstly, the transfer may only manifest upon the formal application (the "**Application**") of either the prosecutor (the "**Prosecutor**") or the accused (the "**Accused**"). If it appears expedient to the ends of justice—a determination requiring a complex judicial balancing of competing public and private interests, such as the efficiency of the trial versus the accused's right to be tried in the *locus* of the offence—an order (the "**Order**") may be promulgated to hold the trial in a disparate territorial division (the "**Territorial Division**") within the identical province. The *Criminal Code* recognizes various divisions, including a province (the "**Province**"), a county (the "**County**"), a union of counties (the "**Union of Counties**"), a township (the "**Township**"), a city (the "**City**"), a town (the "**Town**"), or a parish (the "**Parish**").

107. Secondly, *section 599(4)* mandates the transmission of the record (the "**Transmission of Record**"). Where an Order is executed, the court officer possessing custody of the Indictment—prescribed by *Criminal Code* Form 4 (the "**Form 4**")—and all corollary writings and exhibits relating to the prosecution (the "**Exhibits**"), is under a peremptory, statutory obligation to transmit them forthwith to the clerk of the receiving court. This transmission is not a mere administrative convenience or a ministerial task; it is a solemn transfer of *imperium*, ensuring that the receiving court possesses the complete *corpus* of the procedural history and evidence necessary to maintain the continuity of justice. The failure to transmit the full file violates the constitutional disclosure obligations established in *R. v. Stinchcombe*, [1991] 3 SCR 326 (the "**Stinchcombe Decision**"), creating an inherent risk of a fractured and unreliable record. A clerical notation cannot serve as the functional equivalent of a formal judicial fiat, and any attempt to delegate this responsibility to an administrative clerk constitutes an institutional misconduct and an *ultra vires* act.

C. APPLICATION TO THE FACTUAL MATRIX AND THE DOCTRINE OF CORAM NON JUDICE

108. An extrapolation of these principles to the factual matrix reveals insurmountable deficiencies. The Ontario Court of Justice in Brampton (the "**Brampton OCJ**") is situated within the City of Brampton, the Central West Region. The Ontario Court of Justice at the 10 Armoury Street Courthouse (the "**Toronto OCJ**") is situated in the City of Toronto, the Toronto Region. The Superior Court of Justice at the 361 University Avenue Courthouse (the "**Toronto SCJ**") operates within the Toronto Region under its distinct federal auspices.

109. Any jurisdictional transposition from either the Toronto SCJ or the Brampton OCJ to the Toronto OCJ required a preceding formal Application and a subsequent judicial Order. As the evidentiary record evinces a total absence of such an Application or resulting Order, it is a necessary syllogism that no lawful change of venue occurred. Consequently, the Toronto OCJ acted as a tribunal *coram non judice*, and each presiding Justice of the Peace or Judge was similarly *coram non judice*. Every act performed was *factum a judice, quod ad officium jure non pertinet, ratum non est* (an act by a judge, which does not pertain to his office by right, is not valid). The notation of "**NA**" for the Crown and the reference to a "**Default Judge**" (the "**Default Judge**") upon the record serve as judicial admissions that the proceedings were conducted outside the presence of the necessary parties and lacked the capacity for a *section 599* inquiry. The principle of jurisdictional *stare decisis* dictates that once a Superior Court has acquired *seisin* over an Indictment, its authority cannot be implicitly surrendered or transferred by mere administrative oversight; the authority to divest must be as formal as the act that originally vested it.

D. THE STATUTORY DEFICIENCIES APPERTAINING TO THE IMPUGNED DIGITAL SIGNATURES

A. The Legislative Mandates of PIPEDA and the Canada Evidence Act

110. The admissibility and validity of electronically authenticated documents are strictly governed by the *Canada Evidence Act*, RSC 1985, c C-5 (the "**Canada Evidence Act**") and the *Personal Information Protection and Electronic Documents Act*, SC 2000, c 5 (the "***PIPEDA***"). *PIPEDA* defines an electronic signature (the "**Electronic Signature**") as a signature consisting of letters, characters, or symbols in digital form attached to or associated with an electronic document. Crucially, it distinguishes this rudimentary concept from a secure electronic signature (the "**Secure Electronic Signature**"), which results from the application of specific technologies prescribed under the *Secure Electronic Signature Regulations*, SOR/2005-30 (the "**SESR**").

111. *Section 36* of *PIPEDA* stipulates that a document signed by a public officer is proof of a matter ONLY if the electronic version is signed with that person's Secure Electronic Signature. It is trite law that the court is a distinct legal person from a justice, and a public officer is distinct from the body on whose behalf they act, consistent with the corporate personality principles articulated in *Foss v. Harbottle*, (1843) 67 ER 189 (the "**Foss Decision**"). The *SESR* requires a digital signature certificate (the "**Digital Signature Certificate**") identifying the certification authority (the "**Certification Authority**") that issued it, which must be a treasury board approved entity.

112. The process mandates the use of a hash function (the "**Hash Function**")—an electronic one-way mathematical process converting data into a unique message digest (the "**Message Digest**")—and a key pair (the "**Key Pair**") consisting of a private key (the "**Private Key**") and a public key (the "**Public Key**"). A digital signature (the "**Digital Signature**") is an encrypted stamp of authentication that confirms the information originated from the signer and has remained unaltered. The absence of these consecutive cryptographic operations, including the application of the Private Key to encrypt the Message Digest, renders the document a legal nullity. The principle *nemo dat quod non habet* applies: an administrative clerk cannot confer judicial authority to effect a transfer if they themselves lack that authority and cannot produce a cryptographically secure order from a judge who possesses it.

E. THE FORENSIC DEFICIENCY OF THE PURPORTED INFORMATION AND WARRANT

113. It is represented that Court Officer Mrs. Frugoni-Rojas declared a *Criminal Code* Form 2 (the "**Form 2 Information**") on September 23, 2024, and that Justice of the Peace Jiri approved a "warrant in the first instance" (the "**Warrant in the First**"). Such a warrant is a specific type of arrest warrant issued only when law enforcement possesses reasonable grounds to believe an indictable offence was committed but is entirely incapable of locating the suspect. As the accused was physically present at the Toronto Police Service 14th Division on September 21,

5783 2024, the state's assertion that the suspect could not be located is *prima facie* factually unsupportable and logically flawed.

114. The printed nomenclature "**Digitally Signed by George Jiri**" catastrophically fails to satisfy the requirements of a Digital Signature for several forensic reasons. Firstly, there is no Digital Signature Certificate; secondly, there is no identifiable Certification Authority; thirdly, there is no Hash Function application; and fourthly, there is no SHA-256 verification process. The document contains internal administrative data alien to a compliant *Form 2*, such as occurrence numbers and "**15 month flags**," suggesting it is an internal police memorandum rather than a valid judicial precept. The lack of compliance with *Criminal Code* Form 7 (the "**Form 7**") indicates that the document is a non-secure artifact. The notation "**Digitally Signed**" without the *SESR* framework is a mere typographic assertion, entirely devoid of legal efficacy. This rebuts the common law maxim *omnia praesumuntur rite esse acta* (all things are presumed to be rightly done) concerning the court's procedural regularity, as the record speaks to its own deficiency.

F. CONSTITUTIONAL CONSTRAINTS UPON THE ROYAL PREROGATIVE AND THE DECEPTION OF THE CROWN

Rex Non Potest Peccare and the Liability of State Instruments

115. It is an ancient and fundamental principle of the Canadian constitution that *Rex non potest peccare* (the "**King can do no wrong**") (2 Rolle, JR. 304). However, this maxim must not be understood to mean that the sovereign is above the laws, in the unconfined sense of those words, or that everything done by the state is necessarily just and lawful. Its true constitutional meaning is that the prerogative of the Crown (the "**Prerogative**") extends not to do any injury; created for the benefit of the people, it cannot be exerted to their prejudice. The Crown cannot sanction an act forbidden by law; from this perspective, the sovereign is under and not above the laws, and is bound by them equally with the subjects.

116. If a state agent personally commands an unlawful act to be done, the offence of the instrument (the "**Instrument**")—the agent or public officer—is not thereby indemnified. While the sovereign is not under the coercive power of the law, the commands issued are under the directive power of the law, which makes the act itself invalid if unlawful and renders the Instrument of execution liable to punishment. The agents of the sovereign remain civilly or criminally answerable for lawless acts performed under the purported command of the sovereign. This includes administrative functionaries or court clerks who perform actions reserved for judicial officers; such *ultra vires* acts constitute an institutional encroachment upon the judiciary, rendering the administrative act a nullity from its inception.

G. THE DOCTRINE OF DECEPTION OF THE CROWN AND LEX NON SCRIPTA

117. The Crown is incapable not only of doing wrong, but even of thinking wrong. Whenever it happens that, by misinformation or inadvertence, the Crown has been induced to invade the private rights of a subject—as by granting a process contrary to reason or prejudicial to the common law—the law declares that the King was deceived in his grant (the "**Deception of the Crown**"); thereupon such grant or authorization becomes void upon the supposition of deception either by or upon those agents whom the Crown has employed.

118. The law presumes *eadem mens praesumitur Regis quae est juris et quae esse debet praesertim in dubiis* (the same mind is presumed in the King as is in the law and as ought to be, especially in doubtful cases). Consequently, any grant or process tending to prejudice the course of public justice is void. The Crown cannot, in derogation of the right of the public, unduly fetter the exercise of the Prerogative. It cannot dispense with anything in which the subject has a vested interest, nor make a grant in violation of the common law. Furthermore, if documents in the SCJ were subjected to a directive for destruction, this creates a profound dilemma of *lex non scripta*: a court cannot transmit what it has been judicially commanded to erase. This procedural quagmire fatally compromises the necessary integrity of the transmitted record and exposes the transfer to collateral attack for lack of documentary foundation, as a court cannot transmit what does not exist.

H. PROCEDURAL NULLITY AND INSTITUTIONAL ABUSE

119. The failure of the presiding judicial apparatus to proceed according to strict statutory requirements regarding time and place results in a structural loss of jurisdiction over the offence, as established in *R. v. Krannenburg*, [1980] 1 SCR 1053 (the "**Krannenburg Decision**"). When the record was migrated without statutory authorization, the originating tribunal lost jurisdiction over the offence, rendering all subsequent proceedings a nullity. This represents a "**wasting of jurisdiction**" by the SCJ, and further, it exposes the administrative decision to review by writ of *certiorari*. This structural failure engages the doctrine of *habeas corpus*, as it calls into question the legal validity of the restraint on liberty, including the conditional release obligations imposed by the *Criminal Code* Form 10 (the "**Form 10 Undertaking**").

120. The institutional delay caused by these jurisdictional and procedural defects must be factored into the analysis under *R. v. Jordan*, 2016 SCC 27 (the "**Jordan Decision**"). The failure to bring the individual before a justice "**without unreasonable delay**," pursuant to *section 503(2)* of the *Criminal Code*, constitutes a violation of *section 7* and *section 9* of the *Charter*. The cumulative effect of these deficiencies—including the absence of Crown consent, the *ultra vires* administrative endorsement, the non-transmission of the record, and the irregular execution of the release instruments—meets the threshold for an abuse of process (the "**Abuse of Process**"), falling within Category One Abuse (conduct so unfair it amounts to an abuse) and requiring the extraordinary remedy of a permanent stay of proceedings to preserve the integrity of the justice system itself.

121. Pursuant to the *McLean v. Bradley*, [1899] 2 SCR 535 (the "**McLean Decision**"), when the Court has no jurisdiction of the cause, the whole proceeding is *coram non judice*, and actions will lie against the parties without regard to the precept or process. It is not necessary to obey one who is not judge of the cause. A plea of justification by a constable acting under an invalid warrant will be bad if the justice lacked jurisdiction over the subject matter. The unauthorized assumption of jurisdiction by the OCJ over an Indictment that remains, in law, a Superior Court matter, constitutes a jurisdictional bootstrapping that cannot be retroactively legitimized. Consequently, a peremptory requisition is hereby maintained for the immediate production of the authentic indictments and official endorsements, to be effectuated via facsimile or electronic correspondence. The perpetuation of fraudulent documents is undemocratic and counter to the Rule of Law.

ISSUE 2: THE JURISDICTIONAL ROUTING AND THE CHAIN OF CUSTODY

ISSUE #2(A): FORMULATION OF THE JURISDICTIONAL ISSUE

122. The foundational jurisprudential inquiry herein is directed toward the precise and exhaustive ascertainment of whether the preliminary solemnization of an information (the "**Information**") before a judicial officer of the superior court of justice (the "**Superior Court of Justice**") operates to inherently, automatically, and irreversibly transmute the underlying matter into a substantive proceeding cognizable exclusively by that specific judicial body.

123. This inquiry necessitates a profound examination of the functional limits of magisterial authority. It must be critically determined whether such a discrete and isolated, *sui generis* magisterial act purportedly compels the exaction of a formal judicial order of transfer to effectuate the proper vesting of adjudicative jurisdiction within the subordinate provincial tribunal. Alternatively, it is posited that such a paradigm relies upon a fundamental and deleterious misapprehension of the statutory architecture governing the commencement of criminal process in Ontario.

124. Furthermore, this inquiry demands a rigorous dissection of the conceptual and constitutional dichotomy between the isolated invocation of a judicial officer's oath-taking capacity and the formal institutional seizure of a prosecutorial matter by a court of record. The resolution of this issue is inextricably linked to the preservation of the structural integrity of the criminal justice system and the strict, inviolable boundaries separating investigative police powers from the formal adjudicative sphere of the judiciary.

ISSUE #2(B): POSTULATION OF THE LEGAL RESOLUTION

125. It is herein advanced, with unwavering reliance upon established statutory and constitutional principles, that the proceeding in question was at no procedural juncture legally commenced upon the adjudicative docket of the Superior Court of Justice. The mere affixation of a jurat by a superior court justice, acting in a magisterial capacity,

5785 does not operate to spontaneously generate institutional or adjudicative jurisdiction over the subject matter of the Information.

126. Consequently, the exaction of any theoretical, formal order of transfer is rendered entirely superfluous, procedurally phantom, and legally incoherent. This circumstance serves not merely as an academic anomaly, but rather operates to illuminate a profound and inexcusable administrative dereliction by law enforcement personnel. A procedural landscape was thereby cultivated wherein the prosecutorial file was *de facto* retained within the unmonitored custody of the constabulary, whilst remaining *de jure* non-existent upon the docket of any judicial tribunal, thus creating a "jurisdictional vacuum" (the "**Jurisdictional Vacuum**") that undermines the rule of law.

127. The absence of a formal commencement within the proper adjudicative forum dictates that the subsequent prosecutorial actions were strictly *ultra vires* and built upon a foundation of procedural nullity. This necessitates a resolute judicial remedy to rectify the usurpation of statutory protocols, to restore the *status quo ante*, and to ensure that the administration of justice is not brought into disrepute by the extra-judicial withholding of charging instruments.

ISSUE #2(C): ANALYTICAL FRAMEWORK, STATUTORY ARCHITECTURE, AND THE SEPARATION OF POWERS

128. Pursuant to the explicit, unyielding architectural design codified within the statutory frameworks of the *Criminal Code*, RSC 1985, c C-46 (the "*Criminal Code*"), and the *Courts of Justice Act*, RSO 1990, c C.43 (the "*Courts of Justice Act*"), interpreted in strict conjunction with the procedural strictures mandated by the *Criminal Rules of the Ontario Court of Justice*, SI/2012-30 (the "*Criminal Rules*"), it is irrefutably established that all criminal proceedings, irrespective of their ultimate substantive gravity or procedural complexity, are to be unequivocally commenced within the ontario court of justice (the "**Ontario Court of Justice**").

129. The legislative intent underscoring this framework is engineered to centralize the intake, docketing, and preliminary management of criminal matters within a singular, specialized provincial registry. This centralization is a prerequisite for the efficient administration of justice, preventing the chaotic and unaccountable fragmentation of prosecutorial commencement that would occur if charging documents were permitted to languish in the private custody of state actors.

130. Notwithstanding that a presiding justice of the Superior Court of Justice concurrently possesses *ex officio* magisterial authority to receive a solemn oath and to preliminarily review an Information for the restricted purpose of issuing compelling process, it is submitted that the execution of such an act remains both temporally and functionally isolated. Such execution constitutes a strictly preliminary magisterial function, situated entirely apart from any substantive adjudicatory, supervisory, or docketing function of the court as an institution.

131. Guided by the immutable principles of *stare decisis*, as established by the Supreme Court of Canada in *R. v. Chabot*, [1980] 2 SCR 985 at 990, 18 CR (3d) 258 (*Chabot*), the jurisdiction of a justice is strictly constrained by the four corners of the statutory authority conferred upon them. The *acta* of the judicial officer are deemed to be crystallized and entirely concluded at the precise temporal moment the oath is formally perfected. Following this discrete action, the justice becomes unequivocally *functus officio* in relation to the administrative progression of the charging instrument, and the matter must then be integrated into the judicial stream via the appropriate registry. Subsequent to the administration of the aforementioned oath, the inviolable imperative arises that the Information must be physically or electronically lodged by the executing law enforcement officers with the designated intake clerk of the Ontario Court of Justice. This subsequent administrative act is not a mere procedural nicety; rather, it is the absolute *sine qua non* fundamentally required to formally and legally situate the matter upon the accessible public registry, thereby officially enlivening the jurisdiction of the tribunal *in limine*.

ISSUE #2(D): ANTICIPATED SUBMISSIONS OF THE CROWN, JUDICIAL INTERROGATORIES, AND EMBEDDED REBUTTALS

132. It is anticipated that strenuous averments may be advanced by the Crown to the effect that the Superior Court of Justice retained a form of concurrent, overarching, or "umbrella jurisdiction" (the "**Umbrella Jurisdiction**") over the matter immediately upon the administration of the oath. The Crown may postulate that the judicial signature serves as a permanent jurisdictional anchor, indefinitely binding the unfiled document to the court's institutional purview regardless of administrative neglect.

5786 133. The inevitable, yet deeply flawed, corollary of the aforementioned propositions is the inherent *ex post facto* validation of the subsequent, highly irregular six-week delay in filing was that it was done reflexively to the Applicant's filings in other tribunals like the LTB, HRTO and LAT wherein in some of those proceedings the Applicant was seeking access to the undisclosed judicial "arrest warrant" (later learned not to be an "arrest warrant" at law) and to allow Madam Justice Shore to be available for the Respondents in the McLean v. TDHA et al *JRPA* Proceeding. This validation is presumably predicated upon the theoretical and unsupported rationale that the prosecutorial file was situated continuously "within the system," despite the fact that no registry, clerk, or judge was cognizant of its existence or location during the period of police detention.

ISSUE #2(E): REBUTTAL, INTEGRATION OF LEGAL DOCTRINE, AND STRUCTURAL ABUSE OF PROCESS

134. The prosecutorial hypothesis is rendered entirely legally vacuous upon the apprehension that an unfiled document, resting unaccountably and invisibly in the physical possession of law enforcement personnel, cannot logically or legally operate to vest adjudicative jurisdiction in any tribunal *ab initio*. A court cannot be seized of a matter that has not been presented to its registry, just as a court cannot adjudicate a claim that has not been issued.

135. The retention of the prosecutorial file exclusively within the unilateral, secretive, and unmonitored custody of state policing authorities for a period exceeding one calendar month effectuates a profoundly unconstitutional procedural lacuna. Such a temporal void—an administrative interregnum—functions effectively as an unauthorized *in camera* detention of the procedural instrument. It places the accused in a state of indefinite prosecutorial jeopardy whilst simultaneously denying access to the judicial apparatus for the purposes of bail, disclosure, or the scheduling of proceedings. To fortify this rebuttal, the doctrine of jurisdiction *ratione materiae* is explicitly invoked, positing that jurisdiction over the subject matter cannot be established absent the formal lodgment of the charging instrument with the appropriate court registry. The mere solemnization of the Information does not *ipso facto* initiate a continuing or supervisory jurisdiction on the part of the Superior Court of Justice; rather, the unfiled document remains merely a sworn allegation entirely devoid of institutional momentum or judicial oversight. Furthermore, it is forcefully asserted that any reliance by the Crown upon the venerable maxim *omnia praesumuntur rite et solemniter esse acta* (the presumption of administrative regularity) is definitively and catastrophically rebutted by the pronounced, documented fracture observed within the evidentiary chain of custody. Such an administrative vacuum represents a critical, systemic failure of institutional protocols, thereby rendering the subsequent deployment of the document legally imperiled and strictly *ultra vires* the foundational authority of the prosecuting entity.

136. As meticulously elucidated by the Supreme Court of Canada in *R. v. Jordan*, 2016 SCC 27 at para 29, [2016] 1 SCR 631, 335 CCC (3d) 403 (*Jordan*), the systemic obligations incumbent upon all state actors necessitate the proactive, transparent, and diligent management of the judicial process. A failure to formally file the Information operates to effectively and insidiously circumvent the "presumptive ceiling" (the "**Presumptive Ceiling**") of prosecutorial delay. In this context, the *actus reus* of the state's administrative failure is sufficient to attract constitutional opprobrium, rendering any analysis of prosecutorial *mens rea* or specific *scienter* superfluous. The *ratio decidendi* of the *Jordan* framework demands institutional accountability, which is fundamentally incompatible with the extra-judicial hoarding of charging instruments by law enforcement agencies.

ISSUE #2(F): NON-OBVIOUS LEGAL THEORIES AND FURTHER JURISPRUDENTIAL EXEGESIS

137. Beyond the immediate temporal calculations, the prolonged, extra-judicial detention of the Information by law enforcement engenders a non-obvious, yet highly potent, structural abuse of process. Pursuant to the residual category of abuse of process articulated by the Supreme Court of Canada in *R. v. Babos*, 2014 SCC 16 at para 31, [2014] 1 SCR 309, 306 CCC (3d) 323 (*Babos*), state conduct that contravenes fundamental notions of justice and undermines the integrity of the judicial process warrants definitive judicial intervention. The bypass of the court registry system is not a technicality; it is an affront to the public nature of the administration of justice.

138. Furthermore, this administrative obfuscation introduces a novel and comprehensive application of the doctrine of constructive non-disclosure. As established in *R. v. MacNeil*, 2001 SCC 53 at para 14, [2001] 3 SCR 976, 158 CCC (3d) 3 (*MacNeil*), the Crown bears the ultimate and non-delegable responsibility for the actions of

5787 the police in relation to the compilation, retention, and disclosure of the prosecutorial file. By failing to formally file the Information, law enforcement effectuated a situation wherein the charging document was deliberately and effectively shielded from both prosecutorial oversight and defense scrutiny for a period of six weeks. This delay in "disclosure of existence" (the "**Disclosure of Existence**") frustrates the core requirements of *R. v. Stinchcombe*, [1991] 3 SCR 326, 68 CCC (3d) 1 (*Stinchcombe*), as the defense cannot request disclosure for a proceeding that does not ostensibly exist in the judicial record.

139. This circuitous administrative contrivance warrants the invocation of the venerable maxim *Quando aliquid prohibetur ex directo, prohibetur et per obliquum* (the "**Maxim of Indirect Prohibition**"), which dictates that whatever is prohibited by law to be done directly cannot legally be effectuated by an indirect and circuitous contrivance. In the present instance, the state is strictly prohibited from circumventing the *Jordan* framework or withholding the charging instrument once sworn. The use of an administrative interregnum to delay the commencement of the judicial clock is a mere device to carry into effect that which the legislature and the *Charter* have declared shall not be done. It is the duty of the court to brush away the "cobweb varnish" of fictitious administrative regularities to reveal the true light of the transaction: a deliberate shielding of the prosecution from judicial scrutiny.

140. Moreover, the *Doctrine of Colorable Compliance* suggests that where the state purports to follow a legal process (such as swearing an Information) but fails to complete the essential jurisdictional steps (filing with the registry), it has engaged in a form of procedural charade. As per *British Columbia (Attorney General) v. Lafarge Canada Inc.*, 2007 SCC 23, the court must look to the "pith and substance" of the state's actions. Here, the pith and substance is an extra-judicial detention of a charging document, which constitutes a fundamental jurisdictional defect. A supplementary non-obvious constitutional theory must be recognized regarding the underlying liberty interests traditionally safeguarded by the writ of *habeas corpus*. In *R. v. Myers*, 2019 SCC 18 at para 24, [2019] 2 SCR 105, 372 CCC (3d) 1 (*Myers*), the Supreme Court of Canada mandated rigorous, timely judicial oversight of all pretrial matters to protect fundamental liberties. While the accused herein was not physically incarcerated during the unmonitored six-week epoch, the pending, unfiled Information functioned as an invisible restraint upon liberty and a cloud of legal jeopardy. The failure to docket the matter shielded it from judicial purview, entirely frustrating the constitutional right to make full answer and defense *in limine* and denying the opportunity for preliminary judicial intercession or the challenging of the state's authority to proceed. Consequently, any anticipated defense advanced by the state, characterizing the delay as being safely encompassed within the broader judicial system, is posited to be *prima facie* invalid. To permit such procedural anomalies to proceed unchecked risks embedding unconstitutional practices into the jurisprudence under the guise of *res judicata* through institutional acquiescence. The restoration of the *status quo ante* undeniably demands the classification of this unmonitored epoch as an unjustified, unconstitutional usurpation of the judicial process by law enforcement authorities—a usurpation which fundamentally and irreparably vitiates the procedural foundation of the prosecution, thereby demanding a stay of proceedings as the only efficacious remedy to preserve the integrity of the court.

ISSUE 3: SPOLIATION AND THE ALTERATION OF SWORN INSTRUMENTS

ISSUE #3(A): FORMULATION OF THE LEGAL ISSUE

141. Whether the physical extirpation, unauthorized substitution, and material vitiation of the sworn components of an information (the "**Information**") by instrumentalities of the state manifest actionable spoliation, *ipso facto* rendering the foundational charging instrument an unsworn legal nullity bereft of the capacity to sustain prosecutorial proceedings.

ISSUE #3(B): CATEGORICAL RESOLUTION AND CONSTITUTIONAL IMPERATIVES

142. It is respectfully submitted that the premeditated extraction and subsequent circumvention of the original jurat (the "**Jurat**") alongside the substantive count enumerations following the administration of the oath instantiate profound and deliberate spoliation. Such flagrant administrative malfeasance irreversibly renders the Information void *ab initio*, stripping the tribunal of jurisdiction *in limine* and ensuring that any prosecutorial machinations predicated upon said document are strictly *ultra vires*. The integrity of the judicial process is not a mere aspirational

5788 standard but a mandatory requirement; where the state unilaterally alters the *acta* of the court, the very foundation of the rule of law is eroded.

143. This conclusion is reinforced by the ancient and fundamental principle of the English and Canadian constitutions that *Rex non potest peccare* (the "**King Can Do No Wrong Maxim**"). As articulated in *2 Rolle Rep 304*, while the sovereign is personally independent of earthly jurisdiction, this maxim does not facilitate the elevation of the Crown above the laws in an unconfined sense. Rather, the prerogative of the Crown is created solely for the benefit of the people and cannot be exerted to their prejudice. Consequently, it is an immutable general rule that the Crown cannot sanction an act forbidden by law; the sovereign is bound by the law equally with the subject, for the law is the highest inheritance that the King hath.

144. Where a lawless act is perpetrated by the agents of the sovereign—such as the unauthorized alteration of a sworn instrument—the offence of the instrument is not indemnified. Although the Crown is not subject to the coercive power of the law, the commands of the state remain under the directive power of the law, which renders the act itself invalid if unlawful. In the present instance, the agents of the sovereign are civilly and criminally answerable for the lawless acts of spoliation committed during the processing of the Information. The Crown's power is a "fiduciary" power, held in trust for the public; when state agents engage in the physical manipulation of sworn documents, they breach this sacred trust and act outside the scope of any legitimate authority.

145. Furthermore, the Crown is deemed incapable not only of doing wrong but of thinking wrong. Whenever the Crown is induced to invade the private rights of a subject through misinformation or inadvertence—as by the filing of a spoliated and fabricated charging document—the law presumes that *eadem mens praesumitur Regis quae est juris et quae esse debet praesertim in dubiis* (the mind of the King is presumed to be the same as that of the law). The law declares that the King was deceived in his grant; thus, the proceedings become void upon the supposition of deception by those agents whom the Crown has thought proper to employ. It is a fundamental tenet that the Crown cannot dispense with anything in which the subject has an interest, nor can it make a grant in violation of the common law.

146. In brief, the Crown cannot, in derogation of the rights of the public, unduly fetter the exercise of the prerogative or dispense with anything in which the subject has an interest. The Crown lacks the authority to make a grant in violation of the common law or injurious to vested rights, such as the right to a validly sworn Information. While the sovereign is personally incapable of wrongdoing, the specific acts of state agents that are contrary to law must, on that account, be set aside by the operation of law. To permit the prosecution to proceed on a vitiated instrument would be to sanction a *de facto* suspension of the law, a power the Crown has not possessed since the *Bill of Rights 1689*.

ISSUE #3(C):DOCTRINAL ANALYSIS AND EXTRAPOLATION OF LEGAL PRINCIPLES

147. The intentional obliteration, obfuscation, or substantive adulteration of paramount judicial documentation intimately engages the formidable evidentiary doctrine of *omnia praesumuntur contra spoliatorem* (all things are presumed against a wrongdoer). It is advanced that the physical severance of the originally sworn counts, which were unequivocally presented to the authorizing jurist during an *Ex Parte* swearing process, and their subsequent unauthorized replacement with fabricated endorsements antecedent to formal filing, comprehensively fractures the absolute and sacrosanct chain of custody requisite for a valid oath. This is not merely an evidentiary presumption but a substantive barrier to prosecution; once the original *acta* are destroyed, the court is left with a mere facsimile of a legal instrument, devoid of its original spiritual and legal potency.

148. Pursuant to the strictures governing documentary integrity delineated within the *Criminal Proceedings Rules for the Superior Court of Justice (Ontario)*, the *acta* of the tribunal must remain inviolate. The intentional tampering with a sworn instrument constitutes a *prima facie* abrogation of foundational procedural fairness, rendering it a jurisdictional impossibility to restore the *status quo ante*. The *actus reus* of disassembling a sworn court document is compounded by the undeniable inference that such actions were undertaken knowingly, satisfying the requirement of *scienter* in the context of state misconduct. The resultant documentary void is a matter of *res ipsa loquitur*; the defaced Information speaks for itself as an inoperative instrument. The existence of a valid, unaltered oath is the absolute *sine qua non* for the invocation of criminal jurisdiction.

ISSUE #3(D):PROPHYLACTIC REBUTTAL TO ANTICIPATED PROSECUTORIAL AND JUDICIAL COUNTER-ARGUMENTS

149. Anticipation must be afforded to the prosecutorial postulate, conceivably adopted by a presiding jurist assessing the administrative reality of high-volume dockets, that the substituted folios functioned merely as innocuous intake court endorsements (the "**Intake Court Endorsements**"). It may be hypothesized that these endorsements were deployed exclusively for internal docket administration, and therefore, such modifications ostensibly do not substantively vitiate the underlying criminal allegations nor exact a tangible prejudice upon the accused's ability to mount a defense. This "administrative convenience" argument is a dangerous fallacy that invites the court to prioritize bureaucratic efficiency over the constitutional requirement of a sworn oath.

150. Furthermore, the Crown may argue that the accused lacks "standing" to complain of administrative alterations that do not impact the *actus reus* of the alleged offence. This is a flawed syllogism; the accused has a vested interest in the legality of the process that brings them before the court. To suggest otherwise is to ignore the principle of *caveat emptor*—the court must not "buy" a prosecution from the state without verifying the quality and legality of the charging instrument. Notwithstanding such prognostications, this defensive paradigm is factually incongruent with the immutable physical record and remains legally untenable. The actual Jurat—the signature apparatus effectuating the strict penalty of perjury—was affirmatively extirpated. This is not a *bona fide* administrative clericalism; it is an active destruction of the jurisdictional foundation. An Information bereft of its original, authenticated Jurat is, *ex facie*, a fundamentally unsworn instrument.

151. Furthermore, it might be postulated by adversarial counsel that statutory remedial mechanisms, specifically the curative provisions enumerated within the federal statute governing criminal offences (the "***Criminal Code***"), specifically section 601, could be operationalized to rectify such documentary deficiencies. Such an assertion reflects a fundamental misapprehension of statutory interpretation and the limits of judicial curative authority. Curative provisions are legislatively engineered to amend defects in form or substance within an otherwise legally existent and validly sworn instrument. They do not possess the retrospective alchemy required to resuscitate an artifact that is a nullity *ab initio*.

152. To apply section 601 to a document that has been physically altered post-oath would be to permit the Crown to bootstrap itself into jurisdiction through its own misconduct. A statutorily mandated oath cannot be retroactively manufactured through the guise of an *ex post facto* amendment where the physical instrument itself has been subjected to deliberate state spoliation. An unsworn document cannot be transformed into a *de jure* charging instrument through mere *de facto* acquiescence by the Crown. As established in *R. v. Moore*, [1988] 1 SCR 1097, the court's power to amend is not infinite; it cannot cure a defect that goes to the very existence of the document as a legal entity.

ISSUE #3(E):NON-OBVIOUS LEGAL THEORIES: CONSTRUCTIVE FRAUD AND ABUS DE DROIT

153. Beyond the traditional paradigms of procedural irregularity, the deliberate alteration of the Information must be conceptualized as a constructive fraud upon the tribunal. When instrumentalities of the state proffer an altered document to a presiding justice, representing it implicitly as the pristine instrument originally sworn, the adjudicative process itself is corrupted. This theoretical extrapolation posits that such spoliation deprives the court of subject-matter jurisdiction. Without the original Jurat, the adjudicator is rendered functionally incapable of verifying that the strict, statutory prerequisites for issuing process were lawfully satisfied. The court is, in effect, being asked to adjudicate upon a fiction.

154. This is further supported by the theory of *Abus de Droit* (the "**Abuse of Right Theory**"). While the state has a "right" to manage its internal files, this right cannot be exercised in a manner that defeats the purpose of the law or causes injury to the subject. By prioritizing internal workflow over documentary integrity, the state has committed an *ultra vires* act. This "Jurisdictional Annihilation" theory suggests that the court's power to hear the case is not merely suspended but is entirely extinguished. If the document that purports to grant the court power is a fraudulent substitution, then every order made pursuant to that document is *coram non judice* (before one not a judge).

ISSUE #3(F):JURISPRUDENTIAL INTEGRATION AND ABUSE OF PROCESS

5790 155. The doctrinal framework enunciated in *R. v. Babos*, 2014 SCC 16 at para 35 (*the "**Babos Decision**"*) establishes unequivocally that in circumstances wherein state conduct fundamentally eviscerates the integrity of the justice system, a stay of proceedings remains the singular appropriate juridical remedy. In applying the strict *ratio decidendi* of the *Babos Decision* to the present factual matrix, it becomes self-evident that the deliberate defacement of the Information transcends mere procedural irregularity. The prejudice inflicted upon the systemic integrity of the judicial apparatus is of such severe magnitude that it remains entirely impervious to remediation via trial directions or curative statutory mechanisms.

156. The overarching societal interest in proceeding on the merits is entirely eclipsed by the egregious character of the state's misconduct. Furthermore, the principles in *Canada (Minister of Citizenship and Immigration) v. Tobiass*, [1997] 3 SCR 391 at para 89 (*the "**Tobiass Decision**"*) reinforce the imperative that prosecutorial conduct must not descend into an abuse of process. The situation at bar is entirely *sui generis*; the physical fabrication and spoliation of sworn evidence directly activate the residual category of abuse of process outlined in the *Babos Decision*.

157. Such spoliation constitutes an overt affront to the rule of law and the principle of *stare decisis*, mandating an immediate and uncompromising stay of proceedings. To allow the state to proceed would be to send a message that the physical integrity of court records is optional. This court must act as the ultimate bulwark against such executive overreach, ensuring that the *status quo ante* of documentary inviolability is maintained.

ISSUE 4: STATUTORY TIMELINES AND DELIBERATE OBFUSCATION

ISSUE #4(A): THE ISSUE

158. The primary question before this Honourable Court is whether the state agents deliberately exploited the temporal latitude provided under *section 505* of the *Criminal Code*, RSC 1985, c C-46 (the "***Criminal Code***") to intentionally withhold the information (the "**Information**") from the public court record, thereby facilitating the unauthorized physical alteration of the documentation in absolute secrecy.

159. Furthermore, the Court must determine if the utilization of a statutory provision as a "procedural cloister" to allow for the clandestine modification of evidence constitutes an *ultra vires* exercise of executive power—an act performed beyond the legal authority of the state—that necessitates a stay of proceedings or the quashing of the **Information** to maintain the integrity of the administration of justice.

160. Central to this inquiry is whether the state's conduct constitutes a "fraud upon the court," wherein the formal mechanisms of the *Ontario Court of Justice* were manipulated to present a sanitized, retrospective version of events, thereby depriving the Applicant of the right to a contemporaneous and immutable judicial record.

ISSUE #4(B): THE RULE

161. *Section 505* of the ***Criminal Code*** mandates that an information must be laid "as soon as practicable" (the "**Practicability Standard**") and, in any event, "before the time stated" (the "**Temporal Limit**") in the appearance notice or summons. The **Practicability Standard** is not a discretionary suggestion or a mere administrative guideline; it is a mandatory directive requiring all due celerity to ensure immediate judicial oversight of the executive branch and to prevent the unauthorized retention of documents in a state of jurisdictional limbo.

162. The doctrine of abuse of process, as articulated in *R v Nixon*, 2011 SCC 34, 2011 CSC 34 (the "**Nixon Decision**"), dictates that state conduct must satisfy the requirements of fundamental justice under *section 7* of the *Canadian Charter of Rights and Freedoms* (the "***Charter***"). Where state conduct is so oppressive or represents such a departure from standard practices that it tarnishes the integrity of the judicial system, the residual category of abuse of process applies, as established in *R v Babos*, 2014 SCC 16, 2014 CSC 16 (the "**Babos Doctrine**").

163. The *Supreme Court of Canada* in *R v Chabot*, [1980] 2 SCR 985, 1980 CanLII 174 (SCC) (the "**Chabot Decision**") emphasized that the ***Criminal Code*** must be interpreted in a manner that protects the liberty of the subject and ensures that the state does not hold documents in *abeyance* (the "**State of Suspension**") for the purpose of refining, altering, or otherwise rehabilitating their content. Furthermore, the *prima facie* breach of the duty of disclosure—evidence sufficient to prove a case unless rebutted—and the principle of contemporaneous documentation are governed by the standards set forth in *R v Stinchcombe*, [1991] 3 SCR 326, 1991 CanLII 45 (SCC).

5794 164. Additional weight is provided by the maxim *omnia praesumuntur rite et solemniter esse acta* (the "**Presumption of Regularity**"), which is rebutted herein by the manifest evidence of physical manipulation. The state also bears a duty of candour, requiring total honesty in its dealings with the court, consistent with the principle of *uberrima fides* (the "**Utmost Good Faith**").

ISSUE #4(C): THE ANALYSIS

The Misapplication of Statutory Discretion and Executive Bad Faith

165. It is respectfully submitted that the conduct of the state agents herein represents a profound and irremediable departure from the *status quo ante* of constitutional regularity. The delay spanning from the precipitating arrest on October 2 to the scheduled first appearance on November 13 (the "**Delay Period**") served no legitimate administrative purpose or logistical necessity. Instead, the **Delay Period** was a manufactured interval designed explicitly to facilitate a documentary transformation and the coordination of a false narrative that would have been immediately detectable under standard, prompt filing protocols.

166. The Crown may assert, relying upon a rigidly textualist and hyper-literal interpretation, that filing the document mere moments prior to the calling of the docket on the first appearance strictly satisfies the outer chronological bounds of the legislation. They will likely argue that the **Temporal Limit** establishes a hard mathematical deadline which, having been met, *ipso facto*—by that very fact—nullifies any procedural complaint regarding delay. They may further posit that administrative backlogs or the inherent complexity of the investigation justify the exhaustion of the statutory period to its absolute limit.

167. However, this formalistic defense entirely ignores the substantive, overarching equitable doctrine of abuse of process and the constitutional imperative for transparency. The **Practicability Standard** must be measured against the objective ability to file; where the state possesses the capacity to file but chooses to wait for strategic advantage or to facilitate document alteration, the law is violated. A "mathematical deadline" cannot serve as a sanctuary for state-sanctioned fraud or the intentional evasion of the administrative audits that naturally occur during the intake process at the court registry.

ISSUE #4(E):THE THEORY OF STRATEGIC OBFUSCATION AND THE "SHADOW DOCKET"

168. The deliberate creation of a jurisdictional vacuum between the moment of arrest and the formal entry of the matter into the judicial record constitutes a strategic obfuscation (the "**Strategic Obfuscation**"). This *interregnum* (the "**Interregnum**") allowed for a "shadow docket" to exist—a state of affairs where the version of the **Information** presented to the Applicant at the time of arrest was systematically and clandestinely replaced by a version more favorable to the prosecution's evolving narrative.

169. Such conduct is *acta*—acts or deeds—that undermine the very foundation of the judicial registry and the principle of *consensus ad idem* (the "**Meeting of the Minds**") regarding the charges laid. The manufactured, deliberate temporal void provided the precise, unmonitored opportunity required by state agents to execute physical page-swapping and substitute magisterial signatures without detection. Any argument by the Crown that such irregularities are *de minimis*—too minor to merit attention—must be countered by the principle that some breaches are so fundamental to the integrity of the system that prejudice is presumed *juris et de jure* (the "**Presumption of Law**").

ISSUE #4(F):THE DOCTRINE OF LEGITIMATE EXPECTATIONS AND PROCEDURAL FAIRNESS

170. A non-obvious legal theory applicable here is the doctrine of legitimate expectations (the "**Legitimate Expectations**"). By establishing standard police practices for the prompt filing of informations, the state has created a procedural expectation that the **Practicability Standard** will be honored. A sudden and unexplained departure from this standard, coupled with evidence of document manipulation, constitutes a breach of procedural fairness and the principle of *audi alteram partem* (the "**Right to be Heard**").

171. The Applicant was entitled to a process following established norms, and the state's deviation for the purpose of obfuscation is a violation of the principles of fundamental justice. When the state departs from its own

5792 established procedures to gain a tactical advantage, it violates the doctrine of *estoppel* and the duty to act in *bona fide* (the "**Good Faith**") toward the accused and the court.

ISSUE #4(G): THE "FRUITS OF THE POISONED TREE" PROCEDURAL ANALOGUE

172. While typically applied to physical evidence obtained through an unlawful search, the "Fruits of the Poisoned Tree" doctrine should be extrapolated to the procedural record. If the **Information** itself is a product of an illegal and unconstitutional **Delay Period** designed to facilitate fraud, then all subsequent judicial actions based on that **Information** are similarly tainted. This is not a case of correcting a clerical error; it is a case of substantive, unauthorized amendment that poisons the entire stream of the prosecution *in limine*—at the very outset.

173. The prosecution may attempt to minimize this by suggesting that no "actual prejudice" was suffered in the preparation of the defense. This argument is anemic; the prejudice is found in the subversion of the public record itself and the deprivation of the Applicant's right to a contemporaneous record. As held in *R v Bjelland*, 2009 SCC 38, 2009 CSC 38, the court has a duty to stay proceedings where the state's failure to comply with procedural norms threatens the system's integrity. To hold otherwise would be to allow the state to profit from its own dishonorable cause, violating the maxim *ex turpi causa non oritur actio*—no action arises from an immoral cause.

174. *Did the Crown do so?* The question answers itself.

175. It is why it is merely the Executive Branch and Judicial Branch Documents, where an accused is so entitled, are nearly all that is needed.

ISSUE #4(H):THE CONCLUSION

176. It is therefore concluded that the **Delay Period** was not a passive lapse, an administrative necessity, or a product of logistical friction, but rather an active tool of obfuscation and a deliberate mechanism of deception, necessitating the intervention of this Honourable Court to preserve the sanctity of the judicial record. The resulting documentation, having been birthed in secrecy and altered without authority, is *void ab initio*—void from the beginning—and cannot support a valid exercise of jurisdiction by any court.

177. The state has fundamentally breached the social contract by utilizing its statutory powers to mislead the judicial branch and deny the Applicant the protection of a contemporaneous record. Justice must not only be done but must be seen to be done, as the principle of *fiat justitia ruat caelum*—let justice be done though the heavens fall—requires that the court prioritize the integrity of its own process over the convenience of the prosecution.

178. Consequently, the quashing of the **Information** is the only remedial imperative consistent with the **Rule of Law** and the preservation of judicial integrity. A failure to grant this remedy would signal to state agents that the **Statutory Timeline** is not a deadline for compliance, but a license for manipulation, thereby rendering the protections of the ***Charter*** a mere hollow promise.

ISSUE 5: ELECTRONICALLY SUBMITTED INFORMATION, TELEWARRANTS, AND THE WITHHOLDING OF THE MASTER RECORD

ISSUE #5(A): ISSUE

179. The primary question for adjudication is whether the *Superior Court of Justice* (the "**Court**") is legally mandated, by virtue of its ontological status as a paramount court of record, to retain and produce the original signed arrest warrant (the "**Warrant**") or its definitive electronic equivalent. Furthermore, this Court must determine whether the absolute and inexplicable absence of such documentation from the registry necessitates a finding of jurisdictional vitiation, or alternatively, implies a deliberate act of institutional concealment intended to shield a disqualifying conflict of interest from judicial scrutiny.

180. This inquiry extends to the implications of a "nil" result within the registry for a process that purportedly authorized a severe deprivation of liberty. Specifically, the Court must decide if the state can rely on a "Jurisprudence of the Invisible" where the citizen is bound by coercive instruments that the state itself cannot locate, produce, or verify. The resolution of this issue strikes at the very heart of the "Social Contract of Documentation," wherein the legitimacy of judicial power is inextricably linked to the transparency of its exercise.

ISSUE #5(B): RULE

181. The status of a superior court as a court of record is not a mere administrative designation but an inherent constitutional attribute. As elucidated in *Reference re Residential Tenancies Act (Ontario)*, [1981] 1 SCR 714, at para 73, the jurisdiction of such a tribunal is tethered to the permanence and transparency of its decrees. This necessitates the maintenance of a master record (the "**Master Record**") that serves as a perpetual memorial and testimony of judicial acts. Historically, as established in Blackstone's *Commentaries on the Laws of England*, the record of a superior court is of such "high and supereminent authority" that its truth is not to be questioned; yet, the absence of such a record implies the dissolution of the court's character as a judicial body.

182. Regarding coercive processes authorized via telecommunication, section 508.1 of the *Criminal Code*, R.S.C., 1985, c. C-46 (the "**Code**") dictates a rigorous technological protocol (the "**Electronic Protocol**"). This *Electronic Protocol* requires that the issuing justice certify the date, time, and place of issuance and ensures that the *Warrant* be filed with the clerk of the court "as soon as practicable." This statutory pathway for electronic authorization does not grant a license for administrative amnesia; rather, the digital nature of the record enhances the obligation for its auditable preservation.

183. In *R v P(J)*, 2013 ONCA 537 (*R v P(J)*), at para 14, the *Ontario Court of Appeal* determined that the absence of the originating document—in that instance, a sworn *Information*—at the time judicial power is exercised constitutes a "fatal jurisdictional defect" (the "**Jurisdictional Defect**"). This defect is not a "procedural irregularity" capable of cure but a nullity that vitiates the legality of the ensuing state action. Jurisdiction is not an abstract quality of an office but a power activated and sustained by documentation; when the documentation is omitted, the jurisdiction is retroactively vitiated.

184. Furthermore, the common law invokes the maxim *omnia praesumuntur contra spoliatorem* (every presumption is made against the party who fails to produce evidence) when the state, possessing exclusive control over the *Master Record*, fails to produce the authorizing instrument for a deprivation of liberty. This must be balanced against section 9 of the *Canadian Charter of Rights and Freedoms* (the "***Charter***"), which prohibits arbitrary detention. In *R v Kelsy*, 2011 ONCA 605, the court emphasized that the integrity of the judicial record is fundamental to the appearance of justice, and its absence constitutes a breach of the "Doctrine of Narrative Integrity."

ISSUE #5(C): ANALYSIS

The Ontological Requirement and the Social Contract of Documentation

185. It is submitted that the *Ontological Requirement* of a court of record functions as the primary safeguard against the exercise of "secret law." The record is the only objective evidence of the "Judicial Mind" at the moment of authorization. Without the physical or electronic manifestation of this mind, the state's actions descend into mere executive fiat, lacking the requisite *ratio decidendi* that distinguishes lawful authority from arbitrary coercion. The *Court* cannot function as a "Black Box" where inputs result in liberty deprivations without a visible, auditable process. The failure to produce the *Warrant* constitutes a breach of the "Social Contract of Documentation" (the "**Documentation Contract**"). The citizen's submission to the *Judicial Power* is predicated upon the state's reciprocal duty to maintain a transparent and auditable account of its justifications. When the state produces a "nil" result for an event of such profound constitutional magnitude, the *Documentation Contract* is shattered. In such a vacuum, the state loses its moral and legal standing to enforce the outcomes of the undocumented process, as there is no proof that the "Consensus Ad Idem" between the law and the specific facts ever occurred.

ISSUE #5(D): EMBEDDED REBUTTAL: THE ADMINISTRATIVE ANOMALY AND DEPARTMENTAL SILOS

186. It is anticipated that opposing counsel may posited that the specialized family registry (the "**Family Registry**"), being unaccustomed to the rigours of criminal filings, committed a benign clerical error (the "**Administrative Anomaly**"). This contention must be rejected *in limine*. The *Court* is a unitary institution; its

5794 internal departmentalization cannot serve as a jurisdictional shield. To suggest that the *Court* can lose its memory because it changed floors or registries is to suggest that the *Charter* is subject to the limitations of a floor plan.

187. Institutional incompetence does not, and cannot, cure a fundamental constitutional breach. A "departmental silo" is not a constitutional sanctuary. If one branch of the *Court* authorizes a liberty deprivation, the *Master Record* must be available regardless of the filing system utilized. To hold otherwise would allow the state to insulate itself from scrutiny through deliberate administrative fragmentation, a strategy of "Strategic Disorganization" that is antithetical to the rule of law.

Telewarrants and the Epistemic Failure of the State

188. Whether the authorization was conducted *in camera* or facilitated via telecommunication, the *Electronic Protocol* under section 508.1 of the *Code* is non-derogable. The digital nature of the record enhances the obligation for its auditable preservation, as electronic systems are designed for metadata tracking and permanent storage. The absence of a certified endorsement indicates a failure to comply with the *Code*, stripping the authorization of its legislative protection and rendering it *ultra vires*.

189. This represents an "Epistemic Failure" (the "**Epistemic Failure**") of the state; it cannot simultaneously claim the power to arrest while professing ignorance regarding the source of that power. This "Epistemic Injustice" prevents the applicant from formulating a proper defense, as the basis of the state's action is withheld. The state cannot benefit from an "Evidence Vacuum" of its own creation to defeat a constitutional challenge.

Embedded Rebuttal: The De Facto Officer Doctrine

190. Opposing counsel might creatively, but falsely at law, invoke the "De Facto Officer Doctrine" (the "**De Facto Doctrine**") to argue that the officers acted on a *prima facie* valid command. This extrapolation is misplaced. The *De Facto Doctrine* is intended to protect the finality of proceedings from technical defects in an official's appointment, not to bypass the requirement for the very existence of a judicial warrant. One cannot act under the "colour of authority" when the very source of that authority is invisible to the court of record.

191. To allow the *De Facto Doctrine* to insulate the state here would be to sanction a "Jurisprudence of the Invisible." One cannot breathe life into a document that, *ipso facto*, does not exist within the court's own consciousness. If the *Court* has no record of the *Warrant*, then the officers were acting not under a valid command, but under a hallucination of authority that lacks any grounding in the *Master Record*.

Inferences of Strategic Loss and Institutional Bad Faith

192. The absolute deprivation of the *Master Record* creates a "Narrative Rupture" that invalidates the state's claim to legality. When an institution explicitly designed for record retention produces "nil" evidence, the legal conclusion must be that the documentation was either never lawfully executed or was deliberately suppressed—a "Strategic Loss" (the "**Strategic Loss**") intended to prevent the discovery of a disqualifying conflict of interest.

193. Pursuant to the *bad faith doctrine* (the "**Bad Faith Doctrine**"), where the state controls the evidence of its own authority and fails to produce it, an adverse inference of constitutional misconduct is mandatory. The *Court* must adhere to the principle *falsus in uno, falsus in omnibus*; if the registry's assertions regarding the existence of the *Warrant* are false, the entirety of the administrative narrative regarding the detention is rendered suspect. The registry's failure to initiate a "Lost Record Protocol" suggests a deliberate choice to rely on the absence of evidence as evidence of absence.

ISSUE #5(E): CONCLUSION

194. Consequently, the *Court* is moved to find that the absence of the *Master Record* is a "fatal jurisdictional defect" that renders the *Warrant* and the ensuing arrest void *ab initio*. The state's reliance on the *Administrative Anomaly* and the *De Facto Doctrine* fails to satisfy the rigorous requirements of a court of record. The absolute, confirmed deprivation of the master record from the originating court fatally undermines the lawful, objective authority of the ensuing arrest.

5795 195. To preserve the repute of the administration of justice, the *Court* must prioritize the restoration of constitutional order over administrative convenience. The detention must be declared a nullity, and the authority purportedly exercised must be deemed to have been retroactively vitiated by the "Constitutional Vacuum" created by the state. The *Court* must declare that justice shall be done though the heavens fall—*fiat justitia ruat caelum*. A "nil" search result in a court of record is not a clerical error; it is a jurisdictional catastrophe.

ISSUE #6: THE ANATOMY OF FORM 2 AND THE CONSPICUOUS ABSENCE OF THE MANDATORY JUDICIAL COMMAND

ISSUE #6(A): THE ISSUE

196. The central query presented for the consideration of this Honourable Court is whether the administrative package designated as a *Form 2 Information* (the **"Form 2 Information"**) possesses the requisite legal potency to function as a valid instrument of arrest, or whether the persistent and confirmed absence of a distinct, statutorily compliant *Form 7 Arrest Warrant* (the **"Form 7 Arrest Warrant"**) renders the physical apprehension and subsequent detention of the accused *ab initio* unlawful and unequivocally arbitrary.

197. This inquiry necessitates a rigorous examination of the distinction between the state's power to initiate a criminal prosecution and its separate, delegated power to seize the person. Specifically, the Court must determine if the mere existence of a charging instrument—which is essentially an allegation of wrongdoing—can be conflated with a judicial command to deprive an individual of their liberty. If the *Form 7 Arrest Warrant* is found to be a mandatory prerequisite that was never satisfied, the consequences for the legality of the arrest are terminal, necessitating a remedy that addresses the resulting constitutional vacuum.

ISSUE #6(B): THE RULE

198. The statutory architecture of the *Criminal Code*, RSC 1985, c C-46 (the **"*Criminal Code*"**) establishes a rigorous and immutable bifurcation between the commencement of a prosecution and the authorization of coercive state power. Under *section 504* and *section 507*, the *Form 2 Information* serves as the foundational charging document—a repository of factual allegations sworn under oath by an informant. It is the procedural vehicle that confers jurisdiction upon the court over the subject matter of the offence; however, it is inherently devoid of the authority to compel the attendance of the accused through physical force.

199. Conversely, *section 511* and *section 512* delineate the specific requirements for a *Form 7 Arrest Warrant*, which constitutes a unique judicial mandate. This instrument is directed to peace officers, commanding them to deprive a subject of their liberty and bring them before a justice. Unlike the *Form 2 Information*, which reflects the state's intent to prosecute, the *Form 7 Arrest Warrant* reflects a judicial determination that an arrest is necessary in the public interest. The requirements for the form and substance of this warrant are not mere suggestions but are mandatory conditions precedent to the lawful exercise of the state's most intrusive power. The *principle of legality* dictates that any interference with the *status quo ante* of a citizen's liberty must be supported by clear, unambiguous, and physical documentation that is accessible for inspection. As articulated in *R v Storrey*, [1990] 1 SCR 241 (the **"Storrey Decision"**), an arrest is only lawful if the arresting officer possesses both a subjective and an objective basis for the apprehension. An officer's belief in their authority is insufficient if that authority does not objectively exist in a valid legal instrument. Furthermore, *R v Grant*, 2009 SCC 32 (the **"Grant Decision"**) reinforces that a detention lacking valid legal authority is *ipso facto* arbitrary under *section 9* of the *Canadian Charter of Rights and Freedoms* (the **"*Charter*"**).

ISSUE #6(C): THE ANALYSIS

The Juridical Distinction Between Accusation and Authorization

200. It is respectfully submitted that the Crown's reliance upon the *Form 2 Information* as a surrogate for a warrant constitutes a profound misunderstanding of the *Criminal Code* and a dangerous erosion of the separation

5796 of powers. The *Form 2 Information* is the *sine qua non* for the initiation of proceedings, yet it possesses no inherent authority to effectuate a seizure of the person. This distinction is a deliberate legislative safeguard designed to ensure that the power to accuse remains decoupled from the power to detain. To conflate these two instruments is to engage in a form of "judicial alchemy" that is *ultra vires* the powers granted to the state, effectively transforming a mere allegation into a final judgment of detention.

201. Furthermore, the *Form 7 Arrest Warrant* serves a vital notification function. It is the document that tells the accused *why* their liberty is being abridged and *by whose authority*. Without the physical manifestation of this command, the accused is left in a state of legal uncertainty, unable to verify the lawfulness of the peace officers' actions. This lack of transparency is inimical to a free and democratic society, where the exercise of state power must always be anchored in a visible and verifiable legal mandate.

ii. Rebuttal to the Doctrine of Administrative Regularity

202. It is anticipated that the state may invoke the doctrine of administrative regularity, suggesting that a notation such as "Warrant 1st" on a tracking sheet implicitly authorizes the arrest and that the formal document is a mere formality. This syllogism is fatally flawed and historically rejected. Canadian jurisprudence recognizes no such construct as an "implied warrant." A warrant must be a physical entity capable of being produced, inspected, and returned to the court. To permit the state to rely on "ghost warrants"—intentions that were never formalized—would be to allow the state to exercise power in a legal void.

203. Opposing counsel may further argue "substantial compliance," positing that because a justice intended to issue a warrant, the absence of the actual paperwork is a "technicality" that does not prejudice the accused. However, in the context of criminal law where *habeas corpus* is at stake, the *Rules of Civil Procedure* and the *Rules of the Ontario Superior Court of Justice (Divisional Court)* demand *strictissimi juris*. "Substantial compliance" is a doctrine suitable for administrative trifles or civil service of process; it is entirely inapplicable to the deprivation of human liberty. The law does not permit the state to be "approximately" lawful when it is seizing a citizen.

ISSUE #6(D): THE MECHANICS OF JUDICIAL OVERSIGHT AND THE MISSING RETURN

204. A critical, yet frequently overlooked, component of the warrant process is the requirement for a "return" to the court. Pursuant to the *Criminal Code*, an executed *Form 7 Arrest Warrant* must be brought back before a justice to close the "judicial circle," confirming that the command has been fulfilled in accordance with its terms. The total and confirmed absence of the warrant from the institutional record confirms that no such return ever occurred. This creates a permanent *lacuna* in the judicial history, precluding the court from verifying if the arresting officers stayed within the four corners of their purported (but non-existent) authorization.

205. The lack of a return is conclusive evidence of a failure in the state's fiduciary duty to the court. Without the document, the *onus probandi* remains unsatisfied; the state cannot prove the time, place, or conditions of the arrest. This failure is not a victimless procedural lapse; it prevents the accused from challenging whether the arrest was executed in a manner that complied with the *Charter*. Consequently, the state is asking this Honourable Court to validate a sequence of events that began with a legal nullity and ended with a total lack of accountability.

ISSUE #6(E): THE CONSTITUTIONAL IMPACT OF "JUSTICE BY CHECKBOX"

206. The reliance on checkboxes or tracking sheets to authorize arrests represents a descent into "justice by checkbox," where administrative convenience is prioritized over constitutional rigor. If the Court condones the arrest of a citizen based on an administrative notation rather than a formal *Form 7 Arrest Warrant*, it signals to the executive branch that procedural safeguards are optional. This creates a perverse incentive for the police to act first and seek justification later, undermining the very purpose of judicial oversight.

207. This administrative negligence also offends the principle of *habeas corpus*, as it leaves the subject of the arrest with no document to challenge in a court of law. A "noted" intent to issue a warrant cannot be the subject of a *certiorari* application or a stay motion in the same way a physical document can. By failing to create the warrant, the state has effectively insulated its conduct from meaningful judicial review, further compounding the arbitrariness of the detention.

5797 **ISSUE #6(F): APPLICATION OF THE LAW TO THE FACTS**

208. In applying the *Storrey Decision*, it is evident that while the arresting officers may have subjectively believed they were authorized to act—perhaps misled by the "Warrant 1st" notation—that belief lacked an objective foundation in law. In the absence of a physical *Form 7 Arrest Warrant*, the detention was *ipso facto* arbitrary under the *Grant Decision*. This is not a *de minimis* error or a "good faith" mistake; it is a substantive defect that vitiates the jurisdiction of the court over the person.

209. The state's failure to provide the document upon request constitutes a breach of the *audi alteram partem* principle, as the accused was never properly informed of the legal basis for his seizure. If the state is permitted to seize individuals without a warrant, the protections of *section 9* of the *Charter* become mere "parchment barriers," easily circumvented by clerical negligence. The integrity of the administration of justice demands that the state be held to the highest standards when it seeks to interfere with the liberty of the subject.

ISSUE #6(G): THE CONCLUSION

210. In view of the foregoing, it is concluded that the *Form 2 Information* cannot, as a matter of law, serve as a substitute for a *Form 7 Arrest Warrant*. The failure to generate, execute, and file the mandatory judicial command renders the arrest a nullity and the subsequent detention an ongoing constitutional violation. The only appropriate remedy to restore the *status quo ante* is an immediate stay of proceedings or the exclusion of all derivative evidence pursuant to *section 24(2)* of the *Charter*. To admit evidence obtained through such lawless state conduct would be to signal that the court condones the exercise of power in the absence of law, thereby bringing the administration of justice into disrepute. Justice must be done though the heavens fall—*fiat justitia ruat caelum*

ISSUE #7: CIRCUMVENTION OF THE CRIMINAL E-INTAKE PORTAL, BENCH HUNTING AND FORUM SHOPPING FOR ABUSIVE UNDERLYING REASONS

ISSUE #7(A): ISSUE

211. Whether the intentional circumvention of the specialized criminal intake tribunal (Criminal E-Intake Portal) of the *Ontario Court of Justice* in favor of an *Ex Parte* application for a localized criminal warrant (the "Warrant Application") and perhaps other warrants under the *Criminal Code* section 487.1, before a jurist of the *Superior Court of Justice*—whose primary judicial assignment and expertise are restricted to family law matters, who was also the "family law team leader" at SCJ 361 University Courthouse, and who possesses a documented prior adversarial position to the subject's spouse and consequently the Applicant culminating in a divorce and settlement agreement between the Epstein Cole LLP Client and Ms. Nicole Artopoulos which had a clause of no direct or indirect contact—constitutes a tactical deployment of judicial forum shopping (the "Forum Shopping"). Specifically, whether the selection of a jurist who previously acted as legal counsel for a party (the "Epstein Cole LLP Client") in a high-conflict matter against the Applicant's long-term spouse (the "Adversarial Position"), coupled with the strategic avoidance of the criminal intake portal, represents a "colorable exercise of power" and a residual category of abuse of process that violates the principles of fundamental justice under section 7 of the *Canadian Charter of Rights and Freedoms* (the "*Charter*").

ISSUE #7(B): RULE

The Doctrine of Abuse of Process and Judicial Integrity

212. The equitable doctrine of abuse of process, as definitively articulated by the Supreme Court of Canada in *R v Babos*, 2014 SCC 16, [2014] 1 SCR 309 (*Babos*), serves as a foundational bulwark against state conduct that either compromises the adjudicative fairness of an individual's trial or transgresses the "fundamental sentiments of justice" (*Babos* at para 31). Under the "residual category" of this doctrine, the court intervenes to preserve the integrity of the judicial system when state conduct—even if technically compliant with the letter of the law—is "so coercive, oppressive, or marked by bad faith" that to proceed would tarnish the court's reputation.

213. Strategic manipulation of judicial administrative channels to procure a tactical advantage—specifically the deliberate selection of a particular jurist to evade a more rigorous standard of review—is a hallmark of such abuse. The *prima facie* legality of the resulting judicial authorization is vitiated by the *mala fides* of its underlying execution and the strategic concealment of relevant jurisdictional alternatives.

B. Functional Specialization and the "Doctrine of Forum Non Conveniens"

214. While section 12 of the *Courts of Justice Act*, RSO 1990, c C.43 (*CJA*), provides judges of the *Superior Court of Justice* with *ex officio* authority to act as magistrates, this plenary power is subject to the principle of "Functional Specialization." In *R v Cunningham*, 2010 SCC 10, [2010] 1 SCR 331 (*Cunningham*), the Court recognized that courts possess inherent jurisdiction to manage their own processes to prevent the frustration of justice.

215. In a novel application of the "Doctrine of *Forum Non Conveniens*" to the criminal sphere, it is submitted that where a specialized, fully audited tribunal exists—the *Ontario Court of Justice*—the Superior Court is an inappropriate forum for routine criminal authorizations. The state's failure to utilize the *Forum Conveniens* (the appropriate forum) without a compelling justification constitutes a "Colorable Exercise of Power"—the use of a lawful power for an improper, tactical purpose.

ISSUE #7(C): THE DUTY OF CANDOUR AND CONSTRUCTIVE FRAUD ON THE COURT

216. In all *Ex Parte* applications, the state is bound by a duty of utmost good faith (*uberrima fides*), requiring full, fair, and frank disclosure of all material facts (*R v Araujo*, 2000 SCC 65, [2000] 2 SCR 992 (*Araujo*)). This duty extends to disclosing "Jurisdictional Facts," including the availability of specialized magistrates and any prior conflict of interest or "Adversarial Position" between the presiding jurist and the parties involved. A failure to disclose such facts may constitute a "Constructive Fraud on the Court," rendering the resulting warrant *void ab initio*.

ISSUE #7(D): ANALYSIS

Tactical Circumvention and the Suppression of the "Criminal Portal"

217. It is submitted that the deliberate bypassing of the highly specialized intake justices of the *Ontario Court of Justice* (the "OCJ") represents a calculated departure from entrenched protocol. The OCJ justices operate within a specialized, fully audited criminal e-intake framework (the "Criminal Portal") designed to ensure that search and seizure authorizations are subjected to the scrutiny of jurists immersed in criminal law precedents.

218. By presenting the *Warrant Application* to the Primus Inter Pares of the SCJ or in the alternative family law jurist (the "Family Jurist") at the *Superior Court of Justice*, the state engaged in a "Structural Disconnect." The Crown may argue that the "Presumption of Regularity" (*omnia praesumuntur rite et solemniter esse acta*) applies to the judicial authorization. However, this presumption is rebutted where the state strategically avoids the *Criminal Portal* to find a "Path of Least Resistance." With great respect to the Primus Inter Pares and Chief Justice of the SCJ or in the alternative the *Family Jurist*, they were both functionally insulated from criminal procedural rigors, is *ipso facto* less likely to identify the subtle "Boilerplate Fallacies" often embedded in police affidavits, thereby artificially lowering the *Charter* section 8 threshold.

ISSUE #7(E): THE ADVERSARIAL POSITION: A BREACH OF THE "NEMO JUDEX" PRINCIPLE

219. The selection of a jurist who previously maintained an "Adversarial Position" against the subject's spouse is a flagrant breach of the *nemo judex in causa sua* principle. Specifically, the presiding jurist previously acted as counsel for the *Epstein Cole LLP Client* in a high-conflict matter against the Applicant's girlfriend (now common-law spouse). This history creates a "Reasonable Apprehension of Bias" that is both personal and professional.

220. While the Crown might contend that judicial impartiality is presumed, this "Presumption of Impartiality" cannot shield the *state's* tactical choice of adjudicator. By seeking out a jurist with a documented history as an advocate *against* the subject's family unit whether by her inclusion in the form of assistance to push through the

INTAKE COURT ENDORSEMENT (SEPT 23 2024) into a simulacrum of an arrest warrant or by her inclusion in joint presiding in "chambers", the state engaged in "Weaponized Forum Shopping." The failure to disclose this "Adversarial Position" to the *Family Jurist* prevented the court from performing a necessary conflict check, constituting a "Substantial Misleading of the Court."

221. Under the theory of "Targeted Adjudication," the state's conduct suggests a *mala fide* attempt to leverage a jurist's prior antagonistic role, transforming the judicial officer into an unwitting instrument of police strategy.

ISSUE #7(F): COUNTERING THE "CONCURRENT JURISDICTION" DEFENSE

222. Opposing counsel will likely rely upon the "Doctrine of Concurrent Jurisdiction," asserting that the state has an unfettered right to choose between the OCJ and the Superior Court. This argument must be rejected as an "Anachronistic Formalism." While jurisdiction may be concurrent on paper, the "Principle of Comity" and the "Orderly Administration of Justice" require that cases be heard by the most appropriate, specialized tribunal.

223. The Crown's potential reliance on "Exigency" is similarly fallacious. In the era of the *Criminal Portal*, distance and time are no longer barriers to accessing a specialized criminal justice. To accept the "Exigency" argument in the face of available electronic intake would be to allow the state to manufacture "Administrative Necessity" as a cloak for forum shopping.

ISSUE #7(G): THE "COLORABLE EXERCISE OF POWER" AND INTEGRITY OF THE SYSTEM

224. The state's conduct represents a "Colorable Exercise of Power"—using the *CJA*'s grant of *ex officio* authority to achieve a result (avoidance of specialized scrutiny) that the legislature never intended. In *R v Forcillo*, 2018 ONCA 402 (*Forcillo*), the court emphasized that public confidence is the lifeblood of the judiciary. If the state is permitted to "hand-pick" jurists from unrelated dockets who have prior "Adversarial Positions" relative to the target's family, the public perception of the judiciary as a "neutral and detached" arbiter is irrevocably damaged.

225. This is not merely a "Procedural Irregularity"; it is a "Constitutional Subversion." The result is an authorization issued by a "Jurisdictional Mismatch" that undermines the *Charter* section 8 guarantee against unreasonable search and seizure, as the "Gatekeeper" was stripped of the specialized context and the impartiality necessary to perform the task effectively.

ISSUE #7(H): CONCLUSION

226. It is self-evident that the *Forum Shopping* exhibited in this instance transcends mere administrative error. It constitutes a deliberate, tactical manipulation of the *Superior Court of Justice*'s jurisdiction, executed with the specific intent to circumvent the specialized standards of the *Ontario Court of Justice*. By selecting a *Family Jurist* with a prior "Adversarial Position" and suppressing the availability of the *Criminal Portal*, the state violated its duty of *uberrima fides* and committed a "Constructive Fraud on the Court."

227. Consequently, the *Warrant Application* was authorized in a manner that was *ultra vires* the spirit of the *CJA* and the *Criminal Code*. To admit the fruits of such an authorization would be to provide a *carte blanche* to the state to select its preferred adjudicators based on perceived susceptibility or prior history, thereby eroding the Rule of Law. The only appropriate remedy is a stay of proceedings or the exclusion of all resulting evidence to preserve the long-term integrity of the justice system.

ISSUE 8: THE CONTRAVENTION OF SECTION 29 OF THE *CRIMINAL CODE* AND THE CONCOMITANT VIOLATION OF SECTION 10(A) OF THE *CHARTER*, OR IN THE ALTERNATIVE, COULD THE TPS OR ANY PEACE OFFICER NOT TECHNICALLY SATISFY SECTION 29 OF THE *CRIMINAL CODE* (I.E. INTAKE COURT ENDORSEMENT (SEPT 23 2024) WAS NOT A FORM 7 ARREST WARRANT)

ISSUE #8(A): ISSUE

5800 228. Whether the deliberate and persistent refusal by peace officers to produce a physical warrant of arrest (the **"Arrest Warrant"**) upon the explicit and reiterated demands of the accused during the execution of said arrest constitutes a fatal and incurable breach of *section 29* of the *Criminal Code*, R.S.C., 1985, c. C-46 (the ***"Criminal Code"***), and a direct, actionable infringement of the right to be informed of the reasons for detention pursuant to *section 10(a)* of the *Canadian Charter of Rights and Freedoms* (the ***"Charter"***).

ISSUE #8(B): RULE

229. The statutory framework governing the execution of process is codified within *section 29* of the *Criminal Code*, which mandates that it is the duty of every one executing a warrant or process to have it with them, where it is feasible to do so, and to produce it when requested. This provision is not merely directory but constitutes a jurisdictional prerequisite for the lawful deprivation of liberty; the failure to comply with this *sine qua non* renders the arrest *prima facie* unlawful and transforms a purported execution of process into an unauthorized trespass against the person.

230. The Supreme Court of Canada has articulated in *R. v. Storrey*, [1990] 1 S.C.R. 241 (the *"Storrey"*) that for an arrest to be lawful, the officer must subjectively have reasonable and probable grounds and those grounds must be justifiable from an objective viewpoint. Implicit in this requirement is the transparency of the legal authority being exercised, as an arrest without a valid and producible basis is an exercise of *ultra vires* state power that cannot be sustained by mere assertions of authority.

231. Furthermore, *section 10(a)* of the *Charter* guarantees that everyone has the right on arrest or detention to be informed promptly of the reasons therefor. This constitutional imperative is designed to ensure that a person is not left in a state of ignorance regarding the state's intrusion upon their liberty, thereby facilitating the meaningful exercise of the right to counsel under *section 10(b)* of the *Charter*. The right to know the "reasons" encompasses not only the nature of the allegation but the specific legal instrument authorizing the state to override the individual's bodily autonomy.

232. Consistent with the venerable common law maxim *nemo dat quod non habet* (the **"Nemo Dat Principle"**), no entity—including the state—can confer a right or authority that it does not itself possess. In the context of an arrest, if the underlying process is fundamentally defective, improperly endorsed, or non-existent, the state cannot delegate a lawful power of detention to its agents. The authority of a peace officer is derivative of the judicial warrant; where that warrant is absent or suppressed, the officer possesses no more authority than a private citizen.

233. The principle of *nullum crimen, nulla poena sine lege* further dictates that state agents cannot operate outside the strictures of the law; where the law mandates the production of the **Arrest Warrant**, the failure to do so is not a mere procedural lapse but a substantive failure of legal authority that renders the subsequent detention an arbitrary act of state power.

ISSUE #8(C): ANALYSIS

The Statutory Imperative of Production and the Nemo Dat Principle

234. The requirement for the production of the **Arrest Warrant** is a cornerstone of the *status quo ante* regarding the protection of the subject against arbitrary state action. *Section 29(1)* of the *Criminal Code* imposes a non-delegable and constitutionally infused obligation upon peace officers. It is submitted that the phrase "where it is feasible to do so" must be interpreted restrictively and with a view toward protecting the liberty interest of the subject, particularly in instances where the arrest is executed in a controlled, non-emergent environment.

235. In the case at bar, the arrest was effected within the sterile confines of a police facility following a meticulously orchestrated ruse. The state had complete control over the timing, location, and environment of the encounter. Consequently, the invocation of "operational necessity" or "dynamic safety concerns" to justify the non-production of the **Arrest Warrant** is entirely *ultra vires* the scope of the statutory exception. Where the state possesses the instrument of detention and the physical means to produce it without compromising safety or the integrity of the investigation, the failure to do so constitutes a flagrant disregard for the rule of law and a deliberate suppression of the accused's right to challenge their detention.

236. By refusing to produce the **Arrest Warrant**, the officers effectively insulated their purported authority from scrutiny. Application of the **Nemo Dat Principle** reveals the logical fallacy of the state's position: the officers

purported to exercise a power of arrest which, in the absence of a valid, produced warrant, they did not possess. Because the state cannot grant a lawful power of arrest based on a defective instrument, the officers were acting without any legitimate delegated authority. The failure to produce the warrant is not simply a breach of *section 29*; it is a failure to establish the very existence of the authority the officers claimed to wield.

ISSUE #8(D): THE VITIATION OF LAWFULNESS AND THE *CHARTER* NEXUS

237. The intentional suppression of the **Arrest Warrant** directly evers the accused's ability to assess the *vires* of the detention. As established in *R. v. Evans*, [1991] 1 S.C.R. 869 (the *"Evans"*), the purpose of *section 10(a)* is to permit the individual to know the extent of their jeopardy. By withholding the documentation, the officers effectively deprived the accused of the ability to provide an informed and sophisticated instruction to counsel regarding *habeas corpus* remedies or the validity of the underlying endorsement. This concealment creates an information asymmetry that the *Charter* was specifically designed to prevent.

238. It is further submitted that the officers acted *in mala fides*. The documentation withheld was not a standard **Arrest Warrant** but rather an intake court endorsement (the **"Endorsement Instrument"**) which lacked the requisite judicial authority for a criminal arrest. The officers' refusal was a calculated manoeuvre to prevent the accused—who possesses significant legal acumen—from identifying the procedural deficiency *in limine*. Under the **Nemo Dat Principle**, since the **Endorsement Instrument** did not carry the force of a criminal warrant, the officers could not derive any lawful power from it. The deliberate withholding of the **Endorsement Instrument** suggests a consciousness of its legal frailty on the part of the executing officers.

ISSUE #8(F): ANTICIPATED COUNTER-ARGUMENTS AND REBUTTALS

Counter-Argument 1: The Doctrine of De Facto Authority

239. The Crown may invoke the **"Doctrine of De Facto Authority"**, asserting that even if the **Arrest Warrant** was technically defective or not produced, the officers were acting under a color of right and their actions should be upheld to maintain public order and the finality of police actions. They may argue that the "apparent authority" of a uniformed officer is sufficient for public safety.

Rebuttal

240. This doctrine is inapplicable to *Charter* infringements involving the deprivation of liberty and is superseded by the requirement for strict compliance with statutory preconditions for arrest. As stated in *R. v. Feeney*, [1997] 2 S.C.R. 13 (the *"Feeney"*), privacy and liberty interests require strict adherence to prior judicial authorization. The **"Doctrine of De Facto Authority"** cannot be used to retroactively "cure" a flagrant breach of *section 29*. To allow the state to rely on a "color of authority" while simultaneously refusing to display the very instrument of that authority would be to permit the state to benefit from its own obfuscation and would render the protections of the *Criminal Code* nugatory.

Counter-Argument 2: Modern Digital Policing and Constructive Knowledge

241. The Crown may posit that the transition to digital records and the availability of electronic databases (the **"Electronic Database System"**) mitigates the necessity for physical production. They may argue that "constructive knowledge" of a warrant's existence on the **Electronic Database System** is sufficient to satisfy the spirit of *section 29*, and that physical production is an archaic requirement in a digital age.

Rebuttal

242. This argument must be rejected as it prioritizes administrative convenience over statutory command and constitutional protection. The *Criminal Code* has not been amended to allow for "constructive production." The statutory language remains clear and unambiguous: the officer must "have it with them" and "produce it."

5802 Furthermore, even if one were to accept a digital-centric interpretation, the officers failed to even provide a digital display of the **Arrest Warrant**, thereby failing to satisfy even the most modernised threshold of transparency. The **Electronic Database System** is not a substitute for the judicial instrument; it is merely a record of its purported existence, which the accused has a right to verify personally.

Counter-Argument 3: The Presumption of Regularity

243. The Presiding Justice may query whether the **"Presumption of Regularity"** (*omnia praesumuntur rite et solemniter esse acta*) should apply to the officers' actions, assuming they were acting pursuant to a validly issued (though unproduced) warrant. This presumption usually protects state actors from being required to prove every step of their authorization unless evidence of irregularity is presented.

244. **Rebuttal.** The **"Presumption of Regularity"** is a rebuttable presumption that vanishes in the face of evidence of bad faith or systemic non-compliance. The persistent refusal to produce the **Arrest Warrant** despite multiple, specific demands rebuts any such presumption. Furthermore, in the context of *Charter* litigation where a breach of liberty is established, the onus shifts to the Crown to justify the lawfulness of a warrantless or procedurally deficient arrest. The state cannot hide behind a presumption when it has actively denied the accused the means to challenge that very "regularity."

245. **Counter-Argument 4: Harmless Error and Section 24(2).** The Crown may suggest that any breach of *section 29* was a minor, technical irregularity that does not warrant the exclusion of evidence under *section 24(2)* of the *Charter*, as per the framework in *R. v. Grant*, 2009 SCC 32 (the *"Grant"*). They may argue the "totality of the circumstances" suggests the officers were acting in good faith.

Rebuttal

246. To characterize the violation of a mandatory statutory duty as a "technicality" is to invite judicial condonation of lawlessness. Under the *Grant* analysis, the "seriousness of the state conduct" is paramount. The breach was not a momentary lapse but a persistent, strategic refusal intended to deceive a legally sophisticated accused. This elevates the conduct from "negligent" to "wilful blindness" or "deliberate defiance," tipping the balance toward the exclusion of all evidence obtained subsequent to the unlawful arrest. Allowing such conduct to stand would signal to law enforcement that statutory requirements for transparency are optional, thereby eroding the long-term repute of the administration of justice. This independent SCJ Court outside of the Toronto Region which has been forever tainted the initial misconduct and failure to correct in the face of demands will also see the temporal scope of the failure to correct and the failure to discharge the duty to warn.

ISSUE #8(G): NON-OBVIOUS LEGAL THEORY: THE PRIVACY INTEREST IN THE LEGAL PROCESS

247. A non-obvious theory relevant to this matter is the **"Privacy Interest in Legal Process"**. It is submitted that an individual has a residual privacy interest in the contents of the legal instrument authorizing their arrest. By withholding the **Arrest Warrant**, the state not only violates liberty but also the right to "informational self-determination" regarding the legal basis of one's own status. The refusal to produce the document prevents the accused from verifying that the state's data matches the judicial command. In an era of increasing state surveillance and automated data processing, the right to inspect the physical or primary digital source of authority is a vital check against the "hallucination" of authority by state agents.

248. Furthermore, the **"Doctrine of Strict Compliance in Liberty Deprivation"** dictates that where a statute provides a specific procedure for the override of a fundamental right, that procedure must be followed to the letter. *Section 29* is not a suggestion; it is a limitation on the power of the state. Failure to adhere to this limitation results in an arrest that is *void ab initio*, as the state cannot derive lawful power from a process it has fundamentally corrupted through non-disclosure.

ISSUE #8(H): CONCLUSION

5803 249. It is the inescapable conclusion of this Court that the peace officers' deliberate failure to produce the **Arrest Warrant** upon demand, in circumstances where production was eminently feasible, constitutes a substantial and fatal breach of *section 29* of the *Criminal Code*. This statutory breach concurrently triggered an infringement of the accused's rights under *section 10(a)* of the *Charter*. The lawfulness of the arrest is thereby entirely vitiated. The detention of the accused, being predicated upon a refusal to disclose the legal authority for such detention, was arbitrary and unconstitutional. Consequently, the appropriate remedy must be granted to reflect the gravity of the state's misconduct, to vindicate the **Nemo Dat Principle**, and to maintain the repute of the administration of justice in the eyes of a reasonable, informed public.

ISSUE NUMBER NINE (9): THE SYSTEMIC MANIPULATION OF THE CANADIAN POLICE INFORMATION CENTRE INFRASTRUCTURE AND THE OBFUSCATION OF METADATA

ISSUE #9(A): THE ISSUE

250. Whether the strategic and calculated utilization of the *Canadian Police Information Centre* (the "**CPIC**") database to effectuate the apprehension of the Applicant constituted a deliberate and malicious mechanism to "launder" fundamentally defective documentation (the "Metadata Obfuscation"), thereby insulating the primary arresting officers from the *facially* deficient physical warrants through the creation of a digital imperative that was *prima facie* valid but *ipso facto* a nullity.

ISSUE #9(B): THE COMMON LAW RULES, SOURCE LAWS AND JURISPRUDENCE

251. It is a foundational and non-derogable principle of the *Constitution Act, 1982*, and specifically section 9 of the *Canadian Charter of Rights and Freedoms* (the "*Charter*"), that no individual shall be subjected to arbitrary detention or imprisonment. Jurisprudence from the Supreme Court of Canada in *R. v. Grant*, 2009 SCC 32 (the "*Grant* Decision") and *R. v. Suberu*, 2009 SCC 33, dictates that state agents must operate under a valid, subsisting, and lawful authority. Where such authority is predicated upon a judicial warrant, that instrument must be structurally sound, issued by a court of competent jurisdiction, and reflective of the actual judicial proceeding.

252. The doctrine of *Coram Non Judice* establishes that any act performed by a court or a jurist lacking the requisite subject matter or territorial jurisdiction is a nullity *ab initio* and possesses no legal force, efficacy, or staying power. As articulated by the Supreme Court in *R. v. Paterson*, 2017 SCC 15, the "good faith" exception is not a panacea for systemic negligence or deliberate circumvention of constitutional safeguards; rather, it is reserved for technical errors that do not undermine the core of the judicial authorization.

253. Pursuant to the *Criminal Code*, R.S.C. 1985, c. C-46 (the "*Code*") and the *Police Services Act*, R.S.O. 1990, c. P.15, the integrity of the *Canadian Police Information Centre* (the "**CPIC** System") is a matter of paramount statutory importance. The data entries therein must be an accurate and contemporaneous reflection of the lawful status of judicial authorizations. Any discrepancy between the digital record and the underlying physical process is not a mere "irregularity" but a fundamental failure of the rule of law.

254. The maxim *Factum A Judice, Quod Ad Officium Jure Non Pertinet, Ratum Non Est* applies with absolute rigour where a jurist has exceeded the boundaries of their office or where the record of their act has been fabricated, rendering the resulting process a comprehensive nullity that cannot be retroactively cured by administrative "sanitization" or "good faith" execution.

ISSUE #9(C): THE ANALYSIS

The Electronic Laundering of Defective Paperwork and the Doctrine of Fraud on the Court

255. It is submitted that the ***CPIC** System* infrastructure was maliciously manipulated to electronically "launder" a fundamentally defective warrant. By transmuting a structurally deficient endorsement into a national digital

5804 ledger, the investigating authorities effectively created a digital imperative to arrest that was designed to be unquestioned by frontline personnel. This manipulation constitutes a *Fraud on the Court*, as the state utilized a digital intermediary to represent the existence of a valid judicial authority that was, in reality, non-existent or fatally flawed. This process of "digital laundering" was intended to decouple the arrest from its *facially* deficient physical progenitor. The investigators successfully weaponized the systematic reliance that frontline officers are trained to repose in the digital ledger, ensuring that the execution of the arrest would be insulated from the underlying constitutional rot of the physical file. Such conduct transcends mere negligence and enters the realm of systemic bad faith.

ISSUE #9(D): METADATA INCONSISTENCIES AND THE IRREFUTABLE EVIDENCE OF FORGERY

256. The immutable, federally audited server-side metadata required for entry into the ***CPIC*** *System*—which necessitates the precise inputting of the Originating Agency, the Level of Court, and the specific Identity of the Authorizing Justice (the "Metadata Identity")—stands in direct and irrevocable contradiction to the physical documentation subsequently filed at the *Ontario Court of Justice*. The digital footprints, permanently archived by the *Royal Canadian Mounted Police* (the "Rcmp"), reveal with mathematical and forensic certainty that the originating authority was a *Superior Court* judge at a specific venue. Consequently, the subsequent physical substitution of a *Justice of the Peace's* signature on the paper file must be characterized as a coordinated forgery. This *post-facto* reconciliation was executed with the specific intent to harmonize conflicting records and conceal the *ultra vires* involvement of a civil jurist in a criminal proceeding.

ISSUE #9(E):ANTICIPATING AND REBUTTING THE "ADMINISTRATIVE IRREGULARITY" AND "GOOD FAITH" COUNTER-ARGUMENTS

257. The Respondent may attempt to characterize these discrepancies as mere "administrative irregularities" or "clerical errors" curable under *Rule 2.01* of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194 (the "*Rules*"). This argument is fundamentally flawed. A clerical error involves a secondary mistake in the recording of a valid act; here, the *act itself*—the entry into **CPIC**—was a deliberate falsification of the judicial record. Where a state agent knowingly inputs a different judicial officer into a national database than the one appearing on the physical warrant, the resulting process is not an irregularity but a substantive nullity. Furthermore, the Respondent might invoke the "good faith" exception articulated in *R. v. Grant*, suggesting that the executing officers relied on the **CPIC** entry in good faith. However, this argument ignores the principle of *State Indivisibility*. The "good faith" of the executing officer cannot be parsed from the "bad faith" of the entering officer or the primary investigators. In *R. v. Wong*, 2018 ONCA 421, the Court emphasized that the state cannot benefit from a "cascade of errors" generated by its own internal lack of diligence. To permit the "good faith" of an executing officer to sanitize a forged digital record would provide a blueprint for state agents to insulate themselves from constitutional scrutiny through strategic obfuscation.

ISSUE #9(F):ADDRESSING "INEVITABLE DISCOVERY" AND "INDEPENDENT SOURCE" THEORIES

258. It is anticipated that the Respondent may argue that the Applicant would have been arrested eventually through other lawful means, invoking a variant of the "Inevitable Discovery" doctrine. This counter-argument must be rejected. The doctrine of inevitable discovery requires the state to prove that the evidence *would* have been found regardless of the *Charter* breach. It cannot be used to retroactively validate an arrest that was *actually* predicated upon a forgery. To allow such a theory would render section 9 of the *Charter* nugatory, as the state could always claim a hypothetical alternate path to the same unconstitutional result. Similarly, any claim of an "Independent Source" for the arrest is belied by the ***CPIC*** *System* metadata itself. The digital record was the *causa causans* of the arrest; there was no independent, untainted stream of authority that led to the deprivation of the Applicant's liberty.

5805 **ISSUE #9(G):THE THEORY OF INSTITUTIONAL ESTOPPEL AND THE INTEGRITY OF THE DIGITAL LEDGER**

259. Beyond the immediate forgery, the Court must consider the non-obvious legal theory of *Institutional Estoppel*. Having represented to the national police community via the ***CPIC*** *System* that a specific *Superior Court* judge authorized the arrest, the state should be estopped from later relying on a contradictory physical document signed by a different judicial officer. The state cannot benefit from the validity of the digital record to effect the arrest, while simultaneously relying on a contradictory physical record to justify the legality of the process in court.

260. The discrepancy creates a situation of *Coram Non Judice*. If the judge listed in the metadata lacked jurisdiction (as a civil jurist acting in a criminal capacity), the arrest is invalid. If the judge in the metadata is *not* the judge on the warrant, the process is a fraud upon the Court. In either scenario, the arrest remains a nullity, as the state has failed to provide a single, consistent, and lawful authorization for the deprivation of the Applicant's liberty.

ISSUE #9(H):THE CONCLUSION

261. For the reasons articulated above, it is self-evident that the arrest was the culmination of a deliberate effort to circumvent constitutional scrutiny through the manipulation of digital records and the subsequent forgery of physical documentation. The systematic reliance on the ***CPIC*** *System* to mask the *facially* deficient nature of the physical warrant constitutes a gross and egregious violation of the Applicant's rights under sections 7, 8, and 9 of the *Charter*. The subsequent "harmonization" of the records via forgery confirms the malicious intent and systemic bad faith of the authorities.

262. Accordingly, the arrest must be declared a nullity, and all evidence derived therefrom must be excluded pursuant to section 24(2) of the *Charter*, as its admission would inevitably bring the administration of justice into disrepute, signalling judicial condonation of state-sponsored forgery and metadata obfuscation.
Factum A Judice, Quod Ad Officium Jure Non Pertinet, Ratum Non Est

ISSUE #10: THE UNAUTHORIZED SUBSTITUTION AND FABRICATION OF THE JURAT INFORMATION LAYING CROWN ELECTION PAGE

ISSUE #10(A): THE ISSUE

263. Whether the physical substitution of the original jurat with a newly synthesized document, specifically page 4 of 6 from the *Lincoln County Law Association* materials (the "Jurat Information Laying Crown Election Page"), bearing the name of an *Ontario Court of Justice* (Justice of the Peace) who did not personally administer the oath, constitutes the deliberate fabrication of a sworn court document (the "Documentary Fabrication").

264. Whether the unauthorized affixation of a judicial officer's name to an *Information* they neither physically scrutinized nor officially attested to constitutes the creation of a false document pursuant to section 321 of the *Criminal Code*, RSC 1985, c C-46, thereby rendering the entirety of the proceedings *coram non judice*.

265. Whether the state's subsequent reliance upon a manufactured instrument, purporting to represent a valid exercise of judicial authority, constitutes an incurable jurisdictional nullity that cannot be salvaged by the curative provisions of the *Criminal Code* or the *Interpretation Act*, RSC 1985, c I-21 (the "Jurisdictional Impotence").

ISSUE #10(B): THE RULE

266. Pursuant to the *Criminal Code*, section 321, a "false document" is defined as a document that purports to be made by or on behalf of a person who did not make it or authorize it to be made, or a document that is made by or on behalf of the person who purports to make it but is false in some material particular.

267. The sanctity of the jurat is a substantive requirement of a valid *Information*. Jurisprudence dictates that the jurat is the fundamental, substantive bedrock of a legal instrument's authority, verifying the precise identity of the state agent who authorized the deprivation of liberty. *Prima facie*, an *Information* lacking a validly executed jurat is a nullity. The doctrine of *coram non judice* dictates that acts performed by a person or body lacking the requisite

5806 jurisdiction are a nullity. As expressed in the maxim *factum a judice, quod ad officium jure non pertinet, ratum non est*, an act of a judge which does not pertain to their office or jurisdiction is not ratified and remains void *ab initio*.

268. Where fraud is established in the procurement of a judicial act, the principle articulated in *Landreville v The Queen (No 2)*, [1977] 2 FC 726, 75 DLR (3d) 380 (TD) [*Landreville*], citing *Lazarus Estates Ltd v Beasley*, [1956] 1 QB 702, [1956] 1 All ER 341 (CA) [*Lazarus Estates*], governs: "No court in this land will allow a person to keep an advantage which he has obtained by fraud. Fraud unravels everything. It is a vitiating element in any case and any court." The common law principle of *delegatus non potest delegare* further dictates that a judicial officer, such as a Justice of the Peace, cannot delegate the solemn duty of administering an oath or attesting to a jurat to an administrative clerk or any other third party.

269. The *Canadian Charter of Rights and Freedoms*, s 7, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11 [*Charter*], guarantees the right to a fair hearing in accordance with the principles of fundamental justice, which is axiomatically violated by the state's reliance on fabricated records.

ISSUE #10(C):THE ANALYSIS

The Nature of the Documentary Fabrication as a Jurisdictional Nullity

270. It is submitted that if a solemn oath was originally administered by a judge of the *Superior Court of Justice*, the subsequent and deliberate presentation of documentation averring, under the strictures and penalties of perjury, that said oath was actually precipitated before a different jurist at an alternative geographic location constitutes an irrefragable and monumental fraud upon the court (the "Court Fraud").

271. The fabrication of the **Jurat Information Laying Crown Election Page** is not merely an error in form, but a wholesale subversion of the process of commencing a criminal proceeding. When the state presents a document to the court as a "sworn Information," it represents that a specific judicial officer has performed their constitutional and statutory gatekeeping function. If the name appearing on that document is a mere substitution—a "phantom adjudicator" who never engaged with the deponent—the document is a falsehood *in limine*.

272. The Crown may attempt to aggressively de-emphasize this severe breach, characterizing the substitution as a mere curable "irregularity" or a harmless "administrative transcription anomaly" purportedly permitted under the broad curative provisions of section 32 of the *Interpretation Act* or section 601 of the *Criminal Code*. The Crown might argue that as long as an oath was taken *at some point* before *someone*, the identity of the signatory is a mere administrative detail.

273. This assertion is thoroughly and completely vitiated by established jurisprudence. A signature or jurat is definitively not a mere formatting requirement, a stylistic preference, or a formalistic technicality. Rather, it is the *sine qua non* of a valid *Information*. The law demands that the official who signs the document be the same official who heard the evidence and administered the oath. Its intentional misattribution to a third party is an active, undeniable fabrication designed expressly to deceive the tribunal, the accused, and the public record.

274. Consequently, where a direct contravention of a statute, regulation, or common law rule occurs—specifically the requirement that the person before whom the *Information* is sworn be the person who signs the jurat—the resulting document is not merely irregular; it is a nullity (the "Jurisdictional Nullity"). To hold otherwise would be to invite a state of affairs where court clerks may unilaterally "re-write" the history of judicial proceedings to suit administrative convenience.

ISSUE #10(D): LOGICAL GAPS AND REBUTTALS TO POTENTIAL COUNTER-ARGUMENTS

275. The Presiding CJ of the SCJ President or delegate may inquire whether the "good faith" of the court staff or the absence of "malice" should mitigate the severity of the fabrication. However, the subjective intent of the clerk is irrelevant to the objective status of the document. If the document is false *ipso facto* by virtue of containing a manufactured signature, it cannot serve as the foundation for a lawful prosecution. Jurisdiction cannot be conferred by "good faith" where the underlying instrument is a nullity.

276. Opposing counsel may further argue that the *status quo ante* can be restored by a simple amendment to the *Information* or by a re-swearing of the document. This extrapolation of legal principles is flawed; an amendment cannot breathe life into a document that was a nullity *ab initio*. One cannot amend a void act into a valid one. To

5807 allow such a remedy would be to sanction the very fraud identified in *Landreville*. If the "source code" of the prosecution is corrupted by fraud, the entire software of the proceeding is compromised.

277. Furthermore, the Crown may rely on the "Presumption of Regularity" (*omnia praesumuntur rite et solemniter esse acta*). However, this presumption is rebuttable and is definitively extinguished where, as here, there is extrinsic evidence of a physical substitution of the record. The presumption cannot be invoked to shield a manifest fabrication; rather, the discovery of the Documentary Fabrication triggers the doctrine of *fraus omnia corrumpit* (fraud corrupts all).

278. The substitution of the **Jurat Information Laying Crown Election Page** constitutes an act *ultra vires* the powers of the administrative staff. The fabrication strikes a devastating blow to the heart of judicial integrity, creating an environment where the public cannot distinguish between authentic judicial authorizations and manufactured administrative surrogates. The principle of *Factum A Judice, Quod Ad Officium Jure Non Pertinet, Ratum Non Est* applies with even greater force when the "act" in question is not even that of a judge, but a clerk pretending to be a judge.

279. If the Court were to overlook this fabrication, it would signal that the state may bypass the mandatory requirements of the *Criminal Code* through "cut-and-paste" justice. Such a precedent would be catastrophic to the constitutional right of an accused to be informed of the specific authority upon which they are being detained or prosecuted. The integrity of the judicial record is not a negotiable commodity; it is a rigid requirement of the rule of law.

ISSUE #10(E):THE CONCLUSION

280. It is self-evident that the unauthorized substitution of the **Jurat Information Laying Crown Election Page** constitutes a deliberate fabrication of a court record. Such an act is not a mere procedural defect; it is a substantive fraud that vitiates the jurisdiction of the court and renders the resulting document a nullity. In accordance with the principles set forth in *Lazarus Estates*, the fraud perpetrated by the misattribution of the oath-taking official "unravels everything." The resulting *Information* must be declared a nullity, as any hearing predicated upon such a fabricated instrument would be *coram non judice*. The presence of a false document in the court file is a cancer that spreads to every subsequent order and finding made by the tribunal.

281. As established in *R v Jageshur*, 2002 CanLII 3542 (ON CA) [*Jageshur*], a failure to comply with the essential requirements of the *Criminal Code* in the commencement of a proceeding results in a loss of jurisdiction. The fabrication of a jurat is the ultimate failure of essential validity.

282. The Court must intervene *in limine* to prevent the continuation of a proceeding based upon a document that is, on its face, a fabrication, thereby maintaining the sanctity of the judicial process and the rule of law. It is submitted that the only appropriate remedy for such an egregious breach of judicial integrity is the quashing of the *Information* and a declaration that all proceedings flowing therefrom are of no force or effect.

ISSUE #11: E-FILING LIMITATIONS AND ENDORSEMENT REQUIREMENTS

ISSUE #11(A): THE ISSUE

283. The fundamental question presented for the determination of this Honourable Court is whether the failure to electronically transmit and formally record the information (the "Information")—which constitutes a defined indictment pursuant to the *Criminal Proceedings Rules for the Superior Court of Justice (Ontario)*, *SI/2012-7* (the "Rules")—within the mandatory parameters of the electronic filing infrastructure, operates to invalidate and render *void ab initio* any subsequent judicial endorsement or purported adjudication issued by the Superior Court of Justice.

ISSUE #11(B): THE RULE

Statutory and Regulatory Mandates

284. The procedural architecture of the Superior Court of Justice is governed by the *Rules*, which are not merely directory but are mandatory prescriptions of Law. Pursuant to *Rule 1.03(1)*, the definition of an "indictment" is explicitly and unequivocally expanded to encompass an Information (the "Information Indictment"), thereby subjecting such instruments to the rigorous filing protocols established by the *Rules of Civil Procedure*, *RRO 1990, Reg 194*, as incorporated *mutatis mutandis* by *Rule 3.01* of the *Rules*.

285. The modern judicial administrative framework requires that all originating processes be commenced and maintained through the authorized criminal intake portal. This requirement is a prerequisite to the vesting of jurisdiction, as the court's authority to adjudicate is predicated upon the existence of a formal, auditable, and permanent institutional record. Specifically, the absence of the jurat page, as identified on page 4 of 6 of the Lincoln County Law Association documentation (the "Jurat Information Laying Crown Election Page"), signifies a foundational failure to authenticate the instrument of prosecution.

ISSUE #11(C):JURISPRUDENTIAL PRINCIPLES AND THE DOCTRINE OF NULLITY

286. It is a well-settled principle of law that where a statute or a rule of court prescribes a specific mode of procedure as a condition precedent to the exercise of judicial power, a failure to adhere to said mode does not constitute a mere irregularity but is a substantive nullity. *Factum A Judice, Quod Ad Officium Jure Non Pertinet, Ratum Non Est* (an act done by a judge which does not belong to his office is not valid). Where the court acts in the absence of a properly filed originating document, the proceedings are *Coram Non Judice* (not before a judge), as the judicial officer lacks the foundational jurisdiction to be seized of the matter.

287. Furthermore, where procedural circumvention involves a deliberate avoidance of transparency or the "electronic trail" mandated by the Sovereign, such actions may be scrutinized under the lens of constructive fraud upon the court. In *Landreville v The Queen (No 2)*, *[1977] 2 FC 726, 75 NR 1*, citing the seminal English authority of *Lazarus Estates Ltd v Beasley*, *[1956] 1 QB 702 (CA)* (*Lazarus Estates*), it was affirmed that "fraud unravels everything." As Denning L.J. articulated in *Lazarus Estates*, no judgment of a court, no order of a Minister, can be allowed to stand if it has been obtained by fraud, for "fraud is an extrinsic, collateral act, which vitiates the most solemn proceedings of courts of justice."

ISSUE #11(D):THE ANALYSIS

The Indictment as a Jurisdictional Foundation

288. The deliberate circumvention of the mandatory electronic filing protocols deprived the Superior Court of Justice of the requisite procedural and administrative foundation to lawfully issue any enforceable endorsement. Because the definition of an "indictment" within the *Rules* for the Superior Court of Justice (Ontario) explicitly and unambiguously encompasses an Information, the proceeding was, at all material times, strictly governed by the modernized electronic filing rules. These rules were specifically designed to ensure a permanent, unalterable, and instantly auditable institutional record, ensuring the *status quo ante* of the judicial record is preserved against clandestine alterations.

289. The omission of the Jurat Information Laying Crown Election Page from the digital repository is not a triviality; it is a failure of the Crown to properly lay the charge in a manner that the Court can recognize. Without the Jurat Information Laying Crown Election Page, the Information lacks the necessary evidence of an oath or affirmation, rendering the document a mere piece of paper rather than a legal instrument capable of invoking the state's coercive powers.

ISSUE #11(E):REBUTTAL OF THE DOCTRINE OF URGENCY AND ORALITY

290. Opposing counsel may attempt to posit the creative, albeit legally flawed, proposition that the perceived oral urgency of the underlying investigation naturally supersedes the supposedly rigid administrative constraints of electronic filing. It may be argued that *viva voce* (oral) adjudications in chambers allow the judiciary to respond dynamically to fluid police investigations, and that a failure to file is a "mere irregularity" curable under the court's inherent jurisdiction to prevent a miscarriage of justice or under the curative provisions of *Rule 2* of the *Rules of Civil Procedure*.

5809 291. However, this argument must be rejected *in limine*. The Rule of Law demands strict, unwavering compliance with the originating mechanisms that formally vest jurisdiction; a court cannot validly act upon a document that, statutorily and procedurally, is deemed never to have been filed in the first place. The curative provisions of *Rule 2* are intended to remedy defects in the *form* of a proceeding, not to breathe life into a proceeding that never legally commenced. To permit the bypass of the digital record is to sanction a shadow docket, rendering the proceedings *ultra vires* the court's authority. The complete, documented failure to establish the mandatory digital record on the criminal intake portal prior to adjudication renders the subsequent oral or written endorsement an absolute, incurable nullity.

ISSUE #11(F):THE THEORY OF FUNCTIONAL NULLITY AND INSTITUTIONAL INTEGRITY

292. A non-obvious yet critical legal theory applicable herein is that of "Functional Nullity." In an era of digital-first justice, the electronic filing is not a mere convenience; it is the *sine qua non* of the court's existence in a particular matter. Without the digital entry, the court's computerized management systems cannot assign a file number, track deadlines, or provide public access, effectively rendering the court "functionally blind." An endorsement issued in this state of institutional blindness is a violation of the principle of open courts and institutional transparency.

293. Furthermore, the absence of an electronically filed Information means that the Court was effectively acting in a vacuum. Under the principle of *Factum A Judice, Quod Ad Officium Jure Non Pertinet, Ratum Non Est*, the judicial endorsement issued in the absence of a filed Information—specifically lacking the authentication of the Jurat Information Laying Crown Election Page—is not simply voidable at the discretion of the Court, but is *ipso facto* void. The Information must be present within the electronic repository to satisfy the transparency requirements of the *Rules*.

ISSUE #11(G):COUNTERING THE "DE MINIMIS" DEFENSE AND FRAUD CONCERNS

294. It might be suggested by the Crown that the failure to e-file is a *de minimis* administrative oversight that caused no substantive prejudice to the accused. This extrapolation fails to account for the constitutional dimension of procedural regularity. Prejudice is inherent where the state bypasses the very rules it enacted to govern its conduct. As established in *Landreville*, the focus is not merely on the result, but on the purity of the process.

295. If the Crown or the investigative agency deliberately avoided the electronic filing system to evade the scrutiny of a particular judicial officer or to hide the timing of the application, such conduct vitiates the entire process. As established in *Lazarus Estates*, the court cannot allow its processes to be utilized as a shield for procedural misconduct. The lack of a digital footprint is *prima facie* evidence of a jurisdictional deficit. The failure to include the Jurat Information Laying Crown Election Page suggests a potential for *ex post facto* rationalization of a charge that was not properly sworn, an act that would constitute a fraud upon the administration of justice.

ISSUE #11(H):THE CONCLUSION

296. It is therefore respectfully submitted that the failure to electronically file the Information constitutes a fatal jurisdictional defect. The subsequent endorsement exists entirely outside the recognized, legally binding parameters of the Court's procedural authority. Consequently, the endorsement must be declared a nullity, as the Court was *Coram Non Judice* at the time of its issuance. The integrity of the judicial system relies upon the strict adherence to the *Rules*, and where a direct contravention of a statute or regulation occurs, the resulting act is of no force or effect.

ISSUE #12

ISSUE #12(A): THE SURGICAL SPOLIATION OF THE JURAT INFORMATION LAYING CROWN ELECTION PAGE TO OBFUSCATE JUDICIAL IDENTITY

297. Whether the precise, surgical extraction of the original **jurat** (the "Jurat"), specifically situated upon the **jurat information laying crown election page** (the "Jurat Information Laying Crown Election Page") being page

5810 4 of 6 of the judicial record, was purposefully executed to definitively sever the documentary linkage identifying the presiding jurist, thereby obfuscating a severe, pre-existing conflict of interest and rendering the resulting proceedings *coram non judice*. Whether such an intentional excision of a mandatory component of the judicial record, which functions as the *sine qua non* of adjudicative validity, constitutes a **nullity** (the "Nullity") *ab initio*, as opposed to a mere procedural irregularity, in light of the direct contravention of the *Rules of Civil Procedure*, RRO 1990, Reg 194 (the "*Rules*"), the *Criminal Code*, RSC 1985, c C-46, and the foundational equitable principles of fundamental justice. Whether the state's failure to maintain the integrity of the Jurat Information Laying Crown Election Page triggers an adverse inference under the **doctrine of spoliation** (the "Spoliation Doctrine"), thereby shifting the evidentiary burden to the Crown to prove the absence of judicial bias in a vacuum of documentary authentication.

ISSUE #12(B): RULE: THE INTEGRITY OF THE JUDICIAL RECORD, THE DOCTRINE OF NULLITY, AND THE FRAUD UNRAVELLING PRINCIPLE

298. The *Rules* mandate that every affidavit, information, and judicial order must contain a complete Jurat. This component serves as the singular, indispensable mechanism identifying the specific judicial officer who actively engaged the state's coercive apparatus and authorized the severe deprivation of physical liberty. Under the *Rules*, specifically *Rule 4.05* and *Rule 59*, the formal requirements for the authentication of judicial acts are not merely directory but mandatory; a failure to adhere to these foundational requirements transcends mere irregularity and strikes at the heart of the court's jurisdiction.

299. The doctrine of *coram non judice* dictates that where a presiding adjudicator lacks the requisite jurisdiction—whether by statutory limitation or by the operation of an uncurable, disqualifying conflict of interest—the resulting acts are devoid of legal efficacy. As established in the maxim *factum a judice, quod ad officium jure non pertinet, ratum non est*, an act performed by a judge which does not pertain to their office or jurisdiction, or which is performed in excess of their lawful authority due to bias, is not ratified and remains legally nugatory.

300. Regarding the presence of fraud or the malicious manipulation of the record to conceal such jurisdictional deficits, the jurisprudence is unequivocal. In *Landreville v The Queen*, [1977] 2 FC 776, 70 DLR (3d) 122 (FCTD) (*Landreville*), the court relied upon the seminal authority of *Lazarus Estates Ltd v Beasley*, [1956] 1 QB 702, [1956] 1 All ER 341 (CA) (*Lazarus Estates*), to articulate that "fraud unravels everything." As Denning LJ famously posited in *Lazarus Estates* at 712, "no judgment of a court, no order of a Minister, can be allowed to stand if it has been obtained by fraud, for fraud is an intrinsic vice that vitiates every judicial act." This principle extends to the fraudulent suppression of a judge's identity to bypass recusal protocols.

301. Furthermore, where a contravention involves the breach of a fundamental statutory or equitable principle—specifically the right to an impartial tribunal—the court must lean toward a finding of a Nullity. A document missing its primary authentication block fails to meet the *status quo ante* required for a valid exercise of judicial power and constitutes a direct affront to the administration of justice. The absence of the Jurat Information Laying Crown Election Page is not a "technicality" but a total failure of the document to exist as a legal instrument.

ISSUE #12(C):ANALYSIS: THE CALCULATED ORCHESTRATION OF DOCUMENTARY EXCISION

The Indispensability of the Jurat and the Impossibility of Accidental Destruction

302. The Jurat, located specifically upon the Jurat Information Laying Crown Election Page, represents the functional heart of the adjudicative history. Its removal constitutes a highly calculated, malicious maneuver designed specifically to shield the identity of the presiding judge from the mandatory scrutiny of the *Canadian Judicial Council* and the accused. The identity of the jurist is the only thread connecting the exercise of state power to the person of the judge; severing this thread renders the judge unaccountable.

303. It is submitted that the physical removal of the original signature block was not a product of administrative fortuity. While an opposing counsel or the Presiding CJ of the SCJ President or delegate might cautiously inquire whether this single missing page could simply be attributed to benign administrative negligence, a paper jam, or a routine filing error common in high-volume registries, such an hypothesis is mathematically and logically insupportable.

304. The intricate, highly targeted nature of the removal—excising only the signature block while perfectly retaining the substantive charges and allegations on adjacent pages to aggressively preserve the prosecution—demonstrates a sophisticated level of intentionality. This "surgical extraction" ensured that the prosecution remained preserved while the identity of the authorizing mind was entirely sanitized. Such a selective preservation of the *incriminatory* components of the document, coupled with the deletion of the *accountability* components, precludes the possibility of accidental destruction. A printer or a scanner does not "accidentally" omit the exact page containing the judge's signature while successfully capturing every other page of the six-page sequence.

B. Rebutting the Presumption of Regularity via the Doctrine of Spoliation

305. Opposing counsel may attempt to rely on the "presumption of regularity" (*omnia praesumuntur rite et solemniter esse acta*), asserting that registry staff are presumed to have acted in accordance with their duties. However, this presumption is rebuttable *prima facie* upon a showing of targeted spoliation. Under the Spoliation Doctrine, where a party (or the state apparatus) destroys or suppresses evidence relevant to a legal proceeding, the court is entitled to draw an adverse inference that the evidence was unfavorable to the party who destroyed it.

306. In the instant case, the specific suppression of the Jurat Information Laying Crown Election Page creates a rebuttable presumption of *mala fides*. The state cannot benefit from a missing record when the nature of the omission is so precisely aligned with the concealment of a judicial conflict. If the identity of the judge were neutral or benign, there would be no motive for the excision. The very fact of the missing page implies a consciousness of guilt on the part of the administrative or judicial actors involved. Consequently, the burden shifts to the Crown to demonstrate, via extrinsic evidence, the integrity of the original signing process—a burden they cannot meet without the very document they have permitted to be excised.

ISSUE #12(D):THE CONFLICT OF INTEREST AND THE VITIATION OF JURISDICTION

307. This orchestration was designed exclusively to ensure that the standard, high-volume intake mechanisms at the lower court would not immediately detect the highly irregular, deeply conflicted involvement of a specific civil jurist whose former firm was recently and publicly defeated by the accused in parallel, high-stakes litigation. The concealment of the identity was the only mechanism by which the jurist could persist in the matter without triggering an immediate motion for recusal.

308. Consequently, the proceedings were *coram non judice*. Where a judge persists in adjudicating a matter despite a patent conflict of interest, they act *ultra vires* their authority. The intentional concealment of this identity via the destruction of the Jurat constitutes a fraud upon the court. Following the principles in *Landreville* and *Lazarus Estates*, this fraud "vitiates the most solemn proceedings." The court cannot allow a party to benefit from the fraudulent sanitization of the judicial record.

309. Any attempt to characterize this as a "procedural irregularity" under *Rule 2.01* must be rejected. A breach that strikes at the very identity of the adjudicator and the impartiality of the tribunal is a fundamental defect. It is a Nullity that cannot be cured by the subsequent passage of time or the purported "good faith" of registry staff. The act of the judge, being outside the lawful scope of their office due to the conflict and the subsequent concealment, *ratum non est*.

ISSUE #12(E):THE INAPPLICABILITY OF THE "HARMLESS ERROR" DOCTRINE AND THE BREACH OF FUNDAMENTAL JUSTICE

310. It may be contended by the Crown that the absence of the Jurat Information Laying Crown Election Page is "harmless error" because the substantive content of the charges remains visible. This argument fails to recognize that the identity of the judge is a jurisdictional prerequisite. Without knowing the identity of the jurist, the accused is stripped of the ability to verify if the judge was *functus officio* or otherwise disqualified by interest or bias. A "faceless" order is a hallmark of administrative tyranny and is antithetical to the principles of fundamental justice under the *Canadian Charter of Rights and Freedoms*.

311. Furthermore, the exclusion of the Jurat prevents the accused from exercising their constitutional right to a fair and public hearing before an independent and impartial tribunal. The obfuscation of the judicial identity *in limine* (at the threshold) prevents the timely filing of a motion for recusal, thereby insulating the jurist from the

5812 natural consequences of their bias. The harm is not merely the missing page; it is the total destruction of the accused's ability to challenge the tribunal's impartiality.

ISSUE #12(F):THE SYSTEMIC IMPLICATIONS OF JUDICIAL ANONYMITY

312. If the Divisional Court were to validate an order where the identifying Jurat has been excised, it would establish a dangerous precedent allowing judicial officers to act with total anonymity. The transparency of the Jurat Information Laying Crown Election Page is the only safeguard against *Ex Parte* overreach and personal vendettas masquerading as judicial process. The deliberate removal of this page is a systemic failure that demands a robust judicial response to preserve the public's confidence in the administration of justice.

313. The principle of *open court* and *publicity* of judicial acts requires that the "who" is as important as the "what." By allowing a "phantom" judge to authorize coercive state action, the court invites a return to the Star Chamber, where the identity of the accuser and the judge were concealed from the accused. This is a direct violation of Section 7 and 11(d) of the *Canadian Charter of Rights and Freedoms*.

ISSUE #12(G):CONCLUSION: THE IMPERATIVE FOR A DECLARATION OF NULLITY

314. In light of the foregoing, it is self-evident that the removal of the Jurat Information Laying Crown Election Page was an intentional act of spoliation aimed at protecting a conflicted judicial officer. This act constitutes more than a mere deviation from the *Rules*; it is a deliberate subversion of the administration of justice and a fraud upon the court.

315. The resulting judicial acts must be declared a Nullity. As the presiding mind was acting *ultra vires* and the record was manipulated through fraudulent excision, the proceedings are *coram non judice*. To hold otherwise would be to sanction the use of judicial power in the dark, shielded from the very oversight mechanisms designed to ensure the integrity of the superior courts.

316. Therefore, the accused respectfully requests that the Divisional Court recognize the spoliation as an absolute bar to the validity of the impugned order, declare the entire process a Nullity *ab initio*, and restore the parties to the *status quo ante*.

ISSUE 13: THE CIRCUMVENTION OF STATUTORY OVERSIGHT PURSUANT TO SECTION 508 OF THE *CRIMINAL CODE*

ISSUE #13(A):

317. Whether the physical excision and subsequent destruction of the Crown election and mandatory confirmation components from the information (the "Information")—the primary charging instrument (the "Charging Instrument")—successfully circumvented the essential judicial oversight mandated by *section 508* of the *Criminal Code*, R.S.C. 1985, c. C-46 (the "*Code*").

ISSUE #13(B): RULE

318. *Section 508* of the *Code* prescribes a non-discretionary procedural safeguard, necessitating that an independent justice of the peace (the "Justice") conduct a foundational review of the *Charging Instrument* and formally confirm the police-issued process post-arrest.

319. This statutory requirement functions as a vital civilian buffer against the *ultra vires* exercise of unilateral police power, ensuring that no citizen remains under the compulsion of state-mandated release conditions without independent judicial verification *prima facie*. The *Code* contemplates a continuous chain of judicial authority; any breach in this chain results in a jurisdictional vacuum that renders subsequent state action a nullity.

320. Jurisprudence dictates that a failure to comply with mandatory statutory conditions for the initiation or confirmation of process renders the resulting detention or compulsion to attend *coram non judice* and a nullity *ab*

5813 *initio*. Where a statute imposes a mandatory "shall," strict compliance is the prerequisite for the exercise of jurisdiction, as the court's authority is derived solely from the adherence to these legislative mandates.

321. In accordance with the *Canadian Guide to Uniform Legal Citation*, the integrity of the *Charging Instrument* is paramount; any deviation from the prescribed forms under the *Code* that affects the substance of judicial oversight constitutes a jurisdictional defect that is not remediable via the *curative provisions* of the *Code*.

ISSUE #13(C): ANALYSIS

322. It is submitted that the deliberate removal of these vital statutory grids effectively neutered the constitutionally mandated "checks and balances" designed by Parliament. By physically removing the architecture of the *Charging Instrument*, the state did not merely commit a clerical error but engaged in a profound structural subversion of the judicial process. This excision represents a calculated attempt to bypass the "sober second look" of the judiciary, thereby allowing police-led detention to continue without independent verification.

323. By explicitly excising the page containing the confirmation component (the "Confirmation Component"), the entire package surrendered its facial and structural validity as a compelling instrument. The absence of the page 4 of 6 from the *Lincoln County Law Association* (the "Jurat Information Laying Crown Election Page") precluded the Justice from fulfilling the statutory duty to confirm the undertaking. Without this document, no evidence exists to suggest that the state's power to compel attendance was ever judicially authorized *post-arrest*. This absence is not an irregularity of form; it is a total failure of a condition precedent to the exercise of judicial power.

324. The Prosecution may posit that the initial, pre-arrest issuance of a warrant by a Superior Court judge (the "Superior Issuance") rendered subsequent confirmation by a lower court justice redundant, arguing that the higher court's authority subsumes the lower court's role and that the spirit of oversight was satisfied.

325. However, this postulate remains inherently flawed and structurally myopic; the *Code* explicitly demands the confirmation of the process *post-arrest* specifically to ensure ongoing, rigorous judicial oversight of the police's unilateral discretion to release. The *Superior Issuance* authorizes the arrest, but *section 508* governs the continuation of state power and the transition from police custody to judicial supervision. To ignore this second stage is to permit an indefinite extension of police fiat, a condition that is *ipso facto* repugnant to the rule of law and the principles of fundamental justice under *section 7* of the *Charter*.

326. *Factum a judice, quod ad officium jure non pertinet, ratum non est*; where the procedural prerequisites are ignored or physically deleted, the resulting judicial act is void. The destruction of the *Confirmation Component* created a "legal vacuum" where the police exercised detention powers without the requisite judicial warrant for the ongoing deprivation of liberty. This is not a matter of form but a matter of jurisdiction; the Court cannot "deem" a document valid when its very substance has been surgically removed to avoid oversight. The court's jurisdiction is founded upon the *Charging Instrument*; if the instrument is structurally hollow, the jurisdiction is non-existent.

327. While opposing counsel may suggest that this constitutes a mere irregularity curable by amendment, the direct contravention of a mandatory statute necessitates a finding of nullity. The *status quo ante* cannot be restored where the foundational document is physically mutilated to bypass oversight. Such acts constitute a "calculated non-compliance" that strikes at the heart of the administration of justice and renders the process *void ab initio*.

ISSUE #13(D): CONCLUSION

328. Consequently, the ongoing release conditions are legally void and unenforceable, as the *Charging Instrument* constitutes a jurisdictional nullity that failed to satisfy the condition precedent of judicial confirmation.

ISSUE 14: THE UTILIZATION OF THE "DEFAULT JUDGE" ENDORSEMENT AS AN ADMINISTRATIVE SUBTERFUGE

ISSUE #14(A):

329. Whether the irregular utilization of a default judge endorsement (the "Default Judge Endorsement") on October 3—significantly prior to the scheduled first appearance—constituted a deliberate administrative mechanism to bypass standard, rigorous intake scrutiny.

5814 **ISSUE #14(B): RULE**

330. The administration of justice requires that all filings be subjected to the rigorous, daily review of the assigned intake justice to ensure the *status quo ante* of legal regularity. Transparency in the intake process is a foundational requirement to ensure that defective or fraudulent instruments are identified prior to the issuance of a compelling order.

331. Any attempt to sequester a file from adversarial or public scrutiny via back-channel administrative triage may be deemed an *abuse of process* if it facilitates the filing of a document that is *prima facie* deficient. The doctrine of public open courts extends to the administrative processes that initiate criminal proceedings, ensuring that state power is exercised in the light of scrutiny.

332. *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, and the *Criminal Rules of the Ontario Court of Justice*, mandate transparency in the docketing process to prevent the "shadow filing" of defective instruments.

ISSUE #14(C): ANALYSIS

333. It is submitted that prematurely recording the matter under a generalized default judge (the "Default Judge")—as admitted by Mr. Michael Henriques as per the false information package (the "False Information Package")—intentionally shielded the procedurally toxic file from the review of the assigned intake justice. The use of this specific nomenclature, rather than the standard "Intake Justice," signals a departure from the regulated protocols of the Court. This *Default Judge* mechanism effectively acted as a jurisdictional bypass, allowing a fundamentally flawed document to gain the veneer of judicial sanction.

334. By pulling the file into the *Default Judge* stream weeks before the public was entitled to witness its appearance, the state effectively avoided the "front-line" verification process. This administrative "loophole" allowed a document that was facially invalid to gain the appearance of judicial sanction without ever being subjected to the critical eye of a justice performing their primary intake duties. This constitutes a sequestering of the file from the scrutiny that typically attends the commencement of a criminal prosecution, thereby shielding systemic errors from detection.

335. Had the documentation—replete with missing pages, fabricated replacement sheets, and a fabricated jurat—been presented in the ordinary course of standard docketing, a seasoned justice would have immediately identified the profound jurisdictional anomalies and structural defects. The *Default Judge Endorsement* mechanism served as a "black box" where procedural defects were buried rather than examined. It is a fundamental principle that administrative convenience cannot override jurisdictional integrity; where the latter is sacrificed for the former, the process is a nullity.

336. The Prosecution may argue this represents a standard administrative triage function (the "Triage Defence") used to manage high-volume caseloads and prevent systemic backlog. They might suggest that the *Default Judge* is merely an efficiency tool to prevent backlog and ensure files are ready for their first appearance.

337. However, the strategic, timed deployment of this mechanism, in conjunction with a six-week delayed filing, reveals a cohesive and undeniable pattern of procedural evasion. This was not a pursuit of efficiency, but a pursuit of obfuscation. The state utilized an administrative shortcut to bypass the very scrutiny that is designed to catch the exact errors present in this file. The delay in filing, followed by the use of an irregular endorsement, indicates a systemic failure of transparency that cannot be cured by the mere assertion of high caseloads.

338. As the *Default Judge* mechanism was utilized strictly to bypass the adversarial audience, the resulting acts were *coram non judice*. Where fraud or administrative manipulation is found, the Court must rely upon *Landreville v. The Queen*, [1977] 2 F.C. 326 (the "*Landreville Decision*"), citing *Lazarus Estates Ltd. v. Beasley*, [1956] 1 Q.B. 702 (the "*Lazarus Doctrine*"), which articulates that "fraud unravels everything." No court can permit a party to benefit from a "default" that was manufactured through the deliberate circumvention of public process and the fabrication of court records.

ISSUE #14(D): CONCLUSION

339. The use of the *Default Judge Endorsement* in these circumstances was *ultra vires* the standard administrative protocols, serving as a tactical veil for a jurisdictional nullity.

5815 ISSUE 15: THE FACIAL INVALIDITY AND STRUCTURAL DEFICIENCY OF THE CHARGING INSTRUMENT

ISSUE #15

340. Whether the structurally deficient and custom-typed documentation presented to the Court (the "Fabricated Information")—being a non-standard version of the prescribed form—is functionally capable of sustaining a criminal prosecution or accurately recording a formal judicial disposition.

ISSUE #15(B): RULE

341. A valid *Form 2 Information* is a provincially mandated, meticulously structured instrument containing mandatory grids for tracking Crown elections, pleas, remands, and final dispositions. These grids are not merely aesthetic; they are the functional record of the exercise of state power and the history of a prosecution.

342. The Crown's paramount quasi-judicial duty, as articulated in *Boucher v. The Queen*, [1955] S.C.R. 16 (the "*Boucher Principle*"), is to ensure that justice is done through a fair and rigorous process. This duty includes ensuring that the documents upon which a prosecution rests are legally and structurally sound and capable of serving as the court's official record.

343. The absence of the prescribed statutory form renders a document incapable of acting as the "record of the court," meaning any judicial acts purportedly recorded thereon are *ipso facto* non-existent. A court speaks through its record; where the record is non-existent or structurally incapable of housing the requisite data, the court is mute and the jurisdiction is void.

ISSUE #15(C): ANALYSIS

344. The custom-typed replacement page, bizarrely pasted onto police letterhead, lacks the essential architecture required for statutory tracking. It is a "bastardized" document that fails to provide the necessary space for the mandatory endorsements of the Court, thereby making any future record-keeping an exercise in fiction. This represents a total departure from the *status quo ante* of standard judicial forms and violates the regulations governing the maintenance of court records.

345. The Prosecution, recognizing its duty under the *Boucher Principle*, correctly stayed the proceedings (the "Stay of Proceedings") because it is legally and administratively impossible to proceed upon a document that lacks the physical capacity to record a conviction, an election, or an acquittal. The *Stay of Proceedings* is an implicit admission that the document could not survive the scrutiny of a trial court or serve as a valid basis for a criminal judgment.

346. To allow a prosecution to proceed on a custom-typed sheet would invite administrative chaos and violate the principle of *certainty* in criminal law. The integrity of the court record is the foundation of the administration of justice; once that record is replaced by an unverified police-created substitute, the entire proceeding is tainted by the specter of arbitrariness and the potential for fabrication.

347. Opposing counsel might argue substantial compliance (the "Substantial Compliance Argument"), suggesting that as long as the charges are clear, the form of the document is secondary and the accused suffers no prejudice. They might contend that the custom-typed nature of the page is a mere technical irregularity that does not go to the heart of the prosecution's merit.

348. However, the total excision of tracking components renders the document a "non-form" rather than an irregular form. *Acta exteriora indicant interiora secreta*; the outward acts of mutilating the document and replacing it with a custom-typed page indicate a secret intent to bypass the law's formal requirements. There can be no "substantial compliance" when the very structure of the document has been discarded to avoid the mandatory grids of the *Code*. Prejudice is inherent in the deprivation of a proper record of the court, as it precludes the possibility of an accurate appeal or judicial review.

349. The full answer is also contained in section 32 of the Interpretation Act.

ISSUE #15(D): CONCLUSION

5816 350. The proceedings were stayed because the *Fabricated Information* was structurally incapable of sustaining a criminal prosecution, rendering the exercise *void ab initio*.

ISSUE 16: THE EVIDENTIARY IMPLICATIONS OF THE ABSENCE OF MINISTRY RECORDS

ISSUE #16(A):

351. Whether the confirmed absence of responsive records from the ministry of the attorney general (the "Ministry") regarding the swearing of the *Charging Instrument* definitively proves the event never occurred within the designated jurisdiction.

ISSUE #16(B): RULE

352. The maxim *omnia praesumuntur rite et solemniter esse acta* (the "Presumption of Regularity") assumes state officials acted properly; however, this presumption is rebuttable by evidence of systemic failure or definitive institutional silence.

353. Where fabrication is alleged, the *Lazarus Doctrine* dictates that no court will allow a party to keep an advantage obtained by fraud. The burden of proof shifts when the state's own auditing mechanisms provide a "nil" response regarding the existence of a foundational act required for the deprivation of liberty.

ISSUE #16(C): ANALYSIS

354. The *Ministry* confirmed the absolute absence of internal records (the "Nil Response") indicating the named informant swore a *Charging Instrument* during the relevant temporal window. This response was not merely "inconclusive" but was a definitive statement from the state's own auditing body that no such event was recorded. This *Nil Response* is the functional equivalent of evidence that the event never transpired within the authorized court infrastructure.

355. The Prosecution may dismiss this absence as an archival delay (the "Administrative Delay Argument"), suggesting that the records exist but have not yet been digitized or indexed. They may argue that "absence of evidence is not evidence of absence" and that the presumption of regularity should still apply despite the lack of a paper trail.

356. However, a formal government assertion of non-existence regarding a liberty-depriving document carries insurmountable evidentiary weight. In the context of a criminal prosecution, where the state seeks to deprive a citizen of their liberty, the "benefit of the doubt" regarding missing records cannot go to the state. The burden shifts to the state to prove the document was sworn if their own record-keeping system says it was not. To allow otherwise is to allow the state to operate with impunity outside of its own audited and legislated infrastructure.

357. If the swearing event did not digitally or logically occur within the tracking system, it follows axiomatically that the purported judicial signature validating the event is a fabricated phantom. A signature cannot be valid if the event it purportedly witnesses never took place in the physical or digital reality of the Court. The *Charging Instrument* is thus revealed as a hollow artifact produced through fabrication.

358. In the *Landreville Decision*, the court emphasized that the appearance of regularity cannot shield an act that is fundamentally fraudulent. This establishes an overwhelming *prima facie* case of systemic fabrication, reversing the burden onto the state to produce the original justice who allegedly took the oath. Their failure to do so confirms that the document is a nullity born of fraud and that the swearing event is a legal fiction.

ISSUE #16(D): CONCLUSION

359. The *Nil Response* constitutes irrefragable proof that the document was fabricated, rendering all subsequent judicial acts *coram non judice*.

ISSUE 17: SYSTEMIC FLAWS IN THE UTILIZATION OF CIVILIAN INFORMANTS

ISSUE #17(A):

360. Whether the entrenched systemic reliance upon civilian administrative clerks (the "Civilian Informants") to routinely swear *Informations* based upon a rapid digital review constitutes an arbitrary mechanism profoundly prone to abuse and fabrication.

ISSUE #17(B): RULE

361. While *section 504* of the *Code* permits the swearing of an *Information* upon "information and belief," the solemnity of the oath must not be divorced from the objective truth. The oath is the mechanism by which the informant assumes responsibility for the gravity of the allegations and the potential deprivation of the accused's liberty.

362. An oath taken in total ignorance of the underlying facts is a profanation of the judicial process and a violation of the foundational principles of criminal law. The informant must have reasonable and probable grounds to believe the facts alleged are true; a "conveyor belt" approach makes the formation of such a belief impossible.

ISSUE #17(C): ANALYSIS

363. The utilization of *Civilian Informants* who possess zero organic knowledge of the investigation fundamentally degrades and trivializes the judicial safeguard of the oath. When the individual laying the charge has never met the witnesses, seen the evidence, or understood the context of the arrest, the oath becomes a mere administrative ritual rather than a true attestation of belief. This creates a dangerous distance between the state's power and the accountability for its exercise.

364. The Prosecution will defend this as an absolute administrative necessity (the "Necessity Defence"), arguing that the volume of charges in a modern city makes it impossible for the investigating officers to swear every *Information*. They will claim that "information and belief" allows for this secondary review as an efficient triage of state resources and that appellate courts have sanctioned this practice.

365. However, generalized necessity cannot cure specific factual errors and the resultant arbitrary arrest. The "information and belief" must be *reasonable* and *probable*. In this instance, the *Civilian Informants* were provided with a digital summary that was itself defective, leading them to swear to a set of facts that were demonstrably false. The "industrialization" of the oath has removed the individual conscience from the charging process, replacing it with a blind adherence to digital prompts.

366. In this instance, the *Jurat Information Laying Crown Election Page* was signed by an individual structurally incapable of verifying the allegations. The process was so "streamlined" that it removed the individual's ability to exercise any discretion or critical thought. The informant was not a witness to the truth, but a witness to a digital prompt, rendering the oath a hollow shell.

367. This systemic detachment facilitated procedural overreach, as the individual taking the oath bore no personal accountability for the accuracy of the investigative files. *Quod ad officium jure non pertinet, ratum non est*; that which does not belong to the office is not valid. The clerk was acting as a "conduit" for police fabrications rather than a "buffer" for justice, thereby facilitating an arbitrary deprivation of liberty.

ISSUE #17(D): CONCLUSION

368. The industrialized "conveyor belt" approach to the swearing of *Informations* resulted in a blind attestation of factual inaccuracies, rendering the process a nullity and the detention arbitrary and unlawful.

ISSUE 18: PRE-EXISTING JUDICIAL CONFLICTS OF INTEREST AND THE ACTIONABLE APPREHENSION OF BIAS

ISSUE #18(A): ISSUE

369. Whether the historical, deeply contentious, and adversarial family law litigation involving the accused, the opposing parties, and the presiding judge's former law firm generates a constitutionally impermissible and actionable apprehension of bias, thereby rendering the subsequent adjudication a nullity *ab initio* and an exercise of power *extra jurisdictionem*.

ISSUE #18(B):RULE

370. The fundamental principle of natural justice, *nemo iudex in causa sua* (no one should be a judge in their own cause), dictates that a jurist must be beyond even the slightest shadow of suspicion regarding their impartiality This requirement is not merely a matter of judicial etiquette but a constitutional cornerstone of the rule of law.

371. The governing legal threshold is established in *Committee for Justice and Liberty v. National Energy Board*, 1976 CanLII 2 (SCC), [1978] 1 SCR 369 (the "*National Energy Board Decision*"), which posits that the test is whether an informed, reasonable, and right-minded observer, viewing the matter realistically and practically, would perceive a reasonable apprehension of bias.

372. Ethical imperatives articulated by the *Canadian Judicial Council* and the *Principles of Judicial Office* mandate that a judge must recuse themselves where a "highly personalized history" exists. A prior senior partnership in a firm actively litigating against a party creates an inherent, indelible conflict of interest that cannot be cured by the passage of time or judicial platitudes.

ISSUE #18(C):ANALYSIS

373. **Historical Senior Partnership.** At the material time of said litigation involving the Epstein Cole LLP (Mr. Papadimitropoulos) and Ms. Nicole Artopoulos, the presiding judge maintained a senior partnership at the directly opposing firm. This established a deeply adversarial, highly localized nexus between the adjudicator and the accused. The jurist's historical alignment with the defeated party creates a *prima facie* conflict that undermines the "cold neutrality of an impartial judge." The transition from the boardroom of an adversary to the bench of an adjudicator in a matter involving the same individual is a jurisdictional leap that the law does not permit.

374. **Rebuttal of Remoteness.** While the Crown or the *CJ of the SCJ President or delegate* may postulate that historical professional associations are *prima facie* remote (the "Remoteness Defence"), this argument is *ipso facto* deficient and legally hollow. The "remoteness" of the association is entirely eclipsed by the "high-stakes" nature of the prior conflict and the contemporaneous, highly irregular issuance of a severe criminal warrant against the accused by that exact jurist. The proximity of the prior loss to the current exercise of judicial coercion suggests a retaliatory motive that no reasonable observer could ignore. The law does not require proof of actual spite; the *appearance* of the possibility of such spite is sufficient to vitiate jurisdiction.

375. **The Presumption of Prejudice.** The intersection of this unresolved historical financial conflict with the sudden, anomalous deployment of judicial power creates an inescapable, overwhelming presumption of prejudice. Under the doctrine of *factum a judice, quod ad officium jure non pertinet, ratum non est* (an act of a judge which does not pertain to his office is of no force), the issuance of the warrant was an invalid exercise of power by a jurist who had lost the jurisdictional competence to act due to a lack of impartiality.

CONCLUSION

376. It is submitted that the pre-existing conflict necessitated mandatory recusal. The failure to do so completely vitiates the lawful, objective authority of the warrant from the moment of its execution, rendering all subsequent state action flowing therefrom fundamentally unconstitutional, *ultra vires*, and a legal nullity.

ISSUE 19: THE RUSE, RETALIATORY TIMELINE, AND THE DOCTRINE OF ABUSE OF PROCESS

ISSUE #19(A):

377. Whether the deliberate orchestration of a deceptive property ruse (the "Ruse") to effectuate the arrest, coupled with the immediate, targeted deprivation of property, constitutes an unconstitutional retaliation and a *prima facie* abuse of process designed to suppress ongoing civil litigation and circumvent the *Canadian Charter of Rights and Freedoms*.

ISSUE #19(B):

378. In *R. v. Rothman*, 1981 CanLII 6 (SCC), [1981] 1 SCR 640 (the "*Rothman Decision*"), the *Supreme Court of Canada* articulated that while police trickery is not inherently unlawful, it is strictly prohibited when the conduct is so "appalling, manipulative, or shocking" that it offends the community's sense of fair play and decency. This standard serves as a constitutional floor, below which state conduct becomes an actionable assault on the integrity of the justice system. The doctrine of abuse of process, as refined in *R. v. Nixon*, 2011 SCC 34 (the "*Nixon Decision*"), protects the integrity of the judicial system from state conduct that is "conspicuous" in its unfairness or is motivated by an improper, retaliatory purpose that targets a citizen's protected interests.

ISSUE #19(C): ANALYSIS

The Stratagem of Deception

379. The state agents enticed the accused into custody under entirely false pretenses regarding property recovery. This stratagem was deployed specifically because the law enforcement officers possessed the *mens rea* that their originating paperwork was fatally flawed and would be identified as a nullity by the legally trained accused. The "Ruse" was a tactical weapon used to bypass the accused's inevitable and correct legal objection to a void process. By luring the accused into a "safe" environment, the police effectively engaged in a kidnapping under the colour of law.

ISSUE #19(D):REBUTTAL OF DE-ESCALATION

380. The Crown may aver that the Ruse was a "peaceful de-escalation method" (the "De-escalation Defence"). However, this assertion is robustly rebutted by the intentional, contemporaneous denial of section 10(a) *Canadian Charter of Rights and Freedoms* (the "*Charter*") rights. If the intent were truly the preservation of the peace, the state would not have simultaneously engaged in the systematic suppression of the accused's right to be informed of the reasons for their detention. Deception is not a tool of de-escalation; it is a tool of subversion designed to catch a citizen off-guard and prevent the timely assertion of constitutional rights.

ISSUE #19(E):THE FRAUDULENT FOUNDATION

381. Where fraud is found in the conduct of state actors, the court must rely upon the principles in *Landreville v. The Queen* (No. 2) (1977), 1977 CanLII 1944 (FC), citing *Lazarus Estates Ltd v Beasley*, [1956] 1 QB 702 (the "*Lazarus Estates Decision*"), which establishes that "*fraud unravels everything*." This principle is not limited to commercial contracts; it is a universal axiom of law. A warrant obtained through forum-shopping and executed through a ruse is a document born of fraud.

Retaliatory Consequences

382. The retaliatory timeline—initiating criminal process to stifle civil claims—is a hallmark of such fraud. The state's conduct in "luring" a citizen into a deprivation of liberty under the guise of property assistance constitutes a subversion of the *Charter* that no court can countenance without bringing the administration of justice into disrepute. The use of police powers as a shield for judicial conflict is an actionable abuse of the highest order.

ISSUE #19(F):CONCLUSION

383. The orchestration of the Ruse constitutes a severe, intentional infringement of the *Charter*. Such conduct is *coram non judice* insofar as the state sought to exercise power through a fraudulent pretext, rendering the resulting detention an absolute nullity that requires immediate judicial repudiation.

ISSUE 20: THE "INTAKE COURT ENDORSEMENT" LEXICON AND JURISDICTIONAL CROSS-CONTAMINATION

ISSUE #20(A): THE ISSUE – LANGUAGE MATTERS

384. Whether the utilization of the specific phrase "Intake Court Endorsement" (the "Endorsement Lexicon") conclusively demonstrates that the document originated from a civil/family law jurisdiction, thereby proving a fatal procedural cross-contamination and institutional overreach that exceeds the court's criminal mandate.

ISSUE #20(B): RULE

385. Formal legal instruments commanding the deprivation of liberty are defined by their strict, unwavering adherence to a precise statutory lexicon. In the realm of criminal law, the forms are not mere suggestions; they are the vessels of the state's legitimate power. The *Criminal Code*, RSC 1985, c C-46 (the "*Criminal Code*") and the *Criminal Rules of the Ontario Court of Justice* (the "*OCJ Criminal Rules*") prescribe the exclusive terminology for criminal process. Deviations from these prescribed forms are not merely "irregularities" but jurisdictional defects that render the process *nullius juris*.

ISSUE #20(C):ANALYSIS

Alien Terminology

386. The terminology "Intake Court Endorsement" is entirely alien to criminal jurisprudence and at the very least at that stage per se. While there is but one criminal case that ever utilized such language of "Intake Court Endorsement", it (see: Brown (Re), 2026 CanLII 10959 (Ontario Review Board) (which has its head of said board in former SCJ Judge (see: Michael R. Dambrot, K.C.,) utilized it after an individual suffering from severe mental illness and schizophrenia, substance abuse et al, had engaged in stabbing another individual with a knife on his property. It is a proprietary, administrative construct utilized exclusively by the *Superior Court of Justice* family law divisions to issue rapid interim directions (the "**Family Law Construct**"). Its appearance in a criminal context is an ontological impossibility for a validly generated criminal warrant. It serves as an indelible forensic marker of the document's illegitimate origin.

3.2. THE CLERICAL FALLACY.

387. The Crown may attempt to dismiss this as a "benign clerical misnomer" or a mere "template error" (the "Clerical Error Argument"). However, in a bifurcated justice system, a justice of the peace sitting in criminal intake possesses ("Criminal E-Intake Portal") no computer template, no training, and no jurisdictional authority to spontaneously generate a family-law endorsement. To suggest otherwise is to suggest a level of institutional incompetence that would itself be a grounds for nullity.

5821 **3.3. INSTITUTIONAL OVERREACH**

388. The utilization of this specific family law phrase is the "smoking gun" (the "Documentary Proof"), irrevocably exposing the family court origins of the fabricated process. It proves the deliberate circumvention of the standardized criminal e-intake portal and a total collapse of the "separation of powers" between family and criminal registries. This indicates that the matter was funneled through a family registry to avoid the automated safeguards of the criminal system.

3.4. NULLITY VS. IRREGULARITY

389. As this act was *ultra vires*, the presiding judge acted entirely outside their prescribed administrative office. The proceeding is a nullity under the doctrine of *coram non judice*—before one who is definitively not a judge of competent jurisdiction over the specific, improperly placed criminal matter.

CONCLUSION

390. The utilization of civil terminology to effectuate a criminal arrest is an irremediable irregularity that ascends to the level of a nullity, as it represents a direct contravention of the jurisdictional boundaries established by the *Criminal Code* and the rule of law.

ISSUE 21: NINE STATUTORY BREACHES OF FORM 7 AND THE STRUCTURAL NULLITY OF THE WARRANT

ISSUE #21(A):

391. Whether the document utilized by police to justify the arrest fundamentally and structurally deviates from the mandatory substantive requirements of a *Form 7 Arrest Warrant* (the "Form 7"), rendering it legally void, unenforceable, and a nullity.

ISSUE #20(B):RULE

392. Pursuant to section 32 of the *Interpretation Act*, RSC 1985, c I-21 (the "*Interpretation Act*"), deviations in prescribed forms that affect the "core substance" or are "calculated to mislead" are definitively fatal. This section codifies the principle of "substantial compliance," but underscores that the "essence" of the form must be preserved.

393. A valid warrant must strictly comply with the *Criminal Code* requirements regarding territorial direction, identification of the accused, and the specific, active command to arrest to ensure the protection of the subject's liberty interests.

ISSUE #20(C):ANALYSIS

The Catalogue of Deficiencies

394. The purported warrant entirely lacks: (i) the mandatory territorial direction commanding peace officers to act; (ii) the subject's critical date of birth; (iii) active command language ("ordered... to immediately arrest"); (iv) explicit indications of the underlying offenses; and (v) a verifiable, authorized signature (the "Nine Breaches"). Each of these is a pillar of judicial authorization; without them, the document is mere "scrivener's waste." The omission of the territorial direction, in particular, renders the document a "blanket" authorization that the common law has abhorred for centuries.

The Liberty Safeguard

5822 395. The Crown will inevitably argue that the "substantive intention" of the court is clear ex facie (the "Purposive Analysis Argument"). This position is legally bankrupt. The deprivation of physical liberty demands uncompromising, literal adherence to established penal forms to prevent state tyranny and "accidental" arrests. A "purposive" reading cannot conjure up a signature or a date of birth that is simply not there.

Irremediable Void

396. A document lacking these nine foundational pillars is fundamentally incapable of lawfully commanding a peace officer or compelling a citizen. Following the principle that a direct contravention of a statute results in a nullity, this document never acquired the force of law. It is a "paper tiger" that cannot shield the state from the consequences of its unauthorized actions. It was void *ab initio* and cannot be cured by a post-facto rationalization of "intent." The state cannot rely on its own failure to adhere to mandatory forms to justify an illegal arrest.

ISSUE #21(D): CONCLUSION

397. The document is not a mere irregularity; it is a nullity. The resulting arrest constitutes an actionable assault and false imprisonment *ab initio*, as the "officers of the law" acted without any valid legal instrument to authorize their interference with the accused's person.

ISSUE 22: DIGITAL SIGNATURE INVALIDITY UNDER THE *CANADA EVIDENCE ACT AND PIPEDA*

ISSUE #22(A): ISSUE

398. Whether the merely typed, unencrypted phrase "Digitally signed" on the *Jurat Information Laying Crown Election Page* (the "Jurat Information Laying Crown Election Page") satisfies the rigorous cryptographic and statutory requirements for a secure electronic signature under federal law, or if it constitutes a legal nullity.

ISSUE #22(B): RULE

399. The *Canada Evidence Act*, RSC 1985, c C-5 (the "*Canada Evidence Act*") and the *Personal Information Protection and Electronic Documents Act*, SC 2000, c 5 ("*PIPEDA*") require a "secure electronic signature" to involve a cryptographic hash, an asymmetric key pair, and a certificate of authenticity to ensure absolute non-repudiation and integrity.

400. A signature that cannot be verified for cryptographic integrity is not a signature in the eyes of the law; it is merely text. The *Secure Electronic Signature Regulations*, SOR/2005-30, provide the technical benchmarks that must be met for a digital mark to carry the weight of a judicial signature.

ISSUE #22(C): ANALYSIS

The Cryptographic Failure

401. The document contains merely unencrypted, manually typed Arial text. It lacks the mandatory Public Key Infrastructure (PKI) encryption required by the *Secure Electronic Signature Regulations*. There is no evidence of a "digital certificate" or a "hash function" that would link the typed name to the specific jurist. The phrase "Digitally signed" is a self-serving statement of fact that is not supported by the underlying metadata of the file.

The Functional Fallacy

402. The Crown may aver that a typed name is the "modern equivalent of a wax seal" (the "Functional Equivalent Argument"). This is definitively vitiated by explicit federal regulations designed precisely to prevent this exact species of rudimentary, desktop forgery. If a typed name were sufficient, any clerk with a keyboard could authorize a deprivation of liberty. The law recognizes a "digital signature" as a specific technological creature, not a semantic choice of font.

Absence of Authority

403. An unencrypted typed name is legally, functionally, and cryptographically indistinguishable from a blank piece of paper. Without a valid, secure digital signature, the judicial authority required to engage the state's coercive power was never triggered. The document remains an unsigned draft with no more legal weight than an informal memorandum, rendering the warrant *ipso facto* void. The "Jurat Information Laying Crown Election Page" remains fundamentally incomplete.

ISSUE #22(D): CONCLUSION

404. The document is inherently, statutorily unsigned. It fails to meet the threshold of a "secure electronic signature," rendering the purported warrant a nullity that could not authorize a lawful arrest.

ISSUE 23: FORGERY, UTTERING A FALSE DOCUMENT, AND THE APPLICATION OF THE SMITH PRECEDENT

ISSUE

405. Whether the manual, unauthorized generation of the endorsement, bearing an unauthorized typed signature, and its subsequent tactical presentation to the accused to justify detention constitutes forgery and uttering a false document under the *Criminal Code*.

2. RULE

406. Under section 321 of the *Criminal Code*, a "false document" is one that "tells a lie about itself" regarding its origin, its authorization, or the circumstances of its creation. In *R. v. Smith*, 2020 ONCJ 611 (the "*Smith Decision*"), the court clearly delineated that placing an unauthorized signature onto an official system, even without malicious intent or for "administrative convenience," satisfies the elements of criminal forgery. The court held that the integrity of the judicial record is paramount.

3. ANALYSIS

407. **The Lie of Authorization.** The document "tells a lie about itself" by purporting to be authorized by a specific jurist who did not actively, securely utilize a recognized signing mechanism. It masquerades as a judicial order while being an administrative fabrication. It "tells a lie" by claiming to be a criminal warrant when it is actually more in the nature of a family law endorsement form or "family law terminology" like it was some sort of endorsement between two parties that were separated and seeking a divorce along with other remedies.

408. **Rebuttal of Good Faith.** The Crown may suggest the frontline police acted upon a *bona fide*, innocent belief in the document's authenticity (the "Innocent Reliance Argument"). However, the *Smith Decision* established that the specific intent to merely deceive the justice system regarding the document's procedural authenticity is wholly sufficient to establish the *mens rea* for the offense. The police "uttered" this document knowing it was not a standard Form 7 warrant.

409. **The Role of the Default Judge.** *Ignorantia juris non escusat* (ignorance of the law is no excuse). The blind reliance on flawed registry practices by the "Default Judge" (the "*DJ*")—as admitted by Mr. Michael Henriques—does not excuse the act of uttering a forged instrument to effect a severe deprivation of liberty. The use of a "Default

5824 Judge" to bypass jurisdictional e-filing protocols is a hallmark of institutional forgery, where convenience is prioritized over the rule of law.

CONCLUSION

410. The deployment of the forged instrument to effect a physical detention satisfies the elements of uttering a false document. The process is void and the state agents involved have engaged in actionable malfeasance that cannot be cured by an apology or an "administrative" excuse.

ISSUE 24: E-FILING MANDATES, INSTITUTIONAL INTEGRITY, AND CORAM NON JUDICE

1. ISSUE

411. Whether the deliberate circumvention of mandatory e-filing protocols, combined with the adjudicator acting outside their administrative office and criminal jurisdiction, renders the proceedings an absolute nullity under the doctrine of *coram non judice*.

2. RULE

412. The ancient legal maxim *factum a judice quod ad officium ejus non pertinet, ratum non est* (an act of a judge which does not pertain to his office is of no force) is strictly applicable to the jurisdictional boundaries of modern tribunals.

413. In *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65 (the "*Vavilov Decision*"), the *Supreme Court of Canada* affirmed that the rule of law requires even superior courts to operate within their prescribed statutory mandates and procedural demarcations to maintain public confidence.

3. ANALYSIS

Jurisdictional Bypassing

414. By aggressively bypassing the recognized, audited digital criminal intake portals and explicitly funneling the matter through a completely unrelated civil family registry, the criminal jurisdiction of the *Superior Court of Justice* was never legitimately, procedurally engaged. This was a "shadow proceeding" that avoided the scrutiny of the standard criminal registry. The e-filing mandates are not mere administrative suggestions; they are the digital border of the court's jurisdiction.

The Inherent Jurisdiction Fallacy

415. The Crown may assert that the court's "inherent jurisdiction" is boundless and capable of subsuming procedural irregularities (the "Inherent Jurisdiction Argument"). This is a profound mischaracterization. Inherent jurisdiction is not a license for institutional anarchy or the circumvention of mandatory filing rules; it cannot save an adjudication made in the absolute absence of a properly filed originating document. Inherent jurisdiction exists to fill gaps in the law, not to override it.

Institutional Integrity

416. An adjudication made via a civil portal for a criminal matter is an act performed *coram non judice*—before one who is definitively not a judge of competent jurisdiction over the improperly placed matter. Such acts are irredeemably void and cannot be saved by post-facto rationalizations of "administrative necessity." To allow such cross-contamination would invite a system where criminal process could be hidden in the vast volume of civil filings.

CONCLUSION

417. The failure to properly initiate the proceeding digitally deprived the OCJ and the public of its baseline jurisdiction. However, this is counteracted by the Criminal Proceeding Rules which required the submitting of the Indictment, which includes an information electronically via email to the Court electronically by email. The language of the "Court" is used which means the SCJ in the place in which a Proceeding is pending or being heard, as the case may be. This is distinct from "Court Office" which implies that law enforcement can submit an Indictment or Information to the Courthouse specifically and not a specific "Court Office". Hence, why the first floor of SCJ 361 University Courthouse was the correct "Court Office" based upon Madam Justice Shore being the undisclosed (to the Applicant or Accused) SCJ Judge. The one thing remained for certain after the Applicant discovered the False Information Package in late March 2025 was that the authorizing, issuing, giving, making or endorsing in relation to the INTAKE COURT ENDORSEMENT (SEPT 23 2024) (not fictitious Intake Court Endorsement) was NOT JP Jiri.

418. All subsequent judicial acts, including the warrant and the arrest, are null, void, and of absolutely no legal force.

ISSUE NUMBER 25: THE PROCEDURAL IMPERATIVE OF CERTIFICATION PURSUANT TO RULE 43.03

A. ISSUE

419. It falls to be determined whether the strategic effectuation of service regarding a subpoena under *Rule 43.03* of the *Criminal Proceedings Rules* upon the originating civil registry situated on the first floor—as distinguished from the secondary criminal intake—constitutes a legally insurmountable mechanism whereby the administration is compelled to formally acknowledge either a state of absolute nullity concerning the proceedings or an unauthorized excursion beyond the established boundaries of jurisdictional competence.

420. A subsidiary question arises as to whether the refusal of the "Court Office" (the "**Court Office**") to certify the non-existence of such records, in the face of a direct service at the locus of origin, constitutes a contumacious disregard for the statutory mandates governing the transparency of judicial records

B. RULE

421. The *Criminal Proceedings Rules*, *Rule 1.03*, provides an exhaustive and restrictive definition of the Court Office, identifying it as the precise physical or electronic locus wherein a proceeding was originally commenced. This definition precludes the Crown from retroactively shifting the "home" of a file for the purpose of avoiding service or shielding records from scrutiny. Pursuant to *Rule 43.03*, an absolute statutory entitlement is vested in an applicant to command the immediate production of master records from the relevant official. This power is plenary and is intended to ensure that the court remains a court of record, where every judicial act is traceable to a specific filing. *Rule 4.05(6)* of the *Rules of Civil Procedure* dictates that where the originating office maintains no record of a filing, the document in question is deemed, by operation of law, never to have been filed (*ipso facto*). Such a document is a juridical ghost, incapable of supporting any subsequent order or warrant.

422. The doctrine of *coram non judice* establishes that any adjudication performed by a body lacking the requisite jurisdiction is a nullity and possesses no legal force. As established in *Papp v. Papp, [1970] 1 O.R. 331 (C.A.)*, jurisdiction is not a matter of administrative convenience but a fundamental prerequisite for the exercise of judicial power.

C. ANALYSIS

423. It is observed that the service of the Notice of Application upon the manager of the first-floor registry—the site where the family endorsement was physically originated by the staff of *Madam Justice Shore*—utilizes the precise definition of the Court Office to trigger the production mandates of *Rule 43.03*. By serving the very office

5826 where the illicit "family-law" notations were entered into the system, the applicant effectively traps the administration within its own data architecture.

424. Notwithstanding any potential assertions by the Crown regarding a purported technical error in service—specifically the contention that the application ought to have been directed to the second-floor criminal intake desk—such a position is fundamentally subordinated to the plain-text reading of *Rule 1.03*. To allow the state to "hand-off" the file to a different registry after the fact would be to sanction a shell game that undermines the integrity of the *Ontario Superior Court*.

425. Any counter-argument pertaining to the "presumption of regularity" (*omnia praesumuntur rite esse acta*) is rebutted by the physical absence of the record at the locus of origin. The Crown cannot rely on the record for the purposes of arrest while disclaiming the registry of that record's origin for the purposes of service. This contradiction offends the principle of *allegans contraria non est audiendus*.

426. In consequence thereof, the manager of the first-floor registry is situated in a condition of administrative paralysis: there must be either a formal certification of a total absence of records—thereby confirming that the peace officers executed an unfiled and thus non-existent instrument, rendering the matter a nullity—or the production of the fabricated family-law endorsement, which *prima facie* proves the jurisdictional breach and the absence of a lawful *Form 7*.

427. Even if the Crown invokes the "De Facto Officer" doctrine—suggesting that the Judge's acts should be upheld to prevent public chaos—it is submitted that this doctrine is inapplicable where the act in question is a liberty-restricting warrant issued in direct contravention of the *Criminal Code*. As established in *R. v. Bilodeau, 2017 ONCA 200*, administrative shortcuts cannot insulate a jurisdictional nullity from judicial review

D. CONCLUSION

428. The service under *Rule 43.03* is valid and necessitates a certification that will, by logical necessity, expose the proceedings as a jurisdictional nullity, thereby mandating the immediate quashing of the illicitly procured warrant and the excision of all resulting entries.

ISSUE NUMBER 26: THE LEGAL INHERENCE OF THE FORM 7 WARRANT VS. ADMINISTRATIVE ENDORSEMENTS

ISSUE

429. It must be adjudicated whether an "Intake Court Endorsement" dated 23 September 2024 (the "**Endorsement**"), supplemented by auxiliary administrative correspondence and electronic communications, satisfies the rigorous statutory criteria to constitute a valid arrest warrant, or whether the absence of a *Form 7* renders any subsequent deprivation of liberty a nullity.

430. Furthermore, it must be considered whether the "Ibula Email" (the "**Administrative Communication**"), despite its lack of judicial form, was intended to operate as a *de facto* instrument of compulsion, thereby bypassing the constitutional protections afforded by the *Criminal Code*.

B. RULE

431. Section 493 of the *Criminal Code of Canada* provides an exhaustive definition of "warrant" (the "**Warrant**"), mandating the utilization of *Form 7*. This form is the exclusive vehicle for the exercise of the state's power to arrest, and no alternative "administrative" substitute is recognized by law.

457. Under the *Interpretation Act*, the use of prescribed forms is a substantive requirement where the liberty of the subject is at stake. A *Form 7* must contain a clear directive to peace officers, the identity of the accused, the specific offence, and the signature of a justice acting within the relevant territorial jurisdiction. The omission of any of these elements is not a mere irregularity but a fatal defect

458. In *Alfano v. Piersanti, 2014 ONSC 60* (*Alfano*), the court affirmed that judicial acts must be reducible to a formal, public court record to possess validity; informal or off-record communications, such as staff emails or internal notations, are devoid of the character of judicial orders.

459. The Supreme Court of Canada in *R. v. Adams, [1995] 4 S.C.R. 153* (*Adams*), emphasized that statutory requirements for warrants are not mere "technicalities" but are essential substantive safeguards of the *Canadian Charter of Rights and Freedoms*.

C. ANALYSIS

460. The Endorsement and the subsequent electronic mail from administrative staff lack every essential element of a *Form 7*. They do not identify the offence with particularity, nor do they bear the requisite judicial signature for a warrant of arrest. Instead, they represent a series of administrative "directives" that were treated by the police as though they possessed the force of law.
461. It is anticipated that the respondent may contend that the Endorsement functions as a "functional equivalent" to a warrant under the doctrine of substantial compliance. However, this argument fails in the context of criminal process, where the *Adams* precedent demands strict adherence to the *Criminal Code*. The "Functional Equivalence Fallacy" cannot bridge the gap between a judge's scheduling note and a statutory warrant for the seizure of a person.
462. Furthermore, the reliance on the "Jurat Information Laying Crown Election Page" (the "**Jurat Page**")—specifically page 4 of 6 from the *Lincoln County Law Association*—to bolster the Endorsement is misplaced. That document, often referred to as the "**Jurat Information Laying Crown Election Page**", cannot retroactively cure the absence of a signed *Form 7*. A jurat page is an evidentiary acknowledgment of an oath; it lacks the *commanding* authority of a warrant directed to a peace officer.
463. As established in *R. v. Grant, 2009 SCC 32*, any action that restricts liberty must be predicated upon a clear and reviewable judicial act. The break in the chain of authority between the judicial intent (as expressed in an unfiled endorsement) and the administrative staff's email renders the entire process *coram non judice*. To hold otherwise would be to allow the state to govern by email rather than by law, offending the "Principle of Formalism" inherent in criminal proceedings.

D. CONCLUSION

464. The Endorsement is not a warrant at law. The absence of a *Form 7* constitutes a substantive defect that cannot be cured by administrative diligence, rendering the purported arrest authority a legal nullity.

ISSUE NUMBER 27: JURISDICTIONAL DEFECTS AND THE DOCTRINE OF CORAM NON JUDICE

A. ISSUE

465. Whether the unilateral actions of *Madam Justice Shore* in issuing, signing, and entering the Endorsement—absent a formal assignment to the criminal intake—constitute a jurisdictional transgression that renders the resulting proceedings *ab initio* void and incapable of generating legal consequences.
466. This inquiry further considers whether the "Default Judge" exceeded the scope of her office by purportedly receiving a *Form 4* Indictment in a setting entirely divorced from the proper criminal procedure.

B. RULE

467. The foundational maxim *factum a judice, quod ad officium jure non pertinet, ratum non est* (the "**Invalidity Maxim**") dictates that acts performed by a judge outside their legal authority are not ratified and possess no force. This is an absolute bar; no amount of subsequent "ratification" by other court actors can breathe life into a void act.
468. In *McLean v. Bradley, (1878) 2 S.C.R. 535*, the Supreme Court established that where a court lacks jurisdiction over the cause, the proceeding is *coram non judice*. This results in a situation where the orders of the court are "a cipher in law," possessing no more weight than the opinion of a private citizen. The principle of *nemo debet esse judex in propria causa* extends to the prohibition of puisne judges self-assigning jurisdiction. A judge who acts

without a formal administrative assignment to the relevant division is, in effect, appointing themselves to the cause, which offends the neutrality of the bench.

469. *Landreville v. Town of Boucherville, [1978] 2 S.C.R. 801* (*Landreville*), confirms that acts performed in the absence of jurisdiction are nullities that cannot be cured by acquiescence or subsequent repetition.

C. ANALYSIS

470. The evidence confirms that *Madam Justice Shore* performed ministerial functions, such as receiving the *Criminal Code Form 2* Information, which are intake-related and do not bestow adjudicative jurisdiction. However, the move from ministerial intake to the issuance of a warrant-like endorsement represents a leap into the adjudicative realm for which she was not empowered.

471. The jurisdictional defect crystallised when she purported to issue the Endorsement while acting as a Default Judge, as per the admission attributed to Mr. Michael Henriques in the "False Information Package." Without a formal assignment to the criminal division, her acts were *ultra vires*. In the *Ontario Superior Court*, jurisdiction is divided by practice directions; a judge cannot simply "happen upon" a criminal matter while sitting in a civil or family capacity.

472. The Crown may suggest that the "Open Court Principle" is satisfied by the eventual entry of the Endorsement into the record. This is a logical fallacy; the *timing* of the act is as critical as the *nature* of the act. A judge sitting in a "Shadow Court" without public notice or assignment cannot retroactively clothe their acts in the vestments of legitimacy.

473. Because the act was *coram non judice*, no peace officer can plead justification under the process. The Endorsement is a "cipher in law," and those who authorized, executed, or abetted enforcement of the void endorsement face joint and several liability. The police reliance on a "family law judge" to issue a "criminal arrest directive" represents a fundamental breakdown in the rule of law.

D. CONCLUSION

474. The lack of jurisdiction renders the Endorsement and all derivative steps juridical nonentities. The proceedings must be declared void, the record expunged, and the parties returned to the *status quo ante*.

ISSUE NUMBER 28: THE DOCTRINE OF FRAUD AND ITS VITIATING POTENCY

ISSUE

475. What is the requisite legal standard for fraud (the "**Fraud Standard**") that necessitates the vacating of judicial acts when such acts are predicated upon a fraudulent misrepresentation of judicial authority or the concealment of jurisdictional defects by the Crown (Provincial), the Crown (Federal), or the Judiciary.

476. Specifically, does the issuance of an endorsement that disguises its nature as a warrant constitute a "fraud on the court" (*fraus in curia*)?

B. RULE

477. The governing principle, as articulated by *Lord Denning* in *Lazarus Estates Ltd. v. Beasley, [1956] 1 Q.B. 702* (*Lazarus Estates*) and adopted by the Supreme Court of Canada in *Landreville*, is that "fraud unravels everything" (*fraus omnia corrumpit*). This maxim is a categorical rule of law. Fraud is a constitutional nullity that vitiates all antecedent steps, regardless of the stage of the proceeding.

478. *Curtis v. Chemical Cleaning and Dyeing Co., [1951] 1 K.B. 805* (*Curtis*), establishes that a statement which is literally true may yet be practically false due to the deliberate omission of material facts—a "half-truth" is a fraudulent misrepresentation. In the judicial context, a neutral-sounding endorsement that hides its intended effect as a warrant of arrest is such a half-truth.

479. *Broom's Legal Maxims* provides that *consensus tollit errorem* (silence in the face of error is treated as consent). A judge who issues an endorsement knowing they lack the assignment to do so, and who remains silent about this deficiency, engages in a fraudulent concealment that induces false reliance.
480. *Meek v. Fleming, [1961] 2 Q.B. 366* confirms that any judgment obtained by the concealment of material evidence, or by the misrepresentation of the status of the actors involved, cannot stand.

C. ANALYSIS

481. The record indicates a pattern of conduct by the Crown and the Default Judge that constitutes a fraud on the court. Specifically, the issuance of an Endorsement that appeared administrative but functioned as a *de facto* warrant—while concealing the absence of jurisdiction—is a fraudulent "half-truth" under the *Curtis* doctrine. The state presented a "Scheduling Note" to the police as if it were a "Warrant of Arrest," thereby deceiving the executive branch.
482. The silence of the court regarding the lack of assignment to the criminal intake induced a false reliance by law enforcement. This silence, in the face of a jurisdictional void, constitutes *dolus malus* (evil intent). The use of misleading terminology, such as "Administrative Intake" to describe what was actually a "Liberty-Restricting Adjudication," further proves the intent to deceive.
483. It might be suggested by the Crown that these were merely "administrative irregularities" rather than intentional deceptions. This defense is obliterated by the principle in *Lazarus Estates*: the motive is irrelevant if the effect is to mislead. The masquerading of an unauthorized endorsement as a valid warrant is, by definition, a fraudulent misrepresentation of authority. One cannot commit a "good faith" fraud on the jurisdiction of the court.
484. Under the authority of *Hip Foong Hong v. Neotia & Co., [1918] A.C. 888*, even a suspicion of fraud in the procurement of an order necessitates its excision. The entire record is a "Tainted Instrument" (the "**Tainted Instrument**"). Because the initial Endorsement was born of misrepresentation, every subsequent warrant, email, and arrest is fruit from a poisoned tree.

D. CONCLUSION

485. The standard for fraud is met where there is a material non-disclosure of jurisdictional competence and the mischaracterization of judicial instruments. Under *Landreville* and *Lazarus Estates*, this fraud unravels all antecedent criminal steps, nullifies the Endorsement, and mandates the immediate quashing of all related orders.

V. FINAL SUPPLEMENTAL COMMENTARY

486. The convergence of jurisdictional nullity and fraudulent misrepresentation creates a constitutional imperative for this Court to intervene. The preservation of the "open court principle" and the "dignity of the law" requires that this Court not permit administrative shortcuts to supersede the "liberty of the subject."
487. The proceedings are, in every legal sense, *nullities* and must be treated as though they never occurred. The restoration of the *status quo ante* is not merely a remedy for the applicant; it is a necessary act to preserve the legitimacy of the *Ontario Superior Court of Justice*. Any refusal to quash these instruments would be to signal that jurisdiction is optional and that *Form 7* is a mere suggestion. Such a result is untenable in a free and democratic society.

ISSUE NO. 29 — WHETHER THE EXECUTIVE BRANCH CONTRAVENED SECTION 2(B) OF THE *CANADIAN CHARTER OF RIGHTS AND FREEDOMS* (THE "OPEN COURT PRINCIPLE") THROUGH THE FALSIFICATION AND FILING OF FABRICATED INSTRUMENTS WITHIN THE ONTARIO COURT OF JUSTICE

ISSUE

488. The fundamental inquiry presented for the adjudication of this Honourable Court is whether the Executive Branch—encompassing the Toronto Police Service (the "TPS"), the administrative personnel of the Ontario Court of Justice (the "OCJ"), and the Crown Prosecutors (the "Crown")—contravened the *Open Court Principle* as protected under section 2(b) of the *Canadian Charter of Rights and Freedoms* (the "*Charter*"). This inquiry is necessitated by the deliberate falsification, unauthorized alteration, and surreptitious insertion of fabricated records into the judicial file at 10 Armoury Street, an act that strikes at the very foundations of judicial integrity and the structural separation of powers.

489. Furthermore, the Court is invited to determine whether such executive interference with the sanctity of the judicial record—specifically the contamination of the Information and the misrepresentation of intake court endorsements—must be characterized as a *nullity ab initio*, rather than a mere procedural irregularity. The gravamen of the Applicant's position is that these acts represent a sophisticated fraud upon the court, necessitating a declaration that the resulting proceedings are *coram non judice*. This Court must adjudge whether the involvement of madam justice shore (the "Madam Justice Shore"), to the extent she purported to exercise judicial authority while lacking the requisite objective and subjective constitutional independence, renders the judicial record a fabricated instrument and an unconstitutional deception. The Court must consider if the state's conduct in "shadow-filing" documents transcends mere administrative error and enters the realm of systemic constitutional subversion, effectively creating a parallel legal reality that is *ipso facto* void.

II. RULE

A. The Constitutional Dimension of the Open Court Principle

490. The *Open Court Principle* is recognized as a cornerstone of the democratic order and is constitutionally protected under section 2(b) of the *Charter*. As articulated in *Sherman Estate v. Donovan*, 2021 SCC 25 at paragraphs 30, 39, and 44 (*Sherman Estate*), judicial proceedings and the concomitant records are presumed to be accessible to the public to ensure transparency and prevent executive overreach. This principle is further reinforced by *CBC v. Named Person*, 2024 SCC 21 at paragraphs 27–32 (*CBC*), and *CBC v. New Brunswick (Attorney General)*, 1996 3 S.C.R. 480 at paragraph 23 (*New Brunswick*). The principle ensures that the public and press may attend hearings, inspect court files, and scrutinize the administration of justice to discourage mischief and maintain public confidence. Any state conduct that obscures the true nature of the judicial record constitutes a *prima facie* infringement of this constitutional guarantee, as openness is the primary deterrent against the arbitrary exercise of executive discretion.

491. The custodianship of court records is the exclusive prerogative of the judiciary, serving as a vital check against the arbitrary exercise of state power. The *Canadian Judicial Council* (the "CJC"), in its *Blueprint for the Security of Judicial Information* (2004), affirms that judicial information is created, maintained, and controlled solely by the judiciary, to the exclusion of the administrative arm of government. The term court does not include the administrative arm of government; therefore, executive actors have no authority to alter, falsify, or misfile judicial records. Any executive encroachment into this sphere—be it through the alteration of an Information or the insertion of unauthorized endorsements—is *prima facie* unconstitutional and offends the doctrine of the separation of powers. The sanctity of the judicial record is a prerequisite for the rule of law; without an authentic record, the open court becomes an empty theater for state-sanctioned fiction, wherein the *Acta* of the court are subordinated to executive convenience.

THE DOCTRINE OF NULLITY AND FRAUD UPON THE COURT

492. It is a fundamental tenet of the common law that *fraus omnia corrumpit* (fraud unravels everything). In *Landreville v. Boucherville (Town of)*, 1978 2 S.C.R. 801 (*Landreville*), the Supreme Court of Canada adopted the principle from *Lazarus Estates Ltd. v. Beasley*, 1956 1 Q.B. 702 at pages 712–13 (*Lazarus Estates*), stating that "no court in this land will allow a person to keep an advantage which he has obtained by fraud." This doctrine dictates that where a record is birthed in deceit, it cannot be cured by subsequent procedural compliance. Fraud, dishonesty, and bad faith are special categorical causes of *nullity* that automatically vitiate all antecedent steps. The presence of fraud acts as an unravelling agent, stripping the state of any procedural shield it might otherwise claim, and rendering the resultant acts *ipso facto* void.

583 493. Where a judicial officer acts without jurisdiction or outside the scope of their assigned authority, the proceedings are *coram non judice* (not before a judge) and any resulting acts are void. The maxim *Factum A Judice, Quod Ad Officium Jure Non Pertinet, Ratum Non Est* (an act of a judge which does not pertain to his office is of no effect) governs such jurisdictional failures. A judge acting without assignment or jurisdiction is effectively the source of their own authority; such acts are inherently invalid and constitute an *ultra vires* exercise of power that the law refuses to recognize, for a judge cannot be *Judex In Propria Causa*.

494. Furthermore, the commencement of criminal proceedings through the swearing of an Information is a judicial act: *R. v. Awad*, 2015 NSCA 10 at paragraph 49 (*Awad*); *R. v. Pardo* (1991), 62 C.C.C. (3d) 371 (*Pardo*); *R. v. McHale*, 2010 ONCA 361 at paragraph 85 (*McHale*). Consequently, the alteration or clandestine editing of such a document by executive actors constitutes a direct interference with the judicial function and a breach of the state's duty of *uberrima fides* (utmost good faith) to the court. The Information is the foundational document of the criminal process; its corruption poisons the entire tree of the litigation, necessitating its treatment as a *nullity*.

III. ANALYSIS

The Systematic Corruption of the Judicial Record and the Role of Madam Justice Shore

495. The evidentiary record demonstrates that the Executive Branch engaged in the systematic fabrication and unauthorized modification of the judicial record. These actions were not confined to incidental administrative oversight but involved the deliberate creation of instruments masquerading as judicial orders. Such conduct represents an *ultra vires* intrusion into the judicial sphere, violating the structural separation of powers and the institutional independence of the OCJ. When the TPS and the Crown substitute their own internal narrative for the authentic judicial record, they effectively capture the court's process for executive ends, reducing the judiciary to a mere instrument of the administrative state. The creation of documents purporting to be judicial records, the misfiling of instruments without judicial authorization, and the misrepresentation of an Intake Court Endorsement as a warrant-like instrument collectively constitute a fraud upon the court. This shadow record was maintained to insulate state actors from accountability, thereby rendering the public's right of scrutiny a nullity.

496. The involvement of the Madam Justice Shore in these proceedings represents a profound failure of judicial neutrality and constitutional independence. To the extent that she purported to issue warrants or judicial authorizations, such acts were performed while she lacked the objective and subjective independence required by the Constitution. A judicial officer who is not independent cannot serve as the guardian of the court record or the protector of *Charter* rights. Consequently, any document bearing her endorsement under these circumstances is not a judicial record but a procedural fiction inserted into the file to facilitate executive objectives. This involvement creates a jurisdictional vacuum, rendering the proceedings *coram non judice*. The presence of a non-independent actor at the center of the judicial process contaminates the entire record, obscuring the true procedural posture of the case and interfering with public access to accurate information. This is not merely an irregularity; it is the complete evaporation of judicial authority and the imposition of a *nullity* that cannot be rehabilitated.

The Erosion of Public Scrutiny and the Social Contract of Justice

497. The public's ability to scrutinize the administration of justice is predicated upon the veracity of the court record. When the Executive Branch falsifies an Information or misfiles documents to obscure the procedural posture of a case, the *Open Court Principle* is rendered illusory. As held in *Sherman Estate*, openness is required to discourage mischief and maintain public confidence; conversely, executive fabrication encourages mischief and subverts the *status quo ante* of judicial integrity. The public cannot meaningfully audit the court's work if the record being audited is a product of executive fiction, effectively conducting a trial in the shadows where the true foundations of the state's authority are concealed from view by a non-independent judicial actor. Such conduct is antithetical to the constitutional requirement that courts operate in the open, not in the shadows of executive fabrication. The resulting legal mirage serves only to erode the social contract between the citizen and the state, leading to a state of *Coram Non Judice* where the form of law is used to mask the absence of justice.

498. In accordance with the *Landreville* and *Lazarus Estates* doctrine, the presence of fraud and bad faith in the creation of court records precludes any finding of mere irregularity. Because these acts were performed in direct contravention of the *Charter* and the judiciary's exclusive custodianship, they must be characterized as a *nullity*.

5832 The deception practiced upon the court—by presenting an Intake Court Endorsement as a valid warrant-like instrument—vitiates all subsequent proceedings. This is not a case of technical non-compliance or a slip of the pen; it is a case of *fraus omnia corrumpit* where the very foundation of the record is tainted by a fundamental lack of truthfulness that poisons the entire tree of the litigation. The Executive Branch cannot claim documents are "court records" while knowing they are fabricated instruments designed to mislead the public and the accused. A record founded on a lie cannot be the basis for a deprivation of liberty and must be struck *In Limine*.

THE APPLICATION OF COMMON LAW MAXIMS TO EXECUTIVE DECEIT

499. Furthermore, Herbert Broom's legal maxims provide that the law must not become a shelter for the deceitful. The principle of *allegans contraria non est audiendus* (he is not to be heard who alleges things contradictory to each other) prevents the Executive from asserting that these records are valid judicial instruments while knowing them to be fabrications. The state cannot simultaneously claim the protection of judicial process while actively subverting it through clandestine filings. *Consensus tollit errorem* dictates that silence in the face of known falsity is treated as consent; executive actors who knowingly maintain false records cannot later deny responsibility. To permit the state to rely on a record it has itself corrupted would be to invite a state of legal nihilism where the form of law is used to destroy the substance of justice. The state's duty to the court is a duty of candour, not a license for artifice; where fraud is found, the law must restore the *status quo ante*.

500. Any act of the court obtained through such deceit must be rectified, as *actus curiae neminem gravabit* (an act of the court shall prejudice no one). To allow these fabricated documents to remain in the record would be to permit a continuing constitutional violation that erodes the rule of law. The contamination of the court file at 10 Armoury Street by the TPS and the Crown represents a shadow administration of justice that is antithetical to the transparency demanded by section 2(b). This interference creates a false history of the proceedings, depriving the accused of a fair hearing and the public of its right to a truthful accounting of the state's exercise of power. A fraudulent filing masquerading as a judicial act must be corrected to restore the court to its proper constitutional position and to purge the record of its executive-led distortions.

IV. CONCLUSION

501. It is submitted that the Executive Branch breached section 2(b) of the *Charter*. The falsification of documents at 10 Armoury Street constitutes a fraudulent imposition upon the OCJ and a direct assault on the *Open Court Principle*. Furthermore, the purported judicial acts of the Madam Justice Shore are void for lack of independence. Consequently, the affected records and the steps taken in reliance thereon are a *nullity*. The integrity of the judicial record must be restored to its *status quo ante*, and the state conduct must be rebuked as an unconstitutional interference with judicial independence, public transparency, and the core tenets of the democratic constitution. Public confidence in the administration of justice cannot survive when the state is permitted to operate a system of fabricated judicial records that hide behind the veneer of officiality.

ISSUE NO. 30 — WHETHER THE APPLICANT'S RIGHT TO BE SECURE AGAINST UNREASONABLE SEARCH OR SEIZURE UNDER SECTION 8 OF THE *CHARTER* WAS VIOLATED BY THE CONTINUOUS SEQUENCE OF STATE CONDUCT COMMENCING SEPTEMBER 23, 2024

ISSUE

502. The issue to be determined is whether the cumulative state conduct—beginning with the issuance of the Intake Court Endorsement and including the Applicant's lockout from his residence, his designation as having no fixed address (the "NFA Designation"), and the deceptive seizure of property on October 2, 2024—constitutes an unreasonable search and seizure under section 8 of the *Charter*.

503. The Court must evaluate whether this integrated sequence of events, characterized by fraudulent misrepresentation and the absence of judicial authorization, renders the state's intrusion a *nullity*. Specifically, the Court must determine if any warrant or authorization purported to be issued by the Madam Justice Shore met the constitutional

5833 requirements for search and seizure. The Applicant contends that her lack of independence precluded her from acting as a "neutral and impartial arbiter," thereby failing the first prong of the *Hunter v. Southam* criteria and rendering any resulting search or seizure a *nullity ab initio*. The inquiry further examines whether the state's use of deception to bypass the warrant requirement constitutes a bad faith circumvention of the *Charter* that necessitates the strongest possible judicial remedy to preserve the sanctity of the individual's privacy and informational identity.

II. RULE

The Disjunctive Protections of Section 8

504. Section 8 of the *Charter* guarantees that "everyone has the right to be secure against unreasonable search or seizure." This right is disjunctive, protecting against both searches (intrusions upon a reasonable expectation of privacy) and seizures (the non-consensual taking of property by a public authority). As noted in *Thomson Newspapers Ltd. v. Canada (Director of Investigation and Research, Restrictive Trade Practices Commission)*, 1990 1 S.C.R. 425 (*Thomson Newspapers*), compelled production is functionally equivalent to a seizure, as it involves the state exerting control over the individual's effects. A search is any state activity that intrudes upon a reasonable expectation of privacy, while a seizure is the taking of a thing by a public authority without consent. Both occurred here through a single, continuous, and integrated sequence of state action that targeted the Applicant's physical, informational, and decisional autonomy.

B. THE HUNTER STANDARD AND JUDICIAL INDEPENDENCE

505. The constitutional standard for valid authorization was established in *Hunter v. Southam Inc.*, 1984 2 S.C.R. 145 (*Hunter*). This requires: (i) prior authorization by a neutral and impartial arbiter; (ii) sworn evidence establishing reasonable and probable grounds; and (iii) a specific scope for the seizure. Any deviation from these criteria renders a search *prima facie* unreasonable. The requirement for a "neutral and impartial arbiter" is not a mere formality but a substantive prerequisite that demands absolute judicial independence from the executive branch. A "rubber-stamp" or a non-independent officer cannot satisfy this threshold. Furthermore, *Arkinstall v. Surrey (City)*, 2010 BCCA 250 (*Arkinstall*) holds that the *Hunter* criteria apply where a reasonable expectation of privacy exists, the intrusion carries stigma, and a warrant is feasible and useful.

506. However, herein this was not a regulatory intrusion but a criminal one so the strict requirements of the Hunter criteria were required to the extent any search warrants or purported search warrants were granted in the INTAKE COURT ENDORSEMENT (SEPT 23 2024) or outside of the same.

PRIVACY INTERESTS AND THE SANCTITY OF THE HOME

507. Territorial privacy, particularly regarding the home, attracts the highest level of constitutional protection known to the law. As affirmed in *R. v. Feeney*, 1997 2 S.C.R. 13 (*Feeney*); *R. v. Silveira*, 1995 2 S.C.R. 297 (*Silveira*); and *R. v. Evans*, 1996 1 S.C.R. 8 (*Evans*), the sanctity of the residence is nearly absolute. A state-engineered lockout, which effectively de-platforms an individual from their own property and denies them access to their inner sanctum, constitutes a profound and total intrusion into territorial, informational, and decisional privacy. The home is not merely a physical space; it is a repository of one's informational and psychological identity, and any state-led exclusion therefrom is a seizure of the most intrusive kind.

CONSENT AND STATE DECEPTION

508. Consent to a search or seizure must be voluntary, informed, and free from any element of state coercion or trickery. In *R. v. Wills* (1992), 7 O.R. (3d) 337 (C.A.) (*Wills*) and *R. v. Jaballah*, 2020 ONCA 513 (*Jaballah*), it is established that consent obtained through state deception, coercion, or misrepresentation is *prima facie* invalid and vitiates the legality of the seizure. Further jurisprudence in *R. v. Cole*, 2012 SCC 53 (*Cole*); *R. v. Blinch*, 2010 BCCA 234 (*Blinch*); and *R. v. Edwards*, 1996 1 S.C.R. 128 (*Edwards*) confirms that consent for one purpose is not consent

5834 for another, and coercive circumstances vitiate any purported waiver of *Charter* rights. The state cannot bypass the *Charter* by wearing a mask of cooperation while hiding a spear of intrusion, for fraud unravels the validity of any purported consent.

III. ANALYSIS

The Failure of the Hunter Criteria and Judicial Neutrality

509. The state conduct in this matter represents a continuous and escalating deprivation of the Applicant's privacy interests, characterized by a lack of transparency and a disregard for judicial oversight. The Intake Court Endorsement, issued without the *Hunter*-mandated safeguards, provided the veneer of authority for a series of *ultra vires* acts. Because this endorsement—and any warrant purported to be issued by the Madam Justice Shore—lacked the prerequisite of a "neutral and impartial arbiter," it must be viewed as a *nullity*. The endorsement authorized state interference with the Applicant's property without prior judicial authorization meeting *Hunter*, without sworn evidence, and without reasonable grounds to believe an offence had been committed. This jurisdictional failure renders the entire state sequence a constitutional void.

510. The lack of independence on the part of the Madam Justice Shore is dispositive of the section 8 analysis. The *Hunter* criteria demand that the person authorizing the search be capable of acting judicially, which requires independence from the state actors seeking the warrant. If she was not independent, she could not, as a matter of law, provide the "prior authorization" required by the Constitution. Any warrant she purported to issue was *void ab initio* and could not authorize a search or seizure. It was, in effect, an executive act masquerading as a judicial one, used to bypass the rigorous scrutiny of the warrant process and the requirement for sworn information. This failure of neutrality renders the search or seizure unconstitutional *simpliciter*, as the state effectively authorized itself to intrude upon the Applicant's privacy, violating the *Nemo Debet Esse Judex In Propria Causa* principle.

B. TERRITORIAL, INFORMATIONAL, AND DECISIONAL SEIZURES

511. The lockout of the Applicant from his residence, notwithstanding the police possession of a driver's licence confirming his address, constitutes a "constructive seizure" of the home. By depriving the Applicant of control over his dwelling, the state engaged in a territorial seizure *simpliciter*. This intrusion was exacerbated by the informational expropriation inherent in the no fixed address (the "NFA Designation"). The state's deliberate misclassification of the Applicant's residency status—despite having contradictory evidence in their possession—was a tactical maneuver used to justify further intrusions into his autonomy and to strip him of the privacy protections normally afforded to residents. This designation served as an instrument of state-sponsored marginalization, rendering the Applicant invisible to the law's protections while remaining visible to the state's intrusions. This informational identity theft by the state facilitated the subsequent seizures and ensured the Applicant was rendered legally homeless by administrative fiat, a status that was then weaponized against him.

THE OCTOBER 2 FRAUDULENT SEIZURE VIA RUSE AND THE HONOUR OF THE CROWN

512. The events of October 2, 2024, involving an email from Cst. Romano, represent a seizure by fraudulent inducement. The state represented that the Applicant should attend to retrieve property (the "October 2 Property Retrieval"), when the true intent was the compelled production and seizure of effects. Following the *Lazarus Estates* doctrine, this fraud unravels the entire transaction. The state cannot benefit from a seizure effected through a deceptive "trap" that vitiates any possibility of informed consent. Under *Wills*, the "consent" was not an exercise of autonomy but a response to a fraudulent state command. The police did not receive property; they engineered a scenario to seize it under false pretenses, a practice that is fundamentally incompatible with the duty of the state to act with honour and within the bounds of the *Charter*. This ruse by Cst. Romano undermines the repute of the administration of justice and constitutes a bad-faith circumvention of the warrant requirement that the court must rebuke by finding the act a *nullity*.

THE OBFUSCATION OF JUDICIAL OVERSIGHT AND THE ROLE OF THE DEFAULT JUDGE

5835 513. Applying the "totality of the circumstances" test from *R. v. Tessling*, 2004 SCC 67 (*Tessling*), it is evident that the subject matter (the home and personal effects) and the nature of the state's intrusion (coercive and deceptive) weigh heavily in favour of a constitutional breach. The use of a default judge (the "Default Judge"), as acknowledged by Mr. Michael Henriques, to facilitate these steps further demonstrates that the proceedings were *coram non judice*. The jurat information laying crown election page (the "Jurat Information Laying Crown Election Page")—specifically page 4 of 6 from the Lincoln County Law Association—was utilized in a manner that further obfuscated the lack of proper judicial oversight, effectively removing the shield of judicial protection between the state and the citizen. This procedural sleight of hand ensured that the state's actions remained unscrutinized by a neutral and impartial arbiter, violating the territorial, informational, and decisional privacy of the Applicant in a manner that section 1 cannot save.

IV. CONCLUSION

514. It is submitted that the state's conduct constitutes a flagrant violation of section 8 of the *Charter*. The Intake Court Endorsement, the residence lockout, the NFA Designation, and the fraudulent seizure of property were part of a single, continuous, and unconstitutional enterprise. Any warrant or authorization purported to be issued by the Madam Justice Shore failed the *Hunter* criteria due to her lack of independence and is therefore a *nullity*. Under the *Oakes* test, section 1 cannot save a violation founded upon state deception and the deliberate circumvention of the requirement for a neutral arbiter. The Applicant is entitled to a declaration of the breach and the exclusion of all evidence flowing therefrom, as the court must not allow its processes to be used as an instrument of state deception and unconstitutional seizure.

REMEDIES

I. CONSTITUTIONAL RELIEF PURSUANT TO SECTION 24(1) OF THE CHARTER

515. The Applicant seeks a declaration that the aforementioned state conduct constitutes a fundamental breach of his rights under sections 2(b) and 8 of the *Charter*. Pursuant to section 24(1), which empowers this Court to grant "such remedy as the court considers appropriate and just in the circumstances," the Applicant moves for an order setting aside all judicial and quasi-judicial instruments generated, filed, or maintained in reliance upon the fraudulent record. As these instruments were birthed *ab initio* in a state of constitutional *nullity*, they must be treated as having no legal force or effect. The principle of *ex debito justitiae* (as a matter of right arising from debt to justice) demands that the Court restore the *status quo ante* by expunging the fabricated records and the contaminated Information. This restorative relief is essential to purge the judicial file of executive-led distortions and to vindicate the institutional independence of the Ontario Court of Justice.

516. Furthermore, the Applicant submits that the systematic and bad-faith nature of the state's conduct—including the ruse employed by Cst. Romano and the fraudulent NFA Designation—warrants a permanent stay of proceedings. As held in *R. v. Babos*, 2014 SCC 16 at paragraphs 31–32 (*Babos*), a stay is appropriate where the state conduct is so egregious that to allow the trial to proceed would permanently damage the integrity of the justice system. The "parallel reality" created by the Executive Branch at 10 Armoury Street is precisely such an affront. To proceed on the basis of a fraudulent record would be to sanction a trial that is *coram non judice*, effectively transforming the Court into an unwitting accomplice to state deception. Only a permanent stay can provide the requisite rebuff to the state's *ultra vires* actions and preserve the repute of the administration of justice.

ISSUE 31: THE CONSTITUTIONAL INFIRMITY OF THE DETENTION ARISING FROM THE INTAKE COURT ENDORSEMENT AND THE ATTENDANT POLICE MALFEASANCE

I. ISSUE

517. The sub-issues hereunder are:

a. Whether the physical and psychological restraint of the Applicant by officers of the Toronto Police Service (the "TPS") on 2 October and 3 October 2024, predicated upon an *Intake Court Endorsement* dated 23

5836 September 2024 (the "Intake Court Endorsement"), constituted an arbitrary detention and imprisonment contrary to section 9 of the *Canadian Charter of Rights and Freedoms* (the "*Charter*").

b. Whether the subsequent movement and confinement of the Applicant, in the absence of a valid judicial warrant or statutory authorization, transcended mere procedural irregularity to become a substantive nullity, thereby satisfying the *actus reus* and *mens rea* of forcible confinement or kidnapping pursuant to section 279 of the *Criminal Code*, *R.S.C. 1985, c. C-46*.

c. Whether the reliance by state actors upon a document devoid of custodial authority constitutes a jurisdictional error of such magnitude that the resulting acts are *coram non judice*, rendering the detention not merely voidable, but a nullity *ab initio; and*

d. Whether the intentional utilization of an administrative instrument to bypass the rigorous judicial oversight required for the deprivation of liberty constitutes a fraudulent exercise of state power that "unravels" the legality of the entire custodial process.

II. RULE

518. Section 9 of the *Charter* guarantees that "[e]veryone has the right not to be arbitrarily detained or imprisoned." This constitutional safeguard serves as a bulwark against the unconstrained exercise of state power, ensuring that no individual's liberty is curtailed save for in accordance with the principles of fundamental justice: *R. v. Grant*, 2009 SCC 32 at para 54 ["*Grant*"]. The state bears the heavy burden of demonstrating that any interference with this primordial right is rooted in a clear and unambiguous legal authority.

519. A detention is characterized by a significant physical or psychological restraint imposed by the state. Psychological detention occurs when an individual is legally required to comply with a restrictive direction or when a reasonable person in the subject's position would conclude, by reason of the state's conduct, that they had no choice but to comply: *Grant* at paras 30-31, 44. The courts have emphasized that the perception of the individual, viewed through the lens of a reasonable person in similar circumstances, is paramount in determining whether the state has asserted a degree of control that triggers constitutional protections.

520. The analytical framework for an extraction of a section 9 breach requires the determination of two distinct elements: first, whether the individual was detained or imprisoned; and second, whether such detention was arbitrary: *R. v. Hufsky*, [1988] 1 S.C.R. 621 at paras 12-13.

521. In the context of the second branch, a detention is *prima facie* arbitrary if it is not authorized by law. Lawful authority must be found in a specific statute or a recognized common law power. The state cannot retroactively cure an unlawful detention by reference to powers that were available but not actually exercised at the material time: *R. v. Moore*, 2012 BCCA 400; *R. v. Whitaker*, 2008 BCCA 174. A detention that lacks a valid legal foundation is, by definition, an affront to the rule of law.

522. The term "arbitrary" (the "Arbitrary Definition") denotes a deprivation of liberty that is capricious, despotic, or otherwise lacks a rational and legal foundation. Where a detention is effected in direct contravention of a statute, regulation, or the *Rules of Civil Procedure*, it constitutes a nullity *ab initio*. The distinction between a mere irregularity and a nullity is critical; where a state actor acts in total absence of jurisdiction or in direct defiance of statutory mandates, the act is a nullity that cannot be saved by subsequent procedural corrections.

523. Furthermore, where a judicial act is performed without the requisite jurisdiction, it is *coram non judice*. It is a settled maxim that *factum a judice, quod ad officium jure non pertinet, ratum non est*—an act of a judge which does not belong to his office or jurisdiction is not valid. This principle extends to those state actors, such as the police, who execute orders or rely upon documents that are ostensibly judicial but which lack the requisite jurisdictional foundation. An officer who acts upon a void order does not act under the protection of the law.

524. Regarding the integration of fraud into the jurisdictional analysis, as articulated in *Landreville v. The Queen*, [1977] 2 F.C. 376, citing *Lazarus Estates Ltd. v. Beasley*, [1956] 1 Q.B. 702 (C.A.) at 712: "No court in this land will allow a person to keep an advantage which he has obtained by fraud. No judgment of a court, no order of a Minister, can be allowed to stand if it has been obtained by fraud. Fraud unravels everything."

525. Under section 279(1) of the *Criminal Code*, the *actus reus* of kidnapping or forcible confinement is established by the non-consensual deprivation of liberty or movement of a person without lawful authority. The *mens rea* involves the specific intent to confine or imprison the subject against their will. In the context of state actors, the absence of a valid warrant or statutory power renders the use of force or confinement a criminalized trespass.

5837 ## III. ANALYSIS

A. The Fact of Detention and Imprisonment: Physical and Psychological Restraint

526. It is submitted that the Applicant was subjected to a paradigmatic physical detention when he was forcibly escorted from the first floor of 14 Division to the subterranean detention cells (the "Dungeon"). The physical transposition of the Applicant's person from a public-facing area to a secure, non-public custodial environment represents an unequivocal exercise of state control. The closure of a locked cell door constitutes the ultimate physical restraint, rendering the Applicant's lack of freedom to depart self-evident and absolute. This was not a transient interaction but a formal, physical enclosure of a human being.

527. *Ipso facto*, even if a physical restraint were not found, the psychological pressure exerted by the TPS officers—who asserted a non-existent legal authority—would lead any reasonable person to conclude that they were under a total restraint of liberty. The officers' conduct, characterized by a formal assertion of power and the directed movement of the Applicant, created a situation where compliance was the only perceived modality of interaction, thereby satisfying the criteria for detention established in *Grant*. The Applicant was confronted with the coercive machinery of the state, leaving no room for the exercise of personal volition.

528. The psychological dimension of this detention is further exacerbated by the coercive atmosphere of a police station. When uniformed officers direct a citizen to enter a cell, the power imbalance is so profound that the individual is effectively stripped of their autonomy. This psychological submission is not a product of consent, but rather a surrender to the overwhelming authority of the state. To suggest that a citizen in such circumstances is "free to leave" is to engage in a legal fiction that ignores the reality of police-citizen encounters.

B. THE ABSENCE OF LAWFUL AUTHORITY AND THE PRESENCE OF ARBITRARINESS

529. The pivot of this constitutional challenge is the *Intake Court Endorsement*. The Applicant contends that the TPS officers treated the *Intake Court Endorsement* as a functional equivalent of a warrant for arrest or a committal order. However, the *Intake Court Endorsement* was a document of limited procedural scope, lacking the requisite judicial imprimatur to authorize a deprivation of liberty or the imprisonment of a subject. It was, at best, an administrative notation, and at worst, a tool of deception.

530. Because the *Intake Court Endorsement* was incapable of providing legal authorization for the arrest, the detention was unlawful. In accordance with the Supreme Court of Canada's holding in *R. v. Tim*, 2022 SCC 12 at para 22, an unlawful detention is necessarily arbitrary. The state's reliance on a document that is *ultra vires* its purported purpose renders the entire process a nullity rather than a mere procedural irregularity. This was not a minor technical flaw; it was a fundamental failure to adhere to the statutory prerequisites for the deprivation of liberty. There can be no "good faith" reliance on a document that is legally incapable of authorizing the act performed.

531. The movement of the Applicant to a bounded space without a valid warrant satisfies the *actus reus* of section 279(1) of the *Criminal Code*. The absence of consent, conjoined with the lack of lawful authority, transforms the state's conduct into a criminalized deprivation of liberty. Given that the officers intended to confine the Applicant against his will, the *mens rea* for forcible confinement is manifest. To move a person, even a short distance, into a cell without a warrant is to kidnap that person from the protection of the law and place them in a state of legal invisibility.

532. **Furthermore, if the *Intake Court Endorsement* was issued in a manner that exceeded the jurisdiction of the issuing** authority, the resulting hearing and subsequent document are *coram non judice* and the acts of the undisclosed judge were Factum A Judice, Quod Ad Officium Jure Non Pertinet, Ratum Non Est. Under the doctrine of *factum a judice, quod ad officium jure non pertinet, ratum non est*, the TPS officers were relying upon a void instrument. The Applicant avers that they knowingly did so. If they did not, which is denied, the provincial Crown certainly did.

533. A document issued without jurisdiction has no more legal force than a blank sheet of paper, and any imprisonment based upon it is a trespass against the person. The state cannot claim the protection of judicial authority for acts that fall outside the boundaries of that authority.

C. THE IMPACT OF POTENTIAL FRAUD AND JURISDICTIONAL OVERREACH

534. To the extent that the *Intake Court Endorsement* was obtained or utilized through a misrepresentation of its legal effect, the principle from *Lazarus Estates Ltd. v. Beasley*, as adopted in *Landreville*, applies with full force. Fraud serves to nullify any perceived legal advantage or authority obtained by the TPS. If the officers knew, or ought to have known, that the *Intake Court Endorsement* did not authorize imprisonment, their reliance upon it was a fraudulent exercise of state power that "unravels everything." Fraud in this context is not merely a moral failing; it is a jurisdictional solvent that dissolves the legality of state action.

535. The use of an administrative endorsement to effect a custodial arrest suggests a calculated attempt to circumvent the rigorous standards of the *Criminal Code* and the *Charter*. Such conduct constitutes an *in limine* breach of the duty of state actors to act in good faith and within the bounds of their prescribed authority. When the state mischaracterizes a document to facilitate an arrest, it commits a fraud upon the administration of justice. This conduct undermines public confidence in the judicial process and renders the resulting detention a substantive nullity.

536. The duration of the confinement—persisting from the evening of 2 October through the morning of 3 October 2024—compounds the arbitrariness. As noted in *R. v. Storrey*, [1990] 1 S.C.R. 241, any unreasonable delay in bringing a detained person before a judicial officer or providing for their release exacerbates the constitutional breach. Each passing hour of confinement without lawful authority adds a fresh layer of illegality to the state's conduct, transforming a brief encounter into a prolonged and egregious violation of section 9. The Applicant was left to languish in the "Dungeon" while the state operated outside the bounds of the law.

537. Moreover, the conditions of the confinement serve to underscore the capricious nature of the state's actions. The lack of procedural safeguards, the failure to inform the Applicant of the true grounds for his detention, and the reliance on an inapplicable endorsement all point to a systemic disregard for the *status quo ante* of the Applicant's liberty. This was not an error of procedure; it was an abandonment of constitutional principle.

IV. CONCLUSION

538. The Applicant was detained, moved, and imprisoned without the requisite lawful authority, as the *Intake Court Endorsement* was legally insufficient to authorize such a deprivation of liberty. The officers of the TPS acted *extra-judicially*, usurping a power that was not granted to them by statute or common law. Their actions constitute a direct assault on the principles of fundamental justice.

539. The resulting detention was arbitrary *prima facie*, constituting a direct contravention of section 9 of the *Charter*. This breach is not merely an irregularity of form but a nullity of substance, as it occurred in total absence of jurisdiction. An act that is void *ab initio* can never be made valid by the passage of time or the subsequent discovery of other potential justifications.

540. Given the total absence of a valid warrant, the state's conduct represents a substantive nullity. The deprivation of liberty meets the elements of forcible confinement and potentially kidnapping under the *Criminal Code*. This Honourable Court is urged to find that the acts performed under the auspices of the *Intake Court Endorsement* were *coram non judice* and to grant a remedy that vindicates the Applicant's constitutional rights. The integrity of the justice system requires that the state be held to the highest standard of legality when it seeks to imprison a citizen, and any deviation from that standard must be met with the firmest possible judicial response to ensure that the rule of law is not sacrificed to administrative expediency.

ISSUE #32 — SECTION 11 OF THE *CANADIAN CHARTER OF RIGHTS AND FREEDOMS*: DERELICTION OF THE CONSTITUTIONAL OBLIGATION TO INFORM OF THE SPECIFIC OFFENCE AND THE PROTRACTED DURATION OF PROCEEDINGS AS AN UNREASONABLE DELAY

I. ISSUE

541. The central inquiry placed before this Honourable Court concerns whether the egregious failure to apprise the Applicant of the precise nature of the allegations, coupled with an 18-month duration of the proceedings, constitutes a fundamental contravention of *section 11(a)* and *section 11(b)* of the *Canadian Charter of Rights and Freedoms* (the "*Charter*").

5839 542. Furthermore, it must be determined if the existence of a plurality of inconsistent and ostensibly fabricated *Criminal Code* (the "Code") *Informations* renders the entire process *coram non judice*, thereby transforming what might otherwise be characterized as a mere procedural irregularity into a substantive nullity.

II. RULE

543. The protections enshrined within *section 11* of the *Charter* are invoked whenever an individual is deemed a "person charged with an offence." It has been authoritatively established by the Supreme Court of Canada that these constitutional rights attach at the temporal moment an information is sworn or a direct indictment is preferred: *R. v. Kalanj*, [1989] 1 S.C.R. 1594 at 1607 (*R. v. Kalanj*).
544. The ambit of these protections extends seamlessly from the pre-conviction phase through to the post-conviction stages of the penal process: *R. v. MacDougall*, [1998] 3 S.C.R. 45 at paras. 10–18 (*R. v. MacDougall*).
545. The teleological objective of *section 11* is the preservation of the liberty and security interests of those individuals subject to the coercive apparatus of the state's criminal process: *John Howard Society of Saskatchewan v. Saskatchewan (Attorney General)*, 2025 SCC 6 at paras. 39, 48, 50, 55 (*John Howard Society of Saskatchewan*).
546. Under *section 11(a)* of the *Charter*, every person is guaranteed the right to be informed, without unreasonable delay, of the specific offence with which they are charged. Concurrently, *section 11(b)* of the *Charter* mandates that any person so charged possesses the right to be tried within a reasonable time.
547. In matters where the integrity of the judicial process is compromised by fraudulent conduct, the doctrine established in *Landreville v. The Queen* (1976), 70 D.L.R. (3d) 122 (Fed. T.D.) (*Landreville*), adopting the reasoning in *Lazarus Estates Ltd. v. Beasley*, [1956] 1 Q.B. 702 (C.A.) (*Lazarus Estates*), finds application. As Lord Denning famously articulated in *Lazarus Estates*, "fraud unravels everything" (*fraus omnia corrumpit*); consequently, no judgment or act of a court can be allowed to stand if it is premised upon deception or fabricated instruments.
548. Where a presiding judicial officer acts in direct contravention of a statute, regulation, or mandatory rule, such actions are governed by the principle of *Factum A Judice, Quod Ad Officium Jure Non Pertinet, Ratum Non Est* (an action of a judge which does not pertain to his office is not valid). If the jurisdiction of the court is fundamentally undermined by such an act, the proceedings are *ipso facto* a nullity.

III. ANALYSIS

The Failure to Inform and the Proliferation of Inscribed Nullities

549. It is submitted that the Applicant was never duly informed of a coherent or legally cognizable offence. The purported charges were ostensibly derived from a frivolous *Criminal Code Form 2 Information* (the "Form 2 Information"), which stood in direct contradiction to the authentic *Information* (the "Authentic Information") sworn by Court Officer Frugoni-Rojas.
550. The existence of multiple, mutually exclusive *Informations*—one of which has been conceded as false—demonstrates *prima facie* that no lawful charge existed at the moment of the Applicant's arrest. The communication of a "specific offence" is a functional impossibility where the underlying accusatory instrument is a fabrication.
551. In this context, the contravention is not a mere procedural irregularity capable of being cured by the *Rules of Civil Procedure* (the "Rules"). Rather, the reliance upon a fraudulent *Information* constitutes a direct breach of the common law and constitutional requirements for a valid prosecution. It is therefore a nullity *ab initio*.
552. Applying the principle of *Factum A Judice, Quod Ad Officium Jure Non Pertinet, Ratum Non Est*, the judicial acts predicated upon these fabricated documents were *ultra vires*. Because the very foundation of the state's authority to detain the Applicant was grounded in an invalid instrument, the ensuing hearing was *coram non judice*. This lack of jurisdiction is not merely a transient defect but a terminal impairment of the court's competence to adjudicate the matter. Where a tribunal purports to exercise a coercive power derived from a falsified record, it ceases to function as a court of competent jurisdiction and instead operates as an instrument of state-sanctioned illegality. The consequence of such a profound jurisdictional vacuum is that any resultant order, finding, or detention is a legal phantom, possessing the outward appearance of authority but devoid of any substantive validity. Furthermore, the persistence of these conflicting *Informations* within the judicial record creates an environment of systemic ambiguity that precludes the possibility of a fair trial. The Applicant was forced to navigate a labyrinth

of contradictory allegations, where the shifting nature of the charges rendered any meaningful defense impossible. This state of affairs constitutes a radical departure from the principles of fundamental justice, as it effectively invites the court to participate in a charade of legality while the underlying process is fundamentally subverted by the presence of a known falsehood.

553. The fraud inherent in the presentation of inconsistent *Informations* invokes the rule in *Landreville* citing *Lazarus Estates*. Because the prosecution sought to maintain an advantage obtained through the deployment of a false *Information*, the entirety of the proceedings must be set aside. The court cannot permit the *status quo ante* to be disrupted by a process so thoroughly tainted by deception.

B. The Exceedance of the Presumptive Ceiling for Unreasonable Delay

554. Even if one were to assume, *arguendo*, that a valid proceeding had been initiated, the duration of the matter has exceeded the 18-month presumptive ceiling for provincial court proceedings. This delay constitutes an unreasonable temporal expansion of the litigation beyond the constitutional limits.

555. *Ipso facto*, the Applicant's rights under *section 11(b)* of the *Charter* have been infringed. This delay was not necessitated by the complexity of the matter but was a direct result of the systemic reliance upon defective and fabricated documentation, which inevitably obfuscated the path to a timely adjudication.

IV. CONCLUSION

556. In light of the foregoing, the conclusion is self-evident. The Applicant was subjected to a judicial process that was fundamentally flawed and grounded in a fabricated *Information*. The failure to provide notice of a valid charge constitutes a clear violation of *section 11(a)* of the *Charter*, while the 18-month duration of the matter represents a breach of *section 11(b)* of the *Charter*.

557. Given that these violations involved a direct contravention of the *Code* and the principles of natural justice, the proceedings must be characterized as a nullity rather than a mere irregularity. The cumulative effect of these constitutional and jurisdictional failures necessitates the immediate termination of the proceedings and an award of damages to address the unconstitutional infringement of the Applicant's liberty.

ISSUE #33: THE CONSTITUTIONAL INFIRMITY OF THE POST-ENDORSEMENT TREATMENT UNDER SECTION 12 OF THE *CHARTER*

I. ISSUE

558. The primary question for determination before this Honourable Court is whether the state-imposed conditions and coercive oversight to which the applicant (the "Applicant") was subjected following the intake court endorsement dated 23 September 2024 (the "Intake Court Endorsement") constitute "treatment" that is "cruel and unusual" within the meaning of section 12 of the *Canadian Charter of Rights and Freedoms* (the "*Charter*").

559. This inquiry necessitates a rigorous and exhaustive examination of whether the administrative and judicial processes preceding and succeeding the Intake Court Endorsement were conducted *coram non judice*, thereby rendering the subsequent deprivation of liberty and the systemic psychological imposition a nullity *ab initio*. The Court must determine if the state's departure from its jurisdictional boundaries constitutes a profound contravention of the Applicant's fundamental right to be free from degrading, dehumanizing, and oppressive state conduct.

560. Furthermore, the Court is invited to consider whether the lack of a temporal limit on the restrictive measures and the absence of a viable mechanism for periodic, meaningful review transformed an ostensibly administrative process into an engine of constitutional erosion, thereby triggering the highest level of judicial scrutiny.

II. RULE

561. Section 12 of the *Charter* mandates that "Everyone has the right not to be subjected to any cruel and unusual treatment or punishment." It is a fundamental tenet of Canadian constitutional law that this protection is not restricted to the traditional penal environment or the post-conviction sphere. Rather, it extends to any circumstance where the state, through its functionaries or agents, exercises coercive control over a subject in a manner that impacts their physical or psychological integrity.

562. As articulated by the Supreme Court of Canada in *R v Rodgers*, 2006 SCC 15 (*Rodgers*), at paragraph 63, the concept of "treatment" possesses a significantly broader application than "punishment." It encompasses any "active state process in operation, involving an exercise of state control over the individual": *Rodriguez v British Columbia (Attorney General)*, [1993] 3 SCR 519 (*Rodriguez*) at page 610. This purposive interpretation ensures that individuals are shielded from state-sanctioned hardship regardless of whether the state labels such hardship as "administrative," "protective," "preventative," or "corrective."

563. Furthermore, the jurisprudence established in *Canada (Minister of Employment and Immigration) v Chiarelli*, [1992] 1 SCR 711 (*Chiarelli*) at page 735, defines treatment as "a process or manner of behaving towards or dealing with a person." This expansive definition mandates that the Court look beyond the formal legal designation of the state's actions and evaluate the "totality of the circumstances"—including the cumulative effect of restrictive conditions, the denial of procedural fairness, the isolation from support networks, and the sustained imposition of psychological stressors.

B. THE DUAL THRESHOLD OF CRUELTY: INHERENT DEGRADATION AND GROSS DISPROPORTIONALITY

564. State conduct contravenes section 12 if it is either inherently cruel—such as torture, corporal punishment, or measures that negate human dignity and the possibility of individual growth—or if the treatment is "grossly disproportionate" to any legitimate state objective: *R v Bissonnette*, 2022 SCC 23 (*Bissonnette*) at paragraphs 61, 66, and 70. This protection is absolute in its inherent category; once a measure is found to be intrinsically degrading to human personhood, it cannot be justified under section 1 of the *Charter*.

565. The test for gross disproportionality is met where the state's actions are so excessive as to "outrage society's sense of decency" or are deemed "abhorrent or intolerable": *R v Smith*, [1987] 1 SCR 1045 (*Smith*) at page 1072. This standard is not merely one of simple excessiveness or a failure of strict proportionality; it represents a qualitative and fundamental departure from the norms of a free and democratic society. It applies where the state's power is exercised with such indifference to the individual's inherent worth that the resulting hardship becomes a "shock to the conscience."

C. JURISDICTIONAL VALIDITY, THE DOCTRINE OF NULLITY, AND THE EFFECT OF FRAUD

566. In instances where an administrative act or a judicial proceeding is conducted without the requisite statutory or inherent jurisdiction, such an occurrence is characterized as *coram non judice* (not before a judge). It is a settled principle of law that *factum a judice, quod ad officium jure non pertinet, ratum non est* (an act of a judge which does not belong to his office is not valid). Any treatment flowing from a void endorsement is, by definition, an arbitrary and lawless exercise of state power, as the state lacks the legal authority to impose the hardship in question.

567. Moreover, where fraud is found to have tainted the process—whether through the suppression of material facts, the presentation of misleading evidence, or the subversion of the tribunal's impartiality—the entire proceeding is vitiated *ab initio*. As noted in *Landreville v The Queen (No 2)*, [1977] 2 FC 726, citing *Lazarus Estates Ltd v Beasley*, [1956] 1 QB 702 (*Lazarus Estates*), "Fraud unravels everything." A state agent who procures a judicial endorsement through deceptive means acts *ultra vires*, and any subsequent treatment of the subject is inherently illegitimate, regardless of its perceived necessity.

III. ANALYSIS

568. It is submitted that the conditions imposed upon the Applicant subsequent to the Intake Court Endorsement satisfy the definition of "treatment" *ipso facto* and *prima facie*. The Applicant was not merely an observer of state process; he was the target of a regime of ongoing, high-intensity state control and coercive oversight. This was not a passive state of affairs but an active, aggressive management of his person that restricted his movement, monitored his interactions, and dictated his daily existence.

569. Applying the purposive interpretation required by *Rodgers*, the state's behaviour toward the Applicant involved a systematic process of administrative confinement and without legal authority and an intent to imprison by the very representations made to him (see: "You will be spending the night here, then transferred to another detention centre and will unlikely get bail") it was tantamount to kidnapping. This categorization is entirely consistent with the findings in *Ogiamien v Ontario (Community Safety and Correctional Services)*, 2017 ONCA 667 (*Ogiamien*) and *Biever v Ontario (Community Safety and Correctional Services)*, 2018 ONSC 1526 (*Biever*). In those instances, restrictive or degrading conditions of confinement, even when removed from a traditional criminal context, were unequivocally recognized as forms of treatment. The cumulative impact of the Applicant's measures—the deprivation of liberty combined with the psychological weight of indefinite administrative limbo—constitutes a distinct form of state-imposed "dealing" that falls squarely within the protective ambit of section 12.

B. THE MANIFESTATION OF GROSS DISPROPORTIONALITY AND INHERENT CRUELTY

570. The treatment of the Applicant reached the constitutional threshold of cruelty due to the systemic absence of meaningful procedural safeguards and the deliberate infliction of profound psychological hardship. Where the state exercises power in a manner that disregards the inherent dignity of the person, it acts *ultra vires* its constitutional authority. The lack of a clear, reviewable, and time-bound pathway to restore the Applicant's *status quo ante* serves as a primary catalyst for a finding of gross disproportionality.

571. The Applicant's circumstances, characterized by prolonged administrative deprivation without meaningful review, mirror the concerns raised in *Charkaoui v Canada (Citizenship and Immigration)*, 2007 SCC 9 (*Charkaoui*) at paragraphs 107–110. Such detention-like conditions, when assessed against the prevailing standards of Canadian society, are abhorrent and intolerable because they treat the individual as a mere object of state policy—a means to an end—rather than a subject of rights. The resulting psychological attrition and the "learned helplessness" induced by state control are not incidental byproducts but are direct consequences of a state process that prioritizes administrative convenience over human personhood.

572. To the extent that the Intake Court Endorsement or subsequent proceedings were conducted without proper jurisdiction or in direct contravention of the *Rules of Civil Procedure*, such acts are not merely procedural irregularities; they are a legal nullity. The failure to adhere to the rule of law rendered the state's conduct *coram non judice*. Treatment flowing from a void judicial act cannot, under any circumstances, be proportionate, as there is no valid legal objective to which it can relate. An act that is *null and void* can never provide the legal scaffolding necessary to support a deprivation of *Charter* rights.

573. Furthermore, should the evidence demonstrate that the state's agents acted with fraudulent intent or misled the tribunal during the 23 September 2024 proceedings, the principle in *Lazarus Estates* dictates that the resulting endorsements and treatments are invalid. The state cannot rely on a process infected by fraud to justify the deprivation of the Applicant's liberty or the imposition of degrading conditions. Such treatment is, *ipso facto*, a violation of section 12 because it is predicated on a deception that undermines the very integrity of the judicial system and the administration of justice.

C. SYNERGISTIC APPLICATION OF CONSTITUTIONAL PRINCIPLES TO THE FACTUAL MATRIX

574. In applying the law to the facts, the record discloses that the Applicant was held in conditions of segregation or high-intensity oversight that lacked a proportional nexus to any documented security risk or legitimate state interest. This state-imposed hardship, characterized by the denial of basic autonomy and the imposition of severe psychological stressors, constitutes a direct assault on the Applicant's human dignity. The state has failed to demonstrate that the severity of the treatment was the "least restrictive means" to achieve its stated objectives, thereby failing the basic requirements of a democratic society.

5843 575. The absence of a "meaningful review" mechanism, as contemplated in *Charkaoui*, exacerbated the severity of the treatment by creating a sense of permanence and despair. The Applicant was left in a state of constitutional vulnerability, where the state's coercive power was exercised without the requisite oversight to prevent it from becoming "cruel and unusual." The resulting isolation and the uncertainty regarding the duration of the state's control created a feedback loop of hardship that "outrages the conscience" of a society committed to the rule of law and the protection of individual liberty.

IV. CONCLUSION

576. In light of the exhaustive analysis of the jurisprudence and the factual record, it is self-evident that the treatment to which the Applicant was subjected following 23 September 2024 violates the protections afforded by section 12 of the *Charter*.
577. The state's conduct was grossly disproportionate, lacked a valid jurisdictional foundation, and was fundamentally incompatible with the dignity of the human person. The proceedings were conducted *coram non judice*, and the resulting deprivation of liberty was an exercise of power that was *ultra vires*. Consequently, the Intake Court Endorsement and the subsequent treatment of the Applicant must be declared a nullity and a breach of the Applicant's constitutional rights.
578. Subject to the analysis under section 1 of the *Charter*, these violations warrant a robust and multifaceted remedy under section 24(1) to vindicate the Applicant's rights and uphold the administration of justice. The state must be held to the standard that *factum a judice, quod ad officium jure non pertinet, ratum non est*, ensuring that no individual is subjected to the weight of a void, fraudulent, or cruel administrative regime. To hold otherwise would be to permit a "hollowed out" version of the *Charter* where state convenience overrides the most basic of human rights.

ISSUE #34: THE INAPPLICABILITY OF SECTION 1 JUSTIFICATION TO PROCEDURAL NULLITIES AND FRAUDULENT STATE CONDUCT

THE ISSUE

579. The central question for determination is whether the myriad, cascading contraventions of the *Canadian Charter of Rights and Freedoms* (the "*Charter*")—specifically those egregious violations pertaining to the open court principle (the "**Open Court Principle**") under *s. 2(b)*, the profound deprivations of life, liberty, and security of the person under *s. 7*, the demonstrably unreasonable intrusions under *s. 8*, the complete abrogation of procedural and fair trial guarantees under *ss. 9 through 11*, and the treatment accurately characterized as cruel and unusual under *s. 12*—are legally capable of being salvaged by the state through the remedial operation of *s. 1*.
580. This Court is tasked with determining if state conduct that is fundamentally *ultra vires*, completely jurisdictionless, and inextricably rooted in the fraudulent fabrication of judicial instruments can ever logically or legally constitute a limit prescribed by law (the "**Prescribed by Law Requirement**") as a mandatory condition precedent to a *s. 1* analysis. The inquiry necessitates a rigorous, uncompromising, and doctrinally pure examination of whether a proceeding that is *void ab initio* due to established *mala fides* can be retroactively cured by a proportionality analysis.
581. This question takes on heightened constitutional significance when such conduct simultaneously violates the foundational international norms established in the *International Covenant on Civil and Political Rights* (the "*ICCPR*"). It must be ascertained whether domestic constitutional provisions can be interpreted in a manner that implicitly endorses the violation of peremptory norms of international human rights law, particularly those concerning the absolute requirement for a competent, independent, and impartial tribunal.
582. Furthermore, the Court is invited to critically consider whether the executive branch of the state may successfully invoke a constitutional justificatory framework to sanitize acts that constitute a direct, systemic, and calculated subversion of the *status quo ante* of the judicial process. This involves a necessary extrapolation of legal principles concerning the critical, unyielding boundary between a curable procedural anomaly (the "**Procedural Irregularity**") and a fatal, jurisdiction-stripping violation (the "**Fundamental Nullity**"). It must be determined whether the latter acts as an absolute, insurmountable, and ontological bar to the state's reliance on the *s. 1* safety valve.

5844 583. It is further submitted that the resolution of this issue strikes at the very heart of the constitutional architecture of Canada and the delicate balance of the separation of powers. If the state is permitted to actively deploy fraudulent instruments to breach fundamental rights, usurp the judicial function, and subsequently hide behind the proportionality shield of *s. 1*, the *Charter* is effectively reduced from a paramount constitutional safeguard to a mere instrument of administrative convenience and state apologia.

584. Such a permissive interpretation would intrinsically erode the integrity of the administration of justice and severely undermine the public's confidence in the judiciary as the ultimate guarantor of constitutional supremacy. The judiciary cannot be placed in the untenable position of applying a balancing test to state actions that inherently deny the authority of the court itself. Conduct that is undertaken *coram non judice*—without jurisdiction—cannot simultaneously be subjected to a constitutional justification test, as the two concepts are legally mutually exclusive.

585. Ultimately, it must be definitively adjudicated whether the state, having acted as the primary architect of a fabricated, extra-legal process, can subsequently rely upon the very constitutional instrument it has willfully subverted to retroactively legitimize its own lawlessness. It is advanced that permitting such a justificatory exercise offends the most basic tenets of equity and public law, specifically the ancient and unyielding maxim *ex turpi causa non oritur actio*—from a dishonourable cause an action does not arise. A constitutional defense cannot be birthed from the womb of state-sponsored fraud.

THE RULE

A. Governing Principles, Constitutional Architecture, and the Dual Nature of Section 1

599. *Section 1* of the *Charter* effects a delicate, meticulously calibrated balance between the constitutionally entrenched rights of the individual and the pressing, demonstrably collective interests of society by permitting limits only where they are "appropriately tailored, or proportionate" (*Canada (Attorney General) v JTI-Macdonald Corp*, [2007] 2 SCR 610). This provision represents a significant innovation in human rights jurisprudence, mirroring and expanding upon protections codified in the *ICCPR*—specifically *Article 14(1)* regarding the absolute, unyielding necessity of open courts and *Article 12* regarding mobility—as well as the limitations clause found within the *South African Constitution's Bill of Rights* (*s. 36*).

600. The immutable values and principles which must relentlessly guide the Court in applying *s. 1* encompass the inherent dignity of the human person, an unwavering commitment to social justice and equality, the accommodation of a wide variety of beliefs, and a profound faith in social and political institutions which enhance the meaningful participation of individuals and groups in society (*R v Oakes*, [1986] 1 SCR 103 (the "**Oakes Test**")). These values are not merely aspirational preamble; they are the substantive matrix through which any proposed limitation must be rigorously filtered.

601. It is a preordained, axiomatic requirement that any limitation placed upon a fundamental right must be intrinsically consistent with the values of a free and democratic society. Consequently, where the limitation itself is fundamentally rooted in systemic lawlessness, executive deception, or the usurpation of judicial authority, it fails this substantive requirement at the very outset. A society that genuinely prides itself on freedom and democracy cannot, by definition, tolerate limits imposed through fraudulent machinations or administrative deceit.

602. Therefore, any further proportionality analyses in circumstances characterized by state fraud are rendered intellectually barren and legally superfluous. *Section 1* is designed to mediate conflicts between legitimate state objectives and individual rights; it is emphatically not designed to serve as a retroactive pardon for executive malfeasance or jurisdictional overreach.

B. THE BURDEN AND THE RIGOUR OF "COGENT AND PERSUASIVE" EVIDENCE

603. *Section 1* is engaged exclusively after a *Charter* breach has been definitively established by the applicant. Once engaged, the onus of proof shifts entirely and rests exclusively and heavily upon the party seeking to justify the limit, which is invariably the state (*Oakes*). The standard of proof is the civil standard or balance of probabilities (the "**Balance of Probabilities**"). However, the jurisprudential phrase "demonstrably justified" connotes a "strong evidentiary foundation" (*Oakes*). This is not a superficial, rubber-stamp hurdle; it is a rigorous evidentiary mandate specifically designed to prevent the capricious, arbitrary, or expedient abrogation of constitutional rights by an overzealous executive.

604. Cogent and persuasive evidence is generally required; where scientific, statistical, or social science evidence is logically available, its adduction is mandatory to avoid a finding of constitutional invalidity (*Mounted Police Association of Ontario v Canada (Attorney General)*, 2015 SCC 1). The state cannot rely on generalized assertions, administrative platitudes, or hypothetical harms to justify the deprivation of enumerated rights. The evidentiary record must unequivocally demonstrate the absolute necessity of the infringing measure.

605. In contexts directly involving the criminal justice system, judicial deference to the legislature or the executive is profoundly inappropriate. As forcefully articulated by the Supreme Court, deference is abandoned in this sphere because "the government is the singular antagonist of the individual whose right has been infringed" (*Irwin Toy Ltd v Quebec (Attorney General)*, [1989] 1 SCR 927). The state cannot be afforded the luxury of deference when it is actively utilizing its immense, coercive apparatus to prosecute the individual while simultaneously stripping them of mandatory procedural safeguards.

606. Furthermore, speculation, post-hoc rationalization, or reliance upon institutional expediency (the "**Administrative Convenience**") cannot, under any circumstances, satisfy this stringent evidentiary burden. The Supreme Court has explicitly and consistently foreclosed the possibility of shifting purposes; the state cannot retroactively rationalize an infringement that was preordained by an illicit motive, institutional embarrassment, or an absolute absence of statutory authority (*R v Big M Drug Mart Ltd*, [1985] 1 SCR 295). The objective advanced must be the actual, true objective at the precise time the impugned action was taken. If the true objective was to bypass a conflicted judge or to launder defective paperwork, no post-hoc claim of public safety can salvage the state's position.

C. THE THRESHOLD REQUIREMENT: "PRESCRIBED BY LAW" AND THE UNWRITTEN RULE OF LAW

607. A limit is only capable of justification if it is first meticulously and affirmatively determined to be "prescribed by law." This absolute threshold criterion strictly requires that the impugned limit emanate directly from a validly enacted statute, a properly promulgated regulation, a binding policy of general application, or a clearly delineated common law rule (*R v Therens*, [1985] 1 SCR 613). To be legally recognizable as "law" for the purposes of *s. 1*, the limit must not be so vaguely articulated that it fails to provide an "intelligible legal standard" capable of allowing citizens to govern and regulate their conduct accordingly, and equally importantly, constraining the discretion of state officials (*R v Nova Scotia Pharmaceutical Society*, [1992] 2 SCR 606).

608. It is a foundational tenet of Canadian public law that government actions that are entirely unauthorized by statute or common law are inherently not "prescribed by law" (*Little Sisters Book and Art Emporium v Canada (Minister of Justice)*, 2000 SCC 69). The unwritten constitutional principle of the rule of law (the "**Rule of Law**") dictates an absolute prohibition against the exercise of arbitrary power. It requires that all exercise of public power must find its ultimate source in a legally valid rule, and that no public official is exempt from the obligation to act strictly within the four corners of their delegated authority (*Reference re Secession of Quebec*, [1998] 2 SCR 217; *Roncarelli v Duplessis*, [1959] SCR 121).

609. Where a state act is definitively *ultra vires*, procedurally void, or constitutes a brazen, calculated jurisdictional overreach, it resides entirely outside the ambit of *s. 1* justification. The concept of a limit prescribed by law is ontologically incompatible with the concept of an *ultra vires* act. *Ipso facto*, an act that constitutes a legal nullity cannot logically or linguistically operate as a "limit" because a nullity possesses no legal existence, force, or effect in a free and democratic society. It is, in strict constitutional terms, a phantom entity—a legal cipher incapable of bearing any justificatory weight.

D. THE OAKES FRAMEWORK: A MULTI-STAGE, INTERCONNECTED PROPORTIONALITY INQUIRY

610. Only if the rigorous, foundational threshold of the **Prescribed by Law Requirement** is unequivocally satisfied, must the state then fulfill the proportionality branch through a rigid, sequential, and deeply interconnected three-stage inquiry. Failure at any single, isolated stage immediately renders the entire infringement unjustified and unconstitutional:

611. **First:** The demonstration of a pressing and substantial objective (the "**Pressing and Substantial Objective**"). This objective must meticulously reflect the actual, contemporaneous purpose of the specific infringement, not the overarching goal of the entire statutory scheme. Furthermore, the objective must be of sufficient magnitude and

5846 societal importance to warrant overriding a constitutionally protected right, aligning with the core values of a free and democratic society.

612. **Second:** A demonstration of proportionality, consisting strictly of three demanding sub-components:

a. (i) rational connection (the "**Rational Connection**"), requiring a direct, non-arbitrary causal link supported by unimpeachable logic and evidence between the impugned measure and the stated objective. The measure cannot be fundamentally unfair, irrational, or predicated upon deception;

b. (ii) minimal impairment (the "**Minimal Impairment**"), ensuring the state has painstakingly selected the absolute least rights-impairing means available among a range of reasonable, lawful alternatives. The state must demonstrate that no lesser intrusion could have accomplished the objective in a real and substantial manner; and

c. (iii) final proportionality or balancing (the "**Final Balancing**"), where the actual, realized salutary effects of the measure are weighed meticulously against its deleterious, real-world impact upon the individual, the integrity of the judicial system, and the broader societal fabric.

E. The Doctrine of Nullity and the Vitiating, Unravelling Effect of State Fraud

613. Where state action is incontrovertibly founded upon deliberate fraud, the intentional spoliation of evidence, the forgery of judicial endorsements, or a direct, calculated contravention of a mandatory, jurisdiction-conferring statute, the resulting conduct manifests as a substantive nullity rather than a curable, technical defect (the "**Doctrine of Nullity**").

614. In *Landreville v The Queen (No 2)* (1977), 75 DLR (3d) 380 (Fed TD) (the "*Landreville*"), the federal court unequivocally and forcefully adopted the foundational, centuries-old equitable principle originally articulated in *Lazarus Estates Ltd v Beasley*, [1956] 1 QB 702 (the "**Lazarus Estates Doctrine**"), holding with absolute, unyielding clarity that "fraud unravels everything." This principle recognizes that fraud is an active solvent that dissolves the legal foundation of any act it touches.

615. Under the strict, uncompromising application of this doctrine, no court of law or equity will permit a party—most especially the state, which acts as the supreme fiduciary of the public trust and the exclusive monopoly on legitimate force—to maintain, enforce, or benefit from any procedural or substantive advantage obtained through mendacity, deception, or the outright fabrication of the judicial process.

616. A fraudulent *acta* cannot, by any stretch of legal imagination or academic extrapolation, constitute a limit prescribed by law; it is a nullity *in limine* that permanently and irrevocably vitiates every subsequent step in the proceeding. The fraud infects the root, poisoning the entire resultant tree. The inescapable legal consequence of such pervasive fraud is that the state is entirely stripped of its constitutional justificatory shield. The judicial system, the very institution fundamentally designed to safeguard truth and equity, cannot be conscripted, manipulated, or weaponized to validate its own subversion or to excuse those who mock its procedures.

THE ANALYSIS

A. The Structural Failure of the Threshold Analysis: The Creation of a Jurisdictional Black Hole

617. The state conduct systematically deployed and extensively documented in the case at bar—encompassing the deliberate fabrication of core judicial documents, the intentional spoliation of sworn instruments, and the unprecedented utilization of a non-existent, entirely fabricated "Form 7" (the "**Phantom Form**")—cannot be categorized, under any recognized legal theory or jurisprudential stretch, as "prescribed by law."

618. These highly irregular actions are definitively not "binding rules of general application" accessible to the public, nor are they legitimate exercises of statutory discretion. They are, in fact, lawless, ad hoc administrative maneuvers designed solely and exclusively to circumvent strict statutory imperatives, evade mandatory judicial oversight, and conceal an underlying absence of jurisdiction (*Greater Vancouver Transportation Authority v Canadian Federation of Students*, 2009 SCC 31).

619. Because these impugned acts involved a direct, irreconcilable, and deliberate contravention of the mandatory provisions of the *Criminal Code*, the rigid strictures of the *Rules of Civil Procedure*, and the sacred *status quo ante* of the legal system, they must be definitively categorized as a **Fundamental Nullity**. To permit the state to attempt to justify a nullity would be tantamount to permitting the executive branch to unilaterally dispense with the law

5847 through the mechanism of its own transgression, thereby fundamentally violating the sacrosanct separation of powers.

620. The *s. 1* analysis must unequivocally and permanently terminate at this precise juncture; the state is legally precluded from justifying a jurisdictional void by pleading its own operational convenience or institutional embarrassment. One cannot construct a constitutional defense upon a foundation of jurisdictional quicksand.

621. Furthermore, the clandestine deployment of an unauthorized, fabricated "Intake Court Endorsement" (the "**Unauthorized Endorsement**") egregiously fails the basic constitutional tests of accessibility, precision, and foreseeability. A limit that exists solely in the subjective mind of a state administrator, or that is entirely fabricated post-facto to generate the mere illusion of legality where none genuinely exists, cannot possibly provide an intelligible legal standard by which a citizen might govern themselves.

622. Such deceptive practices generate a perilous "jurisdictional black hole" that renders the constitutional protections afforded to the individual entirely illusory. This effectively subjects the citizenry to the arbitrary, dictatorial, and completely unreviewable whims of an unfettered executive apparatus, representing the very antithesis of the **Rule of Law**.

SECTION-SPECIFIC ANALYSIS OF JUSTIFICATION: THE RIGHTS LEAST AMENABLE TO STATE INTRUSION

Section 2(b): Open Court Principle.

623. The **Open Court Principle** serves as the indispensable bedrock of democratic accountability, deeply enshrined in centuries of common law and robustly protected under international covenants, including *ICCPR Art 14(1)*. The Supreme Court has continuously and vigorously affirmed that justice must not only be done but must manifestly and undoubtedly be seen to be done, to prevent the specter of the Star Chamber from returning to domestic jurisprudence.

624. Any limits imposed upon transparency and public access require "cogent and persuasive evidence" to satisfy *s. 1*. Secrecy measures that systematically undermine public scrutiny rarely, if ever, satisfy the **Minimal Impairment** threshold (*Sherman Estate v Donovan*, 2021 SCC 25; *Dagenais v Canadian Broadcasting Corp*, [1994] 3 SCR 835). The Supreme Court has repeatedly struck down publication bans and access restrictions where the state failed to demonstrate an absolute, overriding necessity to protect a competing fundamental right.

625. No such evidence exists herein to justify the opaque, unauthorized, and clandestine procedures actively employed by the state actors in this matter. Conversely, the evidentiary record forcefully suggests a deliberate, orchestrated attempt to shield fundamentally unlawful state conduct, jurisdictional errors, and fabricated endorsements from public outrage and appellate view. Such motives are entirely repugnant to *s. 1*.

Section 7: Life, Liberty, and Security of the Person.

626. The substantive and procedural rights guaranteed by *s. 7* are universally recognized by the judiciary as "basic to our conception of a free and democratic society." Violations of the principles of fundamental justice (the "**Fundamental Justice**")—specifically those egregious, systemic breaches involving statutory vagueness, extreme overbreadth, or profound administrative arbitrariness—are singularly "difficult to justify" under *s. 1* (*Canada (Attorney General) v Bedford*, 2013 SCC 72; *Charkaoui v Canada (Citizenship and Immigration)*, 2007 SCC 9).

627. The appellate courts have only once upheld a *s. 7* breach under *s. 1* in *R v Michaud*, 2015 ONCA 585 (the "*Michaud*"), and only in circumstances where the infringement was extraordinarily minimal, strictly regulatory in its nature, and inextricably tied to a compelling, immediate public safety objective concerning commercial trucking safety standards.

628. Here, the breaches are neither minimal nor tied to any recognizable, lawful societal interest; they represent a total, devastating, and entirely arbitrary abrogation of fundamental justice. The deprivation of liberty achieved entirely through the outright fabrication of judicial authority and the spoliation of swore Informations offends the most basic tenets of fundamental justice, placing the state's conduct entirely beyond the reach of *s. 1* salvation.

5848 **SECTION 8: UNREASONABLE SEARCH AND/OR SEIZURE (NOTA BENE: DISJUNCTIVE UNLIKE THE USA WITH ITS "SEARCH AND SEIZURE" (SEE: R. V. DYMENT)**

629. It is universally recognized in constitutional scholarship as exceptionally "difficult to justify provisions authorizing unreasonable searches" because the right to privacy constitutes an absolute, indispensable prerequisite for liberty, human dignity, and human flourishing (*Canada (Attorney General) v Federation of Law Societies of Canada*, 2015 SCC 7).
630. As unequivocally established in the seminal, foundational jurisprudence of *Hunter v Southam Inc*, [1984] 2 SCR 145, the paramount purpose of *s. 8* is to proactively protect individuals from unjustified state intrusions upon their private sphere, rather than merely providing an after-the-fact remedy or a mechanism for post-search compensation. This robust constitutional protection stringently requires a system of prior authorization, administered by a neutral, independent, and impartial arbiter who is legally capable of objectively weighing the competing interests of state investigatory powers against the individual's expectation of privacy.
631. A search conducted in the complete absence of this prior, valid, and genuinely lawful judicial authorization is presumptively and inherently unreasonable. Intrusions that are unreasonable by their very definition—and utterly devoid of any legitimate statutory underpinning—cannot be retroactively sanitized, legitimized, or justified through the *s. 1* proportionality matrix.
632. The specific, targeted breaches documented herein strike at the absolute core of the Applicant's privacy interests and are "never saved herein and not this time." This absolute bar to justification exists because a search predicated entirely upon a fraudulent, fabricated warrant or an **Unauthorized Endorsement** is not a mere procedural defect or an administrative oversight; it is, *ipso facto*, a constitutional nullity that violently and intentionally subverts the mandatory role of the independent judiciary.
633. Such state deceit completely deprives the individual of the prior independent assessment that *s. 8* strictly demands, replacing lawful, measured scrutiny with unfettered, rogue executive action. Consequently, state action that relies upon fabricated judicial instruments to forcibly invade the private sphere fundamentally offends the conscience of the Court. It brings the administration of justice into profound, irreversible disrepute, irrevocably shatters the public trust in state institutions, and renders any theoretical *s. 1* justification both legally untenable and morally impossible.

SECTIONS 9–11: ARBITRARY DETENTION, PROCEDURAL RIGHTS, AND FAIR TRIAL GUARANTEES

634. These specific, interrelated rights exist explicitly to protect vulnerable individuals against the overwhelming, potentially tyrannical coercive power of the state apparatus and to ensure the fundamental fairness of the truth-seeking process. In this highly adversarial context, judicial deference is entirely and absolutely inappropriate because the government operates exclusively as the "singular antagonist."
635. Arbitrary detention and the systematic, calculated denial of procedural fairness rarely, if ever, meet the strict **Minimal Impairment** requirement. The state's conduct in this specific matter—intentionally delaying filings for six weeks to manipulate jurisdiction, actively utilizing phantom documents to circumvent intake courts, and executing arrests entirely devoid of any lawful authority—represents the polar opposite of a minimal impairment. It constitutes a maximal, unfettered, and deeply malicious deprivation of liberty designed to secure a tactical advantage through unlawful means.

SECTION 12: CRUEL AND UNUSUAL TREATMENT OR PUNISHMENT

636. The psychological and administrative treatment inflicted upon the Applicant, accurately and grimly described as "most vile and cannot be saved," falls squarely under the absolute constitutional prohibition of *s. 12*. The Supreme Court has definitively held in *R v Bissonnette*, 2022 SCC 23 (the "*Bissonnette*") and *R v Nur*, 2015 SCC 15 (the "*Nur*") that such violations, which inherently deny the moral worth and fundamental dignity of the individual, are almost mathematically impossible to justify.
637. The prevailing jurisprudence emphatically suggests that only an existential, wartime-level emergency threatening the very fabric of the nation could even initiate a *s. 1* dialogue regarding a *s. 12* breach. Absolutely no such apocalyptic emergency existed to justify the systemic abuse of process, the prolonged psychological degradation,

5849 and the profound, sustained deprivation of human dignity evidenced by the state's calculated actions in this proceeding.

STRUCTURAL FAILURES IN THE OAKES PROPORTIONALITY ANALYSIS

Absence of a Pressing and Substantial Objective

638. It is a trite, unyielding, and foundational principle of constitutional law that administrative convenience, financial cost savings, institutional expediency, or the overzealous desire to maintain the public illusion of institutional infallibility cannot, under any legal paradigm, constitute a **Pressing and Substantial Objective** (*Figueroa v Canada (Attorney General)*, 2003 SCC 37; *Eldridge v British Columbia (Attorney General)*, [1997] 3 SCR 624; *Nova Scotia (Workers' Compensation Board) v Martin*, [2003] 2 SCR 504).
639. The state is absolutely prohibited from retroactively manufacturing a valid, sanitized public policy purpose to mask what was, in undeniable reality, a fraudulent process designed explicitly to bypass legal protections and conceal judicial conflicts. If the state's actual rationale is grounded in administrative expediency or the deliberate concealment of jurisdictional error, the *s. 1* analysis violently and terminally terminates at the very first step. There exists no legitimate, democratic state objective in the systematic fabrication of court documents or the subversion of criminal intake protocols.

Lack of Rational Connection

640. The state is legally burdened with demonstrating a logical, causal link supported by empirical, cogent evidence, not mere institutional conjecture or bald, self-serving assertions. The **Rational Connection** test mandates significantly more than "arbitrary, unfair or irrational considerations."
641. There is absolutely no causal or logical link between the fabrication of an **Unauthorized Endorsement** using a **Phantom Form** and any legitimate state aim, such as the maintenance of public safety or the fair, impartial administration of justice. On the contrary, such deeply ingrained fraud directly undermines the foundational integrity of the judicial system. It creates an undeniable, objective reasonable apprehension of bias and establishes a framework of institutional lawlessness that actively harms the collective interests of society rather than advancing them.

Failure of Minimal Impairment

642. The government must definitively establish that "no other less rights-impairing means" were available to achieve its purported objective. In the present case, the state possessed every conceivable, robust lawful alternative explicitly provided by the legislature. The state could have simply and effectively: filed a procedurally proper Information; obtained a valid, judicially scrutinized warrant from an impartial arbiter; utilized a Justice of the Peace in the standard manner; and stringently avoided all known conflicts of interest.
643. The deliberate, conscious choice by state actors to abandon these lawful, established avenues and instead actively traverse a jurisdictionless, fraudulent path is the very antithesis of **Minimal Impairment**. The state did not select the "least intrusive" path from a spectrum of reasonable options; it affirmatively engineered the most deceptive, destructive, and maximally rights-impairing path imaginable, completely eviscerating any claim to proportionality.

Final Balancing: The Catastrophic Deleterious Impact on the Rule of Law

644. The final, crucial stage of the analysis demands that the actual, proven salutary effects be weighed heavily against the severe deleterious impacts of the infringing measure. The deleterious effects exacted upon the Applicant's liberty, privacy, bodily integrity, and the public's overriding demand for absolute institutional accountability vastly, overwhelmingly outweigh any purported, illusory administrative benefits claimed by the executive.
645. *R v K.R.J.*, 2016 SCC 31 (the "*K.R.J.*") severely underscores the vital importance of this concluding stage, demonstrating that even a rationally connected law crafted with good intentions can fail if its impact upon the individual is simply too severe.

5850 646. In the present circumstances, where the measure is born of bad faith and where the state actively launders defective, fabricated paperwork through the highly trusted *Canadian Police Information Centre* (the "**CPIC**"), the cost exacted upon the **Rule of Law** is absolute, incalculable, and irredeemable. The practical, undeniable impact is the total erosion of the public's faith in the administration of justice. A system that permits the police and prosecutorial apparatus to unilaterally fabricate its own judicial authorizations is a system that has definitively abandoned democratic constraints, rendering any theoretical benefit to the state mathematically void and constitutionally repugnant.

IV. THE CONCLUSION

647. Based upon an uncompromising application of governing constitutional jurisprudence, the overarching dictates of unwritten constitutional principles, and the strict evidentiary standards demanded by *s. 1*, it is unequivocally self-evident that none of the infringements at issue can be justified, saved, mitigated, or excused.

648. The established, documented breaches strike violently at the very core of constitutional protections—obliterating the foundations of open justice, fundamental justice, privacy, liberty, and human dignity. The state cannot satisfy the preliminary threshold requirement of acting pursuant to a limit "prescribed by law," it cannot meet the burden of demonstrating a valid **Pressing and Substantial Objective**, nor can it survive even the most highly deferential application of the proportionality requirements articulated in *Oakes*.

649. In strict, unwavering accordance with the **Lazarus Estates Doctrine** and its binding adoption into Canadian law via *Landreville*, the systemic fraud perpetrated by the state irrevocably "unravels" the entirety of the proceeding, stripping it of all legal force and effect. A **Fundamental Nullity** cannot be mathematically saved by proportionality; a jurisdictional void cannot be balanced against a collective state interest. These infringements are, by their very inherent, deceptive nature, completely incapable of being "demonstrably justified in a free and democratic society."

650. Consequently, it is submitted that the *status quo ante* must be immediately, fully, and forcefully restored. The state's legally repugnant attempt to rationalize its own documented illegalities, *ultra vires* actions, and fraudulent fabrications through the improper invocation of the *s. 1* safety valve must be rejected with the exact same unyielding, categorical vigor that the common law rejects fraud in all its insidious forms.

651. To conclude otherwise, and to permit the state to rely upon *s. 1* in these circumstances, would be to grant the state a constitutional imprimatur to violate the supreme law of Canada with absolute impunity. The *Charter* cannot, and must not, be contorted into a shield to protect the state from the consequences of its own lawless conduct. The integrity of the justice system demands that unconstitutional acts born of fraud remain entirely and perpetually unjustified.

PART XX — REMEDIES UNDER SECTION 24(1) OF THE *CHARTER*

ISSUE THE JURIDICAL CHARACTER OF THE IMPUGNED PROCEEDINGS AND THE DOCTRINE OF NULLITY

Issue

652. Whether the fabrication of the jurat information laying crown election page (the "**Jurat Information Laying Crown Election Page**"), the spoliation of sworn instruments, and the clandestine concealment of judicial conflicts by the default judge (the "**Default Judge**") constitute mere procedural irregularities curable under he *Criminal Code* or whether such egregious, calculated conduct represents a fundamental, irremediable usurpation of jurisdiction that renders the entirety of the proceeding an absolute nullity *ab initio*, entirely incapable of subsequent judicial rehabilitation, retroactive validation, or statutory cure by any mechanism recognized within Canadian administrative and constitutional jurisprudence.

2. RULE

5851 653. The governing principle regarding the catastrophic and entirely vitiating effect of fraud upon judicial processes is authoritatively and decisively articulated in the jurisprudential framework of *Landreville v. Town of Boucherville*, 2006 SCC 54 (the "*Landreville*"). Within this foundational jurisprudence, the Supreme Court of Canada unequivocally adopted the venerable English authority of *Lazarus Estates Ltd v. Beasley*, [1956] 1 Q.B. 702 (the "*Lazarus Estates*"), wherein it was pronounced by Denning L.J. that "fraud unravells everything" and that "no judgment of a court, no order of a Minister, can be allowed to stand if it has been obtained by fraud." This doctrine fundamentally transcends mere evidentiary rules or malleable procedural guidelines; it represents an immutable, bedrock tenet of jurisdictional limitation and constitutional integrity. It is posited that a fraud perpetrated upon the tribunal by sworn agents of the state constitutes an existential, structural assault upon the inherent constitutional adjudicative power of the court. Such malfeasance functions as a pervasive contaminant, ensuring that any subsequent procedural or substantive result flowing therefrom is fatally infected, inherently unreliable, and constitutionally unsustainable in a society governed by the rule of law. The inherent power of the Court to protect the absolute integrity of the judicial process is recognized as the ultimate, non-derogable safeguard against such institutional corruption. The judiciary cannot, under any conceivable circumstances, be perceived to lend its coercive, liberty-depriving authority to a deliberate, state-sponsored fiction. To permit the judicial apparatus to act upon forged, fabricated instruments is to sever the foundational social contract upon which the consent of the governed is predicated, thereby reducing the administration of justice to an exercise in arbitrary coercion.

654. Furthermore, where an act is undertaken by a state actor *ultra vires* or in direct, deliberate contravention of a strictly codified statutory imperative—such as the mandatory, foundational requirements for the laying of a validly sworn information pursuant to the *Criminal Code*—the resulting administrative and judicial acts are strictly classified under the ancient legal maxim as *coram non judice* (before one who is not a judge) and constitute an absolute, unmitigated jurisdictional nullity. As held in *R. v. Ferguson*, 2008 SCC 6 (the "*Ferguson*"), while section 52(1) of the *Constitution Act, 1982* is designated to address the enactment of unconstitutional legislation, section 24(1) of the *Canadian Charter of Rights and Freedoms* (the "*Charter*") is identified as the appropriate, mandated, and exclusive remedial vehicle in instances where a constitutional infringement arises directly from discretionary, *ultra vires* executive government action.

655. The conceptual distinction meticulously articulated in the *Ferguson* decision is intensely critical to the present analysis: in circumstances where the promulgated law itself is constitutionally valid, yet the executive execution thereof is rendered lawless, clandestine, and fundamentally fraudulent, section 24(1) confers upon the presiding tribunal the "widest and less fettered discretion" to vigorously restore the fractured rule of law. This expansive, overarching discretion exists precisely to rectify exigent, anomalous situations wherein executive agents have unilaterally transgressed the circumscribed bounds of their statutory authority, thereby rendering the associated actions not merely illegal, voidable, or procedurally deficient, but entirely non-existent in the eyes of the law. A jurisprudential nullity cannot be subject to a stay, an adjournment, or a subsequent administrative cure; it must be declaratorily recognized by a court of competent jurisdiction as having never legally occurred. To hold otherwise would be to grant a retrospective legal validity to a fundamentally flawed, deceptive process that unequivocally lacked constitutional authorization from its very inception, thereby rendering the adjudicative tribunal a subsequent accessory to the initial transgression of the state. The legal fiction of curative validation cannot be lawfully deployed to resurrect a process that was entirely devoid of the requisite constitutional oxygen at its genesis.

656. In assessing the profound jurisdictional void created by such unconstitutional conduct, the broader jurisprudential view of "unlawful means" must be rigorously examined. This tortious concept encompasses all acts which the state is simply not at liberty to commit—namely, acts undertaken entirely without legal justification, statutory warrant, or constitutional sanction. This broader, highly protective view was espoused by Lord Denning in *Torquay Hotel Co. Ltd. v. Cousins*, [1969] 1 All E.R. 522, [1969] 2 Ch. 106 (C.A.) at p. 530 (the "*Torquay Hotel*"). The Ontario Court of Appeal explicitly adopted the principle established in *Torquay Hotel* in *Reach M.D. v. Pharmaceutical Manufacturers Assn. of Canada*, (2003) 65 O.R. (3d) 30 (C.A.) (the "*Reach M.D.*"), wherein it was found that unlawful means unequivocally include instances in which an administrative or judicial body issues a ruling or undertakes an action that it lacked the explicit statutory authorization to execute. It was perceptively noted by Laskin J.A. that no coherent public policy rationale exists for adopting a narrower, restrictive view of unlawful means when institutional actors willfully exceed strict, codified powers. State actors are possessed of no inherent, residual powers outside of those explicitly granted by enabling statutes; therefore, any deviation utilizing fabricated documents is, *ipso facto*, the deployment of unlawful means and a direct, unconstitutional affront to the separation of powers.

657. Upon a rigorous, forensic examination of the evidentiary record, it is observed that page 4 of 6 from the Lincoln County Law Association page, herein identified as the **Jurat Information Laying Crown Election Page**, was subjected to material alteration, deliberate fabrication, and systemic, orchestrated spoliation. The *prima facie* evidence inexorably suggests that the master judicial record was intentionally and maliciously contaminated by state actors to facilitate an unlawful arrest and a subsequent, highly prejudicial, and unconstitutional detention. Any hypothetical, apologetic suggestion that such profound, structural deficiencies constitute mere technical "irregularities" contemplated and curable by the remedial provisions of *Rule 2.01.01* of the *Rules of Civil Procedure* or analogous criminal curative mechanisms must be summarily rejected as a jurisprudentially untenable affront to the core principle of legality. The legislative codification of procedural curative mechanisms was historically designed to ameliorate innocent scriveners' errors and minor administrative oversights, not to sanitize the intentional usurpation of judicial authority by rogue state agents.

658. The critical jurisprudential distinction existing between a curable irregularity and an absolute nullity is delineated not by subjective judicial preference, administrative convenience, or the pursuit of systemic efficiency, but by an objective, unyielding assessment of whether the underlying defect is one of superficial form or of foundational substance. An irregularity is traditionally conceptualized in administrative law as a mere slip, an inadvertent typographical or procedural misstep occurring within the parameters of a fundamentally valid, jurisdictionally sound, and honestly initiated process. Conversely, a nullity is strictly defined as a purported process that never legally commenced due to a complete, incontrovertible lack of requisite statutory, jurisdictional, or constitutional authority. For illustrative purposes, a missing signature on a validly sworn document, in circumstances where the oath was demonstrably, contemporaneously, and honestly administered before a qualified, independent official, may constitute a procedural irregularity capable of retroactive cure. However, a fabricated jurat—the indispensable, foundational mechanism through which legal life is breathed into an Information and by which the deployment of the violent, coercive powers of the state is formally authorized—must be classified as an absolute nullity. Such a fabrication violently offends the core of the judicial function, eviscerates the paramount, unyielding duty of candour owed by the state to the tribunal, and transforms a passive judicial instrument into an unconstitutional weapon of state oppression.

659. In the matter at bar, it is submitted that the fabrication of judicial documentation and the coordinated, systemic spoliation of a jurat cannot, under any logical framework, be characterized as a mere defect of form; rather, it is a defect of absolute, unmitigated substance that strikes lethally at the *raison d'être* of the administration of justice. The documented, undeniable involvement of the **Default Judge**, as explicitly and voluntarily admitted by Mr. Michael Henriques within the False Information Package, further corroborates that the proceedings were conducted under a deceptive, meticulously manufactured cloak of authority, entirely devoid of any lawful, underlying jurisdiction. Consequently, the venerable legal principle of *factum a judice, quod ad officium jure non pertinet, ratum non est* (an act of a judge which does not pertain to the judicial office is not valid) applies with absolute, unyielding, and unqualified force. Under the binding legal framework established in *Reach M.D.*, it is evident that affirmative, liberty-depriving acts were engaged in by the **Default Judge** and associated state actors—acts which lacked any lawful statutory authorization whatsoever, thereby constituting the deployment of unlawful means to effectuate an unconstitutional deprivation of physical liberty.

660. The curative provisions of the *Rules* cannot be improperly or cynically invoked to retroactively validate a process birthed from deliberate, calculated institutional fraud. To permit a judicially sanctioned cure for fabricated, state-sponsored evidence would be equivalent to formally providing a jurisprudential license for executive lawlessness and tyranny. Such a permissive approach would inextricably transform the Superior Court into a complicit, passive accessory to the deception perpetrated by the state. The broader systemic implications of permitting such a cure are profoundly deleterious to the democratic order: it would functionally dictate that jurisdiction may be unilaterally and endlessly manufactured by the state through the clandestine spoliation of evidence, provided the deception remains successfully undetected by the targeted individual. Furthermore, it would perversely incentivize the creation of fraudulent records by offering the state an automatic, risk-free procedural safety net should the malfeasance eventually be exposed by rigorous defense. It is imperative that this dystopian possibility be categorically foreclosed by the Court to preserve the institutional integrity of the justice system and strictly deter future misconduct.

661. In reaching this determination, it is respectfully submitted that the ancient, highly equitable evidentiary principle of *omnia praesumuntur contra spoliatorem* (everything is presumed against the spoliator) must be strictly, rigidly,

5853 and uncompromisingly applied. Due to the intentional, concerted actions of the state defendants, which have rendered it entirely impossible to determine the true, original extent of the unadulterated judicial record through deliberate obfuscation and the subsequent, calculated destruction of critical digital metadata, the drawing of an overwhelming, irrebuttable adverse inference is both logically permitted and strictly mandated by prevailing jurisprudence. It must be conclusively presumed that the legal apparatus was catastrophically misused against the targeted individual, and that the destroyed, withheld, or hidden evidence would unequivocally confirm the assertions of profound bad faith. The state cannot be permitted to simultaneously destroy the evidentiary record and subsequently demand strict, mathematical proof of the contents of the destroyed materials; to permit such an absurdity would be to heavily reward the successful spoliator.

662. Furthermore, any anticipated reliance by opposing counsel upon the "good governance" immunity traditionally associated with the *bona fide* enactment of laws or the negligent, albeit honest, execution of broad public policy must fail *in limine*. The conduct herein constitutes an egregious, calculated, and malicious abuse of power and is fundamentally characterized by bad faith, thereby instantly stripping the involved state actors of any such protective veil or statutory immunity (*Canada (Attorney General) v. Power*, 2024 SCC 26 at para 4). When the coercive machinery of the criminal court is mobilized by the executive branch based upon a known, verifiable falsehood, the protection of the law is definitively and irrevocably abandoned. Such unconstitutional actions compel the application of the full, unmitigated weight of the remedial power of the Court to declare the entire procedural edifice a nullity. Statutory immunities are carefully constructed to shield honest errors in judgment and protect the public purse from endless litigation over policy choices; they are unequivocally not designed to immunize the deliberate, coordinated fabrication of judicial authority.

663. The inevitable, logical consequence of such a declaratory finding of nullity is sweeping, uncompromising, and absolute: every derivative warrant, every restrictive condition of release, every signed undertaking, and every stigmatizing entry localized within the **CPIC** database is rendered an oppressive legal fiction that must be immediately, permanently, and forensically expunged. The Court must act as the ultimate, uncompromising arbiter of truth; if the foundational document supporting state action is determined to be a fabrication, the entire legal structure built upon that invalid foundation must inevitably and completely collapse, leaving no residual legal effect or societal stigma.

CONCLUSION

664. It is concluded that the proceedings initiated heavily transcend mere procedural irregularity; they constitute an absolute, irremediable nullity. The fraudulent, fabricated nature of the **Jurat Information Laying Crown Election Page**, considered alongside the unyielding evidentiary presumption of *omnia praesumuntur contra spoliatorem*, inextricably necessitates a robust, unequivocal judicial declaration that all subsequent state actions, encompassing the arrest, the physical detention, and the imposition of liberty-restricting release conditions, were void from absolute inception and possess no continuing legal force or effect whatsoever.

THE FIDUCIARY DUTY OF THE CROWN, COMMON DESIGN, AND THE IMPERATIVE OF UBERRIMA FIDES

THE FOUNDATIONAL PRINCIPLE OF UTMOST GOOD FAITH IN PUBLIC LAW

665. It is a foundational public law principle that the Crown, and by direct extension the constituent agencies, ministries, and law enforcement apparatuses thereof, is inextricably bound not merely by the statutory strictures of the *Ontario Human Rights Code*, but by the overarching, unwritten constitutional principle requiring all governmental entities to act with *uberrima fides*—the utmost good faith—in all dealings with the citizenry. As eloquently and forcefully articulated in the seminal jurisprudence of *Roncarelli v. Duplessis*, [1959] S.C.R. 121 (the "*Roncarelli*"), untrammeled, absolute administrative discretion is anathema to the rule of law and exists merely as a legal fiction. Every exercise of state power—most notably the immense, inherently coercive, and liberty-depriving police and prosecutorial powers entrusted to the executive apparatus—must be irrevocably and demonstrably directed in absolute good faith toward the legitimate, democratic purposes expressly articulated within the enabling statute. The monopoly over the legitimate deployment of force and the extraordinary capacity to initiate punitive legal processes are not inherent, unassailable rights of the sovereign; rather, they constitute highly conditional

5854 delegations of authority strictly predicated upon the unwavering observance of constitutional and jurisdictional limitations. When such formidable administrative and policing powers are untethered from their foundational statutory moorings, and are instead deployed for ulterior, unacknowledged, or retaliatory motives, the resulting state action immediately ceases to be classified as lawful administration, degenerating instead into arbitrary, *ultra vires* persecution. Consequently, it is mandated that every discretionary execution of state authority—ranging from the foundational swearing of an Information to the physical execution of a warrant of arrest—be objectively justified by an honest, demonstrable pursuit of public safety and justice, entirely devoid of institutional malice, personal vendetta, or manufactured, spoliated pretexts. The authority of the state is held in a sacred trust; the subversion of that trust for improper purposes constitutes a fundamental breach of the constitutional order.

666. The imperative for governments to act with *bona fides* implies an unwavering, institutionalized commitment to honesty and scrupulous adherence to the highest ethical standards. This comprehensive obligation encompasses several foundational tenets, including absolute transparency, non-partisanship, and strict adherence to the rule of law. These tenets parallel the stringent, uncompromising protections afforded in the criminal law context to "informer privilege." In a criminal law context, "informer privilege" is recognized as almost absolute, guaranteeing that the anonymity of an individual providing information to the police will be preserved indefinitely. It is only where innocence is at stake that the privilege must give way. In any litigation, whether civil or criminal, it is absolutely mandated that the police, the Crown, and the courts aggressively protect the privilege. Even the right to full disclosure, which constitutes a paramount part of the constitutional right to make full answer and defence, will not override the privilege.

667. The jurisprudential analogy utilized herein is highly instructive and deeply compelling: just as the promise of anonymity to an informer is held as an almost sacred, inviolable trust absolutely necessary for the functioning of the justice system and the protection of individuals from reprisal, the right of the public to an uncorrupted, unspoliated judicial record is an equally absolute, non-derogable trust. If trust cannot be maintained regarding the authenticity of sworn Informations generating armed arrest warrants, the entirety of the judicial system is imperiled and reduced to a mechanism of state terror. Analogously, no purported administrative convenience, institutional embarrassment, or opaque state objective can ever override the absolute prohibition against judicial fraud. The duty of the state to maintain a pure, untampered record is existential to the continued operation of the rule of law; it serves as the foundational currency upon which the consent of the public to be governed is predicated. When the state falsifies this currency, the social contract is voided.

668. It is submitted that these fundamental requirements of *uberrima fides* have been systematically disregarded, mocked, and intentionally subverted by the state actors in the present matter through a highly coordinated common design. The jurisprudence surrounding conspiracy and common design in the civil context is highly instructive in attributing liability across the multiple, interwoven institutional actors involved, thereby successfully preventing the evasion of accountability through bureaucratic compartmentalization and the intentional diffusion of responsibility across sprawling state agencies.

669. **Unnecessary for Each Respondent to Engage in the Specific Unlawful Acts:** It has been definitively recognized by the Courts that personal engagement in the specific, mechanical unlawful act of fabricating the document by every single conspirator or state actor is entirely unnecessary, provided that the unlawful act of one conspirator was a probable, reasonably foreseeable consequence of the original common design (*Kuwait Oil Tanker Co. v. Al Bader*, [2000] 2 All E.R. (Comm) 271 at pp. 110 and 133 (C.A.); *Golden Capital Securities Ltd. v. Holmes*, [2005] 1. W.W.R. 631 at pp. 74; *HM Revenue & Customs v. Begum*, [2010] EWHC 1799 at p. 86 (Ch.D.)). In the present scenario, the unlawful arrest, the harrowing deprivation of physical liberty, and the subsequent, ongoing institutional cover-up are identifiable as the direct, highly probable, and fully intended consequences of the original fabrication of the **Jurat Information Laying Crown Election Page**. All actors facilitating this continuum of constitutional harm are strictly captured by the doctrine of common design, irrespective of the precise degree of their direct mechanical or administrative involvement.

670. **Aiding and Abetting Qualifies as Unlawful Means:** It is established as a matter of law that aiding and abetting a co-conspirator to commit an unlawful act can itself qualify as an independent, actionable application of unlawful means (*2038724 Ontario Ltd. v. Quizno's Canada Restaurant Corp*, 2010 ONCA 466, pp. 46-49). State actors, court clerks, administrators, and police officers who processed, stamped, transmitted, or mobilized police resources based on documents known, or which through the exercise of minimal professional diligence ought to have been known, to be spoliated, are equally culpable under this parasitic liability model. Willful blindness, feigned ignorance, or administrative apathy provides no sanctuary from constitutional liability. The failure to inquire when

confronted with glaring documentary irregularities, and the subsequent procession of the prosecution, constitutes a formal adoption of the underlying fraud.

671. **The Mandatory Duty to Extricate or Notify to Absolve:** Crucially, to legally extricate oneself from an ongoing conspiracy or common design of fraud, definite, affirmative, and documentable steps must be taken by a party to absolve themselves of continuing acts in the direction of the common design (*Claiborne Industries Ltd. v. National Bank of Canada*, 1989 CanLII 183 (ONCA) (the "*Claiborne Industries*")). It is entirely insufficient for an officer of the court or a sworn police officer to simply retreat, ignore the circumstances, look the other way, or feign ignorance *ex post facto*. The evidentiary record indicates a profound absence of any definite, affirmative steps taken by any state actor in this multi-agency event to disclose the malfeasance, provide notification to the accused, formally correct the record, or halt the malicious prosecution. By maintaining conscious, strategic silence in the face of known, demonstrable fraud, the common design of institutional spoliation was actively perpetuated, endorsed, and adopted as official state action.

672. The wholesale, unrepentant abandonment of these fiduciary-like duties, facilitated through a pervasive, suffocating common design of institutional silence and complicity, violently transforms the interactions between the state and the citizenry from a legitimate exercise of policing power into an oppressive, *ultra vires* persecution. A full, unmitigated exercise of the available rights and remedies is thereby strictly necessitated to rectify this profound, structural, and ongoing breach of the public trust.

THE AVAILABILITY AND SCOPE OF CONSTITUTIONAL REMEDIES

Issue

673. Whether the Superior Court of Justice, acting as a court of competent jurisdiction, possesses the requisite constitutional authority and the affirmative, non-delegable duty under section 24(1) of the *Charter* to grant a comprehensive, multifaceted suite of restorative remedies—including declarations of absolute nullity, *mandamus*, independent forensic structural injunctions, and *habeas corpus*-type relief—in response to systemic executive misconduct, fraud, and institutional spoliation.

Rule

674. Section 24(1) of the *Charter* expansively empowers the Court to grant "such remedy as the court considers appropriate and just in the circumstances." As comprehensively interpreted in *Vancouver (City) v. Ward*, 2010 SCC 27 (the "*Ward*"), and heavily reinforced by the Supreme Court in *Doucet-Boudreau v. Nova Scotia (Minister of Education)*, 2003 SCC 62 (the "*Doucet-Boudreau*"), this remedial power is intended to be "meaningful," "responsive," and demonstrably "effective." It is a settled principle that a remedy which is merely symbolic, or a bare declaration issued in the face of ongoing administrative recalcitrance, is practically no remedy at all. It is strictly required that the remedy be directly and tangibly relevant to the specific lived experience of the affected individual and surgically address the distinct, compounding circumstances of the constitutional breach. A declaratory judgment unaccompanied by coercive enforcement mechanisms and structural oversight fails entirely to satisfy the purposive requirements of the *Charter* when confronted with systemic institutional resistance and historical bad faith.

675. Furthermore, a constitutional mandate exists requiring the Court to remain "flexible and responsive to the needs of a given case." This explicitly includes the affirmative employment of remedies possessing "novel and creative features" to breathe practical, enforceable life into the maxim that "where there is a right, there must be a remedy." Superior courts possess a constant, concurrent, and inherent jurisdiction to ensure that an efficacious remedial forum is perpetually available (*Rahey v. R.*, [1987] 1 S.C.R. 588; *R. v. Mills*, [1986] 1 S.C.R. 863). This inherent jurisdiction explicitly permits, and indeed requires, the transcendence of traditional, restrictive remedial boundaries in circumstances where the executive branch has entirely abandoned traditional legal, ethical, and statutory constraints. The remedial capacity of the Court is not to be constrained by archaic procedural forms or historic limitations when confronting modern, technologically sophisticated institutional fraud.

ANALYSIS

676. The orchestrated, systemic violations detailed herein represent a catastrophic departure from the *status quo ante*. Any assertion advanced by opposing counsel that a judicial stay of proceedings constitutes the maximum available or appropriate remedy must be firmly and uncompromisingly rejected. A stay of proceedings is classified exclusively as a remedy of "last resort," specifically reserved for proceedings that are otherwise validly constituted but irreparably prejudiced by delay or prosecutorial misconduct (*R. v. O'Connor*, [1995] 4 S.C.R. 411). A stay cannot retroactively cure the fundamental jurisdictional void birthed by the fabrication of the **Jurat Information Laying Crown Election Page**. Operating strictly prospectively, a stay merely pauses a tainted process. While representing an administrative cessation of immediate prosecution, it crucially permits the fabricated documents to linger permanently in the digital and physical record. A stay without associated expungement and declarations of nullity operates as an incomplete, inadequate remedy that leaves the fraudulent architecture of the state completely intact and permanently perpetuates the underlying stigma attached to the targeted individual.

677. Where actions have been undertaken *in limine* without a scintilla of legitimate jurisdiction, the restoration of constitutional legality requires a robust, proactive, and deeply intrusive multifaceted approach. The issuance of the extraordinary prerogative writ of *mandamus* is highly appropriate and constitutionally necessitated. Mandatory, judicially supervised correction of all **CPIC** and localized police databases is required, alongside the compelled production of all master records and associated digital metadata to definitively identify the genesis of the fraud and expose the responsible actors to judicial scrutiny. In the modern era, physical documents represent merely a fraction of the institutional record; the digital footprint—the metadata—constitutes the empirical, unalterable truth of the document's creation, modification, and subsequent alteration.

678. **Ancillary Orders of Destruction and Forensic Inspection:** An order for the delivery up, destruction, or preservation of property is conventionally granted as ancillary to injunctive relief in intellectual property and spoliation matters. Typically, the option to choose between delivery up or destruction is provided, assuming that, in the case of destruction, an unequivocally sworn Affidavit confirming permanent destruction is submitted by the contemnor. However, given the demonstrated, repeated propensity for spoliation, concealment, and profound bad faith in the present context, a mere sworn Affidavit from the offending institutional actors is constitutionally insufficient and logically absurd. It is procedurally unsound, intellectually bankrupt, and logically contradictory to permit the offending actors to autonomously audit and verify the deletion of the very records they are alleged to have systematically compromised and utilized for unconstitutional purposes.

679. Following the stringent, protective protocols established in *Hotspex Inc. v. Edwards*, 2011 CarswellOnt 6211 (Ont. S.C.J.), it is submitted that a mandatory order must be issued requiring the involved state actors to submit to a comprehensive, unfettered forensic inspection of the relevant databases, servers, and physical registries by an independent, court-appointed Third-Party IT auditor. Modern state databases, such as **CPIC**, utilize immensely complex, redundant architecture, including synchronized backup servers, disaster recovery sites, and clouded data silos. The simple administrative deletion of a file from a local terminal is profoundly insufficient to guarantee its eradication across the institutional network. An independent inspection is strictly required to verify, beyond any doubt, that all vestiges of the fabricated **Jurat Information Laying Crown Election Page** and all associated derivative **CPIC** records have been permanently, thoroughly, and irrevocably deleted from every redundant level of the state apparatus. As affirmed in *Altus Group Ltd. v. Yeoman*, 2012 CarswellOnt 9503 (Ont. S.C.J.), the appointment of an independent forensic inspector is recognized as the sole mechanism capable of neutralizing the technological opacity of sprawling computer networks and ensuring the actualization of the constitutional right to be free from fraudulent records.

680. Given the systemic, entrenched nature of the misconduct, the issuance of "structural injunctions" is required to ensure rigorous, ongoing judicial supervision of the reconstruction of the master record. In the absence of sustained structural supervision involving independent Third-Party verification, the state effectively remains the judge of its own cause regarding the correction of the misconduct—a scenario fundamentally abhorrent to the rule of law and the constitutional separation of powers.

CONCLUSION

681. It is respectfully submitted that a formal declaration of absolute nullity, inextricably coupled with mandatory orders of *mandamus*, compelled independent third-party forensic IT inspections, and ongoing structural injunctive relief, represents the only "appropriate and just" remedial response capable of comprehensively addressing the staggering magnitude of the constitutional infringements detailed herein.

5857 ISSUE 4: THE QUANTUM OF DAMAGES UNDER THE *CHARTER*

Issue

682. Whether a global, aggregate damages award of $10,000,000 (the "**Total Damages**") is rationally justified, evidentiarily supported, and constitutionally required to provide compensation for profound psychological injury, to effectively vindicate the heavily infringed *Charter* rights, and to adequately deter the state from engaging in future systemic abuses of power.

683. As noted in the Form 1 of the Criminal Proceeding Rules herein, there has never been a reported decision where law enforcement falsified the entire information package. There was in R. v. Silva, the taking of the JP's stamp (physical) and stamping the very warrant that the police wished to have. While completely unauthorized, that context involved a younger law enforcement officer who made a terrible error in judgment while the Quebec police forces were attempting to apprehend a known criminal who assassinating persons tied to a carry over from the historically violent and fatal gang violence involving the likes of gangs where innocent persons were being killed.

Rule

684. The assessment, quantification, and allocation of constitutional damages under section 24(1) follows a rigorous "functional approach" explicitly endorsed by the Supreme Court of Canada. This framework is primarily focused upon three general, intersecting constitutional objects: compensation, vindication, and deterrence (*Ward* at paras 25-31). Initially, compensation seeks to directly and tangibly address the personal, psychological, reputational, and economic losses actually suffered as a proximate result of unconstitutional actions. In matters involving the deprivation of physical liberty, the terror of unlawful arrest, and deep institutional betrayal, this compensatory branch must be sufficiently robust to acknowledge the profound disruption to the individual's life and tangibly restore equilibrium. Secondly, vindication serves an essential declaratory function; it operates to forcefully uphold the societal importance of the infringed right, acting as a judicial reaffirmation that the rule of law remains paramount and that the state remains subordinate to the Constitution. Finally, deterrence aims to actively, financially discourage future breaches by the state apparatus, ensuring that institutional actors internalize the constitutional costs of malfeasance.

685. The jurisprudence dictates that while the foundational *Andrews v. Grand & Toy Alberta Ltd.* (1978) "Trilogy" established strict upper limits on non-pecuniary damages for ubiquitous forms of negligence—principally enacted as a matter of public policy to protect the stability of the public purse and insurance sectors from unpredictable, catastrophic bodily injury claims—this arbitrary ceiling is definitively inapplicable in instances of intentional torts, institutional spoliation, and egregious institutional bad faith. Where the state has acted in "bad faith or an abuse of power," traditional civil immunities and jurisprudential caps are fully pierced and discarded (*Mackin v. New Brunswick*, 2002 SCC 13). This functional approach ensures that *Charter* damages function as an essential, calibrating tool for the maintenance of constitutional standards, strict institutional accountability, and the preservation of the democratic order, rather than operating merely as a mechanism for base, mathematically constrained restitution. The policy rationales shielding negligent actors do not extend to shield malicious, fraudulent actors.

686. The assessment of profound psychological trauma resulting from state action must be rigorously analyzed through the lens of recent Supreme Court of Canada directives. In *Mustapha v. Culligan of Canada Ltd.*, the threshold for legal causation was established, dictating that psychological injury must be reasonably foreseeable to a person of "ordinary fortitude." However, once this threshold gateway of objective foreseeability is satisfied, the requirement to establish a formally recognized psychiatric illness is decisively discarded pursuant to *Saadati v. Moorhead*, 2017 SCC 28 (the "*Saadati*"). *Saadati* confirms that serious, prolonged psychological injury caused by state misconduct warrants significant compensation regardless of the presence of specific diagnostic criteria from the Diagnostic and Statistical Manual of Mental Disorders. Evidence of profound, persisting cognitive and emotional disturbance, loss of enjoyment of life, and the fracturing of societal trust is sufficient to ground substantial compensatory awards.

687. Upon the establishment of liability and the surpassing of the *Mustapha* threshold, the strict, unyielding application of the "thin skull" doctrine is engaged. The jurisprudence mandates that the tortfeasor must take the victim exactly as they are found; if an unconstitutional deprivation of liberty triggers a catastrophic psychological breakdown due

5858 to latent, pre-existing vulnerabilities, the state remains strictly, fully liable for the entirety of the profound deterioration. The thin skull doctrine relates strictly to the ultimate quantum and extent of damages, bypassing generalized foreseeability considerations once constitutional liability is firmly cemented. The state cannot invoke the victim's fragility as a mitigating factor when it has intentionally shattered their psychological foundation through unlawful means.

688. Furthermore, the assessment of punitive components must be heavily guided by recent appellate jurisprudence, including the landmark principles solidified in *Whiten v. Pilot Insurance Co.* and recently expanded in *Baker v. Blue Cross Life Insurance Co. of Canada*, 2023 ONCA 842 (the "*Baker*"). Punitive damages standards dictate that severe financial penalties may be awarded for conduct displaying high-handedness, malice, or a marked departure from ordinary standards of decency. As articulated in *Baker*, a modest punitive award is frequently absorbed by massive institutional defendants as a mere "nominal cost of operating" or a "license fee" for rights violations. To achieve genuine, structural deterrence, the punishment must be economically meaningful; it must be of a sufficient magnitude to garner the immediate attention of senior executives, disrupt operational budgets, and compel the dismantling of institutionalized, systemic strategies of bad faith.

HIGHEST PUNITIVE DAMAGE AWARDS IN CANADIAN JURISPRUDENCE:

689. An analysis of the highest confirmed punitive damage awards in Canadian jurisprudential history reveals a trajectory of escalating judicial sanction against institutional malfeasance. The following jurisprudence establishes the requisite benchmarks for calculating punitive damages against massive institutional entities, demonstrating a judicial willingness to impose multi-million dollar penalties to ensure compliance:

690. **Baker:** In *Baker v. Blue Cross Life Insurance Company of Canada*, 2023 ONCA 842, a record-setting award of $1,500,000 was upheld by the Ontario Court of Appeal following a jury determination that a "systemic" pattern of wrongfully denying long-term disability benefits had been engaged in by the insurer. It was explicitly noted by the appellate tribunal that for an entity of such vast capitalization, any lesser financial penalty would be functionally absorbed as a mere "rounding error," thereby comprehensively failing to effectuate any deterrent objective.

691. **Whiten:** In *Whiten v. Pilot Insurance Co.*, 2002 SCC 18, an award of $1,000,000 was restored by the Supreme Court of Canada, standing as the historic record-holder for two decades, after an insurance corporation baselessly accused a family of arson to evade the payment of a legitimate property claim.

692. **Boucher:** In *Boucher v. Wal-Mart Canada Corp.*, 2014 ONCA 419, an initial jury award exceeding $1,000,000 in punitive damages was issued in a constructive dismissal action involving sustained workplace abuse. Although subsequently reduced upon appellate review, it remains a significant landmark establishing the availability of massive punitive sanctions in the employment context.

693. **Higginson:** In *Higginson v. Babine Forest Products Ltd.*, 2012 BCSC 1303, an award of $800,000 was granted in a wrongful dismissal matter wherein it was determined that the employer had falsely alleged "just cause" to avoid the payment of severance entitlements to a long-tenured employee.

694. **Hill:** In *Hill v. Church of Scientology of Toronto*, [1995] 2 S.C.R. 1130, an award of $800,000 in punitive damages was upheld by the Supreme Court of Canada against the defendant organization for the propagation of allegations that were determined to be entirely untrue and without foundation against a Crown lawyer.

LEGAL CONTEXT AND THE RATIONALITY TEST:

695. The fundamental purpose of punitive damages, sharply distinguished from compensatory awards, is solely to punish, denounce, and deter exceptionally reprehensible conduct. Under the "Rationality Test" established in *Whiten*, it is mandated that punitive awards must be no higher than absolutely necessary to achieve their specific purpose and must possess a rational connection to the underlying misconduct. While historical punitive awards rarely exceeded a $50,000 threshold, the *Baker* decision is indicative of a profound jurisprudential shift toward significantly higher awards when the courts are confronted with large institutional actors, thereby ensuring that the financial penalty imposed is genuinely meaningful and not absorbed as a mere administrative expense. When applied to the state—an entity with vastly more resources than any private insurer—the rational deterrent amount scales correspondingly.

696. **Damage is Presumed in the Face of Constitutional Usurpation:** It is a fundamental, bedrock tenet of Anglo-Canadian public law that where an inherent right is unlawfully invaded, the occurrence of damage is

5859 incontrovertibly presumed. As articulated in *Shaw v. Lewis*, [1948] 2 D.L.R. 189 (BCCA), involving an individual excommunicated from an organization as a result of a conspiracy, the Court of Appeal sternly rebuked a trial judge for dismissing the case due to unproven pecuniary losses, cementing the inviolable principle that "if a right is invaded, damage is presumed." The invasion of liberty through the deployment of fabricated judicial documents constitutes an ultimate trespass against the person. It demands an automatic judicial presumption of massive, irreparable harm, negating any strict requirement for the mathematical proof of the precise parameters of suffering. The sheer loss of liberty and the subjection to a fraudulent, weaponized process are heavily compensable injuries *in and of themselves*.

ANALYSIS

697. A global award comprised of general, aggravated, and punitive components, cumulatively totaling the **Total Damages**, is sought herein. The mental and emotional injury sustained, arising directly from the profound institutional betrayal orchestrated by the **Default Judge** and the fraudulent utilization of the **Jurat Information Laying Crown Election Page**, is identified as intensely serious, deeply prolonged, and utterly devastating to the affected individual's cognitive and psychological baseline.

698. **Inapplicability of Damages Caps:** It is anticipated that attempts may be made to improperly invoke the *Andrews* common law "cap" on personal injury damages to artificially limit recovery for profound psychological trauma. Such an approach is fundamentally foreclosed by binding Supreme Court of Canada jurisprudence, which recognizes the limitless nature of non-pecuniary harm when inflicted intentionally by the state. As definitively established in *Cinar Corp. v. Robinson*, 2013 SCC 73 (the "*Cinar*") and *Young v. Bella*, 2006 SCC 3 (the "*Young*"), the "cap" simply does not apply to discrete, massive awards for psychological injury flowing from non-bodily torts, institutional breaches, and violations of fundamental rights.

699. In *Young*, a $430,000 damages award was upheld for psychological injury arising in a defamation context, entirely separate from the primary tortious injury to reputation.

700. However, herein the facts at bar involving the deprivation to an individual's life, liberty and security along with section 12 violations without any remedying of the same while dragging the individual through the OCJ process and violating court orders authorizing him to bring his motion to strike and then yet again destroying documents.

701. Similarly, in *Cinar*, a sweeping copyright infringement case, an additional, discrete award of $400,000 was affirmed exclusively for the psychological devastation caused by the violation of the creative process. It was noted at para 108 of *Cinar* that "the integrity of his personal creative process was violated, causing deep psychological suffering."

702. Further rejection of artificial damage ceilings in instances of systemic institutional abuse was decisively cemented in *Barker v. Barker*, wherein uncapped, multi-million dollar non-pecuniary awards were affirmed for individuals subjected to state-sponsored psychological violence under the guise of institutional authority.

703. The logical extrapolation is constitutionally requisite: if uncapped, massive awards are readily available to compensate for the psychological distress of copyright infringement (*Cinar*) or to penalize systemic state psychiatric abuse (*Barker*), an exponentially greater, uncapped award is mandated when the psychological trauma stems from the intentional, unconstitutional deprivation of physical liberty utilizing criminally fabricated judicial instruments. The trauma of being pursued by a state apparatus deprived of lawful jurisdiction utterly eclipses the trauma of material property infringement. To apply a cap in such circumstances would be to incorrectly assign a higher systemic value to intellectual property and public purse preservation than to human liberty and the foundational integrity of the courts.

APPLICATION OF THE THIN SKULL DOCTRINE:

704. The psychological devastation experienced is not merely a transient upset; it undeniably satisfies the remoteness gateway established in *Mustapha*. It is entirely foreseeable that an individual of ordinary fortitude would suffer severe psychological harm upon discovering that the coercive powers of the state—including armed police intervention and the imposition of restrictive bail conditions—were deployed against them based on forged judicial documentation. Consequently, the "thin skull" doctrine is fully activated. The state must take the affected individual exactly as they were found. Any pre-existing vulnerabilities or predispositions that exacerbated the psychological descent into chronic anxiety, post-traumatic stress, or the total loss of societal trust are the sole

financial responsibility of the state actors whose deliberate spoliation triggered the collapse. The ultimate limits of the compensation are defined not by mathematical averages of resilience, but by the limitless depths of the actual psychological injury sustained as a direct result of the state's malfeasance.

705. **The Parasitic Nature of Unlawful Means:** In assessing cumulative damages, the overarching intentionality of the conduct must be recognized. As described by Cromwell J. in *A.I. Enterprises Ltd. v. Bram Enterprises Ltd.*, 2014 SCC 12, the "unlawful means" tort creates a type of "parasitic" liability, the core of which captures the intentional infliction of injury by the use of unlawful means against a third party. Conduct was engaged in by the state actors which would be universally actionable if perpetrated by any private citizen. These damages may be cumulative and stacked to reflect the multiplicity of the breached constitutional and fiduciary duties.

706. **Subsequent Conduct as Aggravation and the Failure to Investigate:** The analysis is not limited to the initial moment of the fraudulent arrest. Subsequent conduct must be heavily considered in assessing damages, particularly in inflating aggravated and punitive damages. As established in *Robitaille v. Vancouver Hockey Club Ltd.* (1981), 124 D.L.R. (3d) 228 (B.C. C.A.), subsequent actions operate in aggravation of damages. A sustained campaign characterized by opacity, the obdurate refusal to legally correct the master record, and the active bureaucratic obstruction of legitimate inquiries operate to severely aggravate the damages profile. Furthermore, drawing from employment law principles established in *Saskatchewan Indian Gaming Authority v. Pasap* and *Curtis v. Bank of Nova Scotia*, the bad faith failure of the state to conduct a neutral, procedurally fair internal investigation into the origins of the fabricated **Jurat Information Laying Crown Election Page** once formally notified constitutes an independent, heavily aggravating feature justifying massive additional compensation for the ensuing humiliation and prolonged injury to dignity.

707. **Punitive Damages for Confidentiality Breaches and Spoliation:** The conduct in question mirrors egregious examples of malfeasance where massive punitive damages are awarded as a matter of course to ensure disgorgement and deterrence.

708. Punitive damages have been consistently awarded where confidential documentation is manipulated and actively retained while falsely purporting to return it through legal counsel (*Jones v. Klassen*, 2006 CarswellAlta 31 (Alta. Q.B.)).

709. Taking confidential files, agreeing to return them, and then failing to do so on the bad-faith pretext of inappropriate destruction warrants severe judicial sanction (*Service Corp. International (Canada) Ltd. v. Nunes-Pottinger Funeral Service & Crematorium Ltd.*, 2012 CarswellBC 1100 (B.C. S.C.)).

710. In cases where a deliberate cover-up renders it impossible to ascertain damages with arithmetical precision, the measure of damages must be an equitable estimate drawn adversely against the wrongdoers, applying the principle of *omnia praesumuntur contra spoliatorem* (*XY, Inc.*). Successful spoliation must not be permitted to serve as a shield to limit financial exposure.

711. **The Nissen Multiplier:** A highly relevant analogue to the present institutional betrayal is found in *Nissen v. Durham Regional Police Services Board*, 2017 CarswellOnt 114 (Ont. C.A.). In *Nissen*, the Ontario Court of Appeal confirmed a baseline award of $345,000 in general damages against the police for a single breach of a promise of confidentiality made to an informer.

712. While *Nissen* establishes a powerful baseline for psychological trauma caused by police betrayal, the present circumstances are exponentially more severe. In *Nissen*, the handling of an interview tape was primarily negligent; in the present matter, a highly coordinated, intentional, multi-agency conspiracy was engaged to fabricate the **Jurat Information Laying Crown Election Page**, actively conceal judicial conflicts involving the **Default Judge**, and effectuate an unlawful arrest. The multiplier effect of these compounding, intentional, bad-faith constitutional violations justifies an award that significantly transcends the *Nissen* baseline. If $345,000 is the accepted metric for negligent disclosure, an award in the multi-millions is strictly required for the intentional fabrication of judicial warrants resulting in the physical deprivation of liberty.

713. **The Necessity of Meaningful Deterrence:** The conduct evidenced herein represents a paradigm wherein the punitive and deterrent effect of a multi-million dollar award is strictly required. Relying heavily upon the rationales articulated in *Baker v. Blue Cross* and *Whiten*, it is submitted that an award must not merely represent a nominal cost of operating for the state. A sprawling, publicly funded apparatus will not be deterred by an award of hundreds of thousands of dollars; such a sum will be seamlessly absorbed by existing ministerial budgets without triggering any requisite structural overhaul. The state engaged in a "closed loop of information," deliberately ignoring or refusing to clarify the invalidity of the sworn instruments utilized against the targeted individual. To achieve absolute deterrence, the financial penalty must be catastrophic enough to compel immediate, systemic administrative reform across all involved agencies. An award of $10 million is entirely proportionate to the

5861 systemic, multi-agency failure of the institutions involved and the unprecedented usurpation of the judicial function.

CONCLUSION

714. It is concluded that the requested aggregate sum of $10,000,000 is both rationally connected and entirely proportionate to the unprecedented gravity of the misconduct engaged in by the state. This quantum serves to powerfully vindicate the *Charter*, adequately compensate for the limitless depths of the psychological harm inflicted pursuant to the thin skull doctrine, actively deter future misconduct through a massive financial penalty that cannot be administratively ignored, and restore desperately needed public confidence in the administration of justice following an unparalleled assault upon the constitutional order.
715. Notably, this is where the CSMD Diversion, which was clearly extortion on its face and in substance, is the reaping of the aforementioned sowing.

PART XXII — PERSONAL LIABILITY OF THE OFFENDING JUDICIAL OFFICER

ISSUE I: THE ABDICATION OF JURISDICTION AND THE ABROGATION OF JUDICIAL IMMUNITY

716. The foundational issue for determination before this Honourable Court is whether the impugned conduct, characterized by the unauthorized receipt of criminal process and the unsolicited, *sua sponte* usurpation of civil case management authority in the absolute absence of mandatory statutory prerequisites, constitutes *acta* executed *coram non judice*. This inquiry strikes at the very architectural integrity of the administration of justice, questioning the boundaries between lawful adjudication and rogue administrative expropriation by an individual acting under the mere color of office. It invites the Court to consider the specter of arbitrary power manifesting within the very halls designed to constrain it, where a member of the judiciary departs from the codified path of the *Legislature* to pursue an extra-jurisdictional agenda.
717. If the actions under scrutiny are fundamentally determined to be devoid of subject-matter jurisdiction, the secondary, inextricably linked issue to be resolved is whether such profound jurisdictional abdication operates to instantaneously strip the presiding justice of presumptive judicial immunity. The Court must determine whether the complete departure from the statutory framework crystallizes personal and constitutional liability for the resulting deprivation of liberty, the systemic procedural subversion, and the intentional frustration of the appellate process. This assessment requires a granular analysis of the "judicial contract"—the implicit agreement where immunity is granted in exchange for adherence to the law.
718. The ultimate inquiry must further determine whether the institutional apparatus of the state, encompassing reliant court registry staff, case management coordinators, and opposing counsel, is exposed to derivative civil liability under the tort of civil conspiracy for continually executing and relying upon these irremediable nullities (the "Irremediable Nullities"). The implications of this inquiry are far-reaching, as they address the positive duty of state actors and officers of the court to identify and resist the enforcement of void directives that lack a jurisdictional anchor, thereby preventing the perpetuation of a jurisdictional void.
719. Finally, the Court must assess whether a formal undertaking (the "Undertaking"), proffered by the Applicant to perpetually abstain from future tort litigation against the jurist, serves to definitively extinguish the institution's defensive multiplicity concerns pursuant to the legislative mandate of section 138 of the *Courts of Justice Act*, RSO 1990, c C.43 (the "**Courts Of Justice Act**"). This section demands that the Court harmonize the conflict between the need for individual accountability and the systemic desire for finality and judicial economy, ensuring that the primary administrative dispute is resolved without the paralyzing fear of collateral litigation.

THE RULE

720. The doctrine of judicial immunity is fundamentally designed to insulate the institutional independence of the judiciary, ensuring that lawful adjudicative functions may be discharged absent the paralyzing apprehension of personal reprisal, vexatious collateral litigation, or executive political interference. The historical evolution of this doctrine demonstrates that it was conceived as a necessary constitutional shield to protect the integrity of the

5862 judicial office itself, rather than serving as a limitless personal privilege for the individual occupying that office. It is a shield for the office, not a sword for the occupant to wield against the *Constitution*.

721. However, it remains an established, unyielding legal axiom that absolute immunity exclusively shields *acta* executed within a recognized, statutory matrix of subject-matter jurisdiction. The protective veil is not an absolute cloak for administrative tyranny or extra-jurisdictional adventurism; it is strictly and permanently conditional upon the lawful assumption and execution of the judicial role. When a jurist abandons the adjudicative framework to engage in unauthorized administrative interference, the protective mantle is simultaneously forfeited, as the act ceases to be "judicial" in any legally cognizable sense.

722. In *Morier v. Rivard*, [1985] 2 SCR 673 at 680 (the "*Morier Decision*"), the Supreme Court of Canada affirmed that superior court judges enjoy absolute immunity strictly for acts performed within their legitimate judicial capacity. The Supreme Court meticulously delineated that the protective sphere is categorically pierced, and immunity irreversibly abrogated, where the conduct constitutes an administrative usurpation or is executed in the clear, objective absence of all jurisdiction. The *Morier Decision* definitively extinguished the antiquated notion that a superior court judge is absolutely immune under all conceivable circumstances, emphasizing that the "color of office" cannot validate a jurisdictional void where the fundamental authority to act is non-existent.

723. This jurisdictional exception is inextricably anchored in two foundational legal maxims that have governed common law jurisprudence for centuries: first, *coram non judice* (proceedings before a tribunal not having jurisdiction); and second, *factum a judice, quod ad officium jure non pertinet, ratum non est* (an act of a judge not pertaining to the office is of no legal force). These maxims articulate the fundamental constitutional premise that state coercion is only legitimate when it flows directly from a democratically enacted statutory source. To act outside this source is to act as a private citizen, and the resulting orders are mere "dead letters" possessing no more authority than a private request.

724. The threshold for state and personal liability arising from the exercise of judicial and legislative functions has been explicitly modernized, clarified, and expanded in *Canada (Attorney General) v. Power*, 2024 SCC 39 at para 42 (the "*Power Decision*"). To successfully pierce state immunity and engage liability, the impugned conduct must satisfy a stringent tripartite threshold: it must be clearly unconstitutional, executed in bad faith, or constitute a gross abuse of power. The *Power Decision* establishes that the modern constitutional architecture does not tolerate the existence of legal black holes wherein state actors may act with absolute impunity while inflicting catastrophic violations of the *Charter*.

725. Where such an abuse of power manifests as a deliberate, calculated contravention of statutory imperatives and procedural safeguards, the equitable doctrine of fraud upon the court is incontrovertibly engaged. Relying upon the timeless pronouncement articulated by Lord Denning in *Lazarus Estates Ltd. v. Beasley*, [1956] 1 QB 702 (the "*Lazarus Estates Decision*"), as formally adopted, contextualized, and expanded by the Supreme Court of Ontario in *Landreville v. The Queen*, (1977) 75 DLR (3d) 380 at para 45 (the "*Landreville Decision*"), it is a universally recognized equitable principle that fraud unravels everything. Fraud, in this jurisdictional sense, includes the intentional misrepresentation of authority to secure a procedural or substantive advantage.

726. The usurpation of jurisdiction, when executed with calculated disregard for established statutory boundaries and administrative protocols, operates as a constructive fraud upon the administration of justice. Under such circumstances, the maxim *fraus omnia corrumpit* (fraud corrupts all) applies with absolute force, permanently vitiating any theoretical entitlement to judicial immunity, invalidating all subsequent directives, and mandating the comprehensive restoration of the injured party to the *status quo ante*.

THE ANALYSIS

Judicature vs. Judiciary

727. Within this constitutional architecture, a vital and unyielding distinction is strictly maintained between the judicature (the "**Judicature**"), encompassing the administrative and procedural machinery of the courts, and the judiciary (the "**Judiciary**"), representing the collective body of judges whose independence ensures that the legal order remains immune to the corrosive effects of administrative fictions (the "**Administrative Fictions**"). The Judicature provides the scaffolding; the Judiciary provides the intellectual and moral force. When the two are conflated to shield malfeasance, the temple of justice begins to crumble under the weight of its own internal inconsistencies.

5863 728. The constitutional architecture of the Dominion of Canada precisely necessitates a judicial branch (the "**Judicial Branch**") distinguished by an absolute and unfettered institutional independence. This imperative is derived comprehensively from the unwritten constitutional principles inherent within the Judicature Sections of the *Constitution Act, 1867* (UK), 30 & 31 Vict, c 3, explicitly characterized by the Supreme Court of Canada as the "principal pillars in the temple of justice." This independence is not a personal perquisite of the judge but a right of the citizen to be heard by an impartial and legally-constituted tribunal that adheres to the very laws it purports to enforce.

729. When a member of the Judiciary abandons adjudicative independence to manipulate the Judicature's administrative machinery without statutory authorization, a profound constitutional breach is instantly precipitated. This subversion of the Judicature by a rogue member of the Judiciary erodes the separation of powers, as it allows the judicial actor to act as both legislator of their own rules and executor of their own unauthorized mandates. It represents a "state within a state," where the judge operates outside the very *Judicature* they are sworn to uphold, effectively neutralizing the checks and balances designed to prevent precisely this species of arbitrary intervention.

730. Furthermore, this distinction highlights that while the *Judiciary* is independent, the *Judicature* must be predictable and transparent. The administrative machinery must operate according to the *Civil Rules* and relevant statutes to ensure due process and equal treatment before the law. When a judge bypasses the *Judicature*'s registry and intake systems—as occurred here with the unauthorized receipt of the Information and Indictment—they are not exercising "judicial independence," but are rather committing an administrative trespass that violates the institutional integrity of the court and compromises the neutrality of the registry staff.

The Epoch of 1878: Coram Non Judice and the Bradley Precedent

731. It is observed that since the foundational epoch of the confederation of Canada (the "**Confederation**") in 1867—a principle subsequently fortified by seminal jurisprudence—the legal architecture of this jurisdiction has perennially mandated that for the adjudicative manifestations of a member of the judiciary to possess binding efficacy (i.e., to be ratified), such *acta* must emanate exclusively from the duly authorized office of the judge (the "**Judge's Office**") and pertain rigorously to the statutory and prescribed obligations and functions inextricably associated therewith. This is the cornerstone of jurisdictional legitimacy in a constitutional democracy.

732. In the venerable matter of *McLean (Roderick) v. Bradley*, (1878) 2 SCR 535 (the "**Bradley 1878 Decision**"), it was judicially determined that acts exceeding the scope of judicial authority are fundamentally *factum a judice, quod ad officium jure non pertinet, ratum non est*. The constitution of such an esteemed Supreme Court of Canada bench in 1878 underscores the gravity with which the early Court contemplated jurisdictional boundaries. Any appearances or interactions with a judge acting in such an unauthorized capacity are *coram non judice*, thereby falling squarely within the categorical classification of Irremediable Nullities which cannot be salvaged by subsequent procedural compliance.

733. At page 547 of the *Bradley 1878 Decision*, the Court, invoking the wisdom of *Broom's Legal Maxims* and *Taylor v. Clemson*, definitively stated:

> "*When the Court has no jurisdiction of the cause, the whole Proceeding is coram non judice, and actions will lie against the above mentioned parties without any regard to the precept or process, and in this case it is not necessary to obey one who is not judge of the cause. Broom, L. M. 90; Taylor v. Clemson. Factum a judice, quod ad officium jure non pertinet, ratum non est.*"

734. This foundational principle ensures that the Judiciary remains tethered to the Law and the sovereign will of the *Legislature*. To permit a judge to exercise power *ultra vires* would be to acknowledge an authority superior to the Law itself, a proposition that was categorically rejected at the very inception of the Canadian legal project. The *Bradley 1878 Decision* remains an unassailable barrier against judicial overreach, confirming that a judge without jurisdiction of the cause is no judge at all for the purposes of that specific proceeding, and any order issued therein is a legal phantom.

5864 **3. DISTINCTIONS WITH A DIFFERENCE: COURT VS. JUDGE NOT HAVING JURISDICTION OF THE CAUSE – BY ANALOGY OF THE TAINTED ACTIONS AND EFFECT POST THE UNDISCLOSED "*EX PARTE* IN CAMERA HEARING" AND THE UNDISCLOSED NAME OF THE JUDGE (CHIEF JUSTICE MORAWETZ) FROM SEPTEMBER 2024 – HIS UNLAWFUL ASSIGNMENT TO MADAM JUSTICE SHORE AS HIS "UNLAWFUL FIXER"**

735. Naturally arising from this historical premise is the critical distinction between: (a) a court having no jurisdiction of the cause; versus (b) a judge having no jurisdiction of the cause. To deconstruct the term "cause," one traditionally thinks in terms of a "cause of action" which is naturally the legal foundation for suing someone—be it breach of contract, tort, or breach of statute. In the context of the Divisional Court, the "cause" is often a specialized statutory application or appeal which is strictly bound by its enabling legislation.
736. In the specific context of an application under the *Judicial Review Procedure Act*, RSO 1990, c J.1 (the "***JRPA***"), the "cause of Application" is strictly governed by the enabling statute itself. Naturally, if an individual filed a *JRPA* application directly with the Court of Appeal for Ontario (the "ONCA") at first instance, that court would not have any jurisdiction of the cause. All acts of any judge therein would be *factum a judice, quod ad officium jure non pertinet, ratum non est* and appearances before him or her would be *coram non judice*. The Divisional Court, while a branch of the Superior Court, possesses a specialized statutory jurisdiction that cannot be expanded or bypassed through individual judicial fiat or administrative caprice.
737. In the precise context of the matter at bar, any case management judge (the "CMJ") does *not* possess jurisdiction of the cause. Within the framework of *rule* 50 of the *Rules of Civil Procedure*, RRO 1990, Reg 194 (the "**Civil Rules**"), there exists greater procedural latitude; however, that provision only applies to pre-trial procedures in actions. Applications are not actions, and, *ergo*, are not positioned upon a procedural trajectory culminating in "trials." This is a distinction of profound legal consequence that prevents the administrative management of a file from swallowing the substantive merits of the cause.
738. Under *rule* 77 of the Civil Rules, substantially less latitude is afforded to actions and applications, and even narrower scope is granted to a CMJ (who is emphatically not the "Judge of the Cause") when managing a statutory application, particularly one grounded in the *JRPA*. The rationale for this stringent limitation is deeply rooted in statutory supremacy. The *Legislation Act, 2006*, SO 2006, c 21, Sch F, delineates the absolute superiority of the enabling statute over subordinate regulation. The *Civil Rules* cannot be used to circumvent the jurisdictional triggers and evidentiary thresholds established in the *Courts of Justice Act* or the *JRPA*.
739. The "Judge of the Cause" is strictly defined as the jurist who "Hears and Decides," an eventuality that can only lawfully transpire within a formal Hearing. Pursuant to the Civil Rules, a "Hearing" means the hearing of an application, motion, reference, appeal or assessment of costs, or a trial. Because an "Appeal," "Reference," and "Trial" are procedurally irrelevant to a *JRPA* application—as historically affirmed in *Pong v. Quong*, [1927] SCR 271 (the "**Pong Decision**")—the substantive merits of a *JRPA* application may only be lawfully heard and decided following the precise procedural setting of the application.
740. This formal setting is exclusively executed either by the Registrar of the Divisional Court via the issuance of Form 68A pursuant to *rule* 68.05, or alternatively, through a formal motion advanced by a litigant, as confirmed in *Yatar v. TD Insurance Meloche Monnex*, 2024 SCC 8 at para 49 (the "**Yatar Decision**"). While the Civil Rules provide the power to convert a motion into a motion for judgment, no corresponding residual or inherent authority exists under *rule* 77 to transmute an unauthorized conference into a "Conference For Judgment." The attempt to do so is an *ultra vires* transmutation of procedural character that bypasses the notice requirements and the evidentiary record necessary for a final determination.
741. This structural reality provides a comprehensive answer establishing that a CMJ, whether authorized or functioning as an interloper, is not a Judge Of The Cause. Consequently, Madam Justice Shore possessed no authority whatsoever to wade into the merits as she was not a "Hearing Judge." It is solely through the precise procedural mechanism of a formal motion, or through the administrative setting of the matter on a listing for hearing (the "**Listing For Hearing**") by the Registrar—a mandatory function exclusively reserved for the Registrar, contrary to the entirely erroneous pronouncements of court clerk Ms. Clegg—and the subsequent issuance, endorsement, and distribution of a Form 68B pursuant to *rule* 68.05, that the matter may lawfully proceed.
742. This incontrovertible procedural architecture leads directly to the unassailable, deductive syllogism that Madam Justice Shore functioned not merely as an unauthorized CMJ interloper (the "**Unauthorized CMJ Interloper**") and an unauthorized "*Ex Parte* in camera hearing" judge interventionist (the "**Unauthorized '*Ex Parte* In Camera Hearing' Judge Interventionist**"), but importantly, was at no point the Judge Of The Cause. Her assumption of

5865 power was not a procedural irregularity; it was a total jurisdictional vacuum that renders the ensuing proceedings a nullity.

4. NO OBLIGATION TO COMPLY WITH UNAUTHORIZED DIRECTIVES

743. The mandatory obligation to comply with a court order promulgated by a specific judicial officer is inextricably contingent upon both the lawful subject-matter jurisdiction of the tribunal and the precise jurisdictional competence of the individual judge to effectuate the requisite procedural acts. Without this foundational nexus of legal authority, a directive masquerading as a formal Order possesses no greater legal force than a request articulated by a private citizen and demands absolutely no compliance from the litigants. A void order cannot support a finding of contempt, nor can it impose a legal duty to alter one's position or abandon one's rights.

744. To hold otherwise would be to validate the subversion of the rule of law by administrative caprice. If a litigant were compelled to obey an order issued *ultra vires*, the very concept of jurisdictional boundaries would be rendered illusory. The Law does not demand obedience to a phantom authority; it demands adherence to the *Constitution* and the statutes from which all judicial power is derived. The Applicant was not merely at liberty to ignore the unauthorized directives; they were constitutionally justified in resisting the same to preserve the integrity of the *Judicature* and the sanctity of the adversarial system.

5. POSITIVE DUTY TO NOT FACILITATE, AID, AND ABET UNLAWFUL ACTS

745. Consistent with the established legal doctrine that there exists no plea of justification for a constable who executes a warrant that is fundamentally "bad" because it was issued by a judicial officer lacking the foundational jurisdiction to endorse it, there exists no plea of justification for any state actor, litigant, court staff, or subsequent judicial officer to rely upon an Irremediable Nullity. The lack of jurisdiction is a fatal defect that permeates every subsequent act predicated upon it, poisoning the entire stream of the proceeding.

746. The jurisprudence governing the tort of civil conspiracy provides ample, binding authority in this specific domain. The tort manifests in two distinct branches: (i) Unlawful Means Conspiracy: wherein two or more persons by agreement, frequently established via inferential deduction rather than direct evidence, utilize unlawful means that precipitate damage and loss to another; and (ii) Lawful Means Conspiracy: wherein two or more persons engage in a lawful agreement predominantly motivated by the malicious intent to inflict harm. When the fundamental, constitutional rights of the victim are transgressed by state actors, damage and loss are legally presumed, as established in *Shaw v. Lewis*, [1949] 1 WWR 355 (BCCA) (the "**Shaw Decision**"). In the context of the *Judicature*, this conspiracy involves the coordinated reliance on void orders to deprive a litigant of their day in court through administrative attrition.

747. The Court of Appeal for Ontario in *Reach M.D. Inc. v. Pharmaceutical Manufacturers Assn. of Canada*, 2003 CanLII 27828 (ON CA) (the "**Reach MD Decision**"), citing the seminal jurisprudential contribution of Lord Denning in *Torquay Hotel Co. Ltd. v. Cousins*, [1969] 2 Ch 106 (CA) (the "**Torquay Decision**"), found that the expansive construction of unlawful means encompasses acts the defendant "is not at liberty to commit"—in other words, an action devoid of legal justification. Lord Denning expounded that if the means are unlawful, that is sufficient to ground liability. Interfering with a litigant's access to a properly constituted hearing through the use of void directives is an act no officer of the court or member of the bar is at liberty to commit, as it violates their primary duty to the administration of justice.

748. It is indisputable that the actions undertaken by Madam Justice Shore were not merely executed absent jurisdiction—as she operated entirely as the Unauthorized CMJ Interloper—but were concurrently unlawful acts, characterized unequivocally as *factum a judice, quod ad officium jure non pertinet, ratum non est*. Consequently, any purported case management conference convened before her constituted an attendance before a person who was not a judge at law (*coram non judice*). Therefore, subsequent reliance upon such proceedings by any entity, including the coordination staff, the registry, and adversarial counsel, is properly construed as the active aiding and abetting of unlawful acts which facilitate a jurisdictional usurpation.

749. Liability in civil conspiracy can be robustly imposed for the mere maintenance of silence and the passive permission of the promulgation of false statements regarding the validity of the proceedings, a principle firmly affirmed in *Sugar v. Peat Marwick Ltd.* (1988), 55 DLR (4th) 230 (Ont HCJ) (the "**Sugar Decision**"). Court staff who facilitate the scheduling of void conferences while remaining silent as to the jurisdictional void are actively

5866 facilitating the resulting harm. To definitively extricate oneself from a continuing conspiracy, definite and unequivocal steps MUST be undertaken to absolve participation in the common design, as mandated by *Claiborne Industries Ltd. v. National Bank of Canada*, 1989 CanLII 183 (ON CA) (the "**Claiborne Decision**"). Passive withdrawal is not an exculpation when the machinery of the court continues to churn based on a known void directive.

750. The mere aiding and abetting of a co-conspirator in the commission of unlawful means qualifies as an unlawful act *per se*, pursuant to *2038724 Ontario Ltd. v. Quizno's Canada Restaurant Corp.*, 2010 ONCA 466 (the "**Quizno's Decision**"). Furthermore, it is not required for every single conspirator to individually and actively participate in the unlawful *actus reus*, provided the unlawful act of one conspirator was a probable consequence of the original common design (see: *Kuwait Oil Tanker Co SAK v. Al Bader*, [2000] 2 All ER (Comm) 271 (CA) (the "**Kuwait Oil Decision**"); *Golden Capital Securities Ltd. v. Holmes*, 2004 BCSC 262 (the "**Golden Capital Decision**"); and *HM Revenue & Customs v. Begum*, [2010] EWHC 1799 (Ch) (the "**Begum Decision**")).

751. This articulation serves as a formal, jurisprudential notice to those entities potentially unaware of the original clandestine scheme, heavily steeped in particulars of fraud, bribery, and extortion, yet who remain strictly liable for the perpetuation of the common design by consistently relying upon void directives. The "common design" here was the extra-jurisdictional termination of the Applicant's proceeding through administrative sabotage and the creation of a procedural cul-de-sac designed to insulate the initial error from review.

6. THE BOUNDS OF JUDICIAL IMMUNITY AND THE COLOR OF OFFICE

752. While absolute judicial immunity and qualified immunity may naturally be advanced as defensive postures, qualified immunity is strictly contingent upon the execution of acts in good faith, and absolute judicial immunity is rigidly confined to the lawful execution of judicial functions. The overarching policy rationale for judicial immunity is entirely vitiated when the judicial officer abandons the adjudicative framework entirely and engages in unauthorized administrative usurpation. Immunity exists to protect the independence of the judge's mind, not the lawlessness of the judge's actions or the arbitrary expansion of their administrative region.

753. Such immunities emphatically do not apply to non-functions and non-duties *per se*. As unequivocally demonstrated in *R. v. Germain* (1984), 53 AR 264 (QB) (the "**Germain Decision**"), a misguided contempt proceeding initiated without authority or pertinence to the office of the inferior court judge constituted a severe constitutional violation, thereby yielding *Charter* relief. The *Germain Decision* underscores that where a judge acts in the "clear absence of all jurisdiction," they are acting not as a judge, but as an individual trespasser whose acts possess no legal character and merit no institutional protection.

754. In *Prefontaine v. Gosman*, 2000 CanLII 28227 (AB KB) (the "**Prefontaine Decision**"), Jones J. synthesized the bounds of immunity, stating that a judge is shielded from civil liability for actions done in their judicial capacity, even if acting outside their jurisdiction or out of malice, *if the judge believed that he or she was acting with jurisdiction and in the course of his or her judicial duties*. The paramount requisite for the invocation of judicial immunity is, therefore, the subjective, *bona fide* belief in the possession of jurisdiction which must be grounded in an objective legal reality.

755. It is legally inconceivable and objectively impossible that a *bona fide* belief in her jurisdictional competence could have been harbored by Madam Justice Shore as the Unauthorized CMJ Interloper. The evidentiary record concerning the contemporaneous *Nash v. CAMI JRPA* Divisional Court proceeding (see: 25-872-JR) demonstrates that Madam Justice Shore only took steps in January 2026 AFTER the Honourable Justice Nakatsuru emailed confirming that said proceeding would be subject to a formal "Assignment For Case Management." This chronological sequence definitively establishes that acute awareness of the requisite procedural gateways was possessed by Madam Justice Shore. The "Nash precedent" serves as the benchmark for her subjective knowledge and proves that she was acutely aware that a formal order was a condition precedent to her intervention. Ignorance of the law is emphatically not a recognized legal defence for a jurist whose very duty is the interpretation of that law.

756. Furthermore, adjudicative privilege—the absolute protection afforded to the deliberative secrecy of judicial decision-making—must be strictly demarcated from administrative privilege, which is not absolute *per se*. As established by the Supreme Court of Canada in *MacKeigan v. Hickman*, [1989] 2 SCR 796 (the "**MacKeigan Decision**"), judges possess absolute adjudicative privilege regarding the cognitive processes of rendering a judgment. However, the usurpation of a file and the issuance of unauthorized scheduling directives do not

5867 constitute a protected deliberative function. They are administrative acts that occur *outside* the deliberative process and involve the manipulation of the court's registry system.

757. Because the Unauthorized "*Ex Parte* In Camera Hearing" Judge Interventionist was executing a purely administrative usurpation devoid of subject-matter jurisdiction, the protective mantle of absolute adjudicative privilege articulated in the *MacKeigan Decision* is rendered entirely inapplicable. An Irremediable Nullity cannot be shielded by a privilege reserved exclusively for valid adjudicative deliberation. Privilege cannot be used as a cloak for jurisdictional subversion or the concealment of administrative misconduct from the scrutiny of a reviewing court.

758. It is logically irreconcilable that Madam Justice Shore, a puisne judge lacking the administrative authority to assign judicial duties, could have perceived herself to possess jurisdiction over the McLean TDHA *JRPA* proceeding when there was no filing of a First Defence, no "Assignment For Case Management" BY ORDER, and, by legal deductive reasoning of sound minds, no lawful assignment to a particular judge for hearing. Her only conceivable justification would be a claim that she finally learned the strictures of *rule* 77 in late 2025, a proposition that is analytically imprecise and legally hollow given her correct handling of the *Nash* matter and her years of experience as a Section 96 judge.

759. The policy rationale for Case Center invitations is to facilitate the uploading of documentary evidence prior to a lawfully scheduled conference following the filing of a First Defence by a respondent. For a judge of the Divisional Court to convene such a conference within the City of Toronto (her designated administrative region since 2018), she must know that a formal order was pronounced (see: *rule* 59.01). This requires the judicial officer to judiciously verify the court file to ensure an order was made by a judge of the Divisional Court (expressly excluding an Associate Judge), and further, that a First Defence was filed prior to that order, unless mutual consent was provided (*rule* 77.05(1)).

760. Absent consent, the judge must turn her mind to confirm an order for assignment was made, endorsed, issued, and entered by separate document requirements pursuant to the 2020 amendments to the Civil Rules (see: *rule* 59.02). The failure to observe these mandatory gateways renders subsequent interventions procedurally hollow and jurisdictionally void. A judge who ignores these gateways is not acting in the "course of judicial duties" but is acting in the course of an administrative trespass that violates the institutional independence of the court and the rights of the litigants.

7.STATE LIABILITY EXCULPATION AND INDIVIDUAL JURIST ACCOUNTABILITY

761. The analytical framework established in *Kopyto v. Ontario*, [1995] OJ No 601 (Gen Div) (the "**Kopyto Decision**"), clarifies that when an official operates within the statutory or inherent framework of their office (their "judicial capacity"), the court will not second-guess subjective motivations through civil lawsuits. Consequently, if a judge is not operating within the prescribed statutory framework, they do not possess a "Judicial Office" for the purposes of that specific act. They are, *in limine*, a private actor exercising arbitrary power under the false color of office.

762. To illustrate the distinction: a judge acting *with* jurisdiction could hypothetically act with profound malice and remain absolutely shielded by judicial immunity. Conversely, a judge acting *without* jurisdiction could behave in the most benign manner, yet if their *ultra vires* acts cause catastrophic harm—such as effectively neutralizing a human rights application or a residential tenancy judicial review, resulting in the applicant's severe loss or incapacitation—a cause of action is naturally grounded against the judge personally. The law prioritizes jurisdictional legitimacy over subjective intent to ensure that no individual is above the statutes they are sworn to uphold. The acts remain *factum a judice, quod ad officium jure non pertinet, ratum non est*.

763. In the context of a federally appointed judge delegated by provincial statute to the Divisional Court—a provincial court of non-inherent jurisdiction and non-federal creation—the question of which "State" would be liable is resolved by statutory immunity. As conclusively determined in *Feeney v. Canada*, 2022 FCA 190 (the "**Feeney Decision**"), the federal government cannot be held vicariously liable for the conduct of a judge. Under the *Crown Liability and Proceedings Act*, RSC 1985, c C-50 (the "**Federal CLPA**"), while a judge receives remuneration from the federal purse, they are emphatically not a servant, agent, or employee of the federal government. *Feeney* confirms that judicial independence precludes the existence of a servant-master relationship between the executive and the judiciary.

764. Concurrently, the *Crown Liability and Proceedings Act, 2019*, SO 2019, c 7, Sch 17 (the "**Provincial CLPA**"), immunizes the provincial sovereign. Pursuant to subsections 8(1) through 8(3), provincial liability is strictly

5868 constrained to the torts committed by an officer, employee, or agent of the provincial Crown. A federally appointed judge is categorically not an agent of the provincial Crown, regardless of the court in which they sit.

765. Because neither the federal nor the provincial state assumes vicarious liability for a superior court judge acting completely outside their statutory framework without an honest belief of jurisdiction, personal liability attaches directly, exclusively, and inescapably to the presiding jurist. This is the "liability gap" created by jurisdictional abdication which must be filled by personal accountability to prevent the total failure of justice. As observed by Chief Justice Morawetz in the public record, judges are ultimately responsible for their own conduct. When the state provides no remedy for a judge's *ultra vires* act, the common law provides a remedy against the individual acting outside their lawful mandate.

8.THE INTENTIONAL SUBVERSION OF THE CONSTITUTIONAL ORDER

766. The intentional transgression of section 96 of the *Constitution Act, 1867* by a sitting judge constitutes a catastrophic subversion of the judicial mandate and the institutional independence of the court. This subversion is further compounded by severe executive interference in the administration of the court, representing a direct, incontrovertible violation of the independence of the judiciary established in *R. v. Cawthorne*, [2016] 1 SCR 983 (the "**Cawthorne Decision**").

767. The precipitous, unprecedented termination of the Former Registrar of the Divisional Court, Ms. Tashekah Gentles, precisely on December 3, 2025—the exact date mandated for the written hearing—constitutes a chilling manifestation of systemic disarray and administrative reprisal, evidently designed to paralyze the lawful progression of the *JRPA* proceeding. This administrative sabotage serves as potent evidence of the "bad faith" and "abuse of power" required under the *Power* threshold to pierce any remaining immunity. It suggests a coordinated effort to neutralize the court's registry as a safeguard against jurisdictional overreach.

768. Pursuant to the strict parameters established in *Ernst v. Alberta Energy Regulator*, 2017 SCC 1, [2017] 1 SCR 3 (the "**Ernst Decision**"), and recently fortified by the *Yatar Decision*, the Applicant is unequivocally entitled to a Hearing. The efficacy of an alternative adjudicative remedy operates as a strict condition precedent to the denial of *Charter* damages. Where a *sua sponte* Irremediable Nullity fundamentally bypasses and maliciously short-circuits the established appellate process, the *Ernst Decision* barrier is conclusively overcome. The lack of an "alternative remedy" to challenge an unfiled, non-existent order makes *Charter* damages the only viable relief for the resulting constitutional injury.

769. The conduct of Madam Justice Shore cannot be analyzed in a vacuum. It must be analyzed within the broader temporal context of her pattern of conduct spanning from 2018 to the present. This longitudinal evidentiary record reveals a demonstrable predilection towards being vengeful, particularly when her jurisdictional authority is challenged or when procedural dissent is registered by litigants. This propensity for retaliatory action reinforces the finding that the present jurisdictional usurpation was not a mere clerical error or a misunderstanding of the rules, but a calculated manifestation of bad faith designed to inflict maximum procedural harm under the color of office. Her conduct suggests an ongoing campaign to personalize the administration of justice and punish those who insist on statutory compliance.

9.POSITIVE DUTY TO NOT FACILITATE, AID, AND ABET UNLAWFUL MEANS

770. The law of the tort of civil conspiracy provides ample, binding authority in this regard. This tort manifests in two distinct branches: (i) **Unlawful Means Conspiracy**: where two or more persons by agreement (frequently established via inferential deduction, as in *Golden Capital Securities Ltd. v. Holmes*, 2004 BCSC 262) employ unlawful means that precipitate damage and loss to another; or (ii) **Lawful Means Conspiracy**: where two or more persons engage in a lawful agreement with the predominant motive to cause harm. When a victim's rights are at issue, damage and loss are legally presumed (*Shaw v. Lewis*, [1949] 1 WWR 355 (BCCA)).

771. As articulated by the Court of Appeal for Ontario in *Reach M.D. Inc. v. Pharmaceutical Manufacturers Assn. of Canada*, 2003 CanLII 27828 (ON CA), citing Lord Denning's seminal decision in *Torquay Hotel Co. Ltd. v. Cousins*, [1969] 2 Ch 106 (CA), the construction of "unlawful means" encompasses acts the defendant "is not at liberty to commit"—actions devoid of legal justification. Lord Denning expounded that if one deliberately interferes with another's trade or business by an act they are not at liberty to commit, the means are unlawful, even if no actual breach of contract is procured.

5869 772. It is indisputable that the acts of Madam Justice Shore were not only executed without jurisdiction—as she functioned as the Unauthorized CMJ Interloper—but were concurrently unlawful acts, as they were *factum a judice, quod ad officium jure non pertinet, ratum non est*. Consequently, any purported "case management conferences" convened before her were attendances before a person legally divested of judicial character (*coram non judice*). Subsequent reliance upon the same by any person constitutes the aiding and abetting of unlawful acts.

773. Liability can be robustly imposed for maintaining silence and permitting the promulgation of false statements (*Sugar v. Peat Marwick Ltd.* (1988), 55 DLR (4th) 230 (Ont HCJ)). To definitively extricate oneself from an ongoing conspiracy, unequivocal steps must be undertaken to absolve participation in the common design (*Claiborne Industries Ltd. v. National Bank of Canada*, 1989 CanLII 183 (ON CA)). The mere aiding and abetting of a co-conspirator in the commission of unlawful means qualifies as an unlawful act *per se* (*2038724 Ontario Ltd. v. Quizno's Canada Restaurant Corp.*, 2010 ONCA 466).

774. It is not necessary for every conspirator to actively participate in the *actus reus*, provided the unlawful act was a probable consequence of the original common design to inflict harm or secure an unjust advantage (*Kuwait Oil Tanker Co SAK v. Al Bader*, [2000] 2 All ER (Comm) 271 (CA); *Golden Capital Securities Ltd. v. Holmes*, 2004 BCSC 262; *HM Revenue & Customs v. Begum*, [2010] EWHC 1799 (Ch)). This serves as a formal jurisprudential notice to those entities continuing the "original plan"—characterized by clandestine fraud, bribery, and extortion—that they remain liable for relying upon void directives.

10.THE FAILURE OF IMMUNITY AND THE QUESTION OF SUBJECTIVE BELIEF

775. Absolute immunity and adjudicative privilege strictly apply only to the lawful duties and functions of a judge; they do not apply to extra-jurisdictional non-functions. As elucidated in *Prefontaine v. Gosman*, 2000 CanLII 28227 (AB KB), citing *R. v. Germain* (1984), 53 AR 264 (QB), judicial immunity hinges upon the judge's subjective, *bona fide* belief that they were acting with jurisdiction and in the course of their judicial duties.

776. It is inconceivable that Madam Justice Shore, or the various state actors and court staff facilitating this usurpation, could have harbored a *bona fide* belief in their jurisdictional authority. If such authority truly existed, the necessity for concealment would be non-existent. The question of why the true jurisdictional state was hidden answers itself: the actors were acutely aware of the jurisdictional void. The temple of justice cannot be used as a fortress for those who would violate its foundational architectonics and betray the trust of the sovereign and the citizen alike.

DENOUEMENT

777. It is averred, *in limine*, that the foundational jurisdiction purportedly exercised by the respondent, His Majesty the King (the "**Crown**"), is *prima facie* invalid, manifestly defective, and unequivocally *ultra vires* the strictly enumerated statutory parameters delineated within the *Criminal Code*, RSC 1985, c C-46 (the "*Criminal Code*"). It is a foundational tenet of the administration of justice that jurisdiction cannot be assumed, constructively imparted, or retroactively manufactured when the essential procedural prerequisites have been deliberately subverted by officers of the court. The fundamental bedrock of the rule of law (the "**Rule Of Law**") dictates that state authority to deprive an individual of liberty must be strictly constrained by positive law; consequently, where statutory preconditions are circumvented, the ensuing state action is not merely irregular, but operates as an absolute nullity. The arrogation of judicial authority, unmoored from explicit statutory authorization, constitutes an existential threat to the constitutional architecture of the state. As the highest jurisprudence mandates, statutory courts and courts of inherent jurisdiction alike are strictly bound by the substantive limits imposed by parliament when adjudicating matters of criminal procedure. Any deviation from these codified strictures effectively severs the judicial action from its lawful mandate, extinguishing any presumption of regularity.

THE COVERT ADJUDICATION(BEFORE AND AFTER) BY CHIEF JUSTICE MORAWETZ

The Undisclosed (Post Arrest and contrary to section 29 of the Criminal Code and other governing statutes and regulations) Presiding Judge: Proceeding In Camera and Ex Parte Without Lawful Authority

5870 778. It is unequivocally posited that the orchestration of clandestine, unrecorded *Ex Parte* proceedings by the undisclosed presiding jurist—subsequently and conclusively identified within the evidentiary record as Chief Justice Geoffrey B. Morawetz—constitutes a paramount abrogation of the principles of fundamental justice. The systemic and purposeful concealment of the presiding adjudicator's identity irrevocably strips the tribunal of its lawful adjudicative authority, thereby rendering any resultant judicial authorizations, warrants, or detentions an absolute nullity *ab initio*. Such covert machinations inherently trigger the inviolable application of the doctrine of *coram non judice*. An adjudication conducted in absolute secrecy, absent the prerequisite statutory and constitutional jurisdictional foundation, permanently transforms the purported judicial forum into a legally non-existent entity, irreparably stripping its pronouncements of all legal force. The deliberate obfuscation of the jurist's identity operates to permanently paralyze the appellate functions of higher courts, as it becomes fundamentally impossible to seek the prerogative writ of *certiorari* or initiate a review of a judicial officer whose very existence in the proceeding has been deliberately masked. This paradigm mirrors the historical tyranny of the anonymous *lettre de cachet*, rendering the deprivation of liberty an exercise of arbitrary absolutism rather than an application of the law.

779. *Nota bene*: It might be postulated by the respondent that a jurist of the Superior Court possesses an inherent jurisdiction capable of overriding strict procedural codification. This is a profound jurisprudential fallacy. Inherent jurisdiction is a residual power utilized exclusively to maintain the authority of the court and prevent abuses of process; it is never to be weaponized to unilaterally manufacture jurisdiction where parliament has explicitly mandated procedural codifications, nor can it ever authorize the subversion of the *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11 (the "*Charter*"). As elucidated in *R. v. Ahmad*, [2011] 1 S.C.R. 110 (the "*Ahmad*"), inherent powers cannot be invoked to contravene statutory imperatives or constitutional guarantees. Furthermore, it must be noted that the *de facto* doctrine—which occasionally preserves the validity of acts performed by officers operating under a colourable but defective authority—is wholly inapplicable here. The *de facto* doctrine cannot salvage proceedings where the defect is not merely a technical deficiency in appointment, but a calculated, fraudulent concealment of the proceedings themselves intended to evade appellate oversight.

SUBVERSION OF SUPERIOR COURT JURISDICTION: THE ILLUSION OF IMPARTIALITY AND THE BREACH OF JUDICIAL INDEPENDENCE

780. Furthermore, the structural integrity of the Superior Court of Justice is fundamentally subverted by the deliberate curation of a mere illusion of impartiality. The aforementioned clandestine adjudication effectively eviscerates the indispensable constitutional guarantees enshrined within section 11(d) of the *Charter*. The foundational presumption of impartiality is inherently obliterated when an adjudication is conducted *in camera* and *Ex Parte* without explicit, strictly construed statutory sanction. This unauthorized secrecy fractures the fundamental judicial independence mandated for a section 96 jurist pursuant to the *Constitution Act, 1867* (UK), 30 & 31 Vict, c 3 (the "*Constitution Act, 1867*"). An independent judiciary must not only be liberated from external executive pressure but must also strictly adhere to the transparent procedural mechanisms that legitimize its authority in the eyes of the public. By operating outside the institutionalized, public framework, the presiding jurist effectively privatized judicial power, acting not as an organ of the state, but as an autonomous, unaccountable agent.

781. *Summary of the Jurisprudence*: In *Reference re Remuneration of Judges of the Provincial Court of Prince Edward Island*, [1997] 3 S.C.R. 3 (the "*Provincial Judges Reference*"), the Supreme Court of Canada affirmed that judicial independence is an unwritten constitutional principle ensuring that courts are free from interference and operate with objective impartiality. This was further compartmentalized in *Valente v. The Queen*, [1985] 2 S.C.R. 673 (the "*Valente*"), which established the tripartite test demanding security of tenure, financial security, and institutional independence.

782. *Application of the Law to the Facts*: The institutional dimension of judicial independence was egregiously violated when the Chief Justice operated a shadow tribunal, immune from appellate oversight. By concealing his identity and acting *Ex Parte* without statutory justification, the presiding jurist destroyed the objective appearance of independence, necessitating the immediate and absolute invalidation of the proceedings. The psychological coercion inherently present in a secret tribunal forces the administration of justice into a state of subservience to the Crown, violating the unwritten constitutional principle of the separation of powers

5871 **THE UNRECORDED STAR CHAMBER: THE DELIBERATE ABSENCE OF RECORDING APPARATUSES IN A COURT OF RECORD**

783. The deliberate circumvention and explicit non-utilization of standard recording apparatuses within what is statutorily designated as a court of record (the "**Court Of Record**") must not be misconstrued, minimized, or sanitized as a benign administrative oversight. Rather, this calculated omission operates as a deliberate act of spoliation by omission. By operating the contemporary judicial apparatus as an unrecorded, modernized Star Chamber, the judicial actor is purposefully insulated from the imperative mechanisms of appellate review and broader public scrutiny. This active suppression fundamentally contravenes the open court principle (the "**Open Court Principle**") safeguarded by section 2(b) of the *Charter*. A non-existent record in a purported court of record is a legal paradox that results, inevitably, in an absolute nullity, as there exist no *acta* to substantiate the legality of the deprivation of liberty. The essential function of a court of record is the generation of an unalterable chronicle of the proceedings; the intentional failure to produce this chronicle is tantamount to the destruction of evidence, purposefully designed to paralyze the applicant's capacity to establish constitutional infringements on subsequent review.

784. *Summary of the Jurisprudence*: In *Canadian Broadcasting Corp. v. New Brunswick (Attorney General)*, [1996] 3 S.C.R. 480 (the "*CBC v. NB*"), the Supreme Court of Canada categorically established that the *Open Court Principle* is inextricably linked to the freedom of expression and the freedom of the press under section 2(b) of the *Charter*, noting that covert proceedings inherently breed suspicion and dismantle public confidence in the judiciary.

785. *Application of the Law to the Facts*: The unrecorded nature of the chamber application constitutes an active suppression of the public's constitutional right to witness the administration of justice. The failure to deploy recording apparatuses was not a passive failing, but an active, unconstitutional preclusion of transparency, effectively insulating jurisdictional trespasses from the corrective mechanisms of appellate scrutiny.

THE PHANTOM INFORMATION AND SUPPRESSED ENDORSEMENT(S)

The Non-Existent Foundational Instruments: Complete Failure to Provide the Information/Indictment

786. The absolute failure to provide the true, sworn information or indictment represents the total deprivation of the jurisdictional lifeblood of the tribunal. As irrefutably evidenced by the irreconcilable documentary discrepancies manifested within the application record (the "**Application Record**"), specifically demarcated between the false information package (first iteration) (the "**First Iteration Information**") and the false information package (second iteration) (the "**Second Iteration Information**"), the foundational instruments are glaringly deficient and demonstrably fabricated. The deliberate withholding of the authentic swearing of the information dictates that the purported judicial body never formally acquired *in personam* or subject matter jurisdiction over the applicant (the "**Applicant**"). The prosecution has proceeded in a jurisdictional epistemological void, sustained entirely by legal fiction, thereby eviscerating the Applicant's constitutional guarantee under section 11(a) of the *Charter* to be informed without unreasonable delay of the specific offence. The information is the statutory prerequisite that animates the entire prosecutorial machinery; without a validly sworn and endorsed instrument, the proceedings are a mere simulacrum of justice. To detain an individual upon a non-existent or fabricated charge is the purest manifestation of arbitrary state action, fundamentally indistinguishable from a kidnapping perpetrated under the colour of state authority.

Concealment of the Judicial Record: The Suppression of Endorsements Validating the Unlawful Detention

787. The concurrent suppression of the judicial endorsements required to validate the precipitous and unlawful detentions generates an unbridgeable procedural chasm at the epicentre of the prosecutorial narrative. In the strict absence of authentic, contemporaneously executed endorsements by a recognized justice of the peace (the "**Justice Of The Peace**") or a sitting judge upon the face of the charging document pursuant to section 504 and section 508 of the *Criminal Code*, any cascading warrants or consequential arbitrary detentions are fundamentally and incurably unlawful, directly contravening the absolute protections against arbitrary detention enshrined within

5872 section 9 of the *Charter*. The endorsement is not a mere clerical formality; it is the physical and incontrovertible manifestation of the transfer of jurisdiction from the executive apparatus (the police) to the independent judicial apparatus. Without this endorsement, the state possesses no lawful mechanism to justify the prolonged deprivation of the Applicant's liberty.

788. *Nota bene*: Should the respondent advance the counter-argument that the absence of physical endorsements on the informational instruments constitutes a mere curable procedural irregularity under the remedial provisions of section 686 of the *Criminal Code*, such an assertion is intellectually bankrupt, legally unviable, and fundamentally offensive to the administration of justice. The strict adherence to foundational jurisdictional prerequisites dictates that the complete absence of a verified oath and a corresponding judicial endorsement is not a defect of form, but a substantive jurisdictional deprivation, culminating in an absolute nullity that cannot be retroactively resuscitated by statutory curative mechanisms. Equity, the *Charter*, and the rule of law absolutely prohibit the post-hoc curing of a void *ab initio* circumstance that was purposefully engineered through deliberate prosecutorial and judicial concealment. The doctrine of *strictissimi juris* demands that deprivations of liberty be grounded in impeccable procedural adherence; consequently, the court is compelled to declare this specific contravention an absolute nullity rather than a mere irregularity. As delineated in *R. v. Litchfield*, [1993] 4 S.C.R. 333 (the "*Litchfield*"), structural divisions and jurisdictional parameters cannot be bypassed; a proceeding devoid of a legitimately sworn instrument is irreparably severed from lawful authority. This principle is inviolably anchored in the foundational jurisprudence of *Pong v. Quong*, 1927 CanLII 2 (SCC) (the "*Pong*"), wherein the Supreme Court of Canada categorically delineated the unbridgeable chasm between a mere procedural irregularity—which might theoretically be cured—and a fundamental jurisdictional defect, which permanently renders the resulting proceedings an absolute nullity incapable of equitable or statutory resuscitation. The respondent cannot rely upon curative provisions to excuse errors that were actively and fraudulently manufactured; to permit such an application of section 686 would be to endorse a doctrine of "jurisdictional spoliation," wherein the Crown benefits directly from its own subversion of the record.)

Ex Nihilo Nihil Fit (Out of Nothing Comes Nothing) and Nemo Dat Quod Non Habet: The Void Nature of the Entire Proceeding once the falsification occurred with the OCJ 10 Armoury Street Courthouse – leaving only relief in favour of the Applicant

789. Consequently, the irrefutable application of the foundational jurisprudential maxims *ex nihilo nihil fit* (out of nothing comes nothing) and *nemo dat quod non habet* (no one can give what they do not have) must be strictly enforced. Given that the originating foundational instruments are unequivocally established by the documentary record to be non-existent or, in the alternative, entirely fraudulent, every subsequent prosecutorial initiative, arbitrary detention, and judicial action inextricably cascading from those void instruments is irrevocably vitiated. A legal fiction cannot birth lawful detention; a tribunal lacking jurisdiction cannot lawfully delegate the power to arrest. Therefore, the entirety of the proceeding operates *ipso facto* as an absolute nullity, entirely devoid of legal consequence, requiring the immediate extrication of the Applicant from the state's coercive apparatus. This doctrine of absolute nullity is further entrenched by the appellate reasoning articulated in *Turigan v. Alberta*, 1988 ABCA 333 (the "*Turigan*"), which unequivocally substantiates that judicial actions predicated upon fundamentally invalid or void foundations operate *ab initio* as nullities, thereby obliterating any purported legal authority derived therefrom and unconditionally mandating the restoration of the aggrieved party's prior legal status. The constitutional mandate encapsulated by *fiat justitia ruat caelum* (let justice be done though the heavens fall) necessitates the unhesitating dismantling of the Crown's prosecution, irrespective of the resultant administrative inconvenience.

ADJUDICATIVE FRAUD UPON THE PUBLIC AND THE APPLICANT AND THE FAILURE TO CORRECT BY, ON ITS FACE, AN INDEPENDENT SCJ COURTHOUSE (HIGHER LEVEL OF INSTITUTIONAL INDEPENDENCE REQUIRED WITH A SECTION 96 COURT THAN THE LIKES OF A DIVISIONAL COURT)

The Resignation/Retirement Nexus: Institutional Concealment of Jurisdictional Usurpation

5879 790. The unprecedented and highly irregular circumstances surrounding the precipitous resignation or early retirement of Chief Justice Morawetz, falling in immediate chronological proximity to the exposure of these covert *Ex Parte* proceedings, is advanced as a constructive admission of catastrophic jurisdictional usurpation. Under section 99 of the *Constitution Act, 1867*, Superior Court justices hold office during good behaviour. It is submitted that this synchronized departure operates not as a standard, benign administrative transition, but as a calculated institutional stratagem designed to definitively evade public accountability, forestall any prospective investigation by the Canadian Judicial Council (the "**Canadian Judicial Council**"), and permanently insulate the judicial actor from the profound constitutional ramifications of the alleged adjudicative misconduct. By ostensibly retiring, the judicial actor systematically freezes the factual matrix, effectively attempting to render the inquiry into his constitutional breaches moot and shielding the systemic infirmities from a formal, statutory inquest. This strategic withdrawal further exacerbates the deprivation of procedural fairness owed to the Applicant, as it removes the primary architect of the void proceedings from the reach of conventional disciplinary mechanisms.

Fraus Omnia Corrumpit: How the Fraudulent Concealment Vitiates All Subsequent Prosecutorial Actions

791. The pervasive and insidious nature of the orchestrated concealment irrevocably taints the entirety of the Crown's prosecution. The inviolable, overarching equitable doctrine of *fraus omnia corrumpit* (fraud vitiates everything) dictates that the deliberate suppression of the true, unrecorded nature of the proceedings permanently contaminates the prosecutorial record.

792. *Summary of the Jurisprudence*: In *Lazarus Estates Ltd. v. Beasley*, [1956] 1 Q.B. 702 (the "*Lazarus Estates*"), Lord Denning famously articulated that "No court in this land will allow a person to keep an advantage which he has obtained by fraud. No judgment of a court, no order of a Minister, can be allowed to stand if it has been obtained by fraud. Fraud unravels everything." This overarching equitable doctrine is unequivocally fortified by contemporary jurisprudence concerning severe state misconduct and the abuse of process doctrine (the "**Abuse Of Process Doctrine**"). As meticulously illuminated in *R. v. Babos*, [2014] 1 S.C.R. 309 (the "*Babos*"), *R. v. Codrington*, 2023 ONSC 6352 (the "*Codrington*"), *R. v. Hampton*, 2020 ABQB 429 (the "*Hampton*"), and *R. v. Barry*, 2021 BCPC 59 (the "*Barry*"), in circumstances where the prosecutorial apparatus and judicial actors engage in deliberate obfuscation or systemic constitutional violations that irreparably prejudice the integrity of the justice system, the residual category of abuse of process is categorically and instantly triggered.

793. *Application of the Law to the Facts*: The unassailable extrapolation of these legal principles dictates that the deliberate concealment of the true nature of the judicial authorizations permanently vitiates the prosecution. The residual category of the *Abuse Of Process Doctrine* is specifically formulated to address precisely this paradigm of misconduct—where the transgressions are so egregious that the mere continuation of the proceeding offends society's sense of decency and fair play. The sole appropriate remedy capable of addressing such a profound and calculated dissociation from the rule of law is an unconditional, permanent stay of proceedings pursuant to section 24(1) of the *Charter*. Any lesser remedial intervention would ostensibly condone the systemic weaponization of the judicial apparatus, retroactively validate the adjudicative fraud, and further degrade the institutional integrity of the courts beyond the point of jurisprudential redemption.

ORDERS SOUGHT

794. The Applicant seeks the Orders contained in the Form 1 and this Form 5 which will be reduced to a draft order in due course.

All of which is respectfully submitted by the Applicant on April 29, 2026



Mr. Kevin A. McLean (BA, JD, CIM)

APPENDICES

TABLE OF AUTHORITIES — PINPOINT CITATIONS (PART I: CASE LAW)

A. Supreme Court of Canada

1. Landreville v Boucherville (Town of), [1978] 2 SCR 801
Pages: 34–35, 58
Excerpt: "Applying the rigorous equitable and common law doctrines… reliance is placed upon the Supreme Court of Canada's jurisprudence articulated in *Landreville v Boucherville (Town of)*…"

2. R v Babos, 2014 SCC 16
Pages: 20–21
Excerpt: "Through the application of the deductive syllogism… as comprehensively elucidated in *R. v. Babos*, 2014 SCC 16…"

3. R v Grant, 2009 SCC 32
Pages: 22–23
Excerpt: "The comprehensive, constitutionally mandated tripartite analytical framework explicitly established in *Grant*…"

4. R v Jordan, 2016 SCC 27
Pages: 17–18
Excerpt: "It must be conclusively determined whether this state-induced procedural labyrinth… exceeds the presumptive eighteen-month ceiling established in *R. v. Jordan*…"

5. R v Stinchcombe, [1991] 3 SCR 326
Pages: 11, 17
Excerpt: "The complete denial of fundamental justice, the evisceration of the *audi alteram partem* principle… engages *Stinchcombe* disclosure rights."

6. R v Chabot, [1980] 2 SCR 985
Pages: 11
Excerpt: "These deprivations were perpetrated via procedurally vacuous adjudicative mechanisms… contrary to *Chabot*."

7. R v Krannenburg, [1980] 1 SCR 1053
Pages: 11
Excerpt: "The arbitrary deprivation of liberty… contrary to the principles articulated in *Krannenburg*."

8. R v Storrey, [1990] 1 SCR 241
Pages: 11
Excerpt: "The profound compromise of the security of the person… engages the *Storrey* standard."

9. R v Feeney, [1997] 2 SCR 13
Pages: 11
Excerpt: "Highly intrusive, unwarranted physical and digital penetrations… contrary to *Feeney*."

10. R v Evans, [1991] 1 SCR 869
Pages: 11
Excerpt: "Unauthorized incursions into privacy spheres… contrary to *Evans*."

11. R v MacNeil, 2001 SCC 53
Pages: 11
Excerpt: "These incursions were executed entirely absent any valid… judicial pre-authorization, contrary to *MacNeil*."

12. Canada (Minister of Citizenship and Immigration) v Tobiass, [1997] 3 SCR 391
Pages: 21
Excerpt: "The coordinated, extra-judicial maneuvering… demonstrates an actionable, localized retaliatory animus, contrary to *Tobiass*."

13. Wewaykum Indian Band v Canada, 2003 SCC 45
Pages: 21–22
Excerpt: "The apprehension of bias herein… satisfies and demonstrably exceeds the *Wewaykum* standard."

14. Reference re Residential Tenancies Act (Ontario), [1981] 1 SCR 714

Pages: 30–31
Excerpt: “The historical evolution of judicial authority… definitively affirmed in the *Residential Tenancies Reference*.”
15. R v Dudley, 2009 SCC 58
Pages: 11
Excerpt: “Cruel and unusual treatment… contrary to *Dudley*.”
16. R v Myers, 2019 SCC 18
Pages: 11
Excerpt: “The imposition of state treatments… engages the principles in *Myers*.”
17. R v Bjelland, 2009 SCC 38
Pages: 11
Excerpt: “The formal institution of penal processes lacking evidentiary substantiation… contrary to *Bjelland*.”
18. R v Araujo, 2000 SCC 65
Pages: 11
Excerpt: “Executed entirely absent any valid… judicial pre-authorization, contrary to *Araujo*.”
19. R v Nixon, 2011 SCC 34
Pages: 11
Excerpt: “The utilization of fabricated charging instruments… contrary to *Nixon*.”
20. British Columbia (AG) v Lafarge Canada Inc., 2007 SCC 23
Pages: 11
Excerpt: “The discriminatory application of coercive state powers… contrary to *Lafarge*.”
21. McLean v Bradley, 1878 CanLII 22 (SCC)
Pages: 24–25
Excerpt: “This exact jurisdictional doctrine was affirmed… in the *Bradley* Decision.”
22. Pong v Quong, 1927 CanLII 475 (SCC)
Pages: 26–27
Excerpt: “The absolute necessity of strict jurisdictional adherence… illuminated by the *Pong* Decision.”

B. Ontario Court of Appeal
1. R v P(J), 2013 ONCA 537
Pages: 11
Excerpt: “These deprivations were perpetrated via procedurally vacuous adjudicative mechanisms… contrary to *P(J)*.”
2. R v Kelsy, 2011 ONCA 605
Pages: 11
Excerpt: “The arbitrary deprivation of liberty… contrary to *Kelsy*.”
3. R v Forcillo, 2018 ONCA 402
Pages: 11
Excerpt: “The imposition of state treatments… engages the principles in *Forcillo*.”

C. English & Historical Common Law Authorities
1. Lazarus Estates Ltd v Beasley, [1956] 1 QB 702 (CA)
Pages: 34–35
Excerpt: “As articulated by Lord Denning in *Lazarus*: ‘fraud unravels everything.’”
2. Taylor v Clemson, (1844) 11 Cl & Fin 610, 8 ER 1233 (HL)
Pages: 23–24
Excerpt: “This axiomatic doctrine… was unequivocally established in *Taylor v Clemson*.”
3. Griffith v Owen, [1907] 1 Ch 195
Pages: 26–27
Excerpt: “This conceptualization of fiduciary constraint… anchored in *Griffith v Owen*.”
4. Keech v Sandford, [1726] EWHC Ch J76
Pages: 26–27
Excerpt: “Reinforcing the strictures established by the foundational trust doctrine in *Keech v Sandford*.”
5. Foss v Harbottle, (1843) 67 ER 189
Pages: 26
Excerpt: “The equitable principles… trace back to *Foss v Harbottle*.”

TABLE OF AUTHORITIES — PINPOINT CITATIONS (PART II: STATUTES)

A. Constitutional Instruments

1. Canadian *Charter* of Rights and Freedoms

Sections cited: 1, 2(b), 7, 8, 9, 10(a), 10(b), 11(a), 11(b), 12, 15, 24(1), 24(2)

Pages: 10–13, 16–18, 52–57, 82–102

Excerpt: "The Applicant asserts that the Toronto Police Service… have directly, intentionally, and egregiously contravened the following fundamental constitutional guarantees enshrined within the *Charter*…"

2. Constitution Act, 1867

Sections cited: 91(27), 92(14), 96–100

Pages: 18, 30–31, 113–120

Excerpt: "A supplementary, overarching, and fundamentally structural constitutional inquiry shall be rigorously advanced regarding whether the adjudicative actions… constituted an egregious usurpation of the core judicature provisions enshrined immutably within sections 96 to 100 of the Constitution Act, 1867."

3. Constitution Act, 1982

Pages: 10–11

Excerpt: "Invoking the plenary remedial jurisdictions enshrined within sections 24(1) and 24(2) of the Canadian *Charter* of Rights and Freedoms, Part I of the Constitution Act, 1982…"

B. Federal Statutes

1. *Criminal Code*, RSC 1985, c C-46

Sections cited: 29, 487.1, 503–512, 508, 508.1, 511, 512, 599, 601, 686(1)(b)(iv)

Pages: 32–36, 41–52, 55–75

Excerpt: "The contravention of section 29 of the *Criminal Code* and the concomitant violation of section 10(a) of the *Charter*… demonstrates the vitiation of lawful authority and the structural nullity of the purported arrest."

2. Canada Evidence Act, RSC 1985, c C-5

Pages: 34–35, 74–75

Excerpt: "The statutory deficiencies appertaining to the impugned digital signatures… violate the mandatory authentication requirements under the Canada Evidence Act."

3. Personal Information Protection and Electronic Documents Act (*PIPEDA*), SC 2000, c 5

Pages: 34–35, 74–75

Excerpt: "The legislative mandates of *PIPEDA*… render the digital signature process constitutionally and statutorily defective."

C. Provincial Statutes (Ontario)

1. Courts of Justice Act, RSO 1990, c C.43

Sections cited: 12, 13(1), 13(2), 18(3), 109

Pages: 10, 13, 27–28, 77–78

Excerpt: "Pursuant to the mandatory notification mechanisms delineated within section 109 of the Courts of Justice Act… formal notice is hereby promulgated."

2. Judicial Review Procedure Act, RSO 1990, c J.1

Pages: 27–28

Excerpt: "The Applicant expressly reserves the right to seek judicial review under the Judicial Review Procedure Act where appropriate."

3. Residential Tenancies Act, 2006, SO 2006, c 17

Pages: 22

Excerpt: "Parallel civil litigation and extra-judicial retaliation… including proceedings before the Landlord and Tenant Board under the Residential Tenancies Act."

4. Expropriations Act, RSO 1990, c E.26

Pages: 30

Excerpt: "Historical demarcations of adjudicative power… analogized through statutory regimes such as the Expropriations Act."

D. Regulations

5878
5. Secure Electronic Signature Regulations, SOR/2005-30
Pages: 34–35, 74–75
Excerpt: “The cryptographic failure and absence of authority… contravene the Secure Electronic Signature Regulations.”

E. Rules of Court & Forms
1. Criminal Proceedings Rules for the Superior Court of Justice (Ontario)
Pages: 10, 13, 77–78
Excerpt: “This reservation is subject strictly to specific procedural exemptions… as dictated by the mandatory provisions contained within the Criminal Proceedings Rules for the Superior Court of Justice.”
2. Criminal Rules of the Ontario Court of Justice, SI/2012-30
Pages: 49–52
Excerpt: “The circumvention of the Criminal E-Intake Portal… constitutes a breach of the Criminal Rules of the Ontario Court of Justice.”
3. Rules of Civil Procedure, RRO 1990, Reg 194
Pages: 27–28
Excerpt: “The Applicant reserves the right to seek interim relief… consistent with the Rules of Civil Procedure.”
4. Rule 43.03 (Certification)
Pages: 74–75
Excerpt: “The procedural imperative of certification pursuant to Rule 43.03… remains unmet, rendering the proceedings structurally null.”
5. Forms Referenced
Forms: 1, 2, 4, 6, 7, 10, 21
Pages: 44–52, 57–75
Excerpt: “The anatomy of Form 2 and the conspicuous absence of the mandatory judicial command… demonstrates the jurisdictional nullity of the charging instrument.”

TABLE OF AUTHORITIES — PINPOINT CITATIONS (PART III: RULES & FORMS)
A. Criminal Proceedings Rules for the Superior Court of Justice (Ontario)
Pages: 10, 13, 77–78
Excerpt: “This reservation is subject strictly to specific procedural exemptions… as dictated by the mandatory provisions contained within the Criminal Proceedings Rules for the Superior Court of Justice.”
Relevance: Establishes procedural jurisdiction, service requirements, and the mandatory certification regime under Rule 43.03.

B. Criminal Rules of the Ontario Court of Justice (SI/2012-30)
Pages: 49–52
Excerpt: “Tactical circumvention and the suppression of the ‘Criminal Portal’… constitutes a breach of the Criminal Rules of the Ontario Court of Justice.”
Relevance: Supports the argument that the Crown and police bypassed the mandatory e-intake portal, resulting in forum shopping, bench hunting, and structural abuse of process.

C. Rules of Civil Procedure (RRO 1990, Reg 194)
Pages: 27–28
Excerpt: “The Applicant expressly reserves the right to seek interim equitable and legal relief… consistent with the Rules of Civil Procedure.”
Relevance: Used to ground interlocutory relief, judicial review pathways, and procedural fairness doctrines.

D. Rule 43.03 — Certification Requirement (Superior Court of Justice)

Pages: 74–75
Excerpt: "The procedural imperative of certification pursuant to Rule 43.03… remains unmet, rendering the proceedings structurally null."
Relevance: This is one of the strongest jurisdictional nullity anchors in your application. Failure to certify the record under Rule 43.03(3) is fatal and cannot be cured.

E. Mandatory Criminal Forms (*Criminal Code* & Criminal Rules)
Each form is cited in the Schedule A as part of the structural nullity analysis. Below are the pinpoint citations.

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1. Form 1 — Information / Application
Pages: 13, 44–45
Excerpt: "Inextricable integration with the foundational Form 1 application… forms the evidentiary predicate for the constitutional challenge."
Relevance: Establishes the defective origin of the proceeding and the absence of a valid sworn information.

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2. Form 2 — Information / Warrant (Judicial Command)
Pages: 47–49
Excerpt: "The anatomy of Form 2 and the conspicuous absence of the mandatory judicial command… demonstrates the jurisdictional nullity of the charging instrument."
Relevance: This is one of your strongest arguments: a Form 2 without a judicial command is void *ab initio*.

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3. Form 4 — Indictment / Charging Instrument
Pages: 67–68
Excerpt: "The facial invalidity and structural deficiency of the charging instrument… renders the indictment incapable of grounding jurisdiction."
Relevance: Supports the argument that the Crown's election and routing were unlawful.

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4. Form 6 — Summons
Pages: 44–45
Excerpt: "The withholding of the master record and the failure to comply with Form 6 requirements… vitiates procedural regularity."
Relevance: Demonstrates non-compliance with statutory service and notice requirements.

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5. Form 7 — Arrest Warrant
Pages: 52–55, 73–74
Excerpt: "Nine statutory breaches of Form 7 and the structural nullity of the warrant… establish an irremediable void."
Relevance: This is a central pillar of your nullity argument: the "Intake Court Endorsement" was not a Form 7 warrant and cannot lawfully ground detention.

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6. Form 10 — Undertaking
Pages: 44–45
Excerpt: "The Applicant's liberty was constrained through instruments that do not satisfy the mandatory requirements of Form 10."
Relevance: Supports the argument that post-arrest conditions were unlawful.

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7. Form 21 — Recognizance
Pages: 44–45
Excerpt: "The structural deficiencies in the recognizance documentation… further demonstrate the absence of lawful authority."
Relevance: Reinforces the argument that all derivative conditions are void.

F. E-Filing and Electronic Intake Requirements
These are not "forms" per se but are treated as mandatory procedural instruments.

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1. Criminal E-Intake Portal Requirements
Pages: 49–52
Excerpt: "Circumvention of the Criminal E-Intake Portal… constitutes a breach of mandatory filing architecture and a colorable exercise of power."
Relevance: Supports the abuse of process and forum shopping arguments.

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2. Electronic Signature Requirements (Canada Evidence Act + SESR)
Pages: 34–35, 74–75
Excerpt: "The cryptographic failure and absence of authority… contravene the Secure Electronic Signature Regulations and the Canada Evidence Act."
Relevance: Supports the argument that the digital signatures on the Information, Warrant, and Endorsement are invalid.

G. Summary Table (Rules & Forms)

Authority	Pages	Core Issue
SCJ Criminal Proceedings Rules	10, 13, 77–78	Procedural jurisdiction, certification
OCJ Criminal Rules	49–52	E-intake, forum shopping
Rules of Civil Procedure	27–28	Interim relief, *JRPA*
Rule 43.03	74–75	Certification nullity
Form 1	13, 44–45	Defective originating process
Form 2	47–49	Missing judicial command
Form 4	67–68	Invalid indictment
Form 6	44–45	Defective summons
Form 7	52–55, 73–74	Void warrant
Form 10	44–45	Invalid undertaking
Form 21	44–45	Invalid recognizance
E-Intake Portal	49–52	Structural abuse
SESR / CEA	34–35, 74–75	Invalid digital signatures

TABLE OF AUTHORITIES — PINPOINT CITATIONS (PART IV: DOCTRINAL MAXIMS & COMMON LAW PRINCIPLES)

A. Fraud-Based Doctrines

1. *Fraus omnia corrumpit* — "Fraud unravels everything."
Pages: 34–35, 58, 82–84, 98–102
Excerpt: "The doctrine of nullity and the fraud-unravelling principle… render the impugned proceedings void ab initio."
Function: This is the backbone of your argument: any proceeding tainted by fraud, fabrication, or concealment is legally incapable of producing jurisdiction.

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2. *Falsus in uno, falsus in omnibus* — "False in one thing, false in everything."
Pages: 56–57, 83–84
Excerpt: "The systemic manipulation of **CPIC** metadata and the fabrication of instruments… triggers the maxim *falsus in uno, falsus in omnibus*."
Function: Supports the position that once one part of the record is proven false, the entire record loses reliability.

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3. *Ex turpi causa non oritur actio* — "No action arises from a dishonourable cause."
Pages: 82–84, 98–102
Excerpt: "The state cannot rely on its own unlawful conduct… consistent with *ex turpi causa non oritur actio*."
Function: Prevents the Crown from benefiting from its own wrongdoing.

B. Jurisdictional & Structural Nullity Doctrines

4. *Coram non judice* — "Before a person not a judge."

Pages: 23–24, 29–31, 76–80
Excerpt: "The adjudicative acts were rendered by an undisclosed jurist… rendering the proceedings *coram non judice*."
Function: Establishes that any order issued by a person lacking jurisdiction is void.

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5. *Factum a judice quod ad officium jure non pertinet ratum non est* — "An act of a judge not pertaining to his office is void."
Pages: 20–21, 23–24
Excerpt: "Acts of judges which were *factum a judice quod ad officium jure non pertinet*… cannot be validated by subsequent proceedings."
Function: Reinforces that jurisdictional overreach by a judicial officer is incurable.

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6. *Strictissimi juris* — "Of the strictest law."
Pages: 23–24, 29–31
Excerpt: "Coram non judice and the *strictissimi juris* interpretation of statutory grants… require strict compliance with jurisdictional prerequisites."
Function: Supports your argument that criminal jurisdiction must be interpreted narrowly and strictly.

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7. *Ex nihilo nihil fit* — "Nothing comes from nothing."
Pages: 52–55, 73–75
Excerpt: "A warrant that never existed in law cannot give rise to lawful arrest… *ex nihilo nihil fit*."
Function: Demonstrates that a void warrant cannot produce lawful derivative actions.

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8. *Nemo dat quod non habet* — "One cannot give what one does not have."
Pages: 52–55
Excerpt: "The statutory imperative of production and the *nemo dat* principle… confirm that officers cannot rely on nonexistent authority."
Function: Shows that police cannot derive authority from an invalid or missing warrant.

C. Procedural Fairness & Natural Justice Doctrines
9. *Nemo judex in causa sua* — "No one should be a judge in their own cause."
Pages: 50–51, 70–71
Excerpt: "The adversarial position adopted by the undisclosed judicial officer… constitutes a breach of the *nemo judex* principle."
Function: Supports the apprehension of bias and structural unfairness arguments.

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10. *Audi alteram partem* — "Hear the other side."
Pages: 11, 17, 83–84
Excerpt: "These deprivations were perpetrated via procedurally vacuous adjudicative mechanisms… in complete denial of the *audi alteram partem* principle."
Function: Establishes denial of natural justice.

D. Fiduciary & Good Faith Doctrines
11. *Uberrima fides* — "Utmost good faith."
Pages: 105–120
Excerpt: "The fiduciary duty of the Crown… requires *uberrima fides* in all dealings with the public."
Function: Supports the argument that the Crown's deception violates constitutional fiduciary obligations.

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12. *Rex non potest peccare* — "The King can do no wrong." (invoked to show its limits)
Pages: 35, 119–120
Excerpt: "Rex non potest peccare does not shield state instruments from liability where deception of the Crown is established."
Function: Used to show that Crown agents can be liable when acting unlawfully.

E. Evidentiary & Spoliation Doctrines

5882 **13. *Omnia praesumuntur contra spoliatorem* — "All things are presumed against the destroyer of evidence."**
Pages: 60–63
Excerpt: "Rebutting the presumption of regularity via the doctrine of spoliation… *omnia praesumuntur contra spoliatorem* applies."
Function: Supports the inference of bad faith where records were altered or withheld.

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14. *Omnia praesumuntur rite esse acta* — "All acts are presumed to have been done rightly." (invoked to rebut it)
Pages: 60–63
Excerpt: "The presumption of regularity is displaced where deliberate excision and fabrication are demonstrated."
Function: Shows that the Crown cannot rely on presumptions of regularity when fraud is proven.

F. Equity & Public Law Doctrines
15. *Fiat justitia ruat caelum* — "Let justice be done though the heavens fall."
Pages: 82–84
Excerpt: "The constitutional imperative… demands a declaration of nullity, *fiat justitia ruat caelum*."
Function: Supports the necessity of granting relief despite systemic implications.

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16. *Consensus ad idem* — "Meeting of the minds."
Pages: 35
Excerpt: "The absence of consensus ad idem… demonstrates that no lawful judicial authorization ever crystallized."
Function: Shows that the warrant process lacked the essential elements of a valid judicial act.

Summary Table (Doctrinal Maxims)

Maxim / Doctrine	Pages	Function
Fraus omnia corrumpit	34–35, 58, 82–84, 98–102	Collapses entire proceeding
Falsus in uno	56–57, 83–84	Record unreliability
Ex turpi causa	82–84, 98–102	Crown cannot benefit from wrongdoing
Coram non judice	23–24, 29–31, 76–80	Jurisdictional void
Factum a judice…	20–21, 23–24	Judicial overreach void
Strictissimi juris	23–24, 29–31	Strict jurisdiction
Ex nihilo nihil fit	52–55, 73–75	Void warrant cannot ground arrest
Nemo dat	52–55	No authority from void instrument
Nemo judex	50–51, 70–71	Bias
Audi alteram partem	11, 17, 83–84	Denial of natural justice
Uberrima fides	105–120	Crown fiduciary breach
Rex non potest peccare	35, 119–120	Limits of Crown immunity
Omnia praesumuntur contra spoliatorem	60–63	Inference of bad faith
Omnia praesumuntur rite esse acta	60–63	Rebuttal of regularity
Fiat justitia ruat caelum	82–84	Necessity of nullity
Consensus ad idem	35	No valid judicial authorization

PART V — AUTHORITIES ORGANIZED BY ISSUE NUMBER (ISSUES 1–34)

ISSUE 1 — Inapplicability of s. 599 *Criminal Code* & Jurisdictional Nullity of Administrative Transfer

Statutes

- *Criminal Code*, s. 599
- *Criminal Code*, ss. 503–512 (routing, transmission, venue)
- Courts of Justice Act, ss. 12, 13, 18

Cases

5883 *Pong v Quong* — strict jurisdictional compliance
- *McLean v Bradley* — coram non judice
- *Reference re Residential Tenancies Act* — constitutional limits on inferior tribunals

Doctrines
- *Coram non judice*
- *Strictissimi juris*
- *Ex nihilo nihil fit*

ISSUE 2 — Jurisdictional Routing & Chain of Custody
Statutes
- *Criminal Code*, ss. 507–508
- *Criminal Code*, s. 508.1 (electronic transmission)

Cases
- *R v Myers* — judicial oversight of detention
- *R v Storrey* — lawful basis for detention
- *R v Grant* — state conduct analysis

Doctrines
- *Nemo dat quod non habet*
- *Fraus omnia corrumpit*

ISSUE 3 — Spoliation & Alteration of Sworn Instruments
Statutes
- Canada Evidence Act (authentication)
- *PIPEDA* (digital integrity)

Cases
- *Lazarus Estates v Beasley* — fraud unravels everything
- *Wewaykum* — institutional integrity
- *Tobiass* — abuse of process

Doctrines
- *Omnia praesumuntur contra spoliatorem*
- *Falsus in uno, falsus in omnibus*

ISSUE 4 — Statutory Timelines & Deliberate Obfuscation
Statutes
- *Criminal Code*, ss. 503–505
- *Charter*, s. 11(b)

Cases
- *R v Jordan* — delay ceilings
- *R v Babos* — abuse of process
- *R v Grant* — seriousness of state conduct

Doctrines
- *Audi alteram partem*
- *Ex turpi causa non oritur actio*

ISSUE 5 — Telewarrants, Electronic Information & Withholding of Master Record
Statutes
- *Criminal Code*, s. 487.1
- Canada Evidence Act
- Secure Electronic Signature Regulations

Cases
- *R v Araujo* — warrant validity
- *R v MacNeil* — informational privacy
- *R v Evans* — reasonable expectation of privacy

Doctrines

5884 *Ex nihilo nihil fit*
- *Nemo dat quod non habet*

ISSUE 6 — Anatomy of Form 2 & Missing Judicial Command
Statutes
- *Criminal Code*, Form 2 requirements
- Courts of Justice Act

Cases
- *McLean v Bradley* — judicial command is mandatory
- *Pong v Quong* — strict jurisdictional compliance

Doctrines
- *Factum a judice quod ad officium jure non pertinet ratum non est*
- *Coram non judice*

ISSUE 7 — Circumvention of Criminal E-Intake Portal (Bench Hunting / Forum Shopping)
Statutes
- Criminal Rules of the Ontario Court of Justice
- Criminal Proceedings Rules (SCJ)

Cases
- *Tobiass* — coordinated state misconduct
- *Wewaykum* — apprehension of bias

Doctrines
- *Nemo judex in causa sua*
- *Fraus omnia corrumpit*

ISSUE 8 — Contravention of s. 29 *Criminal Code* & s. 10(a) *Charter*
Statutes
- *Criminal Code*, s. 29
- *Charter*, s. 10(a)

Cases
- *R v Storrey* — lawful arrest
- *R v Feeney* — warrantless entry
- *R v Evans* — informational privacy

Doctrines
- *Nemo dat quod non habet*
- *Ex nihilo nihil fit*

ISSUE 9 — CPIC Manipulation & Metadata Obfuscation
Statutes
- *PIPEDA*
- Canada Evidence Act

Cases
- *Lazarus Estates* — fraud
- *Wewaykum* — institutional integrity

Doctrines
- *Falsus in uno, falsus in omnibus*
- *Omnia praesumuntur contra spoliatorem*

ISSUE 10 — Unauthorized Substitution & Fabrication of Jurat Page
Statutes
- *Criminal Code* (Information requirements)
- Canada Evidence Act

Cases
- *Lazarus Estates*

5885 *Taylor v Clemson*

Doctrines

- *Fraus omnia corrumpit*
- *Ex turpi causa non oritur actio*

ISSUE 11 — E-Filing Limitations & Endorsement Requirements

Statutes

- Criminal Proceedings Rules
- *Criminal Code* (filing requirements)

Cases

- *Araujo* — warrant validity
- *Grant* — state conduct

Doctrines

- *Strictissimi juris*
- *Coram non judice*

ISSUE 12 — Surgical Spoliation of Jurat Page to Obfuscate Judicial Identity

Statutes

- Canada Evidence Act
- Courts of Justice Act

Cases

- *Lazarus Estates*
- *Wewaykum*

Doctrines

- *Omnia praesumuntur contra spoliatorem*
- *Fraus omnia corrumpit*

ISSUE 13 — Circumvention of s. 508 *Criminal Code* Oversight

Statutes

- *Criminal Code*, s. 508

Cases

- *Storrey*
- *Myers*

Doctrines

- *Ex nihilo nihil fit*

ISSUE 14 — "Default Judge" Endorsement as Administrative Subterfuge

Statutes

- Courts of Justice Act
- *Criminal Code*

Cases

- *Wewaykum*
- *Tobiass*

Doctrines

- *Nemo judex in causa sua*
- *Coram non judice*

ISSUE 15 — Facial Invalidity & Structural Deficiency of Charging Instrument

Statutes

- *Criminal Code*, ss. 504–505

Cases

- *Bjelland* — defective charging instruments
- *Nixon* — prosecutorial integrity

Doctrines

ISSUE 16 — Absence of Ministry Records
Statutes
- Courts of Justice Act
- *Criminal Code*

Cases
- *Wewaykum*
- *Grant*

Doctrines
- *Omnia praesumuntur contra spoliatorem*

ISSUE 17 — Systemic Flaws in Civilian Informant Use
Statutes
- *Criminal Code* (Information requirements)

Cases
- *Stinchcombe* — disclosure
- *Grant* — state conduct

Doctrines
- *Audi alteram partem*

ISSUE 18 — Judicial Conflicts of Interest & Apprehension of Bias
Statutes
- Constitution Act, 1867, s. 96

Cases
- *Wewaykum*
- *Tobiass*

Doctrines
- *Nemo judex in causa sua*

ISSUE 19 — Retaliatory Timeline & Abuse of Process
Statutes
- *Charter*, ss. 7, 11(b)

Cases
- *Babos*
- *Grant*

Doctrines
- *Ex turpi causa non oritur actio*

ISSUE 20 — "Intake Court Endorsement" Lexicon & Jurisdictional Cross-Contamination
Statutes
- *Criminal Code* (Forms 2 & 7)

Cases
- *Pong v Quong*
- *Bradley*

Doctrines
- *Strictissimi juris*
- *Coram non judice*

ISSUE 21 — Nine Statutory Breaches of Form 7 & Structural Nullity of Warrant
Statutes
- *Criminal Code*, Form 7
- *Criminal Code*, ss. 29, 503–505

Cases

5887 *Feeney*
- *Storrey*

Doctrines
- *Ex nihilo nihil fit*
- *Nemo dat quod non habet*

ISSUE 22 — Digital Signature Invalidity (CEA + *PIPEDA*)
Statutes
- Canada Evidence Act
- *PIPEDA*
- SESR

Cases
- *Araujo*
- *MacNeil*

Doctrines
- *Fraus omnia corrumpit*

ISSUE 23 — Forgery, Uttering False Document & Smith Precedent
Statutes
- *Criminal Code* (forgery provisions)

Cases
- *Lazarus Estates*
- *Taylor v Clemson*

Doctrines
- *Falsus in uno, falsus in omnibus*

ISSUE 24 — E-Filing Mandates, Institutional Integrity & Coram Non Judice
Statutes
- Criminal Proceedings Rules
- Courts of Justice Act

Cases
- *Wewaykum*
- *Tobiass*

Doctrines
- *Coram non judice*

ISSUE 25 — Certification Requirement under Rule 43.03
Statutes
- Rule 43.03 (SCJ)

Cases
- *Pong v Quong*
- *Bradley*

Doctrines
- *Strictissimi juris*

ISSUE 26 — Form 7 Warrant vs. Administrative Endorsements
Statutes
- *Criminal Code*, Form 7

Cases
- *Feeney*
- *Storrey*

Doctrines
- *Ex nihilo nihil fit*

ISSUE 27 — Jurisdictional Defects & Coram Non Judice
Statutes
- Constitution Act, 1867, ss. 96–100

Cases
- *Residential Tenancies Reference*
- *Bradley*

Doctrines
- *Coram non judice*

ISSUE 28 — Doctrine of Fraud & Vitiating Potency
Cases
- *Lazarus Estates*
- *Taylor v Clemson*

Doctrines
- *Fraus omnia corrumpit*

ISSUE 29 — Open Court Principle & Fabricated Instruments
Statutes
- *Charter*, s. 2(b)

Cases
- *Wewaykum*
- *Tobiass*

Doctrines
- *Fiat justitia ruat caelum*

ISSUE 30 — Section 8 *Charter* Violations
Statutes
- *Charter*, s. 8
- *Criminal Code*, s. 487.1

Cases
- *Hunter v Southam*
- *Evans*
- *Feeney*

Doctrines
- *Ex nihilo nihil fit*

ISSUE 31 — Constitutional Infirmity of Detention
Statutes
- *Charter*, ss. 7, 9, 10(a)

Cases
- *Storrey*
- *Grant*

Doctrines
- *Nemo dat quod non habet*

ISSUE 32 — Section 11 *Charter* Violations (Notice & Delay)
Statutes
- *Charter*, ss. 11(a), 11(b)

Cases
- *Jordan*
- *Stinchcombe*

Doctrines
- *Audi alteram partem*

ISSUE 33 — Section 12 *Charter* Violations (Cruel Treatment)
Statutes

- *Charter*, s. 12

Cases

- *Dudley*
- *Forcillo*

Doctrines

- *Fraus omnia corrumpit*

ISSUE 34 — Inapplicability of Section 1 to Procedural Nullities
Statutes

- *Charter*, s. 1

Cases

- *Oakes*
- *Grant*

Doctrines

- *Ex turpi causa non oritur actio*
- *Fraus omnia corrumpit*

NOTHING PAST THIS LINE

Tab 92

Tab A

Gmail Mr. Kevin McLean <mcleansettlement@gmail.com>

Follow up letter regarding my request for court documents (personal information) from yesterday's fax (SCJ 361 University Avenue (1st floor)

Mr. Kevin McLean <mcleansettlement@gmail.com>
To: "Simion, Monica (MAG)" <Monica.Simion@ontario.ca>, David.Corbett@ontario.ca, "Marjadsingh, Natasha (MAG)" <Natasha.Marjadsingh@ontario.ca>, JUS-G-MAG-CSD SCJ Records <C
Cc: Doug.Downey@ontario.ca, sancha.clarke@ontario.ca, Dawa.Sangyal@ontario.ca

VIA ELECTRONIC TRANSMISSION
URGENT DEADLINE

DATE: May 21, 2026

TO:

Superior Court of Justice (Ontario), Toronto Region

361 University Avenue, 1st Floor

Toronto, ON M5G 1T3

ATTENTION:

Monica Simion (Manager of Court Operations)

Natasha Marjadsingh (Supervisor of Court Operations)

FROM:

Mr. Kevin A. McLean (B.A., J.D., CIM)

Requestor of court documents, information, information assets, records, papers, and things, with particular reference to the Information/Indictment and

SUBJECT: FINAL URGENT DEMAND FOR IMMEDIATE PRODUCTION OF CHARGING INSTRUMENTS AND ENDORSEMENTS WI

I. MANDATORY ENTITLEMENT TO UNTARIFFED PRODUCTION

1. This correspondence serves as a formal, peremptory notification regarding the outstanding non-FIPPA access request registered with this court offi rules codified within the *Ministry of the Attorney General's Court Services Division Policies and Procedures on Public Access to Court Files, Doc* exempt from all administrative copy fees regarding foundational criminal records (*MAG CSD AC*... p. 1).
2. It is submitted that the registry is directed to fulfill its public duty in strict accordance with the following binding policy provisions, the contraventi *initio*) due to the direct contravention of the applicable administrative and equitable principles:

Provision Category	Applicable Policy Requirement
Exemption for Accused Persons	Under Section 7.1.1 of the *Court Information Access Guide*, copies of informations, indictments, and judicial interim request to the accused and their counsel of record without copy fees being charged (*MAG CSD AC*... p. 32).
Free Access to Endorsements	Under Section 7.3.1, court staff must provide copies of endorsements to parties to a case or their lawyer at no charge (
General Principles of Accessibility	Under Section 2.1, criminal court documents are fundamentally designated for public accessibility once process has b *CSD AC*... p. 4).

II. THE DOCTRINE OF THE OPEN COURT AND EVIDENTIARY CONTEXT

3. The transparency of judicial proceedings is underpinned by the "open court principle" (the "**Open Court Principle**"). This principle dictates that a ensure the integrity of the administration of justice.
4. The records currently sought are integral to the ongoing judicial review proceedings documented in *McLean v. Royal Canadian Mounted Police et* "**Federal Court Proceedings**").
   - **Summary of Evidentiary Record:** Evidence filed in the *Federal Court Proceedings* (specifically the *Rule 317 Request* dated May 19, 2026, a establishes that the centralized infrastructure utilized by the respondent agencies has been subject to systemic manipulation regarding the "Adu indicates that the foundational documents—including the Information, Indictment, and endorsements—were modified subsequent to their initi *GrapeCity.Documents.PDF*. This manipulation occurred after inputs were finalized and subsequently presented to the court during the *Ex Part*
   - **Application of the Law to the Facts:** The *Open Court Principle* requires that the public, and specifically the accused, be granted unhindered ensure procedural integrity. The continued reliance upon the purported absence of physical files, when those records were subject to high-tech satisfy the statutory obligations of a court of record. Per the legal maxim *fraus omnia corrumpit* (fraud vitiates everything), the entirety of the vitiated and rendered *coram non judice*.

III. REMEDIAL REQUIREMENT TO RECONSTRUCT THE RECORD

5. The administrative persistence of an empty or displaced repository cannot be utilized by the state to shield an extra-judicial deprivation of liberty f 1.1, the *Court Services Division* retains care and maintenance obligations over court files (*MAG CSD AC*... p. 1), and under Section 1.2, each court (*MAG CSD AC*... p. 2).
6. Furthermore, it is acknowledged that the *Canadian Police Information Centre* (the "**CPIC**") functions solely as a centralized indexing pointer and the Information, Indictment, or Arrest Warrant. Consequently, the registry's duty to produce the record is non-delegable. Given that bankruptcy anc statutes—specifically the *Bankruptcy and Insolvency Act*—it is presumed that the *RCMP* is the designated federal enforcement partner utilized wh registry's reliance upon the limitations of the *CPIC* index—which merely serves as a digital pointer—is insufficient to fulfill its mandate; the regis underlying relational database fields from the case tracking index books to natively compile and produce the unadulterated master record *ipso facto*

IV. NOTICE OF FINAL PEREMPTORY TIMELINE AND ESCALATION

7. It is further submitted that the established familiarity between the *RCMP* and the former Chief Justice appears to have been facilitated, in part, by t and insolvency jurisprudence. Such systemic interdependencies warrant heightened scrutiny regarding the impartiality of the court's administrative
8. The parameter of "soon," previously communicated by Court Operations management, has been comprehensively exhausted over a 2.5-month win
9. Take notice that if a complete electronic transmission appending the natively generated Information or Indictment and all associated Intake Court F TODAY, May 21, 2026, this matter shall be escalated directly to Associate Chief Justice Faye E. McWatt in her capacity as the Acting Chief Justic
10. The aforementioned judiciary is bound by the distinct duties of a Chief Justice of a "section 96 court" (the "**Section 96 Court**"). As the *primus inte* Justice possesses the requisite authority to ensure the *status quo ante* is restored regarding the Applicant's access rights.
11. It is a *prima facie* concern that a court of record—contrary to the *Canadian Judicial Council* dossiers regarding the definition of a court of record– delegation of the *Open Court Principle* into an opaque "open police principle." The judiciary possesses the inherent duty to demand copies of arres appropriate external authorities where custody of the same resides.
12. The candour provided by the *Deputy Attorney General of Ontario* in November 2025 regarding these procedural matters is acknowledged. Howev *limine*.
13. I have appended the two attachments herein to demonstrate the integrity of the documents currently filed before the Federal Court, thereby evidenc justice and the exhaustive pursuit of all legal avenues. This inclusion serves to categorically admonish any potential misrepresentations pertaining employment of specious "frames of reference." It is a matter of profound regret that Ms. Simion's explicit assurances—purporting a commitment t the law—have remained entirely unfulfilled. Absent immediate compliance, I shall proceed without further notice. I further reserve the right to rely including the formal presentation of these matters to the incoming Chief Justice of the Superior Court of Justice upon their announcement.
14. Govern yourselves accordingly.

Respectfully submitted,

Mr. Kevin A. McLean (B.A., J.D., CIM)

Requestor for court documents and records

Email: mcleansettlement@gmail.com

Fax: 416.981.7117

Phone: 647.370.9354

On Thu, May 7, 2026 at 2:05 PM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

> Dear All:
>
> I thank those listed below for their auto-replies and will await their responses upon their return. A kind note: it appears Ms. Clarke is referring to **Frid**
>
> **Clarke, Sancha (MAG)** 1:58 PM
> to me
>
> **OUT OF OFFICE**
>
> Hello/Bonjour, I am away from the office with limited access to email. I will be returning to the office on Wednesday May 8th, 2026.
>
> For matters requiring immediate management assistance, please contact Dawa.Sangyal@ontario.ca
>
> •••
>
> ...
>
> [Message clipped] View entire message
>
> S **Simion, Monica (MAG)**
> to me

Hello, Bonjour

Thank you for your email. I am out of the office attending an off site meeting. My response time will be slower than usual.

Warm regards,

Mr. Kevin A. McLean (BA, JD, CIM)

Chartered Investment Manager

Email: mcleansettlement@gmail.com

Fax: 416.981.7117

Phone number: 647.370.9354

On Thu, May 7, 2026 at 1:55 PM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

VIA ELECTRONIC TRANSMISSION

DATE: May 7, 2026

TO: Monica Simion (the "Manager")

Manager of Court Operations

Superior Court of Justice (Ontario)

361 University Avenue, 1st Floor

Toronto, Ontario M5G 1T3

KIND ATTENTION: Natasha Marjadsingh (the "Supervisor")

Supervisor of Court Operations

Copied to other names herein

RE: Confirmation of my continued entitlement and outstanding request for Information or Indictment and any and all endorsements of which I am entitled to without charge a

Re #2: With fresh evidence and now knowing the originating police agency and investigative service, Regional Commander of said detachment (RCMP) - Request for access to copies of King Street, Toronto, Ontario, M5V 2K3 (Suite 410 and common areas); General Warrants; Interception of Communications Authorizations; Specialized Search Warrants; and formal *Form*

I. PREAMBLE: ENUMERATION OF DOCUMENTS RELIED UPON

1. In the construction of this peremptory instrument, the following foundational documents and instruments have been rigorously scrutinized and incorporated by reference: a. previou court endorsement ostensibly promulgated on September 23, 2024 (the "**Endorsement**"); c. The *Ministry of the Attorney General of Ontario Court Services Division Access to Cou* from the Ministry of the Attorney General, Crown Law Office, confirming the absolute absence of filings by Court Officer (Toronto Region) Mrs. Frugoni-Rojas (the "**Informant**") and similar to the nature of bankruptcy and insolvency proceedings with an intake process requiring an endorsement by a judge in that field); e. The forensic digital analysis of structura (the "**Forensic Analysis**"); and f. others subsumed or referenced.

II. ADMINISTRATIVE PARALYSIS AND THE SYSTEMIC BREACH OF MINISTERIAL OBLIGATIONS

2. This correspondence is respectfully submitted as an exigent escalation of the antecedent requisitions directed to the Manager. It is observed with profound institutional consternatic precipitously elapsed since the initial requisition was formally registered with the Originating Court Office (the "**Registry**"). Notwithstanding the explicit representation remitted by th communicated that a substantive response would be provided "soon," the Registry remains in a state of administrative paralysis that defies both statutory mandates and the consti

3. Pursuant to the doctrine of legitimate expectations, as articulated by the Supreme Court of Canada in *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 S.C.R. 8 to its own procedural representations constitutes a profound breach of procedural fairness. *The Baker Decision established that where a public authority provides a specific repres that expectation.* In the present context, the temporal parameter of "soon" has been transformed into an indefinite period of administrative silence, which functions, *de facto*, as a d reasons.

4. The persistent sequestration of these foundational *acta* is a direct contravention of the ministerial duties codified within section 76 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43 immediate application of the legal maxim *actus curiae neminem gravabit* (an act of the court shall prejudice no man). The Applicant's rights cannot be subordinated to administrativ become an instrument of the very prejudice it is sworn to prevent.

III. FORENSIC CRYSTALLIZATION OF THE INVESTIGATIVE AGENCY AND THE BRAMPTON ANOMALY

5. Subsequent to the issuance of prior communications, fresh and incontrovertible evidence has materialized regarding the identity of the originating police agency. It is now establish specifically the Milton Detachment (the "**Toronto West Detachment**"), possesses the primary carriage of the investigation under Police Case ID: 457197 (the "**Investigation**"). Thi the seized property (the "**Seized Assets**") from the residence at Unit 410-775 King Street West, Toronto (the "**Residence**")—verified by Driver's Licence: M16514331830325 (the " Region (the "**RCMP O Division**") prior to its transfer to the Toronto Police Service (the "**TPS**") 14th Division on or around October 2, 2024.

6. The Toronto West Detachment operates under the command of Regional Commander Matt Peggs (the "**Commander**") and utilizes the Originating Agency Identifier (the "**ORI Num** "Brampton Anomaly," wherein a judicial official purportedly from the Ontario Court of Justice, Brampton (the "**Brampton Official**"), identified as **Justice of the Peace Mr. George .** the Brampton Courthouse to the Milton Detachment suggests a calculated circumvention of the Registry, ostensibly to facilitate an *ex parte* in-camera proceeding away from the O

7. **Nota Bene (Rebuttal to Systemic Incompatibility):** It is anticipated that the Registry may hypothesize that the absence of records is attributable to a lack of synchronization betw postulation is legally vacuous. The Superior Court of Justice, as the court of record, is the ultimate fiduciary guardian of all judicial authorizations. Pursuant to the maxim *delegatus* cannot outsource its archival obligations to the police; the Court must remain the primary repository of its own mandates. Furthermore, the confirmative representations provided by General establish that the Informant had filed no informations during the material timeframe, thereby confirming that the process was an *ultra vires* fabrication.

IV. APPLICATION OF SECTION 2: THE DISJUNCTIVE RIGHT TO INVESTIGATIVE INSTRUMENTS

8. Pursuant to Section 2.1 of the *Access Guide*, criminal court documents are publicly accessible once process is issued—meaning an Information is sworn and an arrest is made. Th defended in *Toronto Star Newspapers Ltd. v. Ontario*, 2005 SCC 41 (the "*Toronto Star Decision*"). *The Toronto Star Decision establishes that the public is entitled to access search executed to ensure judicial accountability.* In this matter, the seizure of property at the Residence by the RCMP, subsequently transferred to the TPS 14th Division, satisfies the disj

9. The Applicant hereby demands the immediate production of the following, which are sought because of the disjunctive language employed by the *Access Guide* (specifically the "a a. **Search Warrants (s. 487):** All informations and warrants authorized for the search of the Residence; b. **General Warrants (s. 487.01):** Any authorizations for the use of novel in **Communications (Part VI):** Any authorizations for the interception of private communications, including wiretap or digital data interception; d. **Specialized Search Warrants:** Incl proceeds of crime (s. 462.32).

10. **Nota Bene (Rebuttal to Identification by Name):** The Registry might suggest that search warrants are not filed by the name of the individual. However, as the Applicant identifies ID, the Registry is statutorily compelled to assist. *Lex non cogit ad impossibilia* (the law does not compel the impossible) does not apply here, as the search parameters provided (a to facilitate retrieval from the Integrated Court Operation Network (the "**ICON**").

V. THE DOCTRINE OF NULLITY AND THE FORM 5.2 MANDATE

11. Pursuant to the *Criminal Code*, R.S.C. 1985, c. C-46 (the "*Criminal Code*"), the investigating service is statutorily obligated to file a Report to a Justice (the "**Form 5.2**") "as soon as instrument is a critical procedural prerequisite that places seized property under judicial oversight, preventing the arbitrary detention of assets.

12. **Nota Bene (Application to Form 5.2 Timelines):** Judicial authorities have consistently held that even a delay encompassing a few days in filing a Form 5.2 may be characterized *and Freedoms* (the "**Charter**") regarding the protection against unreasonable search and seizure. *In R. v. Grant*, 2009 SCC 32 (the "*Grant Decision*"), the Court emphasized that a continued detention of property unreasonable. *The Grant Decision establishes that state misconduct in the execution or reporting of a search may necessitate the exclusion of evic* Disposition (the "**Disposition Order**") after eighteen months constitutes a jurisdictional nullity that vitiates the detention *ab initio*.

VI. SEALED ACTA AND THE NON-DEROGABLE ENTITLEMENT TO PARTICULARS

13. Pursuant to Section 2.2.12 of the *Access Guide*, the existence of a Sealing Order (the "**Order**") does not, and cannot, extend to the concealment of the date of said Order nor the r promulgation. Access to these specific particulars is a non-derogable entitlement under the letter of the law.

14. **Nota Bene (Forceful Requisition regarding Sealing):** Should the Registry assert that any warrant or investigative instrument is sequestered under a Sealing Order, the Applican the name of the judicial official responsible for the Order. This is the critical prerequisite for the exercise of the Applicant's right to bring an application for a variance of the Order *in jus, ibi remedium* (where there is a right, there is a remedy), as the Applicant cannot move to vary an order whose origin is hidden.

15. **Nota Bene (Rebuttal to Administrative Opacity):** Refusal to provide the name of the authorizing judge—especially in light of the involvement of Chief Justice Morawetz—is an af *temporis non convalescit* (that which was void from the beginning does not become valid by lapse of time). If such an order was issued in solitary chambers, the Applicant demand facilitate a mandatory application to the issuing official as required by law.

VII. PEREMPTORY CONCLUSION AND DEMAND FOR COMPLIANCE

16. The upshot of the foregoing is that the Applicant is entitled to copies of an Information or Indictment and all associated endorsements without delay and without the imposition of ac *Guide*, no charge applies to an accused individual (the "**Accused**").

17. The Applicant poses the following formal queries to the Registry, which command immediate and transparent satisfaction: a. Do any orders—inclusive of search, general, or trackin Applicant's nomenclature? b. Has a Sealing Order been effectuated by a judicial official? c. **If a seal exists, provide forthwith the exact date of the order and the identity of th** Disposition been filed regarding the Seized Assets?

18. The Applicant demands the immediate production of the Information or Indictment and all associated endorsements by 5:00 p.m. on the date of this communication. Administrative sequestration of foundational court records. Should any charge be asserted for specialized warrants, the Applicant requests an invoice (the "**Invoice**") forthwith; otherwise, it is pre

19. It is strictly anticipated that all personnel shall govern themselves in accordance with the rule of law and the fiduciary obligations owed to the constitutional trust.

20. For a moment of levity (if you will), that was not particularly easy to determine but nonetheless the external efforts post my last email bore fruit of the most unique kind.

21. I await a response by the end of the business day.

RESPECTFULLY SUBMITTED,

Mr. Kevin A. McLean (B.A., J.D., CIM)

Applicant/Accused/Party

Toronto, Ontario

Enclosures

Warm regards,

Mr. Kevin A. McLean (BA, JD, CIM)

Chartered Investment Manager

Email: mcleansettlement@gmail.com

Fax: 416.981.7117

Phone number: 647.370.9354

On Fri, Apr 10, 2026 at 3:25 PM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

> **NOTICE OF ESCALATION, PEREMPTORY DEMAND FOR PRODUCTION OF JUDICIAL RECORDS, AND DECLARATION OF**
> **DATE:** April 10, 2026
>
> **SUBJECT:** URGENT: Formal Notice of Escalation to the Auditor General of Ontario and Peremptory Demand for the Expeditious Production of S
>
> **I. ENUMERATION OF DOCUMENTS REVIEWED AND RELIED UPON**

1. In the preparation of this peremptory instrument, the following foundational documents and instruments have been rigorously reviewed and relie

   a. The formal whistle-blower disclosure, encompassing an exhaustive request for a special performance audit, filed with the Office of the Auditor "**Disclosure**");

   b. The intake court endorsement, ostensibly promulgated on September 23, 2024 (the "**Intake Court Endorsement**");

   c. Four draft orders previously delivered and filed within the judicial review proceeding styled as "*McLean TDHA Divisional Court JRPA Application*"

   d. The antecedent electronic correspondence exchanged between the Applicant and the administrative functionaries of the Ministry of the Attorn

II. NOTICE OF ESCALATION AND DISCLOSURE TO THE AUDITOR GENERAL

2. Formal notification is hereby provided that, consequent to the persistent and systemic failure of the Ministry to effectuate the production of the r informations and corresponding endorsements—the Disclosure has been formally registered with the Office of the Auditor General of Ontario (
3. The Disclosure necessitates a comprehensive, external performance audit scrutinizing the surreptitious mismanagement of information technolog records, and the continuous obstruction of statutory access perpetrated by Ministry personnel situated at the Court.
4. Notwithstanding the future determinations and procedural mechanisms to be implemented by the Auditor General concerning the systemic infras Disclosure, the immediate ministerial obligations of the Ministry regarding the provision of the requested personal information and judicial recor that the formalization of this escalation shall catalyze the immediate rectification of this administrative paralysis.

III. THE JURISDICTIONAL NULLITY AND THE UNDISCLOSED ADJUDICATOR

5. The prevailing circumstances are recognized as profoundly regrettable, yet unequivocally necessary, precipitating from the recent evidentiary ascert served as the undisclosed adjudicator responsible for the Intake Court Endorsement.
6. It is posited that the abrupt proclamation of the Chief Justice's resignation—euphemistically classified as a "retirement"—materializing merely da draft orders within the *McLean TDHA Divisional Court JRPA Application* before the Divisional Court, is profoundly illustrative. Although it was pre adjudicator bearing undisclosed prior judicial involvement was exclusively Madam Justice Shore, the evidentiary continuum now necessitates a reca
7. Furthermore, the persistent administrative silence in response to the antecedent inquiries shall be formally construed as definitive confirmation—a contemporaneous corroborative evidence crystallizing on the date of this instrument—that Chief Justice Morawetz operated as the clandestine an Court Endorsement, notwithstanding that the adjudicative act was surreptitiously and procedurally channeled through the registry of the Court sit floor).
8. The failure to articulate and elucidate the presence of a potential conflict of interest, despite formal requisitions initiated as early as January 2025, transparency. While the nuances of this procedural obfuscation are acknowledged, such machinations do not possess the requisite legal efficacy to ministerial duties. The clandestine administrative stratagems have been comprehensively unmasked. Simply put, the Chief Justice, remunerated at a twenty-two puisne judges within the Court, and designated as the *primus inter pares*, is encumbered by comprehensive, non-delegable duties, enume

   a. **Ultimate Jurisdiction**: Definitive and final authority is exercised over all adjudicative and administrative functions, precluding the fragmentatio

   b. **Constitutional Trust Steward**: The non-delegable responsibility is borne to act as the primary guardian of the constitutional trust, ensuring th confines;

   c. **Imperviously Influenced Mandate**: The absolute requirement is maintained to remain impervious to external, collateral, or internal pressures institution;

   d. **Master of the Roster**: Absolute and exclusive authority is wielded over the scheduling, assignment, and distribution of judicial resources, a pov

   e. **Self-Assignment Power**: The inherent authority is possessed to self-assign matters of profound institutional and constitutional significance, sp

   f. **Administrative Steward**: The statutory duty is executed to rigorously oversee clerical and registry functions pursuant to section 76 of the *Court Justice Act*"), insulating registry staff from unauthorized directives;

   g. **Institutional Reputation Guardian**: The uncompromising obligation is upheld to protect and preserve the Court's standing and integrity in th dysfunction;

   h. **Efficiency Operation Duty**: The overarching responsibility is maintained to ensure the seamless, lawful operation of all Court functions, activ *vires* actions;

   i. **Ethical Compliance Guarantee**: The Chief Justice serves as the final internal arbiter of professional conduct within the tribunal, ensuring adh

   j. **Complaint Laying Power**: The intrinsic, affirmative authority is retained to initiate formal disciplinary complaints when egregious usurpations

   k. **Puisne Judge Removal Power**: The administrative authority is executed to effectively reassign or restrict colleagues during the pendency of etl harm;

   l. **Moral Barometer**: The Chief Justice functions as the absolute ethical and integrity barometer for the institution, setting the incontrovertible sta

   m. **Moral Authority**: The power is utilized to impose judicial will and ethical rectitude upon other puisne judges through binding ethical directives *of Civil Procedure*, R.R.O. 1990, Reg. 194 (the "*Civil Rules*").

IV. EXTRAPOLATION OF LEGAL DOCTRINES AND THE DECLARATION OF NULLITY

9. It is deduced that the self-assignment power was exercised; however, the absence of a formal disciplinary complaint suggests that the resultant res complaint.
10. It is conspicuously apparent from the longitudinal trajectory of these circumstances that an adversarial animus, whether effectuated directly or ind duration against the Applicant by the Chief Justice. Consequently, regarding all collateral and prospective proceedings, inclusive of the instant mat invoked to definitively preclude the Chief Justice from assuming carriage of, presiding over, or exercising any adjudicative authority regarding any requisite corollary of procedural fairness, a definitive copy of the same shall concurrently be furnished to the Chief Justice.
11. While it is posited that the legally, morally, and ethically requisite course of action would have necessitated the Chief Justice formally declaring a c implicating his person and palpably affecting the adjudicative administration of the Toronto Region—the procedural trajectory has irreversibly cry mitigate is hereby assumed, and definitive measures shall be undertaken to ensure that the next most senior judicial officer within the Court is seiz applications advanced by the Applicant, irrespective of the substantive area of law. This strategic recalibration operates to systematically unwind a

the Chief Justice, to any puisne judge, subsequent to the crystallization of his conflict of interest in 2024. Notwithstanding these prophylactic mea of the statutorily mandated documents remains resolutely intact, advanced under the auspices of utmost good faith and comprehensive disclosure

12. The adjudication of matters whilst harbouring an undisclosed conflict of interest transcends mere procedural irregularity. In accordance with the u Court of Canada in *Committee for Justice and Liberty v. National Energy Board*, 1978 1 S.C.R. 369 at 394 (the "*Committee Decision*"), the legal standard nec minded person, viewing the matter realistically and practically, and having thought the matter through, would conclude that there is a reasonable ap extrapolation is superimposed upon the factual architecture herein—where the Chief Justice intervened as an undisclosed adjudicator while harbo for a reasonable apprehension of bias is unmistakably surpassed. This directly contravenes the equitable maxim that justice must not only be done done.

13. Consequently, the resultant *acta* and the Intake Court Endorsement cannot be classified as curable defects. They constitute, unequivocally, *ultra vire* jurisdiction. By operation of law, these administrative directives are rendered an absolute nullity, functioning *ipso facto* to vitiate the entirety of the a to the *status quo ante*.

14. The singular mitigative realization within this systemic obfuscation is the unassailable application of the equitable maxim *fraus omnia corrumpit*—fra retrospectively to vitiate all detrimental consequences inflicted by these procedural machinations. Furthermore, it is profoundly advantageous to th imperatives enshrined within the *Auditor General Act*, R.S.O. 1990, c. A.35 (the "*Auditor General Act*"), the Auditor General is vested with the plenar concerning matters germane to an active audit or examination. This inquisitorial jurisdiction, *prima facie*, extends unconditionally to any jurist, whet particularly salient concerning the compelled production of statutorily mandated judicial records that have been unlawfully sequestered or withhel

V. PEREMPTORY CONCLUSION AND DEMAND

15. The fundamental invalidity of these judicial actions affirms, *prima facie*, that the jurisdictional nullities possess no capacity to discharge, mitigate, or Ministry.

16. A peremptory demand is hereby advanced that the requested documents, inclusive of all informations and corresponding endorsements, be produ 5:00 p.m. Eastern Standard Time on the date of this communication.

17. Should the Ministry fail to comply with this rigid temporal parameter, subsequent communications shall be immediately dispatched to the Auditor solidify the evidentiary record of this administrative intransigence.

18. Whilst profound empathy is extended regarding the administrative predicament of navigating directives from a Chief Justice that ostensibly comp internal hierarchical pressures cannot, *de jure*, serve as a justifiable exculpation for the persistent non-compliance by Ministry personnel regarding t machinations effectuated by Chief Justice Morawetz have definitively provoked rigorous scrutiny, an outcome ostensibly sought through his opaqu misconduct shall be systematically addressed through civil, adjudicative mechanisms to ensure the maximal realization of the public interest. Neve was deemed fundamentally imperative, functioning strictly to afford the Ministry a final opportunity to execute its mandatory administrative and r law.

19. It is strictly anticipated that all relevant persons shall govern themselves accordingly.

KEVIN A. MCLEAN (B.A., J.D., CIM)

Applicant / Accused

On Wed, Apr 8, 2026 at 12:14 PM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

Thank you Ms. Simion for your auto-reply. Kindly provide your definitive position and response by no later than 11 a.m. tomorrow. All the best

Simion, Monica (MAG)
to me

Hello, Bonjour

Thank you for your email. I am condcuting interviews today, my response time may be slower than usual. I will get back to you as soon as possible.

Warm regards,

Mr. Kevin A. McLean (BA, JD, CIM)

Chartered Investment Manager

Email: mcleansettlement@gmail.com

Fax: 416.981.7117

Phone number: 647.370.9354

On Wed, Apr 8, 2026 at 12:10 PM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

SUBJECT I: Supplementary Elucidation of Particulars and Anticipation of Pending Communication from Ms. Simion, Previously Noted Approximately Four W

SUBJECT II: Interim Reliance on the Uncontested Factual Record Relating to Prior Judicial Engagement by Chief Justice Morawetz in Ex Parte In Camera Int the Endorsement of Intake Court Documentation and the Prospective Issuance of a Purported De Facto or De Jure Arrest Warrant Regarding Kevin McLean (DC

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns (relevant to the Originating Courthous at the Originating Court Office):

FORMAL RECORD OF FACTUAL MATTERS, EVIDENTIARY NOTICES, AND JURISDICTIONAL SUBMISSIONS

I. Preface and Confirmation of the Absence of Refutation

1. The authenticity and factual accuracy of the aforementioned matters are hereby formally affirmed and entered into the record.
2. It is further confirmed that no formal refutation has materialized following recent evidentiary findings concerning the parameters historic described as "C, J, M"). Accordingly, a presumption of comprehensive and sufficient disclosure to relevant authorities is adopted, predica Nonetheless, out of an abundance of caution and in light of the imminent resignation or retirement of Chief Justice Morawetz, coupled w these proceedings, the following factual matrix is formally confirmed and advanced.

II. Preliminary Matters and Procedural Abeyance

3. This memorandum is issued with the express intention of preserving an unassailable evidentiary continuum. It is respectfully indic correspondence is anticipated, necessitated by pending medical evaluations and diagnostic assessments. Any resultant delay should be u essential medical procedures.

III. Uncontested Factual Matrix and Judicial Engagement

4. It is preliminarily observed that no refutation has been offered regarding the critical assertion that the Chief Justice, acting as presi an intake court during an in camera proceeding. This proceeding is understood to be intimately connected to the laying and receipt of an Code, R.S.C. 1985, c. C-46, or alternatively, a formally preferred indictment.

5. In the absence of explicit denial, it is advanced that the aforementioned judicial involvement stands as an uncontested factual premise. Th classified as court documentation, distinct from inherently judicial documentation, and is therefore not protected by administrative or adj

IV. Evidentiary Record and Signature Modalities

6. The identification of the presiding judicial officer is substantiated by a handwritten endorsement, executed in the capacity of Regic Chapter 11 Debtors matter, bearing court file number CV-12-9719-00CL, returnable on 2014-01-03. While handwritten judicial endorse the preceding decade, and no criticism is directed here toward the propriety of that historical practice.

7. An exhaustive review of supplementary endorsements reveals a consistent pattern whereby the judicial officer endorsed documents origi bankruptcy and insolvency litigation. Notably, these documents lack cryptographic digital signatures. The evidentiary record demonstrate digital signatures, preferring physical blue or black ink, or digitized scans of handwritten signatures, a practice maintained until 2025.

8. By logical extension, forensic analysis indicates that the indictment likely utilized an Adobe cryptographic signature executed by the Atto potentially from the Ministry of the Solicitor General or Detective Virani's investigative unit.

V. Jurisdictional Geography and Historical Context

9. It is demonstrably evident that the judicial officer has not historically presided over criminal matters, except for the issuance of adı protocols.

10. The geographic and historical context further clarifies jurisdictional parameters. The bankruptcy and insolvency administrative offices w administrative personnel prior to their relocation to the family law registry at 361 University Avenue. Judicial chambers likely remained a address at 130 Queen Street West, Toronto, Ontario.

11. Additional historical linkage is established by documentation from 1988, evidencing professional interconnectivity between the judicial c Comparative handwriting analysis between the endorsement of 2024-09-23 and historical documentation from 2014-01 yields substantial facie validity of the assertions herein.

VI. Forensic Analysis of Systemic Parameters

12. A forensic examination of systemic parameters, including conversion from Little Endian to Big Endian UTF-16 architecture and tra ANSI-compliant linguistic format, reveals underlying algorithmic chronologies. The decoded data matrix conclusively establishes the ti modifications.

VII. Jurisprudential Application and Doctrine of Nullity

13. The procedural anomalies described above—specifically, the in camera reception of undisclosed information by a judicial officer ac should not be viewed as mere procedural irregularities. These deviations constitute fundamental jurisdictional defects, violating the Crir R.R.O. 1990, Reg. 194. Consequently, any judicial act arising from such unauthorized circumstances is, ipso facto, an absolute nullity, r curtailment of liberty under these parameters is definitively ultra vires.

14. The jurisprudence of the Supreme Court of Canada unequivocally supports the classification of such ultra vires actions as absolute nulliti *Star Newspapers Ltd. v. Ontario*, 2005 SCC 41 ("Toronto Star Decision") at paragraphs 18-22, the Supreme Court rigorously scrutinized camera proceedings or issue sealing orders that contravene the foundational Open Court Principle. The Court mandated that any departur by necessity to prevent a serious risk to the proper administration of justice; absent such justification, the resulting orders lack jurisdictio

15. Applying the jurisprudential principles of the *Toronto Star Decision* to the present factual matrix, it is clear that the alleged in camera rec Court, without any recorded justification meeting the strict threshold of necessity, constitutes a fatal jurisdictional overreach. The judicial jurisdiction to conduct secret proceedings in this context, renders any resultant warrants or process unsalvageable as mere irregularities. T actions are absolute nullities. Thus, the legal posture must revert to the status quo ante, as the foundational process underlying the arrest e legally imperceptible.

16. Kindly inform me whether there has been a denial to my access request for the same including those foundational documents of which I a are not able or willing to relay the same, I will escalate the same to the Primus Inter Pares of the SCJ (Ontario) and ask for his unequivoc emails herein or directly to me via email or fax.

17. I confirm that I have requested and am entitled to email provision and disclosure of the same. Whether any endorsement morphed into a v an endorsement. Lastly in this regard, to the extent that Ms. Simion and I view or understand the word "soon" differently, would she kind date she intends to provide me with the response as represented.

18. Finally in the overall sense, I confirm that I have not escalated with outside channels like the Auditor General or others but I can only be grounds, purported or otherwise, that could deny me access to the likes of an Information/Indictment and/or endorsement, kindly advise r legal and efficient manner (i.e. respecting the public purse).
19. In closing and in relation to what I believe I have correct from a hexadecimal standpoint by way of inputs and amendments post facto to although I may be slightly off in the translation or conversion from hexadecimal to ANSI text. "While I raise these points out of an abunc against potential interference or extortion as previously noted—I reserve the right to continue exercising my legal options until full comp economy and respect for the court's time, I propose we establish clear timelines for this request. Of course, it may be that the public need make requests albeit with payment of fees for the same to ensure the public interest is well-suited. Certainly, any signed document in the endorsement, which was and is customary for CJ Morawetz is not a document that would be one that the law enforcement branch would likes of a summons or arrest warrant per se and has no legal effect per se in terms of the required document to be issued to commenc a cr judges or on their behalf must remain in the primary custody and control of the judiciary but nonetheless the MAG would have control of provided to an accused or a party upon reuqest and without fees and in order for the system, as publicly decried by the MAG in the MAG a demand for the court document at issue.

    To that end, I intend to escalate this to the Chief Justice of the Superior Court of Justice. I will request a direction to the relevant Registra **Courts of Justice Act**, to ensure adherence to the principles of judicial independence and the separation of powers." I also note that since at a court office by directions of the DAG (Ontario) and then approval by the CJ of the SCJ, it is important to know whether documents v retrieved or recreated (even copies).

20. As noted, I will be intermittently unavailable over the next several days so I thank you in advance for your patience.
21. If anything is unclear, please let me know immediately.
22. Thank you kindly.

Respectfully,
Mr. Kevin A. McLean (BA, JD, CIM)

Enclosures.

Block A: Initial Systemic Entry (Authorized Parameters) – September 23, 2024

Offset (Memory Address)	Hexadecimal Values (Binary Representation)	Decoded Text (ASCII / EBCDIC)
00000000	54 52 41 4E 53 3A 41 44 44 20 44 41 54 45 3A 32	TRANS:ADD DATE:2
00000010	30 32 34 30 39 32 33 20 54 49 4D 45 3A 31 33 31	0240923 TIME:131
00000020	30 30 31 20 55 53 45 52 3A 54 50 53 35 32 44 49	001 USER:TPS52DI
00000030	56 20 54 45 52 4D 3A 54 52 30 30 34 31 00 00 00	V TERM:TR0041...
00000040	4F 52 49 3A 4F 4E 33 30 32 34 37 30 30 30 20 20	ORI:ON30247000
00000050	4E 41 4D 45 3A 4D 43 4C 45 41 4E 2C 4B 45 56 49	NAME:MCLEAN,KEVIN
00000060	4A 55 44 47 45 3A 47 42 4D 20 28 43 49 29 20 20	JUDGE:GBM (CJ)
00000070	52 45 47 3A 54 4F 52 4F 4E 54 4F 20 20 20 20 20	REG:TORONTO
00000080	43 52 54 3A 53 43 4A 20 20 20 20 20 20 20 20 20	CRT:SCJ

Block B: Systemic Clearance / Execution (Arrest Event) – October 2, 2024

Offset (Memory Address)	Hexadecimal Values (Binary Representation)	Decoded Text (ASCII / EBCDIC)
000000A0	54 52 41 4E 53 3A 43 4C 52 20 44 41 54 45 3A 32	TRANS:CLR DATE:2
000000B0	30 32 34 31 30 30 32 20 54 49 4D 45 3A 30 38 34	0241002 TIME:084
000000C0	35 30 31 20 53 54 41 54 3A 45 58 45 43 55 54 45	501 STAT:EXECUTE

Block C: Post-Execution Algorithmic Amendment (Interrogated Parameters) – November 11-12, 2024

Offset (Memory Address)	Hexadecimal Values (Binary Representation)	Decoded Text (ASCII / EBCDIC)
00000100	54 52 41 4E 53 3A 4D 4F 44 20 44 41 54 45 3A 32	TRANS:MOD DATE:2
00000110	30 32 34 31 31 31 31 20 54 49 4D 45 3A 30 39 31	0241111 TIME:091
00000120	35 30 31 20 55 53 45 52 3A 54 50 53 35 32 44 49	501 USER:TPS52DI
00000130	4F 4C 44 5F 52 45 47 3A 54 4F 52 4F 4E 54 4F 20	OLD_REG:TORONTO
00000140	4F 4C 44 5F 43 52 54 3A 53 43 4A 20 20 20 20 20	OLD_CRT:SCJ
00000150	4E 45 57 5F 52 45 47 3A 43 45 4E 54 20 57 45 53	NEW_REG:CENT WEST

00000160	4E 45 57 5F 43 52 54 3A 4F 43 4A 20 28 42 52 41	NEW_CRT:OCJ (BRA)

On Mon, Apr 6, 2026 at 4:54 PM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:
I thank Ms. Clarke for the email of: Records Administration (File Retrieval Requests)
CSD.SCJRecords@ontario.ca
As such, they are copied herein for purposes so directed. Thank you again Ms. Sancha Clarke.
I will provide a copy of the emails to that division for ease of reference.
My best to all who are taking time off today and I thank you for the indulgence.
(nota bene: For some reason, Ms. Mardjadsingh was not on the previous email through my error and I apologize for that but this will be corrected with the full

Warm regards,

Mr. Kevin A. McLean (BA, JD, CIM)

Chartered Investment Manager

Email: mcleansettlement@gmail.com

Fax: 416.981.7117

Phone number: 647.370.9354

On Mon, Apr 6, 2026 at 4:37 PM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

DATE: April 6, 2026
VIA ELECTRONIC TRANSMISSION

TO: Superior Court of Justice (Ontario) (Toronto Region)

361 University Avenue, 1st Floor (Family Registry / Originating Court Office)

Toronto, Ontario M5G 1T3

ATTENTION: Monica Simion, Manager of Court Operations

Natasha Marjadsingh, Supervisor of Court Operations

Sancha Clarke (title above)

KIND ATTENTION: The Honourable DAG of Ontario, Mr. David Corbett, KC

KIND ATTENTION: The Honourable AG of Ontario, Mr. Doug Downey, KC

CC / FOR THE ATTENTION OF: The Honourable Chief Justice of the Superior Court of Justice (Ontario) (*Primus Inter Pares*)

REQUISITIONING PARTY: Mr. Kevin A. McLean (B.A., J.D., CIM), Applicant and Requestor in the capacity of an accused and party during the relevant temporal period.

SUBJECT: FORMAL REQUISITION — RECTIFICATION OF THE JUDICIAL RECORD PREMISED UPON NEW FORENSIC EVIDENCE, SYSTEMIC MANIPULATION ALLI PRODUCTION OF FOUNDATIONAL DOCUMENTS

TO THE ATTENTION OF THE AFOREMENTIONED PARTIES:

This communication serves as a formal and exigent requisition concerning the outstanding demands for the production of foundational records pertaining to the designated ma the unadulterated "Intake Court Endorsement."

The instant requisition is advanced strictly pursuant to the fundamental entitlements vested in an accused entity under the *Canadian Charter of Rights and Freedoms* (specific the inviolable open court principle, and the *MAG CSD Court Information Access Guide (2019)*. It is reiterated *ex abundanti cautela* that the present demand is exclusively a rec absolute custody and control of the judiciary, pursuant to Section 76 of the *Courts of Justice Act*, and is wholly distinct from a request under the *Freedom of Information and Pr* that the judiciary retains absolute and exclusive dominion over such records, the preservation of which is a fundamental requisite for the maintenance of judicial independence

Rectification of the Record and Presentation of Exhaustive Forensic Particulars

In the furtherance of judicial transparency and the obligation to furnish requisite particulars to facilitate administrative retrieval, a formal rectification of a prior supposition is her

Previously, it was hypothesized that the anomalous digital artifact "CL (M)" manifested upon the subject document constituted a residual trace of the nomenclature and title of t the instrument, such a preliminary deduction was logically sound. Notwithstanding, subsequent to the execution of an exhaustive and highly sophisticated forensic digital mani and unequivocally retracted.

A synthesis of principles derived from cybersecurity protocols, advanced vector morphology, and constitutional jurisprudence now substantiates, with a high degree of probabil subsequent erasure from the original Intake Court Endorsement appertained to Chief Justice Geoffrey B. Morawetz.

Precise Forensic Analysis: The Optical Character Recognition Font-Parsing Anomaly (The Morphological Transmutation of "C J G.B. M")

The character sequence "CL (M)" does not represent arbitrary alphanumeric data, nor does it constitute a recognized bureaucratic acronym. Rather, it is posited to be the matl Optical Character Recognition (OCR) and vector morphology failure, precipitated by the deployment of third-party software to expunge the string "C J G.B. M" from a layered F

1. The "J" to "L" Anomaly (Stem Shearing)

To comprehend this morphological shift, an understanding of digital typographic rendering is required. Within serif typefaces, characters are rendered utilizing mathematical eq directional vectors. The capital letters "J" and "L" share a substantially identical central vertical stem. The character "J" is distinguished primarily by the extension of this stem b

It is hypothesized that the forceful deletion of the overlapping digital signature image via the GrapeCity application precipitated a catastrophic spatial collapse at the precise co text. The invisible bounding box encompassing the "J" sustained a severe truncation on its leftward margin, thereby severing the vector control points requisite for the renderin vertical stem bracketed by minor horizontal serifs.

Subsequently, the intrinsic OCR engine, in its automated attempt to reconstruct the corrupted PDF stream, evaluated this fractured geometric entity. A heuristic confidence-scc with a recognized Unicode glyph. Deprived of the defining leftward finial, the algorithm necessarily cross-referenced the residual stem against its internal typographic repositor terminal but retaining right-oriented basal geometry defaults to the character bearing the highest probability match: the letter "L".

2. The "G.B." to "( )" Anomaly (Rounded Vector Collapse)

The presiding judicial officer in question characteristically employs the middle initials "G.B.", both of which are predominantly composed of complex, rounded Bézier curves (ty

In contrast to word processing applications, a PDF operates upon a rigid mathematical coordinate system. Spatial intervals between characters are not discrete entities but rat horizontal displacement prior to the rendering of the subsequent glyph. It appears that a recognized software vulnerability within GrapeCity (identified as DOC-6507, colloquial the overlapping image, thereby entirely obliterating these spatial directives.

Absent these spatial anchors, the characters were subjected to a violent morphological collapse into identical coordinate space. The internal horizontal crossbars, spurs, and v failure, being mathematically obliterated by intense vector compression and pixel-rendering conflicts.

The sole surviving elements of this digital compression were the most mathematically elementary, outermost vector paths:

- The leftward-sweeping outer curve of the "G" was isolated, divested of its crossbar, and algorithmically interpreted as an open parenthesis: "("
- The rightward-sweeping outer curve of the "B" was similarly isolated, divested of its stem, and interpreted as a closed parenthesis: ")"

Consequently, the original anchor initials "C J G.B. M" sustained severe morphological degradation, coalescing due to the total absence of kerning data, and were algorithmica that this phenomenon is not a typographical error but a permanent cryptographic indicator of a collision between an image layer and a text layer during an attempted documen

Furthermore, the aforementioned analysis supports the conclusion that the elaborate digital signature block, ostensibly attributed to a law enforcement informant, was a manuf was deployed strategically to obscure the forensic indicators of the incomplete erasure, utilizing visual complexity to mislead subsequent legal participants and to obfuscate the

The Justice Sector Security Office Communication: Jurisdictional Admissions and the Invocation of Rule 8

Subsequent to perceived administrative delays, further correspondence was directed to the Superior Court of Justice Correspondence Unit on August 22, 2025, seeking acces communications were directed to Regional Senior Justice Firestone, and two to Chief Justice Morawetz.

On August 26, 2025, a communication was received from the Justice Sector Security Office (JSSO), wherein it was intimated that continued correspondence might precipitate records was characterized as "harassment." This communication, read in conjunction with an anomalous "DIVERSION" notification, may be construed as an inadvertent conce Justice Morawetz.

The Exclusion of the Regional Senior Justice: Pursuant to Section 14 of the *Courts of Justice Act*, the Regional Senior Justice exercises delegated administrative authority interpreted merely as a generalized administrative grievance, it would stand to reason that the JSSO would have sought to insulate the Regional Senior Justice. Conversely, th Regional Senior Justice while explicitly invoking the name of the Chief Justice on three separate occasions. Such an omission implies that the Chief Justice was being address specific adjudicative capacity.

The Rule 8 Implication ("Is Presiding"): The JSSO communication explicitly cited the prohibition against communicating with a judicial officer "with respect to matters that ar out-of-court discourse regarding a proceeding over which a judge "is presiding."

The procedural mechanism by which a Chief Justice situated at Osgoode Hall may be deemed "presiding" over a criminal intake matter at a separate locus warrants scrutiny. I the issuance of an Intake Court Endorsement—the judicial officer who issues the instrument becomes "seized" of that specific application. Until such time as the warrant is exe issuing judge is the sole judicial officer who "is presiding" over the instrument.

The *Garofoli* Principle: Under established criminal procedure pertaining to challenges of warrant validity, the issuing judge retains initial jurisdiction over the foundational mat categorized the Chief Justice as the "presiding" judge over the September 23, 2024 proceeding.

The Inherent Jurisdiction of an Issuing Judge to Vacate or Set Aside Ex Parte Orders and Non-Orders

No statutory restriction within the *Criminal Code* prohibits an authorizing judge from vacating an order of their own making. Under Canadian jurisprudence, the issuing judge is it is established that the court was misled.

The foundational precedent governing this doctrine is articulated in *Wilson v. The Queen* [1983] 2 S.C.R. 594. The rule therein establishes that, whereas court orders are gene review and may be set aside by the issuing judge upon the adduction of new evidence demonstrating that the order was procured through fraud, material non-disclosure, or m

The jurisprudential distinction between judicial roles is defined as follows:

The Reviewing Judge (Trial Court): Pursuant to *R. v. Garofoli*, the reviewing judge evaluates the warrant to ascertain whether the affiant provided requisite grounds and whe This review focuses on constitutional compliance.

The Authorizing Judge (Issuing Court): Given that *ex parte* proceedings rely exclusively on the absolute candor of the state, the issuing judge retains inherent jurisdiction ov enforcement personnel misled the court, omitted material facts, or unlawfully altered the endorsement resulting in a fraudulent document, a "fraud upon the court" has material to immediately vacate, quash, or set aside the initial order.

Consequently, the inherent jurisdiction of a Superior Court judge to vacate an *ex parte* order—or to declare an altered document a nullity—upon being deceived by law enforce

Section 3.1 of the Criminal Code: The Validity of Acts, the Issuance of Process, and the Ramifications of Statutory Nullity

This procedural matrix presents a complex academic conundrum. Section 3.1 of the *Criminal Code* stipulates that acts are valid from the time they are made. Nonetheless, up by a justice, no subsequent formal process (e.g., a summons or an arrest warrant) is strictly mandated to lawfully initiate a criminal proceeding. The proceeding is deemed con itself; the statute delineates between the commencement of the "proceeding" and the commencement of a formal "prosecution" or the execution of process.

This distinction is of paramount importance concerning the temporal framework established by the Supreme Court of Canada in *R. v. Jordan*. The rigid timelines prescribed the (i.e., the laying of the Information).

Accordingly, even assuming *arguendo* that the Chief Justice was initially seized as the "presiding judge" upon the laying of the Information, such jurisdiction would have argual expiration applies irrespective of the specific date utilized to mark the commencement of the proceeding—taking note of the irregular and conflicting dates affixed to the docum aforementioned digital manipulation perpetrated by entities extraneous to the Originating Courthouse staff.

Should the requisite act (the warrant or summons) have never been lawfully completed or issued due to state-actor interference, the result is a statutory nullity. It is imperative intended to cast aspersions upon the judicial officer in question. If an order is manipulated post-issuance, or if statutory prerequisites are frustrated by third parties, the judicial

Evidentiary Sufficiency, Document Destruction Protocols, and Potential Institutional Intersections

It is submitted that reliance upon incontrovertible, documented software vulnerabilities (e.g., whitespace anomalies designated as DOC-6507) furnishes sufficient and necessa production. The candor previously exhibited by the Deputy Attorney General in November 2025 is noted, alongside the statutory prohibition against the destruction of judicial d maintained that no jurisdictional authority exists to deny access to an Information/Indictment and its corresponding endorsement.

Consideration has further been directed toward the hypothesis that multiple judicial officers may have exercised distinct jurisdictional functions (e.g., the authorization of searcl bifurcation would align with the procedural mechanics of *ex parte* and *in camera* chambers applications.

If one were to engage in forensic postulation regarding the genesis of the underlying complaint, attention might be drawn to broader institutional dynamics involving administra the auspices of the *FIPPA* General Regulation. It is an ascertainable matter of public record that specific executive personnel within the administrative tribunal sector share syr prominent national legal entities, contemporaneously with certain members of the judiciary. Such historical intersections, particularly during periods involving internal regulatory entities, provide a contextual backdrop that warrants rigorous scrutiny when evaluating the totality of the circumstances surrounding the initiation of the complaint. It is averred comprehensive particulars.

The Requisition for Production and Associated Systemic Implications

Predicated upon the adduced forensic evidence and the jurisdictional admissions referenced herein, a high probability exists that the Originating Court Office retains custody c of 6 of the standard Information package, bearing the unaltered signature block.

The systemic characteristics of the alleged documentary alteration elevate the matter beyond a localized clerical anomaly to a substantive institutional deficiency. Provided tha rather than a duly sworn Information (Form 2), the entire proceeding is exposed to the legal reality of constituting a jurisdictional nullity (*coram non judice*), rendering it void *ab*

The deliberate alteration of a judicial record to effectuate a deprivation of liberty triggers robust remedies pursuant to Section 24(1) of the *Charter*, potentially exposing state ac infliction of mental suffering, and systemic bad-faith violations. The digital artifact "CL (M)" serves as permanent, incontrovertible evidence of this documentary interference.

While it is acknowledged that locating these original documents necessitates diligent administrative effort, the burden of rectifying state-sponsored documentary manipulation r implications for liberty and security of the person, the judiciary bears an absolute constitutional duty to preserve and produce the unadulterated court of record.

Therefore, a formal, respectful, yet firm demand is hereby issued for the following:

1. The provision of a true, unredacted copy of the original Information/Indictment and the unadulterated Intake Court Endorsement (or Page 4 of 6 of the package) bearing
2. A definitive confirmation, in the affirmative or negative, as to whether the office currently possesses a document denoted as an "Intake Court Endorsement" containing s

Imposition of Temporal Deadline

A definitive response, whether in the affirmative or negative, is required no later than the conclusion of the business day on April 7, 2026.

To the extent that the Judicial Branch—particularly the *Primus Inter Pares* of the Superior Court of Justice, acting in an administrative capacity—declines to furnish the request archives, formal written reasons for such a disposition are hereby requisitioned. A definitive affirmative or negative declaration will suffice to ensure the efficient allocation of tin

In the face of forensic evidence indicating the alteration of court records, administrative silence is an untenable position. In the absence of a response by the stipulated deadlin that the forensic conclusions regarding state-actor manipulation of these records are uncontested. All rights in fact and at law are strictly and expressly reserved.

Should anything be unclear, please let me know as soon as you are able. I am intermittently away this week for some medical exam in my response. Otherwise , I will presume everything is sufficiently clear.

I trust that this level of detail is appreciated considering the roles of many.

RESPECTFULLY SUBMITTED,

Mr. Kevin A. McLean (B.A., J.D., CIM)

On Thu, Apr 2, 2026 at 3:44 PM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

DATE: April 2, 2026
VIA ELECTRONIC TRANSMISSION AND FACSIMILE

TO: Superior Court of Justice (Ontario) (Toronto Region)

361 University Avenue, 1st Floor

Toronto, Ontario M5G 1T3

ATTENTION:

Monica Simion, Manager of Court Operations

Natasha Marjadsingh, Supervisor of Court Operations

Sancha Clarke

CC or to be FORWARDED: The Honourable Chief Justice of the Superior Court of Justice (Ontario)

FROM: Mr. Kevin A. McLean (BA, JD, CIM)

Applicant/Accused

SUBJECT: FORMAL REQUISITION, NOTICE OF CONSTITUTIONAL NON-COMPLIANCE, AND IMPOSITION OF AN A CONCERNING THE WITHHOLDING OF FOUNDATIONAL COURT RECORDS

PART I: ENUMERATION OF DOCUMENTARY EVIDENCE REVIEWED

1. In strict accordance with the mandatory strictures governing the comprehensive compilation of the judicial record, it is hereby forma evidence (the "**Documentary Evidence**") has been meticulously reviewed, analyzed, and integrated into the foundational substrate

   a. The electronic correspondence chains terminating on April 2, 2026, demarcating the protracted administrative silence of the regist

b. The *INFO-GO* directory profiles corroborating the administrative positioning of Monica Simion and Natasha Marjadsingh within rather than the criminal registry;

c. The statutorily mandated *Criminal Code* Form 2, delineated as the adult common information form, specifically referencing form **Common Information Form**");

d. The structurally compromised digital artifact designated as information package 4810 998 24 48129169-00, containing occurrenc September 23, 2024, involving informant Christyn Frugoni-Rojas and arresting officer Kolankowski of 14 Division (the "**Informati**

e. The *Notice of Application* dated February 24, 2021 (Court File No. CV-21-00657645-00ES), bearing the authenticated signature o local registrar for the Estates List;

f. The *Staff Excellence Awards* publication, confirming antecedent administrative tenures;

g. The professional networking profile verifying the employment continuity of the aforementioned supervisor of court operations.

PART II: THE IMPOSITION OF AN ABSOLUTE TEMPORAL DEADLINE AND THE DOCTRINE OF SPOLIATION

2. It is observed with profound institutional consternation that a protracted period of administrative obfuscation has precipitously elaps court documents (the "**Court Documents**") was formally registered. The systematic failure of the originating court office (the "**Orig** mandatory, non-delegable ministerial duties necessitates the immediate imposition of an uncompromising temporal boundary.

a. The immediate, unredacted production of the aforementioned foundational *acta*—specifically encompassing the unadulterated inf generated intake court endorsement (the "**Intake Court Endorsement**")—is hereby strictly commanded to be effectuated no later th

b. The persistent sequestration of these instruments fundamentally transcends a mere procedural irregularity; such deliberate withho established statutory imperatives and equitable principles, thereby rendering the antecedent adjudicative processes an irremediable n

i. *Nota Bene: Anticipated Counter-Argument and Rebuttal Regarding Procedural Irregularities versus Jurisdictional Nullities.* It is a adjudicator may attempt to recharacterize this systemic administrative failure as a curable procedural defect curable under section 68 a postulate is legally vacuous. The failure to maintain and produce the foundational *acta* upon which jurisdiction is initially assumed preconditions. Pursuant to the extrapolations of jurisdictional principles articulated by the Supreme Court of Canada in *Kourtessis v.* absence or fatal corruption of the originating process deprives the tribunal of subject-matter jurisdiction entirely. Consequently, the p nullity, utterly devoid of legal force or effect, and incapable of retrospective validation.

c. Should the aforementioned 17:00 hours deadline expire absent the complete, unadulterated transmission of the requisitioned *acta*, insurmountable adverse inference (the "**Adverse Inference**") shall be irrevocably drawn against the state apparatus.

i. This Adverse Inference is firmly anchored in the equitable doctrine of *omnia praesumuntur contra spoliatorem* (the presumption a

ii. Pursuant to the authoritative jurisprudential framework established in *McDougall v. Black & Decker Canada Inc., 2008 ABCA 35* obfuscation, or unjustified withholding of evidence by a custodial entity irreparably prejudices the opposing party, thereby inviting t

iii. Furthermore, such administrative malfeasance unequivocally triggers mandatory first-party disclosure obligations regarding state Supreme Court of Canada in *R. v. McNeil, 2009 SCC 3* at paras 42-45, compelling the conclusion that the withheld records incontrov sponsored documentary fabrication.

PART III: THE CONSTITUTIONAL IMPERATIVE OF THE OPEN COURT PRINCIPLE

3. The foundational architecture of the Canadian judicial system is inextricably predicated upon the unimpeachable integrity of its orig of its repositories.

a. The continued administrative sequestration of the Information and the Intake Court Endorsement offends the open court principle hallmark of a democratic society enshrined within section 2(b) of the *Canadian Charter of Rights and Freedoms, Part I of the Consti Act 1982 (UK), 1982, c 11* (the "**Charter**").

b. The Supreme Court of Canada, in *Sherman Estate v. Donovan, 2021 SCC 25* at paras 30-34, decisively affirmed that the Open Co constitutionally protected presumption of public access to adjudicative records. Unfettered judicial openness actively deters systemi *coram non judice*, and ensures unwavering public confidence in the administration of justice.

i. *Nota Bene: Anticipated Counter-Argument and Rebuttal Regarding Statutory Exceptions and Privacy Interests.* It is anticipated th privacy exemptions or operational confidentiality to justify the continued sequestration of the *acta*. This theoretical impediment is p application of the *Dagenais/Mentuck* framework, most recently affirmed in *Toronto Star Newspapers Ltd. v. Ontario, 2005 SCC 41* a evidentiary burden of proving that an overarching publication ban or sealing order is strictly necessary to prevent a serious risk to th salutary effects of such an order outweigh the deleterious effects on the rights and interests of the public. The Information Package i must be recorded on a separate page; as no such formalized order has been disclosed or substantiated, any continued withholding is a stark violation of section 2(b) of the *Charter*.

c. The failure of the Originating Court Office to furnish the requested *acta ex debito justitiae* upon request functionally operates to s appellate scrutiny, constituting an actionable breach of the *Charter*.

PART IV: JUDICIAL INDEPENDENCE, CROWN DUTIES, AND THE FIDUCIARY OBLIGATIONS OF THE REGISTRY

4. The obligations statutorily imposed upon the registry personnel command rigorous exposition. The administration of the court repos judiciary, subject to the plenary supervisory jurisdiction of the Chief Justice of the Superior Court of Justice pursuant to the judicatu *Vict, c 3*, and section 76 of the *Courts of Justice Act, RSO 1990, c C.43*.

a. The personnel stationed at the Superior Court of Justice, 361 University Avenue, function as the fiduciary guardians of the immuta possession of a software-manipulated instrument to law enforcement—absent the retention of an uncorrupted master *acta* within the breach of the separation of powers.

b. It is a foundational tenet of administrative law that those appointed to the public service must discharge their duties faithfully, hon administrative silence exhibited herein represents a profound abdication of these executory and ministerial duties, operating strictly registry.

i. *Nota Bene: Anticipated Counter-Argument and Rebuttal Regarding Quasi-Judicial Immunity.* It is anticipated that the registry pers aegis of quasi-judicial or crown immunity, arguing that the management of court dockets involves discretionary administrative actio jurisprudence. The statutory duty to intake, file, and produce an unsealed Information upon formal requisition is an absolute, purely latitude. As elucidated by the Supreme Court of Canada in *Morier v. Rivard, [1985] 2 SCR 716* at paras 24-26, absolute or quasi-jud of purely ministerial acts. The deliberate obfuscation or failure to transmit the Information Package consequently exposes the admin intervention, including an order in the nature of *mandamus*.

c. The clandestine synthesis of penal instruments within the obscured recesses of civil administrative chambers—evidenced by the ir the Estates List and Family Court functions—functionally bypasses the rigorously audited criminal registries. This cross-jurisdictior jurisdictional defect. Any subsequent reliance upon such phantom proceedings is hopelessly compromised *in limine*, demanding imr

PART V: STRICT CONSEQUENCES FOR PERSISTENT NON-COMPLIANCE

5. The absolute necessity of compliance prior to the aforementioned 17:00 hours temporal deadline cannot be overstated. The failure tc mandated *acta* shall precipitate severe, uncompromising consequences.

a. The exhaustion of administrative remedies at the registry level having been achieved, continued defiance shall compel the immed administrative and judicial oversight authorities.

b. This escalation shall explicitly encompass formal referrals to the Executive Council of Ontario and the Auditor General of Ontario predicated upon the catastrophic technological failure in records management and the imprudent administration of public resources.

c. Concurrently, the systemic failure to preserve the foundational court records shall be brought to the direct, unmediated attention o invoking the Court's highest disciplinary and remedial jurisdictions to strike the corrupted documentation entirely.

d. The presumption of regularity historically afforded to the administrative apparatus has been irrevocably rebutted *prima facie*. Cor demanded; bureaucratic inertia shall not be permitted to successfully conceal administrative malfeasance from the piercing light of c

PART VI: EXPLICIT RESERVATION OF LAWFUL PREROGATIVES

6. It is hereby formally declared and irrevocably confirmed that the absolute and unfettered prerogative to rely upon this formally exec enumerated Documentary Evidence incorporated herein by reference, is explicitly reserved for any and all lawful purposes.

a. Such comprehensive reservation encompasses, *inter alia*, the deployment of these instruments in subsequent adjudicative proceed systemic administrative audits, thereby operating to unequivocally preserve all equitable, statutory, and constitutional rights *ad infin*

b. Furthermore, the deliberate obfuscation of the primary record constructs an irrefutable foundation for an application to permanent category of the abuse of process doctrine, as expounded by the Supreme Court of Canada in *R. v. Babos, 2014 SCC 16* at paras 31-3 the integrity of the judicial system and threatens the public's confidence in the administration of justice warrants the ultimate remedy Information constitutes precisely the species of systemic malfeasance that irreparably taints the adjudicative process.

7. Ironically, at the close of business day, it will be 18 months since the false kidnapping, false arrest, false detention, false imprisonme punishment) and despite Ms. Simion representing that she would respond soon, she has not responded at all despite my request bein Originating Courthouse.

8. **THE DEADLINE IS A STRICT ONE AND PROVIDED AS A COURTESY TO YOU.**

ALL OF WHICH IS RESPECTFULLY SUBMITTED,

Mr. Kevin A. McLean (BA, JD, CIM)

Applicant/Accused

Toronto, Ontario

Warm regards,

Mr. Kevin A. McLean (BA, JD, CIM)

Chartered Investment Manager

Email: mcleansettlement@gmail.com

Fax: 416.981.7117

Phone number: 647.370.9354

On Wed, Apr 1, 2026 at 12:41 PM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

> **URGENT AND REQUIRED FORTHWITH – DEADLINE: 3:00 P.M. TODAY**
> **DATE:** April 1, 2026
>
> **TO:** 1. Natasha Marjadsingh
>
> 2. Monica Simion
>
> 3. Sancha Clarke
>
> 4. Deputy Attorney General (DAG) of Ontario

5. Attorney General (AG) of Ontario

SUBJECT: REITERATED URGENT DEMAND for Production of Documents – Information Indictment Package & Intake Court Endorsements

To the Addressees Named Above:

I am writing to formally reiterate and aggressively escalate my outstanding demands regarding the severe procedural irregularities, profound forensic anomalies, and delib my matter.

I note for the formal record that I have made continuous, rigorously documented requests to the Originating Court Office since March 11, 2026. I received explicit confirma me shortly regarding these issues, establishing a clear administrative deadline of Sunday, March 15, 2026. To date, this commitment remains flagrantly unfulfilled. This re obfuscation that fundamentally breaches the doctrine of legitimate expectations and the duty of honest performance owed by public servants.

This sustained delay is entirely unacceptable, particularly in light of the highly concerning forensic evidence of document tampering, spoliation, and procedural overreach justice system is inextricably predicated upon the unimpeachable integrity of its originating instruments. The continued withholding of these materials fundamentally subve jurisdiction, operating as a direct affront to Sections 7, 9, and 11 of the *Canadian Charter of Rights and Freedoms*. I am demanding immediate clarification and the produc incontrovertible facts:

1. Jurisdictional, Signatory Irregularities, and the Limits of Administrative Delegation

Under the *Criminal Code* and the *Criminal Proceeding Rules of the Superior Court of Justice (SCJ)*, the clerk of the court is entitled to sign on behalf of the making, giving administrative delegation is strictly bounded by both geographic location and designated subject-matter jurisdiction. The powers of a registrar are not infinitely portable no

At the relevant time in 2024, Ms. Simion was *not* a "local registrar" at the SCJ 361 University Avenue courthouse. Official government directory records definitively establis Management – Civil Matters, situated on the 7th floor of the 330 University Avenue facility.

Conversely, the identical directory records verify that Natasha Marjadsingh was the *only* individual holding the title of Court Administration Supervisor (Interim Position) op Manager of Court Operations situated on the ground floor of the 361 University Avenue courthouse—specifically within the Family Law Division. This undeniable geograph Simion appropriately kept Ms. Marjadsingh copied on our prior correspondence, rather than escalating the matter directly to the Deputy Attorney General (DAG) of Ontaric exclusive jurisdictional purview over that specific registry.

To be absolutely clear for the record: I am not faulting the registry staff or clerks for the substantive judicial overreach or *ultra vires* conduct of Madam Justice Shore. The a remitted to them. Rather, my demand is strictly a matter of the factual provision of documents that exist within the court's repository. The administrative delegation of cleric any conceivable circumstances, eclipse or substitute the non-delegable judicial function of independently assessing reasonable and probable grounds before authorizing a authority to administratively synthesize a criminal warrant. Any such action operates strictly *ultra vires*, rendering the resultant process an irremediable nullity *ab initio*.

2. The "Smoking Gun": Digital Artifacts, GrapeCity.PDF, and the Forged Signature of Natasha Marjadsingh

Beyond the profound jurisdictional failures delineated above, there is incontrovertible, forensic documentary evidence pointing to the deliberate fabrication of the False Inf manipulation software. This constitutes the ultimate "smoking gun," proving that state actors actively intercepted, altered, and forged judicial records.

A. The Original Signatory (Natasha Marjadsingh)

Documentary evidence—including a February 24, 2021 Notice of Application for an estates matter, as well as internal Ministry recognition via Staff Excellence Awards—in standing Local Registrar and Acting Group Leader at the SCJ. During the critical period of September 2024, she was the primary supervisor and acting leader at the relev would naturally and automatically appear on any legitimate SCJ civil/family "Intake Court Endorsement" generated within that specific architectural silo.

B. Section 508.1(2) and the Errant Adobe Signature Block

Under section 508.1(2) of the *Criminal Code*, a telewarrant process solely requires an "information on oath" that may be submitted via a statement that is deemed under o absolutely *does not* require a formal, third-party authenticated digital cryptographic signature certificate (such as an embedded Adobe Public Key Infrastructure [PKI] block

Therefore, the presence of a formal Adobe signature block in the fabricated criminal package is a glaring, fatal anomaly. It exists for one singular reason: the perpetrators illicitly misappropriated an existing civil/family "Intake Court Endorsement"—which had been originally signed by Local Registrar Marjadsingh via a certified Adobe block—masquerade as a criminal OCJ intake form purportedly sworn by a Toronto police court officer (Mrs. Frugoni-Rojas).

C. The GrapeCity.PDF (Mescius) Limitations and the Failed Erasure

This state-sponsored forgery was fundamentally botched due to well-documented technical deficiencies within the GrapeCity Documents for PDF (GcPdf) manipulation AP Adobe signature watermark to erase Marjadsingh's name, the software catastrophically failed due to the following structural limitations:

- **Strict PDF Compliance & Loss of Custom Data:** GcPdf historically struggled to map proprietary custom metadata and interactive elements that deviated from stri custom Adobe signature layer properly, leading to an incomplete layer extraction and a shattered cryptographic hash.
- **Font-Specific Crashes and Text Layout Bugs:** Older versions of GcPdf were plagued by font parser crashes (notably involving corrupted `arimon__.ttf` fonts) an returned incorrect coordinates. This rendered the programmatic or manual deletion of specific text strings within complex, layered signature blocks highly unstable.
- **Missing Whitespace and Flattening:** Technical bugs (such as DOC-6507) frequently caused whitespace ignoring—which unnaturally bunches letters together. Fu layered text strings into the document's rasterized background, rendering them entirely immune to simple digital deletion.

D. The Indelible Digital Artifact: "(C L M)"

Because of these precise, documented software limitations, when the manipulator attempted to digitally erase Natasha Marjadsingh's signature block to fraudulently repla a hard software barrier. They could not cleanly remove the capital letters that physically intersected with the embedded Adobe watermark component without entirely corru

Specifically, the capital "L" (derived from her title "Local Registrar") and the capital "M" (derived from "Marjadsingh") could not be deleted. This forced, incomplete, and hig —a permanent, unerasable digital footprint of the forgery.

This forensic artifact proves beyond a shadow of a reasonable doubt that the document did not originate organically from Mrs. Frugoni-Rojas at the OCJ. Instead, it was a processed, and signed by Natasha Marjadsingh in her official capacity as Local Registrar, which was subsequently—and clumsily—manipulated using flawed PDF softwa record.

3. Architectural Displacement, Technological Siloing, and the "Family Law" Silo Bypass

An "Intake Court Endorsement" is fundamentally an administrative construct inextricably bound to the *Family Law Rules*, remaining entirely anathema to the *Criminal Cod* deliberately circumvented away from the rigorously audited criminal e-intake portal. A genuine judicial electronic issuance utilizes the ICON architecture, which strictly requ however, bears an obsolete, 6-digit identifier indicative of the FRANK system, which is utilized almost exclusively by the Superior Court family division.

The weaponization of civil infrastructure—under the purview of Madam Justice Shore, Family Team Leader—to generate unrecorded, *ex parte* penal instruments affecting jurisdictional nullity. Bypassing the criminal Justice of the Peace intake system to seek authorizations in solitary civil chambers constitutes egregious forum shopping and a transparently in open court, not clandestinely synthesized in the opaque recesses of family law registries to be weaponized later by law enforcement.

4. The "Laying" versus "Filing" Dichotomy and the Void Record

The semantic and jurisdictional distinction between the physical "laying" of an Information under section 504 of the *Criminal Code* and its subsequent clerical "filing" is a fo laying initiates the proceeding and requires independent judicial evaluation; filing is the mandatory clerical submission to secure the document within the court of record.

Ministry representative Mr. Sinnadurai has previously, formally admitted on the record that no *Criminal Code* Form 2 Information was ever formally *filed* within the criminal 2024. The fundamental failure to properly originate this process via the mandated penal architecture renders the entire proceeding a pure legal fiction. It is sustained solel operating strictly *coram non judice*. The subsequent reliance on these unfiled, phantom proceedings to authorize deprivations of liberty represents a catastrophic rupture i record cannot, *ipso facto*, exercise jurisdiction in the absence of said Court Records.

5. Intentional Omission of Identifying Pages and State-Sponsored Spoliation

If Natasha Marjadsingh's name had been properly included along with pages four and five (out of six) in the Lincoln County Law Association (Niagara) Form 2 package, it Justice Shore's name. Additionally, the inclusion of Ms. Marjadsingh's true and unaltered signature block would have allowed me to definitively identify the exact court leve

The deliberate physical or digital excision of the jurat (the page containing the oath and the judicial signature) sanitizes the document's clandestine origins. This suppressi state-sponsored spoliation. Under the doctrine of *omnia praesumuntur contra spoliatorem* (the presumption against a spoliator), the intentional destruction, obfuscation, o adverse inferences and triggers mandatory first-party disclosure obligations regarding state misconduct (*R. v. McNeil*, 2009 SCC 3).

DEMAND FOR PRODUCTION AND STATUTORY ENTITLEMENT

Pursuant to the *MAG CSD Court Information Access Guide (2019)*, specifically Sections 7.1.1 and 7.3.1, I am strictly and legally entitled to receive copies of Informations, **copy fees being charged**. The statutory imperative of "upon request" demands literal, immediate satisfaction, precluding any administrative obfuscation or multi-week de

If the signature in question does belong to Natasha Marjadsingh—and is thus a signature of the Ministry of the Attorney General (MAG)—it is a matter of public and legal r constitutionally protected Open Court Principle (*Sherman Estate v. Donovan*, 2021 SCC 25; *Canadian Broadcasting Corp v. Named Person*, 2024 SCC 21), the judiciary r provide public access to an immutable master record. The court cannot operate as an opaque administrative black box, shielding manipulated records from the very citize

The Canadian Judicial Council's *Blueprint for the Security of Court Information* forcefully dictates that judicial information must remain under the uncompromising, exclusiv foundational documents offends this directive and strongly suggests the judiciary has illicitly ceded its repository to executive law enforcement agencies.

Regardless of the MAG's internal forensic auditing of these files, I am legally entitled to the complete Information Indictment Package forthwith. Specifically, I demand the authentic, unadulterated, and natively generated forms:

1. The complete Information Indictment Package per se (including the *Information-To-Wit*, the unsevered jurat, and all six associated pages of the Form 2 package).
2. The complete, unredacted Intake Court Endorsements (including any handwritten judicial notations, bench notes, or clerical endorsements originally authored prior
3. All underlying metadata logs, including system routing documents and execution logs utilized by the Originating Courthouse to synthesize the aforementioned docu

FIRM DEADLINE AND NOTICE OF ESCALATION

You are hereby put on absolute notice that I require these documents no later than **3:00 P.M. TODAY, April 1, 2026**.

This deadline is strict, firm, and final. If these documents are not provided to me electronically by 3:00 P.M. today, I will be forced to immediately escalate this matter to the will explicitly include formal referrals to the Executive Council of Ontario, the Auditor General of Ontario (for value-for-money performance audits on the corrupted DRD an Court of Justice to address the aforementioned forgery, spoliation of the court record, procedural malfeasance, and the unlawful withholding of legal documents.

With great respect, now is the time to distance yourself from Justice Shore and her reign of terror. Even on the Dipoce, McIntosh and Nash cases, sh judicial office but that in turn makes the point, she often acts Factum A Judice, Quod Ad Officium Jure Non Pertinet, Ratum Non Est and Coram N before a person who is not a judge.

Please be advised that you remain legally bound to produce these documents regardless of any ensuing escalation, collateral investigations, or administrative inertia. You investigation into the veracity of these foundational records.

Govern yourselves accordingly.

Sincerely,

Mr. Kevin A. McLean (BA, JD, CIM)

Enclosures (relevant and contextual)

On Mon, Mar 30, 2026 at 4:02 PM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

> Subject: Follow-Up Request for Access to Court Documents – Confirmation of courtesy extension until tomorrow with a substantive response and dis whatever format or a firm deadline for the production or access of the same
>
> Dear Sirs/Mesdames et al:
>
> I hope this message finds each member of the team well. I am writing to respectfully follow up regarding my prior request for access to particular cou
>
> regard, I would like to place a preferential emphasis on Ms. Sancha Clarke, whose noted expertise in data entry, supervisory oversight, and root cause
>
> instrumental to the timely resolution of my inquiry.
>
> I recognize and deeply respect the considerable administrative workload and obligations shouldered by the court staff and those appointed in the publi
>
> request that, if it is not feasible to provide the requested documents by the close of business tomorrow, Ms. Clarke and her colleagues communicate an
>
> documents, records, information assets, information and/or any other vernacular (papers, things et al). By potential I am referring to the potential that t
>
> produced subject to any creation of record requirements but to the extent that was required, the time since the request of the Originating Court Office i
>
> public interest because even the public is entitled to copies of Informations/Indictments and endorsements albeit with a fee unlike myself.
>
> Should additional time be required, I am amenable to extending the deadline to the end of this week, provided that consistent, transparent communicat
>
> documents are delivered either electronically or as scanned copies of the originals.
>
> Furthermore, to help ensure clarity and openness in this process, I would greatly value a brief confirmation email acknowledging receipt of this reques
>
> a concise, two-line message to confirm ongoing progress would suffice to keep me informed and reassured that the matter is being addressed and that

Please rest assured that I am committed to working collaboratively and am prepared to exercise patience as needed. I will refrain from escalating the n
the professionalism and diligence of the court staff. Nonetheless, given the importance of timely access to these documents, I wish to underline that tir
demands faced by your team.

Thank you very much for your attention to this request, your ongoing efforts, and your dedication to serving the public. I wish you all a splendid rest c
tomorrow or, should circumstances require, by the end of this week as discussed.

The nuances of this situation are not lost on me but nuances will never trump the supreme law of our land.

Thank you and wishing you well.

KAM (BA, JD, CIM)

Warm regards,

Mr. Kevin A. McLean (BA, JD, CIM)

Chartered Investment Manager

Email: mcleansettlement@gmail.com

Fax: 416.981.7117

Phone number: 647.370.9354

On Mon, Mar 30, 2026 at 11:15 AM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

Dear Ms. Clarke,

I am writing to acknowledge Ms. Simion's auto-reply and to welcome you as the point of contact during her absence. I appreciate your a

Specifically, I am seeking immediate access to the Indictment/Information and the "Intake Court Endorsement" from September 2024,
the Originating Court Office at the Originating Courthouse. For your reference, I have attached my identification to assist with cross-ref
have been utilized as an address at that time.

I will include, out of an abundance of caution, the full email thread to assist you in searching for relevant keywords and to ensure we are
identification so you are able to immediately confirm without searching my identity as the accused and party with respect to no fees bein
documents without any fees and upon request (see: MAG CSD Court Information Access Guide, section 7).

Thank you for your cooperation and professionalism during this transition.

Best regards,

Kevin A. McLean (BA, JD, CIM)

On Mon, Mar 30, 2026 at 10:15 AM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

URGENT REQUISITION FOR EXTRACTION (IF NECESSARY) AND PROVISION OF ACCESS OR DISCLOSURE RECORDS - KINDLY RESPOND (POSITIVELY OR NEGATIVELY) BY 11 A.M. TODAY - MOST OUTSTANDING

I. PROCEDURAL POSTURE AND JURISDICTIONAL MANDATE

1. Pursuant to the imperative requirements of procedural fairness and the fundamental principles governing a court of record, form proceedings styled *His Majesty the King v KA McLean*, 2026 (the "**Proceeding**"), presently designated under court file number 24-4
2. It is strictly necessitated that all evidentiary documentation, administrative paper, intrinsic information, and corresponding [court documents] (the "**Court Documents**") be forthwith transmitted to the registry of the Superior Court of Justice situated at 361 U Ontario (the "**Receiving Registry**"), from the courthouse wherein the matter originated (the "**Originating Courthouse**").
3. For the purposes of precise legal demarcation, any reference herein to **Court Documents** or **Court Records** is to be strictly cor from, [judicial records] (the "**Judicial Records**") and [judicial information] (the "**Judicial Information**"). This bifurcation is exp operational distinctions articulated within the *Annual Report of the Office of the Auditor General of Ontario*, 2019 (the "*2019 Auditor G* information from constitutionally protected judicial domains.
4. The procurement of the aforementioned **Court Records** and **Judicial Records** is an imperative exigency; failing the facilitation present date, immediate procedural escalation shall be effectuated pursuant to the *Criminal Proceedings Rules for the Superior Court of*

to preserve the integrity of the public interest and the administration of justice.

II. SPOLIATION, RECORD INTEGRITY, AND DECLARATIONS OF NULLITY

5. Grave apprehensions are harboured regarding the potential obfuscation, intentional destruction, or spoliation of the foundationa and subsequent judicial endorsements, which constitute integral components of the required **Court Records** and **Judicial Reco**

6. *In limine*, the absence or systemic obliteration of such indispensable **Court Documents** transitions the matter from a mere proce ostensibly operating as a court of record cannot, *ipso facto*, exercise jurisdiction in the absence of said **Court Records**; any procee circumstances are unequivocally *ultra vires* and void *ab initio*. The failure to maintain the **Court Records** is a direct contravention c governing judicial transparency, demanding a categorization of strict nullity.

7. This foundational tenet is firmly anchored in the jurisprudence articulated by the Honourable Justice Durno in *R v Rowlands*, 200 *Decision*"). In the *Rowlands Decision*, it was definitively established that a court of record is deprived of its foundational jurisdiction adjudicative transcripts are irreparably lost or destroyed. The deprivation of the **Court Records** paralyzes the adjudicative proces absolute impossibility. Applying this doctrine to the present exigency, if the *acta* within the Originating Courthouse have been sub permanently stripped of its authority to proceed, effectuating a fatal jurisdictional defect.

III. CHARTER REMEDIES AND THE STATUS QUO ANTE

8. The necessity of effectuating access prior to the aforementioned temporal deadline is dictated by the requirement to determine th sought under section 24(1) of the *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B to t

9. The ascertainment of the existence of the **Court Records** and **Judicial Records** governs whether the appropriate remedy manif declaration of acquittal, the latter being necessitated to restore the *status quo ante* and extinguish the unfounded prosecutorial appa

IV. EXHAUSTION OF ADMINISTRATIVE REMEDIES AND PRIVILEGE EXEMPTIONS

10. It is affirmed that administrative escalation has been strictly confined to the Originating Courthouse for the explicit purposes of available procedural avenues prior to seeking formal intervention from the presiding judiciary.

11. Furthermore, any invocation of informant privilege or public interest immunity to shield the requested **Court Documents** or **Ju** As enunciated by the Supreme Court of Canada in *R v McClure*, 2001 SCC 14 at para 40 (the "*McClure Decision*"), privileges of this innocence at stake exception. Where the withholding of **Court Records** obfuscates exculpatory evidence essential to demonstrat ensuring that the fundamental liberties of the accused are protected against systemic overreach.

V. REPRESENTATIONS, THE DUTY OF HONEST PERFORMANCE, AND PROSPECTIVE ESCALATION

12. It is submitted that the necessity of invoking the investigatory powers of, *inter alia*, the Office of the Auditor General of Ontario absence of a response necessitates such an escalation, particularly as reliance was reasonably placed upon explicit representations forthcoming expeditiously.

13. If the temporal parameter of "soon" was intended to encompass the present date, immediate advisement is formally requested. A aforementioned representation, initially conveyed several weeks prior on a Sunday, dictated the provision of access to the statutor upon request and no later than a few days subsequent to said representation.

14. The obligation to act in good faith, underpinned by the doctrine of *uberrimae fides* applicable to the Crown and its executive appar any reliance upon half-truths or obfuscatory silence. This principle is inextricably tied to the jurisprudence established by the Sup 2020 SCC 45 (the "*Callow Decision*"). In the *Callow Decision*, the Court definitively ruled that the duty of honest performance preclu knowingly misleading another party through deliberate silence or the omission of material facts when a duty to correct a misappr present circumstances, the continued silence and failure to fulfill the representation of impending access constitutes a breach of t correct the understanding that access would be provided "soon" operates as active deception through omission, thereby undermi administrative and judicial interactions.

15. Should supplementary time be required on the present date to effectuate compliance and facilitate access, formal notification is re proceed cooperatively; however, such cooperation is entirely contingent upon the immediate receipt of a substantive response de undertaken, should any exist.

VI. COMPARATIVE ANALYTICAL REVIEW, EXCLUSIVE JURISDICTIONAL AUTHORIZATIONS, AND EXTRAC

16. To ensure an equitable understanding that no specific governmental apparatus—whether municipal, provincial, or constituent ent disproportionately targeted by this requisition, it is formally declared that access rights have been comprehensively exercised acro identical or analogous documentation is actively pursued for the explicit purpose of comparative analytical review. Irrespective of rigorous comparative analysis shall be undertaken to illuminate and rectify what constitutes, at a minimum, a catastrophic technol

17. Notwithstanding these concurrent inquiries, the Originating Courthouse, operating as a constitutionally mandated court of recor for all **Court Records** and **Court Documents**. In this context, the immediate provision of the Adult Common Information pac particularly given the confirmed absence of such critical documentation at the transferee tribunal level, specifically the Ontario C

18. Out of an abundance of legal caution, true copies of all procured documentation shall be formally transmitted to the Chief Justi *inter pares*. Should any ambiguity persist regarding the parameters of this requisition, immediate advisement is strictly required; in conclusively presumed that the directives contained herein are unequivocally comprehended and shall be executed forthwith.

19. Furthermore, it is formally requisitioned that any judicial authorizations, including but not limited to search warrants, general war falling within the exclusive jurisdictional purview of the Superior Court of Justice—pursuant to the legislative parameters delinea c C-46 (the "*Criminal Code*")—be produced and disclosed *gratis* and without the imposition of administrative tariffs.

20. To the extent that the facilitation of this request necessitates a formal extraction process and the subsequent generation of a synt procedures mandated under the *Freedom of Information and Protection of Privacy Act*, RSO 1990, c F.31 (the "*FIPPA*")—prompt notif formally requested. This proactive advisement is sought to maximize procedural efficiency, optimize resource allocation, and prec vacillation.

Mr. Kevin A. McLean (BA JD CIM)

Warm regards,

Mr. Kevin A. McLean (BA, JD, CIM)

Chartered Investment Manager

Email: mcleansettlement@gmail.com

Fax: 416.981.7117

Phone number: 647.370.9354

On Sat, Mar 28, 2026 at 1:10 PM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

> Dear Sirs/Mesdames/Other Gender-Neutral Pronouns: please find my letter that was faxed today along with a copy of the emails herein to the C Morawetz. Kindly comply with your ministerial duties, where applicable, by no later than two p.m. or I will be compelled, through no fault of m
>
> Warm regards,
>
> Mr. Kevin A. McLean (BA, JD, CIM)
>
> Chartered Investment Manager
>
> Email: mcleansettlement@gmail.com
>
> Fax: 416.981.7117
>
> Phone number: 647.370.9354

On Fri, Mar 27, 2026 at 10:35 AM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

> **DATE:** March 27, 2026
> **TO:** Superior Court of Justice (Ontario) (Toronto Region)
>
> 361 University Avenue, **1st Floor**
>
> Toronto, Ontario
>
> **ATTENTION:** Ms. Monica Simion, Manager of Court Operations; Registrar of the Superior Court of Justice
>
> **CC:** The Honourable Douglas Downey, Attorney General of Ontario
>
> *Attorney General (Ministry of the Attorney General)* | Telephone: 416-326-2220 | Email: Doug.Downey@ontario.ca
>
> *Member, The Executive Council of Ontario* | Email: Doug.Downey@ontario.ca
>
> *Member of Provincial Parliament, PC, Barrie-Springwater-Oro-Medonte (Legislative Assembly of Ontario)* | Telephone: 705-726-5538 | Email: doug.downeyco(
>
> *Primary Address:* McMurtry-Scott Bldg, 11th Flr, 720 Bay St, Toronto, Ontario M7A 2S9
>
> *Mailing Address:* McMurtry-Scott Bldg, 11th Flr, 720 Bay St, Toronto, Ontario M7A 2S9
>
> **CC:** The Honourable David Corbett, Deputy Attorney General of Ontario
>
> *Deputy Attorney General (Ministry of the Attorney General)* | Telephone: 416-326-2640 | Email: david.corbett2@ontario.ca
>
> *Primary Address:* McMurtry-Scott Bldg, 11th Flr, 720 Bay St, Toronto, Ontario M7A 2S9
>
> *Mailing Address:* McMurtry-Scott Bldg, 11th Flr, 720 Bay St, Toronto, Ontario M7A 2S9
>
> **SUBJECT:** Supplementary Disquisition Regarding the Potential Post Facto Destruction of the Authentic Information Package and the Extrapolation of Jurisprud
>
> ## PART I: FACTUAL CONTINGENCIES AND THE DESTRUCTION OF THE ACTA
>
> **The Clandestine Chamber Proceeding and Subsequent Spoliation**
>
> 1. This supplementary correspondence is formally submitted to squarely address the highly probable contingency wherein the Honourable Madam Justice administrative actor engaged in the deliberate deletion or destruction of the requested foundational court documents. This destruction is posited to have of the authentic information package (the "**Authentic Information Package**") into the corrupted artifact currently relied upon by the state (the "**False Inf** November 1, 2024, as explicitly corroborated by the formal admissions remitted by Ministry of the Attorney General representative Mr. Sinnadurai in Jun
> 2. This analysis proceeds upon the foundational assumption—tendered strictly for the purposes of this requisition and without constituting an admission of purportedly sworn in private judicial chambers. This premise relies directly upon the incontrovertible representation advanced by the Superior Court of Ju Amirthalingam, who conceded that the proceeding was executed "in chambers," entirely devoid of the transparency afforded by an open courtroom and contemporaneous audio recording or transcription.
> 3. It is further assumed, without conceding validity, that following this irregular *ex parte* chamber proceeding, the Authentic Information Package was inexpl the 1st floor of the 361 University Avenue Courthouse. This systemic failure to properly file the instrument fundamentally offends the strict, mandatory op *Criminal Proceedings Rules for the Superior Court of Justice (Ontario)*, SI/2012-7.
>
> ## PART II: THE APPLICATION OF MACHINE-READABLE JURISPRUDENCE BY ANALOGY

The Extrapolation of OIPC Doctrines to Judicial Repositories

4. While it is formally acknowledged that the present requisition is not strictly governed by the *Freedom of Information and Protection of Privacy Act*, RSO 1 exclusive custody maintained by the Superior Court over its adjudicative *acta*—the legal doctrines and strict analytical frameworks developed by the Offi "**OIPC**") regarding the extraction of machine-readable records apply by necessary, unyielding analogy. The judiciary cannot arbitrarily assert that the des record when the underlying metadata, database fields, and digital fragments remain dormant yet extractable within the court's technological infrastructur
5. The legal test for production stems from interconnected legislative provisions meticulously designed to future-proof institutional transparency and preven to circumvent disclosure obligations. Pursuant to the capability provision analogous to section 2(1)(b) of the *FIPPA*, the conceptual definition of a "record produced from a machine-readable format utilizing the computer hardware, software, and technical expertise normally resident within the institution.
6. The underlying legislative and equitable intent is unequivocal: a public institution cannot seek refuge behind the complexity of its databases to deny acce the exact moment the digital fields residing within the Integrated Court Operation Network or the FRANK system can be programmatically queried and c

PART III: THE TWO-PART ANALYTICAL THRESHOLD FOR DIGITAL RECONSTRUCTION

The "Normal Expertise" and "Unreasonable Interference" Framework

7. When an institution seeks to evade production by erroneously characterizing a data extraction as the impermissible "creation of a new record," a rigorou dismantle such administrative obfuscation.
8. **Part 1: The Normal Expertise and Equipment Test:** To compel production, the institution must merely possess the capability to generate the requeste normal operational expertise. What constitutes "normalcy" operates upon a sliding scale inextricably linked to the sophistication of the institution. For a m standard database queries, running foundational extraction scripts, or exporting relational tables is fundamentally "normal" and expected. While the law compelling the institution to formulate custom-generated answers, the digital extraction of the Authentic Information Package's metadata undeniably con necessitate the procurement of novel software licenses, the acquisition of extraneous hardware, or the retention of external forensic consultants.
9. **Part 2: The Unreasonable Interference Test:** Operating analogously to the regulatory carve-out codified within section 2 of *RRO 1990, Regulation 460* readable record if the extraction process would unreasonably interfere with its core operations. The jurisprudential bar for "unreasonable interference" is essential business activities—such as paralyzing critical hospital infrastructure—and cannot be satisfied by mere administrative inconvenience, annoyan burden to prove such catastrophic interference rests entirely upon the institution, requiring detailed, convincing affidavit evidence, which is manifestly ab

PART IV: SEMINAL JURISPRUDENCE AND THE DIGITAL SEVERING DOCTRINE

Application of OIPC Precedents to the Fractured Judicial Record

10. A comprehensive review of seminal OIPC jurisprudence unequivocally supports the mandated extraction of the underlying digital framework of the Authe document's purported destruction.
11. In *Order PO-3373*, the adjudicator established the "New Code and Critical Systems" threshold, upholding the withholding of raw system logs solely beca to write entirely untested programming, thereby pulling them away from safeguarding critical provincial systems. The extraction of the *acta* herein require pre-existing query functionalities inherent to the court's database architecture.
12. Conversely, in *Order MO-4355*, the OIPC delineated the "Not Normally Used" threshold, ruling that customized analytical summaries did not constitute e analytical work falling outside the institution's normal administrative scope. The present requisition demands no subjective analysis or summarization; it footprints corresponding to the *ex parte* chamber proceeding.
13. Crucially, *Order MO-1989* established the foundational doctrine of "Database Extraction as Digital Severing." Institutions are legally expected and require information. The extraction of the uncorrupted data fields to reconstruct the Authentic Information Package is legally synonymous with digital severing ar
14. Finally, *Order PO-4430* profoundly differentiated between structured relational data and unstructured free-text, ruling that while forcing manual extraction unreasonable interference, querying structured databases (such as court registry systems) is a standard, mandated obligation.

PART V: CONCLUDING IMPERATIVES

The Unyielding Obligation of the Court of Record

15. Therefore, assuming the physical destruction of the Authentic Information Package *post facto* to its unauthorized *GrapeCity SDK* manipulation, the Supe jurisdiction—and the equitable principles mirrored in the aforementioned *FIPPA* jurisprudence—to digitally reconstruct and produce the machine-readabl destruction of the physical paper cannot serve to permanently immunize an extra-judicial deprivation of liberty from appellate scrutiny. The unadulterated *ex debito justitiae*.
16. Should no explicit confirmation be remitted dictating that this formalized extrapolation is formally required by the Originating Court Office, it shall be funct is formally tendered to your attention for meticulous administrative record-keeping and to foster a cooperative access partnership, reinforcing the incontr "upon request" demands literal, immediate satisfaction, strictly precluding any administrative obfuscation or delay extending beyond a twenty-four-hour t

Respectfully submitted,

Mr. Kevin A. McLean (BA, JD, CIM)

Applicant / Accused

Warm regards,

Mr. Kevin A. McLean (BA, JD, CIM)

Chartered Investment Manager

Email: mcleansettlement@gmail.com

Fax: 416.981.7117

Phone number: 647.370.9354

On Fri, Mar 27, 2026 at 10:00 AM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

> **DATE:** March 27, 2026
> **TO:** Superior Court of Justice (Ontario) (Toronto Region)
> 361 University Avenue, **1st Floor**
> Toronto, Ontario
> **ATTENTION:** Ms. Monica Simion, Manager of Court Operations; Registrar of the Superior Court of Justice
> **CC:** The Honourable Douglas Downey, Attorney General of Ontario
> *Attorney General (Ministry of the Attorney General)* | Telephone: 416-326-2220 | Email: Doug.Downey@ontario.ca
> *Member, The Executive Council of Ontario* | Email: Doug.Downey@ontario.ca
> *Member of Provincial Parliament, PC, Barrie-Springwater-Oro-Medonte (Legislative Assembly of Ontario)* | Telephone: 705-726-5538 | En
> *Primary Address:* McMurtry-Scott Bldg, 11th Flr, 720 Bay St, Toronto, Ontario M7A 2S9
> *Mailing Address:* McMurtry-Scott Bldg, 11th Flr, 720 Bay St, Toronto, Ontario M7A 2S9

CC: The Honourable David Corbett, Deputy Attorney General of Ontario
Deputy Attorney General (Ministry of the Attorney General) | Telephone: 416-326-2640 | Email: david.corbett2@ontario.ca
Primary Address: McMurtry-Scott Bldg, 11th Flr, 720 Bay St, Toronto, Ontario M7A 2S9
Mailing Address: McMurtry-Scott Bldg, 11th Flr, 720 Bay St, Toronto, Ontario M7A 2S9
SUBJECT: Formal Requisition and Notice of Impending Escalation Regarding the Absolute Deprivation of Foundational Court Records

PART I: TEMPORAL CONTEXT AND THE EXTANT REQUISITION
The Unyielding Demand for the Production of the Unadulterated Acta

1. It is hereby formally documented that a period encompassing eighteen consecutive days has precipitously elapsed since the initia courthouse (the "**Originating Courthouse**") and the originating court office (the "**Originating Court Office**"). Said requisition de "**Information**") or the indictment (the "**Indictment**"), acting in inextricable concert with the intake court endorsement (the "**Intak** production in their authentic, unadulterated, and natively generated forms.
2. The foundational architecture of the Canadian criminal justice system is inextricably predicated upon the unimpeachable integrit derogable statutory and common law entitlement of an accused individual to be provided with copies of the aforementioned charging of administrative fees. The continuous withholding of these materials fundamentally subverts the procedural safeguards inherently demand encompasses not merely the textual substance of the instruments, but their mathematically verifiable, cryptographically sour *SDK* software manipulation that has heretofore catastrophically contaminated the secondary records advanced by state law enforceme
3. It is a foundational constitutional cornerstone that a rigorous semantic, procedural, and jurisdictional distinction exists between t *Criminal Code*, RSC 1985, c C-46 (the "**Criminal Code**") and its subsequent clerical "filing" within the court repository. The physi judicial evaluation of reasonable and probable grounds. The subsequent filing is the mandatory clerical submission to secure the doc previously procured from Ministry representatives irrevocably confirm that no *Criminal Code* Form 2 Information was ever formally material timeframe. This fundamental failure to properly originate the process via the mandated penal architecture is entirely fatal to legal fiction sustained by extra-judicial momentum rather than lawful adjudicative authority.

PART II: ADMINISTRATIVE INERTIA AND THE DOCTRINE OF LEGITIMATE EXPECTATIONS
The Breach of Procedural Fairness and the Resulting Jurisdictional Nullity

4. The persistent administrative silence is noted with profound concern, particularly as it operates in direct contravention of the expli March 15, 2026, wherein it was affirmatively communicated that a substantive response would be remitted with imminent comprehensively elucidated by the Supreme Court of Canada in *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] public authority makes a specific representation regarding the administrative procedure it will adhere to. The failure of the Originatir commitment to provide the requested foundational *acta* constitutes a profound breach of procedural fairness.
5. This administrative obfuscation—specifically, the systemic failure to produce the foundational documents historically utilized tc procedural irregularity. In circumstances where an institution exercises plenary custody and control over an essential adjudicative ar judicial doctrine of *omnia praesumuntur contra spoliatorem* (the presumption against a spoliator) is inexorably activated. The delibe prevents a proper *de novo* review and eviscerates the constitutional right to make full answer and defence as enshrined within section I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982 (UK)*, 1982, c 11 (the "**Charter**"). Consequently, this docur stripping the ensuing proceedings of any presumption of regularity and necessitating immediate rectification by the issuing tribunal to
6. Furthermore, the profound absence of a contemporaneous Digital Recording Documentation (the "**DRD**") audio file corresponding warrant was purportedly authorized severely vitiates the accused's capacity to subject the judicial authorization to substantive appe execution of an application pursuant to *R. v. Garofoli*, [1990] 2 SCR 1421, effectively immunizing the state's preliminary investigativ record, the failure to generate a verifiable transcript of an *ex parte* deprivation of liberty is antithetical to transparent adjudication anc integrity of the judicial repository.

PART III: EXECUTIVE OVERSIGHT AND THE SEPARATION OF POWERS
The Invocation of the Chief Law Officers of the Crown

7. In light of the aforementioned systemic failures and the continued sequestration of judicial records, the Honourable Attorney Genera Attorney General, Mr. David Corbett, have been formally copied on this correspondence. The inclusion of the chief law officer constitutional implications inherent in the obfuscation of the judicial repository. As forcefully articulated by the Supreme Court of para 30, the open court principle (the "**Open Court Principle**") is a foundational hallmark of a democratic society, establishing a nea of public access to adjudicative records. Unfettered judicial openness actively deters systemic mischief and ensures unwavering continued sequestration of the Information and the Intake Court Endorsement flagrantly offends this constitutionally protected impera
8. The Attorney General, acting as the ultimate fiduciary guardian of the administration of justice, is thereby apprised of this profound i of the penal process appears to have been unlawfully supplanted by an opaque, extra-judicial administrative void. When penal administrative silos—functionally bypassing the rigorously audited *ICON* criminal registry—the indispensable separation of powe independent adjudicative branch is critically compromised. State actors cannot arbitrarily utilize the opaque shroud of administrative equitable fraud, or protect themselves from the piercing light of public scrutiny.
9. Moreover, the absolute unavailability of the *acta* necessitates immediate clarity regarding the potential application of section 74 of tl **of Justice Act**"). The Deputy Attorney General maintains the singular statutory authority to issue directions for the destruction or longer required." If the foundational records have been subjected to a section 74 destruction directive, the executive branch must imı said directive, including the requisite approval of the Chief Justice. If no such directive was lawfully promulgated, the disappearance an act of administrative spoliation of evidence, compelling mandatory first-party disclosure obligations regarding state misconduct as

PART IV: ULTIMATUM, MANDATORY PRODUCTION, AND CONCLUDING DIRECTIVES
The Inexorable Escalation of the Demand Ex Debito Justitiae

10. Should the demanded documentation not be securely transmitted by 12:00 hours (noon) today, this requisition shall be aggres authorities. It is categorically reaffirmed that an absolute statutory and common law entitlement exists to receive copies of t endorsements generated during the material temporal period. Pursuant to the authoritative framework established in *Hale v. Ontario* 48, the Originating Court Office undeniably retains overarching legal control of its own *acta* and is subject to an unyielding, nc *justitiae*. The failure to provide these instruments immediately upon request cannot be countenanced or subsequently cured.
11. It must further be declared, as a matter of incontrovertible temporal reality, that eighteen months have precipitously elapsed sir Consequently, any theoretical prosecutorial jeopardy has been absolutely extinguished pursuant to the strictures delineated by the Su paras 46-47. The passage of this mandated temporal threshold functionally excises any residual state authority to maintain an prosecution to an unvarnished historical audit of state conduct.
12. Kindly advise whether the persistent administrative obfuscation necessitates the immediate escalation of this matter to the Executiv Auditor General of Ontario (the "**Auditor General**") for exhaustive executive and financial review. It is an incontrovertible tenet of Council, comprised of the Ministers of the Crown and chaired by the Premier of Ontario, exercises plenary executive authority over the exclusive prerogative to mandate policy, formulate administrative priorities, and issue binding directives via Orders-in-Council. V engage in the sequestration of judicial *acta*, thereby systematically subverting the administration of justice, the invocation of the E necessitated to compel absolute compliance with statutory mandates.

13. Concurrently, the systemic failure to preserve or produce foundational court records inevitably implicates profound deficiencies in int resources. This catastrophic lapse inextricably engages the mandatory investigatory mandate of the Auditor General to guarantee ins to the *Auditor General Act*, RSO 1990, c A.35. Specifically, the conspicuous failure of the DRD infrastructure to furnish paid-for tran for-Money performance audit to determine whether taxpayer funds allocated for the modernization of court operations have been ine disseminate these records constitutes a material failure in administrative efficiency that falls squarely within the Auditor General's p stipulated meridian deadline, further administrative, constitutional, and appellate escalation shall commence without delay.
14. The ultimate necessity of effectuating this formalized escalation to independent oversight entities remains strictly contingent u compliance with their mandatory statutory obligations and antecedent procedural representations. Notwithstanding any such pros persists *in esse*, remaining unequivocally extant and commanding absolute satisfaction directly through the Originating Court Office a

PART V: THE IMPERATIVE OF BONA FIDES AND FOUNDATIONAL GOVERNMENTAL TENETS

The Comprehensive Obligation of the State Apparatus

15. The imperative for state apparatuses and governmental entities to act with *bona fides* towards the citizenry inexorably dem unimpeachable fairness, and scrupulous adherence to the most elevated ethical standards across all administrative interactions and ad obligation encompasses, but is strictly not limited to, the following foundational tenets:
16. **Adherence to the Rule of Law:** Governmental entities must operate strictly within the prescribed bounds of the law, ensuring that consistent with established legal frameworks, codified policies, and authoritative directives.
17. **Impartiality and Non-Partisanship:** Adjudicative decisions and administrative actions undertaken by state bodies must be de assiduously avoid favouring specific individuals or groups over others, thereby guaranteeing equitable treatment for all subjects.
18. **Transparency and Openness:** The state apparatus bears the fundamental responsibility to maintain an open posture regarding i adjudicative decisions. This necessitates the timely and readily accessible provision of all pertinent *acta* to the public, strictly consiste
19. **Accountability and Responsibility:** Governmental entities must be held unequivocally accountable for their actions, demonstratin their adjudicative choices and records disposition directives to the citizenry.
20. **Respect for Human Rights:** It is a paramount, constitutionally entrenched duty of governments to rigorously respect and assiduc citizens, as meticulously enshrined in both international conventions and national legislation, inherently including the *Charter*.
21. **Public Interest Focus:** In the entirety of their decision-making processes, state actors are ethically and legally bound to prioritize manner that manifestly preserves the collective well-being and confidence of their constituents.
22. **Consultation and Engagement:** The state apparatus should proactively engage with citizens in a substantive and meaningful man feedback on policies and administrative decisions that directly impact their fundamental liberties.
23. **Fairness and Equity:** Governmental and judicial bodies must assiduously strive to ensure that all individuals are accorded p irrespective of their antecedent background or prevailing procedural circumstances.
24. **Ethical Standards:** Public servants and judicial officers, in their official capacities, are strictly obligated to uphold the most s unassailable integrity, unwavering honesty, and complete transparency in all statutory and administrative dealings.
25. **Reconciliation:** Within jurisdictions encompassing Indigenous populations, the concept of reconciliation necessitates the profo commitment to redressing historical injustices, thereby fostering a future predicated upon mutual respect, systemic equity, and genuin
26. These aforementioned foundational requirements are frequently codified within constitutional instruments, legislative enactmer indispensable pillars for the sustained maintenance of public trust and confidence in governmental institutions. It is hereby unequiv remedies available within this venerable legislative framework and the broader principles of public law shall be exhaustively exercise

Respectfully submitted,
Mr. Kevin A. McLean (BA, JD, CIM)
Applicant / Accused
ENCLOSURES

Warm regards,

Mr. Kevin A. McLean (BA, JD, CIM)

Chartered Investment Manager

Email: mcleansettlement@gmail.com

Fax: 416.981.7117

Phone number: 647.370.9354

On Wed, Mar 25, 2026 at 1:52 PM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

DATE: March 25, 2026
TO: Superior Court of Justice (Ontario) (Toronto Region)
361 University Avenue, 1st Floor

Toronto, Ontario

ATTENTION: Manager of Court Operations; Supervisor of Court Operations; Registrar of the Superior Court of Justice
CC: The Honourable Deputy Attorney General of Ontario

SUBJECT: Formal follow up to the access request of which Ms. Simion represented she would have a response soon as of 10 days

PART I: CONTINUATION OF EXTANT REQUISITION, THE OPEN COURT PRINCIPLE, AND EXTINGUISH

Categorical Demand for the Immediate Production of Foundational Documentation

1. The present correspondence is formally submitted as an unyielding continuation of the antecedent, extant requests effectuated up **Office**"), demanding the immediate provision of foundational court documents that remain strictly within the exclusive custody and
2. It is unequivocally confirmed that the aforementioned request shall remain active and legally extant until comprehensively satisf information package (the "**Information Package**") in its authentic form, alongside the intake court endorsement (the "**Intake** demanded.

3. The obligation to produce the aforementioned documentation applies indiscriminately, whether the materials are presently situated office (the "**Court Office**"), wherein the criminal proceeding (the "**Criminal Proceeding**") was commenced, or whether said control, and/or custody of Madam Justice Shore's judicial chambers and/or by way of her designated judicial assistant.

Inherent Jurisdiction, the Immutable Master Record, and the Doctrine of Nullity

4. The inherent jurisdiction of the Superior Court of Justice to fundamentally govern its internal repository dictates a strict, non-de tribunal of inherent jurisdiction cannot lawfully operate upon documents that inexplicably vanish from internal filing architectures an arbitrary deprivation of liberty.
5. *Ipso facto*, the utilization of undocumented proceedings to effectuate a deprivation of liberty is not a mere procedural irregulari representing a direct contravention of established statutory mandates, equitable principles, and the common law rules governing t *quo ante* is mandated where fundamental records are obfuscated.

The Unrecorded Ex Parte In Camera Hearing and Constitutional Imperatives

6. Concerning the absence of an audio recording of the subject proceedings, it is noted that Madam Justice Shore was categorically pertaining to case conferences in civil proceedings, an interpretation entirely distinct from the requirements involving a criminal m the swearing of an Information (Form 2) but due to Shore J. not knowing the distinction between an Intake Court Endorsement and per se. However, that did not stop the clock in the Proceeding being commenced.
7. The central inquiry necessitates a determination as to whether a judicial officer is legally obligated to transcribe an in-person **Hearing**") wherein law enforcement officials seek the authorization of criminal charges and the subsequent execution of an **Information**") within judicial chambers.
8. It is conceded that the *Criminal Code*, R.S.C., 1985, c. C-46 (the "*Criminal Code*"), specifically sections 504 and 507, does not exp information or the immediate issuance of an arrest warrant, standing in stark contradistinction to the stringent statutory framewo communications delineated within Part VI of the *Criminal Code*. Consequently, the administration of an oath within judicial cham permissible.
9. Nevertheless, operating as a court of record, the failure to generate a contemporaneous transcript severely vitiates an accused ind substantive appellate or collateral review, thereby fundamentally frustrating the execution of an application pursuant to *R. v.* (*Garofoli*). Such an omission ostensibly catalyzes significant constitutional challenges grounded upon sections 7, 8, and 9 of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (U.K.), 1982, c. 11 (the "*Charter*").
10. In the absence of a transcribed record, the reviewing judicial entity is strictly confined to the four corners of the written *Form 2* representations articulated *in limine* within chambers are irrecoverably lost to antiquity and remain legally impotent to salvage a f necessity arises for the production of the information-to-wit (the "**Information-To-Wit**") alongside any handwritten annotations ins
11. Furthermore, modern appellate jurisprudence consistently rebukes the administrative practice of conducting unrecorded chamber h the foundational tenets of a court of record and diametrically opposed to the principles of transparent adjudication.

Judicial Custody, the Open Courts Principle, and the Veracity of the Record

12. The directives promulgated by the Canadian Judicial Council explicitly underscore the imperative for a judicial institution to met adjudicative documentation, particularly within the context of an unrecorded *Ex Parte In Camera Hearing*.
13. The abdication of custody and control over the *acta* of a court of record is universally prohibited. As elucidated by the Canadian Juc extraneous administrative bodies by their mandatory obligation to preserve the record of proceedings, ensuring that appellate tribu and that subsequent jurists can adhere to established precedent.
14. The court record functions as an unimpeachable source of truth; information upon which a tribunal relies to formulate a legal det reliability and accuracy. Upon the judicial determination of a factual proposition within a proceeding on a balance of prob incontrovertibly true.
15. Concomitantly, in strict adherence to the open courts principle, judicial bodies bear an unwavering responsibility to ensure that th permanently and publicly accessible. Concurrently, courts function as the fiduciary guardians of the voluminous records tendered h and institutional justice partners.
16. In contradistinction to the procurement of case conference transcripts—which necessitate advance financial retention by an prerequisite of judicial acknowledgment—the present demand for existing foundational documentation requires no such judicial co

The Expansive Interpretation of Custody and Control Jurisprudence

17. While the classification of the immediate request falls outside the strict purview of freedom of information legislation, the ove unequivocally applicable. It is legally immaterial whether the requested documentation is situated within the immediate, physica elsewhere within the judicial infrastructure.
18. This expansive interpretation is fortified by appellate jurisprudence. In referencing the foundational principles of documentary articulated in *Canada Post Corp. v. Canada (Minister of Public Works)* (1995), 1995 CanLII 3574 (FCA), 30 Admin. L.R. (2d) 24 by the Court of Appeal for Ontario.
19. As articulated by Letourneau J.A. at page 245 of *Canada Post*, the legislative conceptualization of "control" is intentionally left u Parliament eschewed any distinction between ultimate and immediate, full and partial, transient and lasting, or *de jure* and *de fact* definition of control strictly to the power of disposition, such limitations would have been explicitly codified.
20. Applying this authoritative jurisprudential framework to the factual matrix at bar, the resulting conclusion is self-evident: the Su control over the *Information Package* and the *Intake Court Endorsement*. Whether these documents are transiently located within a filed within the central registry (*de jure* control), they remain unequivocally under the plenary dominion of the court. Therefore, under the guise of internal displacement or administrative sequestration, is *ultra vires* the administrative authority of the court and right of access to the judicial record.
21. Furthermore, this requisition explicitly encompasses the immediate production of the "Information-To-Wit" and any concomitant l clerical endorsements inscribed upon the reverse side of any foundational document. Such constituent elements form an inext information package (the "**Information Package**") and are strictly subject to this mandatory demand for production. The histori adjudicative events, irrespective of their procedural irregularity.
22. Given that Madam Justice Shore presently presides as the Family Law Team Leader for the Superior Court of Justice located at hereby confirmed that this non-statutory access request has been unequivocally directed to the correct and originating courthou wherein this anomalous instrument was seemingly precipitated. The deliberate circumvention of the established criminal e-intake structural displacement that necessitates immediate institutional auditing.

23. Should Justice Shore wish to formally deny any involvement regarding the synthesis, authorization, or administrative routing of th issue such a denial via the Manager of Court Operations. In such an eventuality, the undersigned is fully prepared to adduce incontr the contrary. Consequently, there exist absolutely no lawful, statutory, or administrative grounds to withhold the authentic docume Package and the intake court endorsement (the "**Intake Court Endorsement**"), irrespective of the specific form it originally ass exact administrative means by which it was transcribed into its final, corrupted iteration.
24. It is further declared, as a matter of incontrovertible temporal reality, that eighteen months have precipitously elapsed since the Consequently, any theoretical prosecutorial jeopardy has been absolutely extinguished pursuant to the strictures delineated within the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11 (the "*Charter*"), and definitively operatio 2016 SCC 27 (the "*Jordan Decision*") at paragraphs 46 and 47. The passage of this mandated temporal threshold fundamentally penal posture, thereby transitioning the judicial paradigm from active prosecution to a necessary, unvarnished historical audit. I fundamentally predicated upon a False Information Package—the undersigned is systematically exhausting all other available accountability.
25. The continued concealment of the foundational *acta* constitutes an egregious, actionable abuse of process that offends the found 2021 SCC 25 (the "*Sherman Estate Decision*") and *Canadian Broadcasting Corp v. Named Person*, 2024 SCC 21. Section 2(b) o (the "**Open Court Principle**"), establishing a formidable, nearly impenetrable presumption in favour of judicial transparency that a functional workings of the adjudicative branch. The Supreme Court of Canada has consistently held that unfettered judicial unwavering public confidence. Should correspondence satisfying this requisition not be securely transmitted by the Originating Co administrative and constitutional escalation shall commence without delay to compel the mandatory provision of all correspon utilized to circumvent a transparent investigation into the veracity of these foundational records.

PART II: STATUTORY DUTIES, STRUCTURAL DUALITY, AND THE OBLIGATIONS OF THE DEPUTY ATTORNEY

7. The obligations statutorily imposed upon the Deputy Attorney General command rigorous exposition, specifically concerning the office. Pursuant to the explicit architectural framework established within the *Public Service of Ontario Act, 2006*, SO 2006, c through the *Ethics Regulation*, O Reg 383/07 (the "*Ethics Regulation*"), the Deputy Attorney General concurrently functions as th personnel and as the ultimate Ethics Executive for the Ministry. The pervasive administrative silence documented herein regarding systemic failure to rectify the record *in limine*.
8. This structural duality necessitates an uncompromising standard of institutional accountability. The efficacy of the *PSOA* relies fi broad executive discretion must remain perpetually answerable to an independent ethical standard, thereby avoiding a "closed-lo with documented assertions of state-sponsored spoliation, documentary fabrication, and the clandestine synthesis of an arrest warr is statutorily compelled to intervene. As elucidated in the broader administrative jurisprudence concerning fiduciary public du investigate and rectify the intentional suppression of an originating document constitutes a profound abdication of the merit princip
9. Because the registry staff operate beneath the executive umbrella of the Ministry of the Attorney General, the Deputy Attorney administration of justice is not perverted by bureaucratic obfuscation. The executive branch cannot prioritize the shielding of opera If the foundational records were never lawfully submitted or filed in accordance with the *Criminal Proceedings Rules for the Supe Proceedings Rules*"), the Ethics Executive is bound to formally declare the antecedent administrative actions as absolute nullities t and to immediately restore the *status quo ante*.
10. To serve as an explicit evidentiary reminder for the Deputy Attorney General, appended hereto are copies of electronic correspond no directive was issued for the destruction of any court documents or materials harboured within a court office pursuant to sect Consequently, the complete absence of these foundational records cannot be shielded under the guise of authorized administrative unauthorized spoliation.

Nota Bene: The Boundary of Inherent Jurisdiction and Equitable Rectification

11. It is anticipated that the Judicial Branch or court administration might hypothesize that the inherent jurisdiction of the Superior *Constitution Act, 1867*, 30 & 31 Vict, c 3, operates to retroactively cure the documentary defects under the equitable doctrine of and must be unequivocally dismissed. As enunciated in *MacMillan Bloedel Ltd. v. Simpson*, 1995 4 SCR 725, inherent jurisdictio the court and the fundamental rights of the subject; it is emphatically not a sword to be weaponized to cure fatal procedural omis irremediable nullity where foundational jurisdictional prerequisites remain wholly unfulfilled. In accordance with *Marcos v. L* manipulated instruments into the judicial ecosystem constitutes an abuse of process that triggers the Court's remedial jurisdiction t to artificially salvage an extra-judicial fabrication.

PART III: JURISDICTIONAL NULLITIES, SPOLIATION, AND THE PHANTOM PROCEEDINGS

12. An exhaustive forensic and jurisprudential analysis demonstrates that the judicial instrument weaponized to authorize a deprivatio Endorsement—is an irremediable jurisdictional nullity. The fundamental pillars of the Canadian justice system dictate that the forms, and a verifiable judicial record are absolute prerequisites to the lawful exercise of penal authority. An Intake Court Endorse *Law Rules*, O Reg 114/99 (the "*Family Law Rules*"), remaining entirely anathema to the penal architecture of the *Criminal Code*, R Peace sitting in criminal intake possesses no statutory authority, nor any system template within the Integrated Court Operati endorsement affecting the liberty of the subject.
13. Official correspondence remitted by the Ministry of the Attorney General, Crown Law Office - Civil Law, definitively estab Specifically, the Ministry formally confirmed the absolute absence of responsive criminal court records within the Superior Court the Ontario Court of Justice during the material temporal period comprising August, September, and October of 2024. This co swearing event purportedly documented within the Information Package is a mere phantom proceeding, thereby proving that the standard, lawful intake architectures and was functionally devoid of judicial oversight.
14. Furthermore, the Information Package exhibits textbook manifestations of spoliation—the intentional destruction, alteration, or cor deliberate excision of the jurat and the statutorily mandated pages of a standard form 2 information (the "**Form 2 Informatio** endorsement, completely eviscerates the document's legal validity. By destroying the jurat, the physical record delineating the iden erased, thereby sanitizing the instrument's clandestine origins. Pursuant to the strictures established in *McDougall v. Black &* destruction or obfuscation of evidence by a state apparatus irreparably prejudices the constitutional rights of the accused to proffer and invites the strongest adverse inferences regarding the integrity of the judicial repository.
15. The exact mechanics of this *in camera* circumvention have been incontrovertibly established. As graciously confirmed by Ms. A Management Office (the "**RMO**"), Court Officer (Toronto Region) Mrs. Frugoni-Rojas personally accompanied the investi weaponization of this specific court officer as the informant in such an irregular capacity precipitated a wide-scale, libellous defa the subsequent, procedurally defective filing of the False Information Package within the non-originating Ontario Court of Justice l
16. In strict fairness to Madam Justice Shore, it must be acknowledged that the procedural anomaly of an unrecorded *ex parte in came* statute. As established in *R. v. Lupyrypa*, section 507 of the *Criminal Code* formally mandates strict transcription requirements un witnesses, thereby technically exempting the unsworn oral allegations of a police informant from mandatory digital recording. H statutory exemption, executing critical adjudicative functions entirely off the record in the secluded confines of a judge's chambers modern judicial standards. As forcefully articulated by the Justice of the Peace Review Council in the disciplinary decisions of *I* business in private offices or hallways is highly problematic and is rightfully characterized as risk-management "folly." This sul

court of the complete factual matrix, drastically complicating the accused's constitutional right to meaningful appellate review environment fundamentally incompatible with transparency.

17. It is formally noted that, had the undersigned possessed the antecedent knowledge that Mr. Sinnadurai functioned simultaneously with him would have ceased forthwith. While certain admissions and representations of assistance were proffered by said counse been independently ascertained without his intercession, rendering his involvement an unnecessary obfuscation.

18. A critical procedural anomaly arises concerning the deliberate misapplication of statutory sections to artificially manufacture exig designates the subject as "NFA" (No Fixed Address) upon the primary page, despite the investigating officers retaining acute aw residential tribunal proceedings. This deceptive nomenclature was not a mere clerical oversight; it was strategically deployed to 507(4) of the *Criminal Code*. By falsely labeling the applicant as lacking a fixed address, the police actively misled the presiding ju issuance of a summons, forcing the immediate authorization of a warrant in the first instance to ensure court attendance. Concurrer on a warrant strictly governed by section 507 represents a profound procedural fiction, as no prior appearance notice existed to be ju

19. The unauthorized incorporation of this civil document to execute an arrest fundamentally violates the strictures of a lawful forr critical dimensions: it fails to include the statutory designation "FORM 7"; fails to direct the order to peace officers in a specific te articulate the specific offence in a manner sufficient to inform the accused; fails to outline the statutory legal basis justifying the immediately arrest; omits the date of physical signature; omits the locus of signature; and, most fatally, fails to bear a valid, verifiab

20. Should the Judicial Branch or its administrative delegates attempt to retroactively invoke section 599 of the *Criminal Code* to lega systemic failure to properly transmit the record from the Superior Court of Justice to the Ontario Court of Justice, such reliance i applies solely to matters wherein an accused is or may be indicted. Given the formal election to proceed summarily, section 599 i 599 operates conceptually as a formal change of venue provision historically designed to facilitate the geographic relocation of a ju intended by Parliament to serve as a *de facto* administrative mechanism for transferring an initial charging document (Information actual package had to be transferred but it was not. Moreover, without an Order by way of motion (application) of the Crown or a remained in the custody and control of the Originating Courthouse with the Originating Court Office. Pursuant to *R. v. Mirzoyan*, 2 426 (Ont CA), administrative transfers betwixt distinctly legislated judicial regions absent a formal, written transfer order are str emanating from a tribunal fundamentally lacking strict territorial competence is a legal nullity *ab initio*.

Nota Bene: The "Laying" Versus "Filing" Dichotomy

21. The semantic and jurisdictional distinction between the "laying" of an Information and its subsequent clerical "filing" is a founda bypassed. Pursuant to section 504 of the *Criminal Code*, the physical act of laying an Information before a constitutionally ap independent judicial evaluation of reasonable and probable grounds. Conversely, "filing" constitutes the subsequent clerical subm been irrevocably acknowledged by state representatives that no Form 2 Information was ever filed within the Ontario Court of Ju between August and October 2024. The fundamental failure to properly originate the process via the mandated penal architec proceeding, rendering it a pure legal fiction sustained solely by database momentum.

PART IV: CRYPTOGRAPHIC DEPRIVATION, THE CPIC TRAP, AND FORGERY OF THE JUDICIAL RECORD

22. The timeline of the Canadian Police Information Centre (the "**CPIC**") entry represents a fatal procedural trap into which the inv authorized, yet unverified oral directive derived from solitary chambers, the officer immediately caused the warrant to manifest actionable across the national jurisdiction. Upon subsequent receipt of the formalized, yet fundamentally defective, PDF Intake recognized its structural invalidity. However, the officer was rendered practically *functus officio* regarding the warrant's existen warrant from the CPIC registry without a secondary judicial order formally rescinding it, the officer was caught in a trap of his own

23. Because the officer could not rely upon the physical paperwork to withstand the applicant's legal scrutiny in the field, he was c station, executing the CPIC-based arrest while deliberately suppressing the defective physical document from the accused. This co the *Criminal Code*, which mandates the production of the warrant. This deliberate circumvention elevates the matter from a m kidnapping at law, as the *mens rea* to unlawfully confine was cemented the exact moment the officer recognized the warrant's invali

24. Should the Judicial Branch invoke section 3.1 of the *Criminal Code* to assert that the clerk of the court was legally empowered Endorsement on behalf of Madam Justice Shore, the jurisprudence dictates a fatal paradox. As established in *R. v. Harris*, 20(constitutes the moment of legal reality, effectively eliminating the common law delay between judicial utterance and clerical fil pronouncement in open court. The digital timestamps embedded deeply within the unalterable metadata of the False Informatio precisely to universally mandated unionized lunch closures for court administrative staff. In accordance with *R. v. Gledhill*, 2020 O systemic irregularities, this indisputable temporal reality precludes the physical and administrative possibility of a lawful, open-co existence of a clandestine, unauthorized adjudicative proceeding conducted entirely without public access, a court reporter, or proce

25. The typed assertion of a digital signature affixed to the Intake Court Endorsement profoundly fails the cryptographic imperatives c 5 (the "*Canada Evidence Act*") and the *Electronic Commerce Act, 2000*, SO 2000, c 17. The absolute absence of a verified, asy embedded within the document's metadata dictates that the instrument is legally unsigned. A true cryptographic digital signatur document, irrevocably sealing its contents. The destruction of this hash renders the document incapable of authorizing a deprivation

26. 26. It may be hypothesized by the Judicial Branch that the anomalous presence of the GrapeCity SDK metadata is merely a b software update, thereby attempting to rely upon the presumed systemic integrity of electronic documents under section 31.2(1) of irreparably rebutted. A genuine judicial electronic issuance utilizes the ICON architecture, which requires a strict, sequential s obsolete, six-digit identifier indicative of the FRANK system, which is utilized almost exclusively by the Superior Court family conceivable cavil that the document is an amalgamated, stitched instrument. The presence of a fatal "Item already has an owner" ol the document was artificially assembled *post-facto* by state entities, representing a structural collision between civil drafting practic

27. As robustly determined in *R. v. Smith*, 2020 ONCJ 611 (the "*Smith Decision*") at paragraph 28, the fabrication of signatures and satisfies the essential elements of forgery. Utilizing a manipulated, pasted-together PDF document to justify the detention of a subj to section 368 of the *Criminal Code*. Any administrative reliance upon technical service rules or temporal limitation periods is thor *omnia corrumpit* (fraud unravels everything); a statutory limitation clock cannot commence ticking upon an order that never legally

PART V: COMPARATIVE JURISDICTIONAL INTERPRETATIONS, ULTRA VIRES PRONOUNCEMENTS, AND CJC

28. The systemic procedural subversion identified herein is further contextualized by an established jurisprudential propensity by expansive, *ultra vires* authority when confronted with jurisdictional boundaries. In stark contrast to the restrained, legislativel application of rule 1(8) of the *Family Law Rules* operates to unlawfully impose significant monetary penalties without the req significant discourse among legal commentators, highlighting a schism in how judges approach non-compliance.

29. In *Altman v. Altman*, 2022 ONSC 4479 (the "*Altman Decision*") at paragraph 44, the Honourable Justice Faieta decisively con impose accumulating financial penalties for non-compliance beneath the umbrella of rule 1(8) of the *Family Law Rules*. Justice Fa may only ensue under the heightened procedural safeguards of formal contempt proceedings as enumerated within rule 31 of reasonable doubt and strict compliance with the doctrines established in *Carey v. Laiken*, 2015 SCC 17.

30. This rigorously exact jurisdictional constraint was identically affirmed by Justice Kraft in *Monga v. Monga*, 2024 ONSC 76 discordant ruling in *DiPoce v. DiPoce*, 2022 ONSC 2099 (the "*DiPoce Decision*"), wherein accumulating daily fines of $2,500 w

deeply concerning pattern of administrative and judicial overreach. This jurisprudential propensity to exceed statutory authority arrest warrant within a family law registry conceptually consistent with a broader methodology of jurisdictional usurpation.

31. Furthermore, under the *Criminal Proceedings Rules*, originating documents must be electronically submitted and formally filed wi distinction between submitting a document via email for review and formally filing it upon the docket. The complete circumventior coupled with the funneling of the sworn information through improper, civil administrative channels, establishes an absolute jurisdi occurred *coram non judice* (before one who is not a judge of competent jurisdiction), cementing the resultant orders as incurable leg
32. Returning to the pervasive administrative delay detailed *supra*, while Ms. Simion previously represented that a response to this ac clear that this administrative compliance is being actively and improperly impeded by Madam Justice Shore. There exists absol Justice Shore to persistently hold up this process, as she has historically done with the undersigned and other litigants. Strict c individual is above the law, although Madam Justice Shore's entrenched pattern of lawlessness and the usurping of concurrent juris
33. While the undersigned respectfully acknowledges the finite resources and time constraints of the judiciary, this pattern of obstr necessitates immediate rebuke, severe sanction, and constructive remedies to prevent further deleterious harm to the public. The c malfeasance from public scrutiny cannot be tolerated within a functional democracy.
34. The capitulation of exclusive possession of a software-manipulated instrument to law enforcement absent the retention of ar constitutes an egregious breach of the Canadian Judicial Council frameworks. As codified within the *Blueprint for the Security o* (the "**Judicial Information**") must remain under the uncompromising, exclusive control of the judiciary, adhering to principles advanced by the executive branch that the digital transmission of the instrument to law enforcement seamlessly transfers th fundamentally misapprehends the constitutional architecture and is intellectually bankrupt. The frameworks establish an indiv preserve an immutable master record. A document wielded to orchestrate the deprivation of human liberty cannot simultaneou registry.

PART VI: CONCLUDING MANDATES AND PRODUCTION IMPERATIVES

35. The overarching objective of this formal requisition is the mandatory rectification of the fractured court record (the "**Court** adjudicative process must be immediately produced to rectify the landscape and successfully reconcile with the federal intelligence databases. The Originating Court Office is formally directed to provide the requested *acta* without further obfuscation or delay, th Principle.
36. Pursuant to the authoritative framework established in *Hale v. Ontario Criminal Review Board*, 2012 ONSC 1451, legal control— right to make the demand for production. Given that the Originating Court Office undeniably retains overarching legal control of this demand. The undersigned deeply respects the finite time and the remaining administrative hours of the current Chief Justice of *Pares*. Nevertheless, to the extent that this requisition continues to be met with administrative inertia, the undersigned shall be com attention of both the current Chief Justice and any successor Chief Justice by placing it immutably upon the file.
37. To definitively rebut the *prima facie* evidence of state-sponsored documentary spoliation, this requisition explicitly demands th natively generated prior to any external interception or GrapeCity SDK manipulation. I formally remind the Judicial Branch that an exhaustive forensic comparison against the previously disclosed, structurally corrupted artifacts, the internal Active Directory logs, their unadulterated authenticity.
38. The undersigned harbours no inherent desire to unnecessarily escalate this requisition; however, continued administrative silence Court Office wish to furnish a definitive date upon which the undersigned may expect—subject to explicit consent—the provis statutory fees (pursuant to section 7.1.1 of the *MAG CSD Court Information Access Guide*), such advisement must be transmitted pr
39. Failing receipt of the aforementioned documentation or a definitive timeline by the 15:00 hours deadline, the undersigned Furthermore, drawing upon the highly analogous jurisprudential precedent established by the formal complaint articulated by Just Paul Currie, the undersigned shall formally bring the profound misconduct and persistent obstructionist methodologies of Mada Justice of all of the courts of justice in Ontario.
40. The comprehensive, exhaustive nature of this formal disquisition has been meticulously crafted to politely yet comprehensively *limine*. This extensive documentation ensures that, to the extent that the undersigned is forced to escalate this matter outside of the perfectly crystallized and may be picked up expeditiously by the requisite oversight authorities.
41. I kindly remind you that Madam Justice Shore is not an agent, servant or employee of either the provincial or federal government the CLPA's. As such, all those appointed to the public service in Ontario remain bound to discharge their duties faithfully, honestl and Ontario.
42. In the interim, I will note that I will also be comparing the full Crown prosecutorial brief within its possession, control and/or c instance but certainly not now as of today's date. The same will be applicable to any and a
43. I await your response and production by three p.m. or I will be compelled in my own interest and the public interest to escala communications demonstrates your required compliance with executory and ministerial duties.
44. Should you need until the end of the business day to disclose the sought court documents, information, information assets (hard co respectful of the public purse.
45. Thank you.

Respectfully submitted,

Mr. Kevin A. McLean (B.A., J.D., CIM)
Applicant / Accused

Toronto, Ontario

Warm regards,

Mr. Kevin A. McLean (BA, JD, CIM)

Chartered Investment Manager

Email: mcleansettlement@gmail.com

Fax: 416.981.7117

Phone number: 647.370.9354

On Tue, Mar 24, 2026 at 4:41 PM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

From: Mr. Kevin McLean mcleansettlement@gmail.com
To: Simion, Monica (MAG) Monica.Simion@ontario.ca
Cc: Marjadsingh, Natasha (MAG) Natasha.Marjadsingh@ontario.ca; The Honourable Mr. David Corbett, Deputy Attorney G
Date: March 24, 2026
Subject: SECOND URGENT FOLLOW-UP: Outstanding Request for Court Documents - SCJ 361 University Avenue (1st F

Wednesday March 11, 2026 with kind confirmation by Ms. Simion, Manager of Court Operations on Sunday, March 15, 202
Dear Ms. Simion, Ms. Marjadsingh, and Honourable Deputy Attorney General Mr. Corbett:

I am writing to formally follow up on my outstanding access request submitted to your court office under the *Administration* *Access Guide (2019)*.
Please note that it has now been 13 days since my initial request was formally registered with your office. Furthermore, it ha on the evening of March 15, 2026, that she was reviewing the issues and would follow up with a response soon. I write this in the spirit of our ongoing access partnership.

As an accused and a self-represented party to this matter, I am entitled to receive copies of, *inter alia*, the Information/Indict your attention specifically to Section 7.1.1 of the *MAG CSD Court Information Access Guide (2019)*, which mandates that ir request" (i.e., forthwith). Furthermore, the "Intake Court Endorsement" is unequivocally an endorsement, and pursuant to S entitled to a copy of this document without charge and within this immediate time period.
If there are any circumstances that require obtaining hard copies of these documents from physical storage, kindly advise s purse. I am entirely content to receive uncertified electronic copies from you at this juncture; if a comparison against the har date. Additionally, to the extent that any requested documents fall outside the scope of those provided free of charge, kindly may promptly tender payment to your Court Office.

Given the continued passage of time and the failure to provide a response appending the requisite documents to which I an herein. While I sincerely appreciate your work ethic and the heavy administrative demands placed upon your office, this pro Consequently, I am formally adding the Honourable Mr. David Corbett, Deputy Attorney General of Ontario, to this correspo ethical oversight.

I remind all parties of their professional, statutory, and prescribed obligations pursuant to the *Public Service of Ontario Act,* comprehensively cited in my Book of Authorities filed in reference to my applications (Form 1 and Form 5) which have been *Rules*.
The promulgation of the PSOA constituted a fundamental paradigm shift toward a decentralized, ethics-centric framework p institutional accountability, and the preservation of the public trust. In relation to these statutory obligations, I note the follow

1. The Role of the Ethics Executive and the PSC: Pursuant to the Ethics Regulation (O. Reg. 383/07), the Deputy Ministe public servants within the Ministry. Furthermore, Mr. Corbett concurrently sits as a Commissioner on the Public Service Cor definitive institutional guardian of the Merit Principle, mandated to ensure that employment practices and executive actions transparent.
2. The Structural Duality and Institutional Accountability: The Deputy Attorney General simultaneously acts as the ultim personnel (including the Court Services Division) while also serving as the ultimate arbiter of professional ethics. This conce configuration. The efficacy of the PSOA relies fundamentally upon the principle that those who exercise broad executive dis independent ethical standard. This structural duality demands unflinching, objective scrutiny to ensure that the administrativ prioritize executive self-exoneration over the revelation of administrative truth.
3. The Duty of Candour and Administrative Transparency: The pervasive administrative silence documented herein reg documents represents a systemic failure to rectify the record *in limine*. I explicitly note and confirm that Mr. Corbett was une destroyed at his direction. Consequently, the executive branch cannot utilize administrative inertia to circumvent a transpare documents, which must still reside within your custody and control.
Furthermore, while I am actively exhausting collateral avenues of inquiry outside of this specific non-FIPPA process, those e frames of reference to the underlying records. It remains an incontrovertible fact that the judiciary retains absolute custody a Consequently, the constitutionally protected Open Court Principle applies with full force to these records for the benefit of th administrative processes.

The maintenance of this structural duality without rigorous transparency constitutes a barrier to the Rule of Law. I require th sanctity of the court documents be preserved.

Kindly provide what was requested forthwith to this email in this email thread. Kindly advise whether or not you will do so or your immediate attention to this matter.

Respectfully,

Mr. Kevin A. McLean (BA, JD, CIM)

Warm regards,

Mr. Kevin A. McLean (BA, JD, CIM)

Chartered Investment Manager

Email: mcleansettlement@gmail.com

Fax: 416.981.7117

Phone number: 647.370.9354

On Tue, Mar 24, 2026 at 12:26 PM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

From: Mr. Kevin McLean mcleansettlement@gmail.com
To: Simion, Monica (MAG) Monica.Simion@ontario.ca

Cc: Marjadsingh, Natasha (MAG) Natasha.Marjadsingh@ontario.ca

Date: March 24, 2026

Subject: URGENT FOLLOW-UP: Outstanding Request for Court Documents - SCJ 361 University Avenue (1st Floor), Toronto, Ontario

Dear Ms. Simion and Ms. Marjadsingh:

I am writing to formally follow up on my outstanding access request submitted to your court office under the *Administration of Justice Act* and the *MAG*

Please note that it has now been 13 days since my initial request was formally registered with your office. Furthermore, it has been 9 days since Ms. S she was reviewing the issues and would follow up with a response soon. I write this with continued thanks and gratitude for your efforts in the spirit of

As an accused and a self-represented party to this matter, I am entitled to receive copies of, *inter alia*, the Information/Indictment and any Endorseme 7.1.1 of the *MAG CSD Court Information Access Guide (2019)*, which mandates that informations and indictments shall be provided "upon request" (i

Furthermore, the "Intake Court Endorsement" is unequivocally an endorsement, and pursuant to Section 7.3.1 of the Access Guide, I am strictly entitl immediate time period.

If there are any circumstances that require obtaining hard copies of these documents from physical storage, kindly advise so that we may remain resp uncertified electronic copies from you at this juncture; if a comparison against the hard copies is required, we can address that at a later date.

Additionally, to the extent that any requested documents fall outside the scope of those provided free of charge, kindly advise with an itemization and Court Office.

Given the elapsed time and the mandatory nature of these disclosures upon request, I kindly request that you provide the aforementioned Information address by **no later than 3:00 p.m. today**.

Thank you for your immediate attention to this matter and for your continued assistance.

Respectfully,

Mr. Kevin A. McLean (BA, JD, CIM)

On Mon, Mar 16, 2026 at 11:54 AM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

> Dear Ms. Simion, and Colleagues:
> Thank you for your email late last night and for your continued diligence in this matter; your efforts are sincerely appreciated in the
> Further to my **giving and serving** of the Form 1 *Notice of Application* under the *Criminal Proceedings Rules* upon the Originating C
> access request a copy of the **Certificate of Return** issued by your Court Office to the Superior Court of Justice, 361 University Ave
> maintaining or transmitting the same).
> As noted, *"Copies of informations, indictments and judicial interim release documents shall be provided upon request to the accuse charged"* (see: s. 7.1.1 of the MAG CSD *Court Information Access Guide* (2019)). As also noted, there was no judicial interim relea
> Undertaking (Form 10), which is not a *judicial* document per se. I do provide the caveat that, if such a document exists unbeknowns
> It remains my position that the **Certificate of Return** constitutes an **endorsement** for the purposes of the fee schedule. Section 7.3.
> *"Fees for copies of endorsements. Court staff must provide copies of endorsements to parties to a case or their lawyer at no charge*
> The language of "endorsement" is not limited, and in my respectful view encompasses the Certificate of Return.
> To the extent that there are any documents **outside** the Information/Indictment, endorsements, or the Certificate of Return that you b
> tender payment for those specific documents not covered by the categories of Information/Indictment and/or Endorsement—presum
> For organizational continuity, please provide all responsive court documents, papers, or other materials to me **within this email thr**
> Lastly, for clarity, I am **not** seeking certified documents. I will accept what you provide at *face value* or *on its face*, to borrow the la **(SEPT 23 2024)**.
> Thank you again for your assistance. I await copies of the requested court documents to which I am entitled without charge or fee to
> Respectfully,
> **Mr. Kevin A. McLean (BA, JD, CIM)**

> Yours faithfully,
>
> */KAM*
>
> Mr. Kevin A. McLean (BA, JD, CIM)
>
> Sender's name: Mr. Kevin Alexander McLean (BA, JD, CIM)
>
> Sender's address: 410-775 King Street West, Toronto, Ontario, M5V 2K3
>
> Sender's Telephone Number: (647) 370-9354
>
> Sender's email address: mcleansettlement@gmail.com

On Sun, Mar 15, 2026 at 11:54 PM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

> March 15, 2026

Via Electronic Transmission Private and Confidential

EXCLUSIVELY TO:

Superior Court of Justice (Ontario) (Toronto Region)

361 University Avenue,
1st Floor
Toronto, Ontario

Attention: Ms. Simion and Ms. Marjadsingh

SUBJECT: Kind response to your email of Sunday, March 15, 2026, with thanks

Dear Ms. Simion and Ms. Marjadsingh:

PART I: ACKNOWLEDGMENT OF RECEIPT AND JURISDICTIONAL CRYSTALLIZATION

1. Receipt of the electronic correspondence transmitted on the evening of Sunday, March 15, 2026, is hereby formally a promptitude and administrative courtesy demonstrated by the registry. In reciprocating such administrative alacrity, the p exceeding comprehensiveness to guarantee the unequivocally efficient utilization and optimal preservation of public reso Deputy Attorney General of Ontario (the "**DAG**"), has been formally excluded from the present and subsequent communi

2. Should adversarial counsel or a Reviewing Court postulate that the unilateral exclusion of the DAG at this e presumption that the chief law officer of the Crown is an indispensable party to matters engaging profound constitutional fundamentally flawed syllogism that impermissibly conflates executive oversight with the independent administrati substantive constitutional challenge necessitating formal notice to the Attorney General; rather, it constitutes a highly internal, exclusive operational custody of the Superior Court of Justice. To invite the executive branch into the judiciary apprehension of state-sponsored documentary manipulation forms the crux of the inquiry—would constitute an egr governance of these foundational records is assigned exclusively by law to the judiciary, subject to the plenary directi pursuant to the judicature sections of the *Constitution Act, 1867* and section 76 of the *Courts of Justice Act*, RSO 1990, c C

3. Given the paramount constitutional implications of this matter, the absolute necessity of preserving public resour analogous to a Zero Trust Architecture—as explicitly codified within the *Blueprint for the Security of Court Informa* exposition of the jurisdictional and procedural irregularities currently contaminating the judicial repository is strictly nec artifact presented by an external executive actor can be inherently imbued with a presumption of regularity; absolute ver is a strict constitutional imperative.

4. The active engagement of the administration situated upon the first floor of the Superior Court of Justice facility at functionally solidifies its jurisdictional status. Exhaustive inquiries have unequivocally confirmed that disparate regi Ontario Court of Justice situated in Brampton (Central West Region), the Ontario Court of Justice at 10 Armoury Street, and the second and fourth-floor criminal intake registries of the Originating Courthouse—possess absolutely no respons the strictures delineated within rule 1.03 of the *Criminal Proceedings Rules*, the first-floor family registry is *ipso facto* the control of the contested foundational instruments.

5. While it may be postulated by a Reviewing Court that the mere exhaustion of disparate registries does not affirmative a restrictive syllogism ignores the fundamental doctrine of state accountability. The contested instrument bears the explic imprimatur of a Superior Court jurist. Consequently, the evidentiary burden shifts irrevocably to the Originating Courtho the instrument a complete extra-judicial fabrication. A court of record possesses an inherent constitutional duty to pol unchecked circulation of unverified mandates affecting the liberty of the subject.

6. Furthermore, should adversarial counsel attempt to rationalize the administrative deflection towards disparate venues- Armoury Street—by invoking the statutory transfer mechanisms delineated within section 599 of the *Criminal Code*, s mandates that the official possessing custody of the indictment, and all corollary writings and exhibits, shall transmit the ordered to proceed. However, the activation of this statutory transmission is strictly predicated upon the formal iss procurement of such an order fundamentally necessitates the prior execution of a formal application or motion, which, *si* of natural justice, specifically the mandatory provision of formal notice to the accused. It is an incontrovertible fac Consequently, in the absolute absence of a jurisdictionally sound transfer order, any purported transmission of the *acta Ipso facto*, the unbroken chain of custody and the unyielding obligation of retention remain inextricably affixed to the Ori

PART II: THE PROCEDURAL ANOMALY AND JURISPRUDENTIAL APPLICATION

7. Pursuant to the judicature provisions enshrined within section 96 of the *Constitution Act, 1867*, an intake court endo an administrative construct inextricably bound to the *Family Law Rules*, O Reg 114/99, remaining entirely anathema to penal architecture. A comprehensive jurisprudential review reveals a singular, highly anomalous instance of such termin the jurisdiction of the Ontario Review Board in the matter of *Brown (Re)*, 2026 CanLII 10959 (ON RB) (the "*Brown Deci*

8. In the *Brown Decision*, the adjudicative body was confronted with an Intake Court Endorsement strictly in a post-arr health complexities and psychiatric remands subsequent to a lawful apprehension. Applying the incontrovertible legal pr factual matrix reveals a catastrophic procedural inversion. In the instant matter, the Intake Court Endorsement was weapo lawful warrant in the first instance. This artificial transposition of a post-arrest, family-centric administrative tool to autl 2024, renders the instrument manifestly *ultra vires* and void *ab initio*.

9. It may be hypothesized by adversarial counsel that such semantic deviations constitute mere clerical variances curable of the *Criminal Code*, or that they are shielded by the inherent jurisdiction of the Superior Court of Justice. This p administrative and constitutional law that inherent jurisdiction cannot contradict legislative will. The inherent jurisdiction explicit statutory preconditions precedent to the deprivation of liberty. An Intake Court Endorsement inherently lac evidentiary assessment commanded by section 504 of the *Criminal Code*. The formal admission by Mr. Sinnadurai, re form 2 information (the "**Information**") was ever formally laid or filed betwixt August and October 2024 entirely evisce of this foundational jurisdictional prerequisite ensures that the resultant adjudicative acts operate strictly *coram non judice*

10. Where the Superior Court of Justice is engaged, the strict procedural mandates of the *Criminal Code* necessitate "**Indictment**"). By necessary analogy to the procedures governing informations to obtain specialized search warrants an *Code*, such foundational instruments must still be formally submitted to the tribunal electronically. Pursuant to rule 1.03 Indictment explicitly incorporates an Information without restriction. Furthermore, rule 4.10 of the *Criminal Proceedings* What remains highly conspicuous is the deliberate statutory reliance upon the nomenclature "submitted" rather than "filed

11. The act of submitting the instrument ensures unequivocally that the Information or Indictment is immediately de Courthouse and its attendant court office. The *Criminal Proceedings Rules* remain notably silent regarding restrictive t reinforcing the absolute requirement of custody and control within the Originating Courthouse. This critical distinction be document must be submitted to a "court of record", a mandate that persists vigorously even by email subsequent to tl posture suggest that after-hours electronic submissions somehow obviate the necessity for institutional retention, such ar defined by its immutable repository; the electronic submission mechanism merely modernizes the conduit of transı institutional custody.

PART III: EXTRA-JUDICIAL BYPASS AND DIGITAL MANIPULATION

12. The forensic trajectory of the documentary evidence dictates that law enforcement personnel actively circumvented tl extra-judicial, oral directive was purportedly solicited in solitary chambers from a jurist of the Superior Court of Justice, l on October 2, 2024. This sequence of events was subsequently corroborated by Superior Court of Justice Recording Mar 2025.

13. This directive was subsequently reduced to writing by the first-floor registry personnel, transmitted electronically to t malicious digital manipulation via GrapeCity Documents for PDF software. The resultant artifact falsely masquerade synthesized long after the seminal docket dates of September 23, 2024, and October 2, 2024, and definitively modified sul

14. It could be advanced that assertions of digital manipulation and extra-judicial oral directives are inherently speculat requisition premature. Conversely, it is precisely the existence of anomalous, verifiable metadata—specifically the em recorded admissions from the Recording Management Office, that crystallizes the absolute legal necessity of this requisi judicial *acta* from the Originating Courthouse is the sole, constitutionally acceptable mechanism to definitively rebut th spoliation.

PART IV: CANADIAN JUDICIAL COUNCIL IMPERATIVES AND THE SEPARATION OF POWERS

15. The custody, classification, retention, and ultimate transparency of these judicially synthesized documents fall exclusi the plenary supervisory jurisdiction of the Chief Justice of the Superior Court of Justice. The administration is formal Judicial Council frameworks:

a. *Blueprint for the Security of Court Information* (7th Ed., 2024): Policy 1 explicitly reaffirms that administrative ind policy dictates that judicial information (the "**Judicial Information**") must remain under the uncompromising, exclusiv possession of a software-manipulated instrument to law enforcement—absent the retention of an uncorrupted master *act* breach of this doctrine.
b. Any proposition that the Canadian Judicial Council frameworks constitute mere administrative guidelines devoid c constitutional architecture. These policies are not aspirational directives; they constitute explicit codifications of the unv and the open-court doctrine. Consequently, should it be advanced by the executive branch that the digital transmission o the burden of archival retention, such an argument is intellectually bankrupt. The frameworks establish an indivisible, no immutable master record of all judicial authorizations.

c. *Model Definition of Judicial Information* (2020): The contested instrument categorizes strictly as adjudicative informati 3, encompassing all orders, endorsements, and warrants generated by a judicial officer. Such highly sensitive data cannot b
d. *Model Policy for the Classification of Court Information* (2022): Endorsements and orders are explicitly classified as restricted court information (the "**Restricted Court Information**"). They must be reliably indexed, securely maint vigorously uphold the open-court principle. A document wielded to orchestrate the deprivation of human liberty cannot within the registry.
e. *Model Policy for the Retention of Court Information* (2022): Foundational records must be preserved indefinitely to "**Court Record**"). A tribunal of inherent jurisdiction cannot lawfully operate upon documents that mysteriously vanish fi utilized by state actors to justify an apprehension.

16. The doctrine of judicial independence is irrevocably entrenched within sections 96 through 100 of the *Constitution A* state demands an impenetrable separation betwixt the executive enforcement apparatus and the adjudicative branch. Regi authority of the Chief Justice, are legally bound to insulate this independence by ensuring that all adjudicative records rem

PART V: REQUISITION AND CONCLUDING MANDATES (IN THE PUBLIC INTEREST AND TO AVOID ANY F RESOURCES THROUGH NO FAULT OF MY OWN BUT IN THE SPIRIT OF THE ACCESS PARTNERSHIP)

17. The overarching objective of this formal requisition is the mandatory rectification of the fractured Court Record. It is originated materials to perfectly reconcile with the federal intelligence logs housed within the Royal Canadian Mounted P This meticulous reconciliation is pursued to ensure the utmost respect for governmental resources while excising the struc

18. What remains conspicuously outstanding is the immediate production of any endorsements and Informations and/or I the *MAG CSD Access Guide (2019)*, alongside endorsements provided to an accused or party without fee.

19. I am also requesting any internal registry file numbers, and all information assets (the "**Information Assets**") gen Originating Courthouse. These elements fall squarely within the ambit of the open court principle (the "**Open Court Prin**

20. Section 2(b) of the *Canadian Charter of Rights and Freedoms* (the "*Charter*") explicitly protects the Open Court Prin judicial transparency that affords the public and the press the unassailable right to attend hearings, consult court files, a functional workings of the adjudicative branch (*Canadian Broadcasting Corp v Named Person*, 2024 SCC 21 at pa ["*Sherman Estate*"]).

21. This foundational Open Court Principle is deeply embedded within the common law tradition and warrants rigorous c as it fundamentally promotes the exhaustive and equitable discussion of public institutions, a mechanism irrevocably v *Estate*, *supra* at para 30; *Ruby v Canada (Solicitor General)*, [2002] 4 SCR 3 at para 53; *Canadian Broadcasting Corp v* para 23; *Edmonton Journal v Alberta (Attorney General)*, [1989] 2 SCR 1326 at 1339–40; *BCGEU v British Columbia*

[1982] 1 SCR 175). Specifically, unfettered judicial openness actively deters systemic mischief and ensures unwavering p absolute transparency (*Sherman Estate*, *supra* at paras 39, 44).

22. Furthermore, the Open Court Principle is concurrently shielded, where contextually appropriate, by the constitutior section 7 and section 11(d) of the *Charter*.

23. The Open Court Principle strictly protects the freedom of the press to unconditionally access and meticulously report operates as the "eyes and ears" of the broader populace (*Sherman Estate*, *supra* at paras 1, 30, 39; *Re Vancouver Sun*, [2 only in the most exceptional of circumstances that countervailing interests may jurisprudentially justify any restrictive der

24. Crucially, the Open Court Principle exerts its mandatory application across all judicial proceedings, irrespective of the This dictates an impenetrable presumption of access extending concurrently to both criminal and civil hearings, and enc *Vancouver Sun*, *supra* at para 27), probate matters (*Sherman Estate*, *supra* at paras 44–45), and documentary court exhib SCR 65 at para 12; *Canadian Broadcasting Corp v New Brunswick (Attorney General)*, *supra*; *Hill v Church of Scientolo* of such openness must be strictly delineated by formal, lawful judicial instruments—such as sealing orders, publication (*Sherman Estate*, *supra* at para 38)—none of which have been lawfully pronounced to preclude the production of the requ

25. Acknowledging the administrative complexities inherent in records extraction outside of the Information and/or Indic Court Office, piecemeal production of the requisitioned *acta* is acceptable.

26. It is expressly noted that this requisition proceeds under the inherent jurisdiction of the court and the Open Court Prin to the *Freedom of Information and Protection of Privacy Act*, RSO 1990, c F.31.

27. The administrative responsiveness exhibited thus far firmly indicates that this vital matter has successfully reached control of the requisite *acta*. Continued procedural compliance and the prompt remittance of the uncorrupted documents *quo ante* without any castigation of your Court Office *per se*. I apologize if earlier correspondence indicated the same prove or disprove certain facts which are now definitively established in the past.

28. Thank you for your efforts in the spirit of this "access partnership".

29. Thank you and have a good evening.

Respectfully submitted,

Mr. Kevin A. McLean (B.A., J.D., CIM)

On Sun, Mar 15, 2026 at 9:34 PM Simion, Monica (MAG) <Monica.Simion@ontario.ca> wrote:

> Thank you for your email. I am reviewing the issues you outlined and will follow up with a response soon.

From: Mr. Kevin McLean <mcleansettlement@gmail.com>
Sent: March 13, 2026 11:36 AM
To: Simion, Monica (MAG) <Monica.Simion@ontario.ca>; Marjadsingh, Natasha (MAG) <Natasha.Marjadsingh@ontario.ca>
Subject: Re: Follow up letter regarding my request for court documents (personal information) from yesterday's fax (SCJ 361 University Av

CAUTION -- EXTERNAL E-MAIL - Do not click links or open attachments unless you recog

Friday, March 13, 2026

To:
Superior Court of Justice (Ontario)
361 University Avenue, **1st Floor**
Toronto, Ontario

Attention: Manager of Court Operations; Supervisor of Court Operations; and the Clerk of the Court assigned to the division led by Madam Justice Shore (T since 2020)

Re: Confirmation of Delivery of Materials – March 12, 2026 (Registered Mail)
Re II: Reconfirmation of the "Chambers" (Judicial, In-Person) Nature of the *Ex Parte In Camera Hearing* at SCJ – 361 University Avenue

Re III: residual

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

I write to confirm that, in addition to the emails and attachments previously transmitted, a true copy of my initial request to your court office was delivered b **a.m.** today. I look forward to receiving your response in relation to the matters identified above.

I further confirm that a copy of the aforementioned letter and email was faxed to the Chief Justice of the Superior Court of Justice at the appropriate fax num

I also reconfirm the representations made by **Ms. Amirthalingam**, who has been helpful in certain respects, that the *Ex Parte In Camera Hearing* in que **materials exist for transcription** for purposes of my registered Authorized Transcript Order. As you are aware, the SCJ RMO performs all administrative d the Toronto Region.

In light of those admissions and related representations, and as will be evident from the **False Information Package**, any Criminal Code Form 2 Informati **the Superior Court of Justice**, given that all such matters are processed exclusively through the **Criminal E-Intake Portal**. Accordingly, I presume th

Information.

To assist—consistent with the "access partnership" contemplated under access-to-information and personal-information legislation—I have provided a star five. As you will observe, the removal by the Toronto Police Service of **pages 4 and 5 of 6** was plainly designed to prevent disclosure of the **Informant's** ide pages.

Further, and again in the spirit of cooperation and efficient use of public resources, I reconfirm that **Mr. Sinnadurai**, counsel to Madam Justice Shore, adm **never filed in any court of the Ontario Court of Justice** between August and October 2024, and that **no record of any such Informant existed** in the file whatsoever. This is consistent with the falsities contained in the materials.

As you know, a **Justice of the Peace** cannot issue an **Intake Court Endorsement**, nor can such an endorsement be issued "in the form of" an Intake Court **and inherent jurisdiction regularly issue Intake Court Endorsements**.

It is most unique if not completely foreign to criminal law and certainly the Criminal Code.

Given the timing reflected on the document and the time required for clerical staff to receive instructions from Madam Justice Shore, it appears that the like police officer(s) in charge to the chambers of Judge to have the Information sworn and then have the Intake Court Endorsement reduced to writing, then Detective in question.

It remains unknown whether the relevant division at SCJ 361 University Courthouse retained a paper copy of the sworn Information and/or Indictment but I on the 2nd floor (not the first) only has files for which there were filed, via email, to its email address the "E-Indictment" which includes an Information or the SCJ Judge at issue, the Superior Court Of Criminal Jurisdiction in which she operates, but for the Divisional Court which does not have Inherent Jurisdi is laid (not necessarily filed) and prior to that a criminal proceeding commences on the swearing or declaring of an Information. However, if laid via telec Criminal Code, ss. 508.1).

I have since learned additional information regarding the scope of this Intake Court Endorsement, and I therefore look forward to receiving a copy so that I m

Kindly advise how long it will take to provide me with a copy of the Intake Court Endorsement via email as I am entitled to the same as the accused. As yo **request**, and I therefore request confirmation of the expected timing for production of the Criminal Code Form 2 Information as well.

If I fail to hear from you before the deadline today or after two p.m. (by no later than three p.m.) as I appreciate your hours open to the public, I will brin direct you accordingly.

Thank you for your immediate attention to the same.

Respectfully,

Mr. Kevin A. McLean (BA, JD, CIM)

On Thu, Mar 12, 2026 at 4:57 PM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

> **DATE:** March 12, 2026
>
> **TO:** Manager & Supervisor of Court Operations and/or the clerk of the court at the time, Superior Court of Justice ("SCJ") 361 University Ave
>
> **CC:** The Honourable Chief Justice of the Superior Court of Justice (Ontario) pursuant to this being a matter assigned by law to the judiciary
>
> **VIA EMAIL AND FACSIMILE**
>
> **TO:** Ms. Monica Simion, Manager of Court Operations (monica.simion@ontario.ca)
>
> **CC:** Ms. Natasha Marjadsingh, Supervisor of Court Operations (Natasha.Marjadsingh@ontario.ca)
>
> CC: the "clerk of the court" as defined under the Criminal Code and by reference to ss. 3.1(1) and (2) of the Criminal Code
>
> **CC:** The Honourable Chief Justice of the Superior Court of Justice (Ontario)
>
> **FROM:** Mr. Kevin A. McLean (B.A., J.D., CIM)
>
> Reply by email or fax

SUBJECT I: CONFIRMATION – MANDATORY PRODUCTION OF INFORMAT
ENDORSEMENTS, AND RELATED COURT RECORDS; CHA
SUBJECT II: TECHNOLOGICAL SILOING; CUSTODY AN
SUBJECT III: DUTY OF RECTIFICATION; PRESERVATION OF THI
SUBJECT IV: MATTERS ASSIGNED BY LAW TO THE JUDICIARY SUBJECT TO
OF THE CHIEF JUSTICE OF THE SUPERIOR COURT OF JUS

PART I: INTRODUCTION AND THE ARCHITECTURAL COMPOSITION OF THE CORRUPTED RE

1. I confirm delivery of the fax request to the SCJ 361 University Courthouse ("Originating Courthouse") but within the division of the fa as it relates to the issuance of a "warrant in the first" by the Intake Court Endorsement [Sic] or by an Intake Court Endorsement pe

Intake Court Endorsement is not a species of criminal law per se but of family law which has led me back to this location but I now a had no records of any “filings” with it and no copies of any arrest warrant per se.

2. A copy of said letter is also attached.
3. I have been exceedingly comprehensive herein as I have reasonable grounds to believe that it is nearly indisputable that your “co “endorsement” of which I am entitled and certainly not the Intake Court Endorsement [Sic] that was filed by the TPS in November neither laid nor filed in August to October 2024 as admitted by Mr. Sinnadurai in June and July 2025.
4. **In short, there is a slight correction from yesterday which does not negate the request having been made but rather that it Courthouse did NOT falsify the Intake Court Endorsement [Sic] but rather has the original endorsement. Provide it forthw forthwith.**

5. This correspondence is respectfully submitted in formal continuation and necessary, constitutionally mandated escalation from an record on March 11, 2026. In meticulous consideration of the paramount constitutional implications delineated herein, and the nev Shore concerning the purported, extralegally generated “Intake Court Endorsement” [sic], it is deemed strictly necessary and cons Superior Court of Justice (Ontario). This deliberate escalation is executed to guarantee appropriate institutional oversight, to trig highest judicial office in the province, and to facilitate the unimpeded discharge of the Court’s plenary supervisory jurisdiction over it Chief Justice is required to ensure that the absolute sanctity of the judicial repository remains inviolate against extra-judicial manipul Superior Court from being illicitly co-opted as an instrument of state-sponsored procedural obfuscation.
6. The forensic, technological, and jurisprudential evidence heretofore adduced incontrovertibly substantiates that the instruments pres the *Indictment*, and the structurally discordant associated judicial endorsement—were not precipitated through any constitutionally Conversely, it is submitted that these highly irregular instruments were clandestinely synthesized via the first-floor family and courthouse (the “Originating Courthouse”). This profound architectural displacement constitutes a fundamental, systemic subversi deliberately insulated from the rigorous procedural safeguards of the criminal registry, has been improperly and unlawfully weapo liberty of the subject.
7. A rigorous forensic extrapolation of the document metadata and underlying algorithmic structure renders it highly probable that while endorsement within its functionally isolated family law silo, secondary state actors—specifically the Toronto Police Service (the “T subsequently appropriated, exported, and maliciously manipulated the document utilizing GrapeCity Documents for PDF 6.0.2.0 (speculative; it is unequivocally corroborated by analogous, digitally manipulated documentation previously disclosed by the latte thereby establishing a documented, systemic, and highly concerning pattern of extralegal digital interference by state enforce antecedent proceedings.

8. The resultant digital artifact, formally designated as Information Package 4810 998 24 48129169-00 (the “False Information Packa bypass: the clandestine, technologically obscured offboarding of a criminal instrument into a civil technological silo. This delibe Integrated Court Operation Network (the "ICON"), flagrantly evades the mandatory strictures of the *Criminal Proceeding Rules*, SI/2 the open-court safeguards fundamentally designed by Parliament to preserve the historical inviolability of the court of record. The serves no legitimate administrative purpose and operates solely to conceal the genesis of the penal process from independent judicia
9. Such extraordinary procedural transmogrifications precipitate profound, far-reaching, and deleterious consequences upon the broa deeply offend the Open Court Principle as comprehensively articulated and defended by the Supreme Court of Canada in *She Decision*"), the *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act* RSO 1990, c C.43, the *Administration of Justice Act*, RSO 1990, c A.6, the *Privacy Act*, RSC 1985, c P-21, the *Legislation Act, 200* Court to rectify, reconstruct, and safeguard the absolute authenticity of its repository. The clandestine synthesis of penal instruments administrative chambers, fundamentally offends the centuries-old jurisprudential maxim that justice must not merely be done, but done.

PART II: ANTICIPATORY REBUTTALS AND THE EXHAUSTION OF LOGICAL COUNTER-ARGUM

6. It is anticipated that opposing counsel, or alternatively, the Presiding Divisional Court President, might hypothesize that the anomalo electronic artifact resulting from a province-wide software modernization initiative executed internally by the Ministry of the Att fundamentally eviscerated by the formal, written admission of Ministry representative Mr. Sinnadurai, who unequivocally conceded under *the Criminal Code,* RSC 1985, c C-46 (the "*Criminal Code*") involving Court Officer Frugoni-Rojas from August to October 20 update, legitimately processed instruments would undoubtedly populate the central ICON repository in their mandated chronolog failure to locate any corresponding documentation, *ipso facto,* confirms the irregular, localized, and extra-judicial genesis of the hypothesis intellectually bankrupt and factually unsustainable.
7. Furthermore, it might be erroneously posited by adversarial parties that state law enforcement actors lack the requisite incentive c instrument when standard judicial avenues theoretically remain accessible. This postulation fails *in limine*. The forensic record den apparatuses to rapidly synthesize a warrant to retroactively sanitize an antecedent, unlawful deprivation of liberty, thereby effecti artificially establish a *status quo ante* following a primary intake refusal by a constitutionally appointed judicial officer. The technol object structures provides the exact vector for this jurisdictional overreach, operating in direct, flagrant, and egregious contraver condemned by the Supreme Court of Canada in *R. v. Grant, 2009 SCC 32*. It is a well-established socio-legal tenet that state ac procedural failures, occasionally resort to extralegal mechanisms to secure process; the forensic fingerprint of GrapeCity SDK circumvention.
8. A tertiary counter-argument may suggest that the nomenclature "Intake Court Endorsement" reflects mere localized vernacular semantic deviations ought to be overlooked *de minimis* under the guise of administrative flexibility or clerical variance. This as jurisdictional and constitutional consequence. A criminal judicial officer is statutorily bound by the strict construction of the *Criminal* instrument “on its face”—a highly permissive, administrative standard distinctly and exclusively reserved for civil and family registries 194. Conversely, section 504 of the *Criminal Code* explicitly mandates a rigorous, substantive *prima facie* inquiry into the evidentiary process. The conflation of these diametrically opposed standards is not merely semantic; it is indicative of profound, structural cross lower threshold of civil processing has been improperly and unconstitutionally applied to authorize severe, ongoing deprivations of lib

PART III: BEST EVIDENCE RULE AND THE INTEGRITY OF ELECTRONIC DOCUMENTS

9. Where a physical warrant of arrest is rendered strategically or administratively unavailable by the Crown—whether through allege persists actively upon the Canadian Police Information Centre (the “CPIC”) registry to justify the continued restriction of an accused’s Evidence Rule to systematically reconstruct the underlying judicial *acta*. The withholding of the primary instrument by state actors d of any secondary evidence proffered to justify the ongoing detention or encumbrance of the subject, as the state cannot be malfeasance.
10. Pursuant to the long-standing common law doctrine governing secondary evidence, the court is authorized to accept clerk’s m determinative proof of an outstanding warrant. However, such judicial acceptance is entirely, strictly predicated upon the irrefuta integrity of the surrogate materials. Where the secondary materials bear the undeniable hallmarks of forgery, post-production manipu reduced to an absolute nullity, and they must be summarily struck from the record.

11. Furthermore, pursuant to the explicit provisions of section 31.2(1) of the *Canada Evidence Act,* RSC 1985, c C-5, read in inextric 2000, c 17, the judiciary may theoretically rely upon the statutorily presumed systemic integrity of the electronic documents syste However, where the electronic system exhibits profound, demonstrable structural corruption—as evidenced by the GrapeCity SDK r distinct textual elements, and fundamentally missing cryptographic hashes—the statutory presumption of systemic integrity is irrepa back to the state to prove the instrument's authenticity beyond a balance of probabilities, a burden that simply cannot be discharged
12. In standard, uncorrupted practice within the family law silos utilizing highly regulated systems such as Case Center or CaseLines, (the “*Family Law Rules*”) rigidly dictates the algorithmic affixation of a verified blue digital seal alongside the authenticated guaranteeing the exact source, temporal origin, and unbroken chain of custody of the document. The absolute absence of these "PKI") markers within the False Information Package demonstrates incontrovertibly that it was improperly exported from the Cas fundamentally compromised by external software prior to its illicit, retroactive deployment against the accused.

PART IV: INHERENT JURISDICTION, EQUITABLE RECTIFICATION, AND SPOLIATION

13. The Superior Court of Justice is a tribunal of inherent, original, and plenary jurisdiction derived directly from section 96 of the *Con* constitutional jurisprudence such as *MacMillan Bloedel Ltd. v. Simpson*, [1995] 4 SCR 725, this expansive jurisdiction is not m absolutely essential to the maintenance of the rule of law. When a judicial record is discovered to have been fraudulently manufactur state, the Court is bound by a non-delegable, constitutional duty to expunge the corruption and synthesize an authentic record functioning as an engine of fraud, while its own administrative machinery is co-opted for *ultra vires* law enforcement purposes.
14. It must be strictly delineated, however, that Inherent Jurisdiction and Equitable Jurisdiction are conceptually and functionally di administrative bodies to subvert the unambiguous, mandatory statutory intent of the *Criminal Proceeding Rules*, nor can they be where none historically or statutorily existed at the time of the purported issuance. Inherent jurisdiction exists as a shield to prot emphatically not a sword to cure fatal Crown procedural defects or to breathe legal life into an *Irremediable Nullity*.
15. The equitable remedy of rectification empowers the judiciary to rigorously revise written instruments to accurately reflect the true, his reality. If a clandestine adjudicative proceeding transpired within private administrative chambers rather than an open court, the instrument that falsely asserts a regularized process occurred in open session. The Court is affirmatively mandated to retrieve the ur digital evidence against active, ongoing spoliation, and reconstruct the record *ab initio* to reflect the true, unvarnished reality of the pr
16. As powerfully articulated by the Supreme Court of Canada in *R. v. Hayes*, [1989] 1 SCR 44 (the "*Hayes Decision*"), the judiciary pos to reconstruct a defective, absent, or incomplete record—in that specific instance, a missing jury charge—utilizing narrative reconstr foundational principles enumerated in the *Hayes Decision* apply with equal, if not exponentially greater, force to the foundational ir authorize the initial deprivation of liberty.
17. Moreover, the robust jurisprudence established in *Marcos v. Lad*, 2021 ONSC 4900 affirms, without equivocation, that the Superi sanction the fabrication of evidence and the deceptive manipulation of legal instruments. The clandestine introduction of the GrapeC ecosystem constitutes a profound abuse of process that immediately triggers the Court's highest disciplinary and remedial jurisdictior
18. Any institutional refusal or calculated administrative reluctance to immediately preserve these specific, critical electronic artifacts c actionable, state-sponsored spoliation of evidence. In strict alignment with the principles extracted from *McDougall v. Black & De* obfuscation, or withholding of electronic evidence by a state apparatus irreparably prejudices the constitutional rights of the accused *Charter*. Furthermore, such deleterious actions unequivocally and instantly trigger the Crown's mandatory first-party disclosu expansively prescribed in *R. v. McNeil, 2009 SCC 3*, thereby rendering the proceedings susceptible to a judicial stay under section 2

PART V: LAYING VERSUS FILING AND THE COMMENCEMENT OF PROCEEDINGS

19. The semantic, procedural, and jurisdictional distinction between the "laying" of an *Information* and its subsequent clerical "filing foundational constitutional cornerstone to Canadian criminal jurisprudence. Pursuant to section 504 of the *Criminal Code*, the appointed Justice initiates the proceeding and strictly requires the active, independent judicial evaluation of the informant's reason mandatory, subsequent clerical submission of said authorized document to the Registrar under the *Criminal Proceeding Rules* to per
20. In the present matter, it has been formally, undeniably, and irrevocably acknowledged by state representatives that no *Information* u Ontario Court of Justice (the "OCJ") or the Superior Court of Justice criminal registries between the material dates of August and process via the mandated penal architecture is entirely fatal to the legal existence of the entire proceeding, rendering it a pure le judicial authority.
21. Given that the OCJ Armoury Street Courthouse mysteriously and inexplicably generated a novel, secondary file number on Oc proceeding is strictly necessitated to resolve the procedural paradox. The absolute absence of said antecedent file within the de highly disturbing conclusion that the proceeding was administratively harbored within the first-floor family registry of the Originating Justice Shore presided as the family law team leader within this exact environment, operating wholly outside the purview, scop jurisdiction.

PART VI: STATUTORY PRONOUNCEMENTS AND ADMINISTRATIVE DELEGATION

22. It is absolutely imperative to thoroughly contextualize the rigorous application of section 3.1 of the *Criminal Code*, which dictates th from the exact moment it is pronounced, irrespective of its immediate reduction to formal writing. This provision fundamentally empha that justice is dispensed publicly and concurrently.
23. In the seminal case of *R. v. Harris*, 2004 ABQB 205 (the "*Harris Decision*"), the Court confirmed that the oral pronouncement fr effectively eliminating the historic common law delay between judicial utterance and subsequent clerical filing. Application of this ri fatal paradox for the Crown: as no oral pronouncement ever occurred within the confines of an open, publicly accessible court, t artificially validate the existence of the False Information Package fails entirely *in limine*.
24. Similarly, in *R. v. Brooks*, 2021 ONCJ 717 (the "*Brooks Decision*"), the Court affirmed that section 3.1(2) conceptually empowers the of the judiciary, but solely to accurately reflect a lawful order already made. However, this narrow administrative extension cann judicial authorization was never lawfully procured, or where the foundational jurisdictional prerequisites remain wholly unfulfilled. Th conceivable circumstances, eclipse or substitute the non-delegable judicial function of independently assessing reasonable and prob
25. Furthermore, in *R. v. Gledhill, 2020* ONCJ 412 (the "*Gledhill Decision*"), the Court forcefully utilized section 3.1 to establish precis section 11(b) of the *Charter*. The application of the highly scrutinizing analytical framework derived from the *Gledhill Decision* to the embedded deep within the unalterable metadata of the False Information Package manifest at precisely 11:48:25 AM and 12:59:5(the unionized lunch closures universally mandated for court administrative staff across the province. This indisputable temporal rea of a lawful, open-court pronouncement having occurred at those exact moments, further irrevocably corroborating the existence of a solitary chambers entirely without a court reporter, public access, or procedural regularity.

PART VII: JURISDICTIONAL OVERREACH AND IRREMEDIABLE NULLITIES

26. The False Information Package purportedly involves the authorization of a Justice of the Peace who is formally assigned by an Or 1990, c J.4, specifically and exclusively to the Central West Region (Brampton). Nevertheless, this specific judicial officer purport Region without the absolute requisite geographic transfer order having been formally executed, signed, and gazetted pursuant to sec
27. Such a flagrant administrative transmogrification constitutes an *Irremediable Nullity* and represents a quintessential, textbook mani *Mirzoyan*, 2019 ONSC 3862, and drawing upon foundational, unshakeable historical precepts robustly articulated in *R. v. Jarma* betwixt distinctly legislated judicial regions absent a formal, written section 599 order are strictly impermissible, statutorily barred, emanating from a tribunal fundamentally lacking strict territorial and geographical competence is a legal nullity *ab initio*, renderi unlawful, arbitrary, and actionable under section 9 of the *Charter*.

PART VIII: TECHNOLOGICAL SILOING AND THE FORENSIC METAMORPHOSIS

28. The cryptographic, structural, and forensic analysis of the False Information Package reveals deep, systemic architectural deviations demonstrating instead a catastrophic structural collision between modern civil drafting practices and the strict, archaic requirements
29. The ICON database, exclusively mandated for the processing of OCJ criminal matters, rigorously requires a strict, sequential seve eIntake systems securely operated by police, and programmatically generates *Form 2* instruments complete with immutable, c provenance. Conversely, the FRANK system, utilized extensively and almost exclusively by the Superior Court family division, op solely with the Justice Services Online portal—a civil processing system completely devoid of the necessary penal processing ca required for warrants.

30. The False Information Package is forensically contaminated with a myriad of irreconcilable anomalies: a non-compliant six-digit iden terminology within a purportedly criminal instrument, computation drifts explicitly tied to the specific calculation methodologies c programmatic +1 day algorithmic error unique to civil time-computation software), and the undeniable, deeply embedded programma
31. It is critically observed that the requisite standard of review herein evaluates the evidence on a balance of probabilities, a thresh concatenation of mismatched footers, the bizarre presence of thirteen disparate, clashing font encodings indicative of multiple docu the judicial signature was stripped entirely from the document—yielding a fatal "Item already has an owner" object exception withi cavil that the document is an amalgamated, stitched, and entirely fraudulent instrument. This specific, highly technical exception is attempts to erroneously stitch together pre-existing, distinct PDF object dictionaries that contain conflicting structural hierarchies a was artificially assembled *post-facto*.
32. A true, judicially valid cryptographic digital signature mathematically hashes the precise byte-structure of a document, irrevocably SOLGEN or the TPS subsequently utilized GrapeCity software to digitally "stitch" the civil endorsement into an unsworn, blank cryptographic hash is instantaneously and permanently invalidated. The absolute absence of any verifiable PKI validation or unb incontrovertible, forensic proof of unauthorized, post-production manipulation by state entities operating entirely outside of the author

PART IX: CUSTODY, CONTROL, AND CPIC AUDIT TRAILS

33. The governing jurisprudence concerning the production of state and judicial records dictates that overarching legal control, rather tha standard for compelling production. This fundamental, unyielding principle is comprehensively articulated in *Hale v. Ontario Crimina* the Supreme Court of Canada in *Canada (Information Commissioner) v. Canada (Minister of National Defence)*, 2011 SCC 25, transferring physical custody of records to ancillary agencies.
34. As extensively elucidated in the authoritative framework of *Dagg v. Canada (Minister of Finance)*, [1997] 2 SCR 403, the definition technologically broadly to encompass all underlying digital architecture, active metadata, deleted artifact fragments, and networ instrument is artificially sequestered in a silo, technologically displaced, or intentionally deleted from active outward-facing database over the infrastructure and is constitutionally obliged to produce the surviving metadata to expose the procedural irregularity and halt
35. Concurrently, the CPIC offline historical database maintains an immutable, multi-layered, and cryptographically secure audit trail of binding Order MO-4542 by the Office of the Privacy Commissioner of Canada, the Royal Canadian Mounted Police (the "RCMP") e is legally bound to fulfill formal *Privacy Act* requests. A targeted query into Personal Information Bank RCMP PPU 005 will definiti encompassing all ADD, MODIFY, and CANCEL operations—that permanently capture the precise Terminal ID, originating IP addres User ID responsible for maliciously injecting this *Irremediable Nullity* into the national enforcement apparatus.

PART X: PUBLIC INTEREST ISSUE – IS THIS A SYSTEMIC ISSUE?

36. It must be forcefully observed that a profound, overarching public interest issue is fundamentally engaged herein, necessitating imm circumvention of penal procedural architectures by state actors. The Ministry of the Attorney General Court Services Division asserting that: *"Warrants of arrest (also known as Warrants in the First Instance) may or may not be filed with the court... If a warra only publicly accessible after the accused has been arrested..."* This generalized administrative directive is structurally nonsensical a mandatorily required by law to securely retain a true, unalterable copy of the foundational *acta*, irrespective of whether seconda instruments within divergent jurisdictional courthouses.
37. It is respectfully submitted that a documented *modus operandi* of the TPS has materialized, evidencing a deeply entrenched sys analogous authorizations equally capable of being issued by a Justice of the Peace or an Ontario Court Judge—directly from jurisdiction. The tactical preference for this irregular avenue is manifestly designed to intentionally circumvent the integrated, meticul Mr. Sinnadurai in formal correspondence dated June 25, 2025, and July 4, 2025, the investigating detective or arresting officer r "Warrant in the First Instance"), which is subsequently and maliciously manipulated via external software prior to its eventual, signific

IN CHAMBERS

38. In the alternative, should the Crown or the state affirmatively posit that the adjudicative process transpired entirely within the privat Madam Justice Shore would have necessarily reviewed the sworn *Information* absent the retention of a physical copy with predominantly and explicitly in her designated capacity as the Family Team Leader, Justice Shore exercises a highly robust admini structural assignment and coordination of judicial duties amongst the bench. Given the expansive, time-sensitive scope of this admin administrative latitude, time, and inherent authority to rapidly review the *Information* and issue the corresponding arrest warrant from be expeditiously transitioned along the administrative chain of custody, effectively offboarded to the registry clerks for immediate proc archived within the judicial office. Nevertheless, the mere transience of the physical document across the judicial desk does not co paramount, non-delegable duty to maintain a permanent, immutable record of the authorization within the Originating Courthouse.

LEGAL ANALYSIS: TRANSMISSION OF AN INFORMATION AND SECTION 599

39. The fundamental inapplicability of section 599 of the *Criminal Code* to the present factual matrix must be unequivocally established. to legally justify the absolute absence of a transfer order or the systemic failure to transmit the record from the Superior Court of Ju bankrupt. Section 599(1) explicitly and strictly applies solely to "a court before which an accused is or may be indicted." As the Crow not face an indictment. Consequently, section 599 is statutorily inapplicable to summary conviction proceedings *in limine*. Furtherm Venue" provision, historically designed to facilitate the geographic relocation of a jury trial (e.g., transferring proceedings from Toro pre-trial publicity or localized risk. It was never intended by Parliament, nor can it be legally contorted by the Crown, to serve as a initial charging document from the swearing judicial officer to the provincial intake registry.
40. The procedural architecture dictating the movement of an *Information* from the Superior Court of Justice to the Ontario Court o jurisdiction of Ontario, all criminal proceedings necessarily commence within the OCJ, irrespective of the ultimate severity of th imperative for a warrant, an *Information* is sworn before a "justice" pursuant to section 504 of the *Criminal Code*. While this functio Court judges are statutorily recognized as *ex officio* justices. Therefore, an SCJ judge—even one principally presiding upon the far informant's oath and authorize the warrant. Crucially, however, the mere swearing of the *Information* before an SCJ judge does not l trial purposes. There exists no formal statutory requirement for a court-to-court transfer order. Once the SCJ judge executes the transports that sworn *Information* and administratively files it with the OCJ clerk's office (the Intake Court). The onus of filing rests a the docket for the accused's inaugural appearance. Because the matter never formally resided within the SCJ trial architecture, a tra instrument sworn before a judicial officer acting solely in their limited capacity as a justice.
41. A highly critical, constitutionally fatal procedural defect materializes regarding the physical and digital alteration of the foundati subsequently and inexplicably replaced by an "Intake Court Endorsement" (colloquially termed a backing sheet), coupled with th constitutes a profound irregularity. A rigorous legal distinction must be drawn between administrative endorsement pages and th merely as an administrative ledger for clerks and justices to contemporaneously record remands, bail parameters, and Crown elec document sworn under oath. If law enforcement physically or digitally excised the specific page containing the substantive counts th replaced or appended to it post-oath, the instrument is hopelessly compromised. A sworn *Information* cannot be materially altere pages following the administration of the oath. If amendments are necessitated prior to the first appearance, law enforcement is originally sworn before the SCJ judge diverge in any capacity from those subsequently filed within the OCJ, it is respectfully subm actually sworn under oath, thereby generating a fatal jurisdictional flaw that entirely vitiates the court's authority over the document a
42. Regarding the temporal parameters for the transmission of the *Information*, the distinction between the swearing and the filing of t October 2, 2024, and an inaugural appearance date of November 13, 2024, the legal sequence is strictly defined. To secure the pursuant to section 504 of the *Criminal Code* strictly prior to the October 2 execution. The subsequent physical or electronic tra administrative duty. The absolute, unyielding deadline for law enforcement to file the instrument with the OCJ registry is strictly prior t appearance (November 13, 2024). Section 505 of the *Criminal Code* dictates that an *Information* must be laid "as soon as practical

notice or undertaking." Because the instant *Information* was theoretically previously sworn to secure the warrant, the police possess to guarantee the physical paperwork was successfully deposited at the OCJ intake desk to populate the docket.

43. Applying the statutory mechanics of the *Criminal Code* and the rigid strictures of court administration to the specific factual matrix i constitutional imperative of the court of record must be fiercely affirmed. As a tribunal of inherent jurisdiction, the Superior Court of , and is ultimately responsible for maintaining the initial, signed arrest warrant. Should the *Form 2 Information* have been laid via tele (Telewarrants), the physical instrument would not have been filed at the SCJ synchronously. The informant would swear the oath rem process. If, however, the police neglected to provide a draft *Form 7* (Arrest Warrant) *ab initio*, the administrative execution of the University Avenue architecture, the first-floor administrative clerks execute these exact components. In such a scenario, a clerk of t warrant on behalf of Justice Shore, subsequently transmitting an electronic copy to the Detective in Charge. Notwithstandi telecommunication or in private chambers by Justice Shore, and despite the electronic transmission of a copy to law enforcement f Justice) permanently retains the original. Because the SCJ is a constitutionally entrenched court of record and inherent jurisdiction electronic record—must immutably reside within the repository of the issuing court.

PART XXI(A): THE POTENTIAL COUNTER-ARGUMENT ON SECTION 599 WHEN (AVOIDING THE REQUIREMENT OF AN APPLICATION BY THE CROWN OR ACCU THE RECORD) (RESULT REMAINS THE SAME)

44. The present issue concerns profound procedural irregularities and jurisdictional defects effectuated by law enforcement, which fu circumvention of established procedural mandates, coupled with the unauthorized substantive alteration of sworn testimonial instrum

POTENTIAL Inapplicability of Section 599 of the Criminal Code

45. The postulation that section 599 of the *Criminal Code*, RSC 1985, c C-46 (the "*Criminal Code*") governs the transmission of the ch The statutory architecture of section 599 is strictly delineated to govern matters wherein an accused is, or may be, indicted before the
46. Given the explicit prosecutorial election to proceed via summary conviction, the foundational statutory prerequisites of section 599 said provision *ultra vires*. It may be advanced by the Crown, or queried by the Presiding Divisional Court President, that section 59 administrative transfer of documents between judicial levels. However, such a proposition is fundamentally flawed and contrary to unambiguously functions as a specific change-of-venue mechanism reserved exclusively for jury trials traversing territorial divisions inter-jurisdictional transmission of an initial charging document.

The Jurisdictional Mechanics of Information Transmission

47. Pursuant to section 504 of the *Criminal Code*, the swearing of an information (the "**Information**") before a jurist of the Superior Cou does not *ipso facto* vest trial jurisdiction within the Superior Court of Justice.
48. The subsequent transmission of the Information to the Ontario Court of Justice is effectuated not by formal judicial decree or transf police duties. The law enforcement apparatus bears the unequivocal burden of physically or electronically remitting the sworn Info formally instantiate the matter upon the judicial docket.

Material Alterations to Sworn Testimonial Instruments and Irremediable Nullities

49. The unilateral extraction and subsequent substitution of the third page of the Information by law enforcement—a document encom the prosecutorial election—constitutes an **Irremediable Nullity**.
50. A sworn Information is a solemn testimonial instrument; any substantive post-oath modification administered by law enforcem foundational integrity of the document *in limine*, rendering it void *ab initio*. Opposing counsel may attempt to characterize this substit curable under the curative provisions delineated within section 601 of the *Criminal Code*. Such a counter-argument must be ur extinguishes the very existence of the oath, transforming the document into an unsworn nullity that cannot be retroactively cured by a
51. Consequently, any subsequent judicial appearance compelled by such a fatally defective instrument occurs strictly *Coram Non Judic*

Statutory Timelines Governing the Transmission of the Information

52. The statutory exigencies delineated within section 505 of the *Criminal Code* mandate that an Information be laid as soon as pract appearance.
53. Predicated upon the initial apprehension effectuated on October 2, 2024, the law enforcement authorities were imbued with an abs ensure the physical or digital manifestation of the Information was successfully docketed at the Ontario Court of Justice. The deliber during the intervening weeks created an undocumented administrative chasm, thereby affording the authorities an illicit opportunity to
54. **The Originating Court of Record and the Retention of the Arrest Warrant**
55. The Superior Court of Justice, operating as a constitutionally entrenched court of inherent jurisdiction and an official court of record, i
56. Whether the arrest warrant (the "**Arrest Warrant**") was authorized via telecommunication pursuant to section 508.1 of the *Crimi* originating courthouse unequivocally retains the master record. The assertion advanced by court administration that the Superior incongruous with the foundational legal doctrine of the Presumption of Regularity pertaining to judicial record-keeping.
57. The failure of the arresting officers to produce the properly executed Form 7 Arrest Warrant upon apprehension, relying instead up court endorsement (the "**Intake Court Endorsement**"), directly contravenes section 29 of the *Criminal Code*, which commands the p

Procedural Irregularities, Forum Shopping, and Abuse of Process

58. The procurement of the Arrest Warrant from a jurist presiding within the family division of the Superior Court of Justice—rather than scrutinized portals overseen by an experienced criminal Justice of the Peace at the Ontario Court of Justice—evinces a calculated forum shopping.
59. By exploiting the geographical proximity of 52 Division to the courthouse situated at 361 University Avenue, Toronto, the law enforc enumerated within the *Criminal Proceedings Rules for the Superior Court of Justice (Ontario)*, SI/2012-7 (the "*Rules*"). It is a wel incongruent with the requisite jurisdictional authority or established procedural mandates, the maxim *Factum A Judice, Quod Ad Offic*
60. Furthermore, the alleged substitution of documentation featuring the unauthorized signature of an Ontario Court of Justice of the P Such obfuscation destroys the *status quo ante*, thereby necessitating immediate judicial intervention by the reviewing court to de

restore the integrity of the administration of justice. All applicable jurisprudence supporting this rigorous standard of documenta
Authorities at Tab 1 and Tab 2.

PART XII: FORMAL REQUISITION FOR IMMEDIATE PRODUCTION

44. Predicated upon the exhaustive factual, deeply forensic, and sweeping jurisprudential foundation rigorously delineated above, it is
digital artifacts, and metadata logs be produced to the undersigned with absolute, uncompromising immediacy within your custody a
Review Board (1999) (ONCA):

    a. The unadulterated judicial endorsements, specifically including the natively generated “Intake Court Endorsement” e
    environment, prior to any external interception, export, or GrapeCity SDK manipulation;

    b. The original, mathematically verifiable *Criminal Code Form 2 Information* or *Criminal Code Form 4 Indictment*, comp
    certifications originating from the moment of purported issuance;

    c. c. Any physical or digital arrest warrant, process issuance record, or *pre-enquête* material that historically precede
    stitching process;

    d. All server-side execution logs, Active Directory authentication records, system routing documents, machine-readabl
    utilized by the Originating Courthouse and secondary state actors to synthesize the False Information Package;

    e. All corresponding RCMP PPU 005 CPIC transactional audit logs detailing the specific User IDs, Terminal IDs, IP a
    modification, or maintenance of the contested warrant upon the national registry.

45. Compliance with this formal requisition is stringently demanded by the cessation of regular business hours on the exact date of th
delayed, or otherwise circumvented through administrative inertia, a formal, written declaration of absolute denial is strictly re
declaration, the undersigned shall reasonably, logically, and irrevocably conclude that institutional, administrative, and adjudicative
implicitly confirmed. Such confirmation thereby necessitates immediate, elevated appellate and constitutional interventions to safeg
breach of the rule of law.

46. Kindly confirm or deny forthwith whether or not the SCJ 361 University Avenue (1st floor) had or has a copy of any endorsements inv
Shore is the team leader of the family division of that courthouse, she can provide a simple “yes” or “no”. If no response is provided,

47. Since this matter involves not only the open court principle under our Charter, and the judiciary has custody and control of recor
Judicature Sections of the Constitution Act, 1867, it is a matter that is assigned by law to the judiciary and the staff must be dire
(apparently not something well known to the TPS with its Grape.City.PDF manipulation) to the Primus Inter Pares of the SCJ.

48. With all of these steps taken by Justice Shore involving my life, liberty and security, if she had no role in the same, she is entitled
Registrar, Manager of Court of Operations, Superior and/or clerk of the court) However, before he does retire, there is much impor
and court clerks as required by our Constitution Of Canada including compliance with Constitution Act, 1867, and Constitution Act, 19

49. Kindly inform me positively or negatively by the deadline tomorrow as I am entitled to the same forthwith but nonetheless I reserve al

Respectfully submitted,

/KAM

Mr. Kevin A. McLean (B.A., J.D., CIM)

Applicant / Accused

Toronto, Ontario

2 attachments

T-2448-26 - Kevin Alexander McLean v. Royal Canadian Mounted Police et al - Stamped Copy - May 19 - 2026.pdf
1066K View as HTML Scan and download

Rule 317 Request - T-2448-26 - McLean v. RCMP - Applicant - Mr McLean - 19-May-2026 - SIGNED - FILED - SERVED.pdf
585K View as HTML Scan and download

Tab B

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Gmail Mr. Kevin McLean <mcleansettlement@gmail.com>

Re: Mr. Kevin A. McLean v. His Majesty The King - involving, inter alia, an Intake Court Endorsement issued in chambers (without recording device apparatus) involving, inter alia, the CJ of the SCJ (Mr. Justice Morawetz) in the Fall of 2024 - confirmation of service and personal service and filing today

Mr. Kevin McLean <mcleansettlement@gmail.com> Thu, May 21, 2026 at 9:47 AM
To: "Simion, Monica (MAG)" <monica.simion@ontario.ca>, "Marjadsingh, Natasha (MAG)" <Natasha.Marjadsingh@ontario.ca>

URGENT AND FINAL NOTICE

DELIVERED VIA ELECTRONIC MAIL

TO: Ms. Monica Simion

Manager of Court Operations

Superior Court of Justice – Toronto Region

361 University Avenue

FROM:

Mr. Kevin A. McLean (BA, JD, CIM)

Applicant / Self-Represented

DATE: May 21, 2026

SUBJECT: Notice of Default Regarding Mandatory Rule 43.03(3) Certificate – Notice of Application and Constitutional Issues RE: His Majesty The King v. Mr. Kevin A. McLean (Originating Court File at the Originating Courthouse involved at the Originating Court Office: Unknown; Police Case ID: 45197 (RCMP (Toronto West Detachment located in Milton, Ontario) (nota bene: which is oddly geographically in proximity to the fictitious justice of the peace in Mr. George Jiri of the OCJ Brampton Courthouse (who worked in major crimes and human trafficking before appointment to being a JP in 2024 (January) which works with the RCMP on a various cross-jurisdiction and joint operations due to jurisdictional issues involving human trafficking)

Dear Ms. Simion:

This correspondence serves to formally demand immediate compliance with the mandatory obligations prescribed by Rule 43.03(3) of the *Criminal Proceedings Rules* of the Superior Court of Justice (Ontario).

As institutional records will verify, the Manager of Court Operations was formally served approximately one month ago with a comprehensive Form 1 (Notice of Application) and

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Form 5 (Notice of Application and Constitutional Issue, including Schedule A). Concurrent service was effectuated upon the former Chief Justice. All procedural requirements mandated by the *Criminal Code* and the *Criminal Proceedings Rules* have been strictly observed.

The receipt of the Form 1 activated the statutory obligation incumbent upon the Manager of Court Operations. Pursuant to Rule 43.03(3), there is a mandatory directive to "forthwith" transmit the record and the requisite certificate to the clerk of the court where the application is returnable.

Presently, a state of non-compliance has persisted for approximately thirty days, thereby exceeding any reasonable administrative timeframe. The substantive hearing regarding the constitutional relief and damages sought against the Crown and other respondents is scheduled for June 19, 2026, which is now less than thirty days away.

As delineated in the application materials, this matter is returnable before the Superior Court of Justice at the Newmarket Courthouse (Central East Region). This venue selection is predicated upon a documented apprehension of bias and conflicts of interest concerning the Toronto Region judiciary, including specific justices and the former Chief Justice. This jurisdictional transfer remains a legally sound necessity and does not vitiate the administrative duty of the Toronto Region office to transmit the requisite files.

In the event that the registry's position is that no such record exists within its custody or control, the statutory framework requires the immediate issuance of a formal "nil" certificate confirming this absence. Upon the receipt of such a certificate, reliance will be placed upon Rule 43.03(7) to petition a presiding judge at the Newmarket Courthouse for an order directing a further or amended return. Nonetheless, something is better than nothing and will obviate any follow-up from my side to you. To confirm this demand is independent of my entitlement to the Information/Indictment upon request and without fee including any endorsement (see: section 2 and 7 of the MAG (Ontario) Guide regarding access to court documents).

For contextual clarity, it has been established that the Police Case ID (45197) referenced in the materials corresponds to an investigation by the Royal Canadian Mounted Police (Toronto West Detachment). Distinct, albeit collateral, proceedings are concurrently before the Federal Court of Canada concerning this agency; a copy of the stamped Notice of Application from that proceeding is enclosed herewith to demonstrate the authenticity of the filed materials. Furthermore, evidence suggests administrative irregularities regarding digital signatures and document generation software (specifically, the use of the RCMP software development kit, GrapeCity.Documents.PDF 6.0.2.0) associated with the originating materials. Should an internal Superior Court of Justice file number exist for this matter, it is formally requested that it be disclosed immediately. It is further noted that an “Information Number” is frequently withheld until an accused is arrested or brought before the court, whether at the originating or transferee court level.

Final Ultimatum:

Should the requested Rule 43.03(3) certificate, or alternatively a formal "nil" certificate, not be provided by noon today, it will be necessary to escalate this procedural default. Initially, this will involve drawing the matter to the attention of the current Acting Chief Justice, The Honourable Madam Justice McWatt, to request administrative intervention to correct the non-compliance.

Failing an immediate administrative resolution, an urgent Motion for Directions will be filed at the Newmarket Courthouse, seeking a peremptory order to compel compliance within twenty-four hours. Additionally, it must be noted that the sustained delay in producing the foundational record may be advanced in substantive arguments as evidence of state-induced obfuscation, constituting a continuing breach of rights protected under the *Canadian Charter of Rights and Freedoms*.

However, internal escalation will be pursued initially to establish a comprehensive record of administrative conduct across governmental branches, noting that the Manager of Court Operations retains exclusive statutory discretion over these specific obligations.

The specific reference to the originating Police Case ID is necessitated by observed administrative anomalies, including the involvement of Court Officer Frugoni-Rojas, whose publicly disclosed remuneration (via the Public Sector Salary Disclosure Act) indicates a substantial compensation increase in 2025. Put another way, the reference to the TPS Occurrence Number is the False Information Package, which is re-attached for your ease of reference, is yet another fiction - de facto and de jure.

While standard administrative delays within court registries are understood, the prolonged deferral in this matter suggests a departure from standard procedural equity and statutory compliance.

Compliance with the statutory duties and professional oaths of office, including the obligation to execute all laws impartially and consistently, is anticipated. Time remains of the essence. Govern yourself accordingly.

I reserve the right to rely on this correspondence for any lawful purpose including the above purposes and costs along with further damages for my damage and loss which is bordering on cruel and unusual treatment (not punishment) (see: section 12 of the Charter).

Thank you kindly.

Sincerely,

Mr. Kevin A. McLean (BA, JD, CIM)

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On Fri, May 1, 2026 at 4:43 PM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

DATE: May 1, 2026
SENDING METHOD: Via Electronic Mail (Email)
CLASSIFICATION: Private and Confidential; For Intended Recipient(s) Exclusively
TRANSCRIBED VIA: Dictated with voice recognition software (an absolute reservation of rights is maintained for the retroactive correction of any administrative or transcription anomalies)
SUBJECT: Confirmation of removal of the SCJ Civil Intake Email Account in perpetuity and return to normalcy with respect to the non-waivable requirements under the Criminal Code and Criminal Proceedings Rules of SCJ Ontario

I. IDENTIFICATION OF SENDER AND TRANSMISSION COORDINATES

Reply to: Mr. Kevin A. McLean (BA, JD, CIM) (DOB: March 25, 1983; Driver's Licence: M16514331830325)
Reply via Electronic Mail: mcleansettlement@gmail.com
Reply via Facsimile: 416.981.7117
Telephonic Coordinates (applicable exclusively in the event of systemic failure of electronic mail or facsimile): (647) 370-9354
Sender's Status: Applicant, Self-Represented

II. RELEVANT PARTICULARS OF THE PROCEEDING

- **Style of Cause:** His Majesty The King v. Mr. Kevin A. McLean (BA, JD, CIM) (the "**The King v. K.A. McLean**")
- **Temporal Genesis of the Criminal Proceeding:** Year 2024
- **Designated File Enumeration:** 24-457197 (or encompassing the corresponding numerical string or digits), which is to be precisely and definitively clarified by the court office (the "**Court Office**") where the criminal proceeding (the "**Criminal Proceeding**") was ostensibly commenced in 2024, being that of the Superior Court of Justice, 361 University Avenue Courthouse.
    - *Nota Bene:* It is formally declared that this enumeration remains structurally and jurisprudentially distinct from any "information number" generated or provided by the non-originating courthouse (the "**Non-Originating Courthouse**") situated at the Ontario Court of Justice, 10 Armoury Street. Furthermore, it is asserted that said enumeration did not constitute a Toronto Police Services Board occurrence number as improperly contained within the erroneous and fabricated information package (the "**False Information Package**" or "**Fictitious Information Package**").
- **Originating Court Office: 1st Floor** of the Superior Court of Justice, 361 University Avenue Courthouse.
- **Originating Courthouse:** Superior Court of Justice, 361 University Avenue Courthouse.
- **Locus of the Ex Parte In Camera Hearing(s):** Conducted clandestinely within the judicial chambers (office) of an undisclosed Superior Court of Justice jurist (Chief Justice Morawetz), occurring on or around and/or on or around after Friday, September 20, 2024, and prior to October 2, 2024.

III. STATUTORY AND PRESCRIBED FILING REQUIREMENTS

- **Geographic Imperative of Filing:** The prescribed locus for filing is strictly mandated to be the court office (the "**Court Office**") where the proceeding was commenced, herein defined as the originating court office (the "**Originating Court Office**") within the originating courthouse (the "**Originating Courthouse**"). This remains absolute, save for instances where filings are executed *in limine* during the course of a hearing, or where the rules explicitly dictate otherwise, precisely as mandated by *Rule 4.05(1)* of the *Criminal Proceedings Rules of the Superior Court of Justice (Ontario)*.
- **Statutory Exception to General Filing Jurisdiction:** An explicit exception to the aforementioned *Rule 4.05(1)* of the *Criminal Proceedings Rules of the Superior Court of Justice (Ontario)* is invoked pursuant to *Rule 4.05(3)* of the *Criminal Proceedings Rules of*

the Superior Court of Justice (Ontario), which dictates that an affidavit, record, or factum designated for utilization upon the hearing of an application shall be filed with the court office (the "**Court Office**") located in the jurisdiction where the hearing is scheduled to be held.

- **Deemed Date of Filing:** May 1, 2026.

IV. DESIGNATED RECIPIENT

TO:

The court office (the "**Court Office**") where the criminal proceeding (the "**Criminal Proceeding**") was commenced.
This transmission is executed in strict accordance with the mandatory strictures of the *Criminal Proceedings Rules of the Superior Court of Justice (Ontario)* (the "**Criminal Proceedings Rules**"), enacted pursuant to *Section 482(1)* of the *Criminal Code*, RSC 1985, c C-46, which are universally applicable to all proceedings, inherently encompassing an application (see: *Rule 1.01* of the *Criminal Proceedings Rules of the Superior Court of Justice (Ontario)*)
SUPERIOR COURT OF JUSTICE OF ONTARIO

Toronto Region

361 University Avenue Courthouse

Floor: One (1)

Toronto, Ontario M5G 1T3

ATTENTION: The Manager of Court Operations, Ms. Monica Simion (with formal copies directed to the Supervisor of Court Operations, Ms. Natasha Marjadsingh) for the Originating Court Office

V. NATURE OF TRANSMITTED INSTRUMENT and time of submission

Type of Document: Email
Deemed Date of Filing: Friday, May 1, 2026 at 440 pm. (on or around)

Dear Ms. Simion and Ms. Marjadsingh:

1. It is with a commitment to unyielding procedural rectitude that this correspondence is directed to your respective offices. Under customary and tranquil administrative circumstances, a formal expression of contrition would undoubtedly be proffered for appending your offices to preceding electronic correspondence that was ostensibly extraneous to your designated purview. However, it must be forcefully articulated that the genesis of this procedural misfortune—and the most bafflingly irrelevant and disjointed electronic missive ever received by the Applicant in the context of these proceedings—was not catalyzed by the Applicant.

2. The inescapable inferences drawn from that administrative deflection emanating from the civil intake (the "**Civil Intake**") are entirely self-evident. It is hereby formally confirmed that the aforementioned civil intake (the "**Civil Intake**") electronic address has been permanently excised from all prospective communications. This excision is necessitated to ensure the Applicant's unyielding compliance with the strictures imposed by the *Criminal Proceedings Rules of the Superior Court of Justice (Ontario)*. Said rules unequivocally mandate that the Applicant serve and file originating processes strictly within the originating court office (the "**Originating Court Office**") where the impugned adjudication

was conducted, and where any warrant, subpoena, compulsory directive, or intake court endorsement (the "**Intake Court Endorsement**") was precipitously rendered.

3. Consequently, a steadfast and uncompromising adherence to all statutory, regulatory, and prescribed requirements shall be perpetually maintained by the Applicant. It is judicially acknowledged that navigating this labyrinthine jurisdictional matrix undoubtedly constitutes a highly irregular and unique administrative encumbrance for the esteemed recipients of this correspondence, acting in your respective capacities as Manager and Supervisor of Court Operations. Nevertheless, it must be recognized that the Applicant is saddled with this constitutionally fraught predicament through absolutely no fault of his own.

4. By inexorable operation of law, it remains the non-delegable and solemn duty of the Manager of Court Operations at the originating court office (the "**Originating Court Office**") to formally execute the requisite certificate upon the *Form 1 Notice of Application* and to certify the same under the strict penalty of perjury. This certification process acts as a necessary predicate to the satisfaction of the *Form 22 Requisition*, the efficacy of which is wholly contingent upon the precise enumeration and indexation of all relevant documents, instruments, papers, physical evidence, and all other items touching upon the factual matrix of this matter.

Nota Bene (I) - Anticipatory Rebuttal on Certification Jurisdiction: Should the administrative apparatus attempt to disavow its obligation to certify the *Form 1 Notice of Application* on the pretext that the referenced file enumeration does not formally reside within its localized registry database (due to fraudulent obfuscation or systemic compartmentalization), such a defense is fundamentally eviscerated by the doctrine of *omnia praesumuntur rite et solemniter esse acta*. The originating court office (the "**Originating Court Office**") cannot utilize its own internal record-keeping anomalies—or the deliberate concealment of an intake court endorsement (the "**Intake Court Endorsement**")—as an administrative shield to evade its statutorily prescribed duty of certification. The physical genesis of the coercive order irrevocably commands the locus of the certification.

Nota Bene (II) - Constructive Bailment of Judicial Records: Furthermore, under the equitable and structural extrapolation of the doctrine of constructive bailment concerning judicial records, the originating court office (the "**Originating Court Office**") is perpetually bound as a fiduciary to account for all instruments of state coercion birthed within its physical precincts. An administrative failure to categorize an *ex parte* judicial act does not extinguish the registry's absolute liability to produce the record of that act upon proper requisition.

5. It is formally confirmed that the Applicant possesses no inherent power, equitable right, or juridical privilege to waive, abrogate, or otherwise modify any mandatory statutory imperatives delineated under the *Criminal Proceedings Rules of the Superior Court of Justice (Ontario)*. Consequently, the precise ambit of the documents, instruments, and records residing within the custody or ultimate control of the Manager of Court Operations, and the corresponding scope of her solemn certification, shall be strictly and unilaterally determined by her office. Upon a subsequent judicial review of said certification, the necessity for an amended return may crystallize; however, any such responsive procedural maneuver shall be held in abeyance pending the close of business on Monday, May 4, 2026. Following this temporal threshold, diligent inquiry and subsequent follow-up shall be effectuated directly with the Clerk of the Court at the designated adjudicative forum where the Applicant's respective *Notices of Application* are scheduled to be heard.

6. In light of the unfortunate and dilatory detour precipitated by the aforementioned errant electronic correspondence—a maneuver which squandered a minimum of three hours of collective adjudicative time, causing significant prejudice to the Applicant—it is rigorously anticipated that by the close of business on Monday, May 4, 2026, formal confirmation shall be provided demonstrating that the executed certificate has been transmitted, at

minimum electronically, to the Clerk of the Court at the Superior Court of Justice in Newmarket, Ontario.

7. This orchestrated obfuscation fundamentally underscores the imperative necessity of having drafted, served, and filed a novel *Form 1 Notice of Application* and *Form 5 Notice of Application and Constitutional Issue*, thereby neutralizing any prospective conflicts of interest. The blatant institutional maneuvering and substantive confusion evident in the afternoon's correspondence from the civil registry incontrovertibly validates the Applicant's prior apprehensions. The separation of these proceedings to the Central East Region acts as the sole bulwark against localized administrative contamination.

8. While this electronic transmission possesses an inherent informality when contrasted with sworn affidavits, its immediate dispatch is an absolute necessity to guarantee that all relevant procedural practice notations are formally recorded. It is imperative that your respective offices are fully seized of these constitutional and prescribed imperatives prior to the cessation of today's business operations, thereby crystallizing the administrative record.

9. An absolute, unqualified, and continuing reservation of rights is maintained to rely upon the instant correspondence for any lawful objective, including, but not limited to, the incontrovertible substantiation of strict procedural compliance and the preservation of the judicial record.

Thank you for your anticipated and mandatory compliance with the prescribed Criminal Proceedings Rules and the Form 1 of the Criminal Proceedings Rules with respect to the FORTHWITH certification and provision of documents, records, exhibits, papers and things that touch this proceeding.

DRAFTED AND EXECUTED BY:
Mr. Kevin A. McLean (BA, JD, CIM)
Applicant, Self-Represented

Warm regards,

Mr. Kevin A. McLean (BA, JD, CIM)

Chartered Investment Manager

Email: mcleansettlement@gmail.com

Fax: 416.981.7117

Phone number: 647.370.9354

On Fri, May 1, 2026 at 4:08 PM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

> **DATE:** May 1, 2026
>
> Sending method: Via Email
>
> Classification: Private and Confidential

5036

Dictated with voice recognition software (reservation of rights for correction of any administrative errors)

SUBJECT: Authoritative Procedural Clarification involvig an errant sender of an email this afternoon which has no relevant to this criminal proceeding (on its face), Confirmation of Service upon the Chief Justice, and on the Manager of Court Operations at the Originating Court Office at the Originating Courthouse (see: SCJ 361 University Avenue, 1st Floor)

I. IDENTIFICATION OF PROCEEDINGS AND RECORD OF INSTRUMENTS EXAMINED

It is hereby mandated that the subsequent pronouncements serve as the formal and authoritative response to the preceding electronic correspondence. It is affirmed that no initial electronic transmission was effectuated on this date; however, it is definitively determined that the procedurally correct chain of correspondence is annexed hereto for the preservation of the judicial record. The meticulous preservation of the adjudicative history is paramount to ensuring that all structural irregularities and unauthorized `acta` (the "**Acta**") are systematically documented and subsequently addressed before a competent tribunal.

The following instruments and records have been meticulously reviewed, catalogued, and relied upon in the formulation of this comprehensive legal directive:

Item	Nomenclature and Description of Legal Instrument	Temporal Designation
1.	*Electronic Correspondence Chain Initial Emails - Confirming Service - McLean v The King*	April 30, 2026
2.	*Electronic Correspondence Chain CONFUSED RESPONSE - WRONG DEPT - SCJ CIVIL INTAKE*	May 1, 2026
3.	*Form 1 - Notice of Application*	April 29, 2026
4.	*Form 5 - Notice of Application and Constitutional Issue*	April 29, 2026
5.	*Form 22 - Requisition*	April 30, 2026

II. DISAVOWAL OF ADMINISTRATIVE FRAMEWORKS, CONSCIOUSNESS OF GUILT, AND CONFIRMATION OF CRIMINAL JURISDICTION

1. It is unequivocally declared that the substantive matters canvassed herein operate entirely independently of any administrative access requests governed by the *Freedom of Information and Protection of Privacy Act* or analogous regulatory statutes. The attempt to subordinate a paramount criminal constitutional challenge to the pedestrian constraints of an administrative transparency regime represents a fundamental

misapprehension of statutory and prescribed hierarchies. Conversely, all actions, applications, and filings detailed hereunder are executed strictly and exclusively pursuant to the *Criminal Code*, RSC 1985, c C-46, and the *Criminal Proceedings Rules of the Superior Court of Justice (Ontario)*. Nonetheless, it is explicitly confirmed that the Applicant shall continue to exercise all rights independently with respect to any FIPPA and Non-FIPPA access mechanisms, as such endeavors remain procedurally sovereign from the constitutional litigation.

2. Furthermore, the bizarre and procedurally incoherent electronic response emanating from the `civil intake` (the "**Civil Intake**") apparatus—which absurdly referenced the provision of "Ontario Court of Justice records"—sustains an unavoidable inference of institutional obfuscation, profound administrative panic, and an acute consciousness of guilt. By erroneously citing the provincial court level while nominally operating as a superior court registry, the administrative apparatus has definitively validated the assertion of profound jurisdictional incompetence. It is a foundational legal truth that *ex nihilo nihil fit*; an entity utterly devoid of the requisite statutory mandate cannot spontaneously generate lawful judicial process, nor can it legitimately dictate the trajectory of a superior court constitutional challenge.

3. It is submitted that this deliberate mischaracterization of a constitutional application as a routine civil records request operates as a calculated, bad-faith stalling tactic. This stratagem is transparently engineered to exhaust the temporal mandate of Chief Justice Morawetz prior to his imminent vacation of judicial office on May 15, 2026. Such a constructive refusal to adjudicate constitutes an egregious affront to the rule of law, representing a deliberate institutional firewall designed to insulate the Chief Justice from constitutional scrutiny during his final tenure. The resulting prejudice necessitates immediate judicial intervention to restore the lawful `status quo ante` (the "**Status Quo Ante**").

4. Consequently, it is formally pronounced that following the transmission of the instant correspondence, the `civil intake` (the "**Civil Intake**") electronic correspondence address shall be permanently excised and excluded from all future communications. The registry's contumacious refusal to comprehend the constitutional magnitude of these proceedings renders any further engagement with said department a futile exercise in administrative circularity. Notwithstanding this pronounced administrative failure, this final response is proffered in the spirit of uncompromising professional courtesy, ensuring that such procedural aberrations do not recur, even proceeding upon the charitable, albeit improbable, assumption that the deflection was an innocent bureaucratic misadventure.

III. EFFECTUATION OF SERVICE, THE FAMILIAL APPARATUS, AND PRONOUNCEMENT OF PROCEDURAL NULLITIES

5. Formal confirmation is hereby provided that Geoffrey B. Morawetz, Chief Justice of the Superior Court of Justice, was duly and impeccably served on April 30, 2026, precisely at 9:30 a.m. It is a foundational axiom of procedural jurisprudence that a judicial officer is not personally served via face-to-face physical confrontation. Rather, service is lawfully, definitively, and completely effected upon a presiding judge when the requisite originating instruments are deposited at the relevant `court office` (the "**Court Office**"), meticulously adhering to the strictures delineated within *Rule 5.02(1)(c)* of the

Criminal Proceedings Rules of the Superior Court of Justice (Ontario). This statutorily prescribed requirement was flawlessly executed at 9:30 a.m. yesterday.

6. Consequently, it is declared that this perfected service operates entirely independently of the electronic correspondence at issue, which functioned merely as an ancillary and confirmatory mechanism. The requisite certificates and affidavits of service have been comprehensively prepared and finalized, thereby establishing an indisputable *prima facie* record of strict statutory and prescribed compliance. Service upon the Chief Justice operates as the ultimate institutional safeguard, ensuring that the highest echelons of the provincial judiciary are seized of the pervasive structural irregularities alleged herein.

7. Service was similarly effectuated upon the Manager of Court Operations at the physical locus identified as the first floor of 361 University Avenue, Toronto, Ontario. It is a matter of incontrovertible geographical and administrative record that this specific locus operates exclusively as the familial jurisprudence intake office. The localization of this judicial administration is inextricably tied to Madam Justice Shore. Consequently, the utilization of this specific familial apparatus for the execution of a clandestine, *ex parte* criminal endorsement inextricably binds the aforementioned judicial officer to the structurally fraudulent machinations of Chief Justice Morawetz. This surreptitious maneuver unequivocally engages the doctrine of *fraus omnia corrumpit*, a deeply entrenched principle elucidated in *Lazarus Estates Ltd. v. Beasley*, [1956] 1 QB 702 (the "*Lazarus Estates*"), which dictates that fraud unravels everything, vitiating the foundational legitimacy of any resulting order or endorsement and stripping the participating jurists of any presumptive administrative immunity.

8. It is judiciously acknowledged that Ms. Simion may not have occupied the station of Manager of Court Operations at the originating `court office` (the "**Court Office**"), situated on the first floor of the 361 University Avenue courthouse, during the genesis of these infractions. Nevertheless, by virtue of her current administrative incumbency, she is now inescapably seized of the statutory and prescribed requirements flowing from said office, bearing the burden of this institutional legacy entirely independent of her own personal fault or origination. For an extended duration, the administrative apparatus eschewed honesty and forthrightness, choosing instead to cloak these proceedings in institutional opacity. However, this dark chapter of judicial administration has been incontrovertibly exposed and substantiated through exhaustive forensic analysis and the rigorous pursuit of alternative evidentiary conduits. Irrespective of these sustained obfuscations, it is categorically affirmed that valid service was lawfully effected upon the incumbent Manager of Court Operations of the originating `court office` (the "**Court Office**") and, at the absolute minimum, upon one of the judicial officers who presided over the impugned, clandestine `intake court endorsement` (the "**Intake Court Endorsement**").

   Nota Bene: Should the respondent Crown or the administrative apparatus aver that the effectuation of service at the familial registry is structurally defective on the grounds that it lacks the requisite criminal jurisdiction to process such instruments, such an anticipated counter-argument is fundamentally paralyzed by the doctrine of estoppel. The administrative apparatus cannot simultaneously claim the jurisdictional competence to issue a clandestine `intake court endorsement` (the "**Intake Court Endorsement**") from said physical locus while concomitantly denying the jurisdictional

competence of that identical locus to receive the statutorily prescribed service requisite to challenge that very endorsement. The originating administrative node, regardless of the fraudulent nature of its initial assumption of authority, remains the mandatory forum for the filing of the originating process to effectively and lawfully bind the participating actors to their nullified `acta` (the "**Acta**").

9. It was explicitly articulated by the personnel operating therein that said location does not constitute the formally prescribed `court office` (the "**Court Office**"). In light of this admission, any prior adjudication, determination, or intake court endorsement allegedly rendered at said location is, *ipso facto*, a complete nullity. Such administrative or judicial actions are entirely bereft of jurisdictional foundation, having been conducted entirely *ultra vires*, and must be characterized comprehensively as *coram non judice*.

10. The distinction between a mere procedural irregularity and an absolute jurisdictional nullity is not a superficial semantic discrepancy; it is the fundamental demarcation between a curable administrative defect and an incurable usurpation of state power. A direct contravention of the *Criminal Proceedings Rules of the Superior Court of Justice (Ontario)* by an unauthorized, phantom familial registry engenders an incurable statutory and prescribed defect, rendering the resulting legal instruments entirely void *ab initio*. It is an indisputable tenet of constitutional law that no state entity may rely upon fabricated instruments or jurisdictional usurpations to circumvent the fundamental guarantees enshrined within *Section 7*, *Section 8*, and *Section 11* of the *Canadian Charter of Rights and Freedoms* (the "*Charter*").

11. This assertion of jurisdictional nullity is forcefully buttressed by the constitutional principles articulated in *Reference re Residential Tenancies Act, 1979*, [1981] 1 SCR 714 (the "*Residential Tenancies Reference*"). In said jurisprudence, the Supreme Court of Canada affirmed the inviolability of the core jurisdiction of superior courts, establishing that an entity, tribunal, or unconstituted registry lacking the requisite constitutional, statutory, and prescribed jurisdiction cannot validly execute judicial functions. Applying this deeply entrenched doctrine, any adjudicative determinations emanating from an unauthorized or fictitious forum fail the structural, historical, and institutional tests of judicial competence.

IV. ADHERENCE TO PRESCRIBED RULES AND PROSPECTIVE ADJUDICATION

12. Notwithstanding the aforementioned jurisdictional infirmities of the purported registry, it is affirmed that a rigorous and uncompromising adherence to the *Criminal Proceedings Rules of the Superior Court of Justice (Ontario)* has been maintained by the applicant. Specifically, strict compliance with *Rule 4.05* of the *Criminal Proceedings Rules of the Superior Court of Justice (Ontario)* was achieved by depositing the requisite requisition and originating documentation with the physical office where the impugned determinations were ostensibly formulated, as said rule mandates that all filings, except those made *in limine* during a hearing, must be filed with the originating office.

13. To ensure absolute compliance with the prescribed procedural framework, it is confirmed that a subsequent and exclusive electronic communication shall be directed solely to the Manager of Court Operations situated on the first floor of the 361 University Avenue courthouse. This physical locus, despite its inherent jurisdictional infirmities and familial designation, remains the *de facto* originating `court office`

(the "**Court Office**") for the strict purpose of perfecting statutory and prescribed compliance. The preservation of the open court principle demands that such institutional machinations be dragged into the adjudicative light, adhering strictly to the ancient maxim *fiat justitia ruat caelum*.

14. It is further confirmed that the Attorney General of Ontario and the Attorney General of Canada are currently in the process of being formally served, strictly in accordance with the statutory and prescribed frameworks for constitutional litigation. All subsequent submissions necessitated hereunder shall be transmitted via prescribed electronic filing mechanisms, guaranteeing that the respective Crown authorities are perpetually seized of the constitutional imperatives raised herein.

15. The substantive `criminal proceeding` (the "**Criminal Proceeding**") is firmly scheduled to be adjudicated within the Central East Region, specifically at the Newmarket courthouse, in June 2026. The transplantation of the adjudication to this specific venue further ensures the preservation of the judicial record and provides a neutral, constitutionally sound forum completely insulated from the administrative irregularities and jurisdictional usurpations documented at the originating locus.

V. EVIDENTIARY RESERVATION AND FINAL DECLARATIONS

16. An absolute, unqualified, and continuing reservation of rights is maintained to rely upon the instant correspondence for any lawful objective, including, but not limited to, the incontrovertible substantiation that valid legal service upon Chief Justice Morawetz was impeccably executed at 9:30 a.m. yesterday. This evidentiary reservation encompasses the right to proffer these communications as a testament to the exhaustion of administrative remedies and the necessity of immediate, extraordinary judicial intervention. Furthermore, this exhaustive record of correspondence shall be expressly relied upon and affirmatively tendered before the precise adjudicative forum where the Applicant's *Form 1 Notice of Application* and *Form 5 Notice of Application and Constitutional Issue* are returnable and scheduled to be heard.

17. It is formally declared that no further concessions, waivers, or procedural capitulations shall be inferred from the continued participation in these fractured administrative processes, and all rights *strictissimi juris* are hereby preserved in perpetuity.

18. On a go forward basis to the SCJ Civil Intake email, no further responses will be afforded to such an email account as it is not relevant to a criminal proceedign and the nature of the emails herein. I appreciate that mistakes can occur but on its face (to borrow the language from the manipuated intake court endorsement), this comes across as abusive of the process and somewhat subtely threatening or extortionist. I will not be intimidated or deterred from my legal rights.

DRAFTED AND EXECUTED BY:

Mr. Kevin A. McLean (BA, JD, CIM)

Applicant, Self-Represented

Warm regards,

Mr. Kevin A. McLean (BA, JD, CIM)

Chartered Investment Manager

Email: mcleansettlement@gmail.com

Fax: 416.981.7117

Phone number: 647.370.9354

On Thu, Apr 30, 2026 at 11:54 AM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

Date: April 30, 2026
Classification: intended recipients only

Reply to: Mr. Kevin A. McLean (BA, JD, CIM) (DOB: March 25, 1983; Driver's Licence: M16514331830325)
Reply via email: mcleansettlement@gmail.com
Reply via fax: 416.981.7117
Phone number (in the event of an issue with an email or fax): (647) 370-9354
Sender's Status: Applicant

Relevant Particulars

- **Style of cause:** *His Majesty The King vs. Mr. Kevin A. McLean (BA, JD, CIM) (the "The King vs. K.A. McLean")*
- **Year of commencement of the Criminal Proceeding**: 2024
- **Known or presumed file number:** 24-457197 (or with that number string or digits) and to precisely clarified by the "Court Office" where the Criminal Proceeding 'was commenced' in 2024 being that of SCJ 361 University Avenue Courthouse[i]
- **Originating "Court Office" where the Criminal Proceeding was commenced:** 1st floor of SCJ 361 University Avenue Courthouse
- **Originating Courthouse:** SCJ 361 University Avenue Courthouse

Filing Requirements pursuant to Criminal Proceeding Rules based upon the

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- Place of filing: in the "Court Office" where the Proceeding was commenced (the "Originating Court Office" within the Originating Courthouse") except where they are filed in the course of a Hearing or where the rules provide otherwise (see: Rule 4.05(1) of the Criminal Proceeding Rules)
- Exception to Rule 4.05(1) in relation to place of filing: An affidavit, transcript (none), record or factum to be used on the hearing of an application shall be filed with the "Court Office" in the place where the hearing is TO BE HELD (see: Rule 4.05(3))
- Deemed date of filing and service of documents as of today's date: April 30 at 9:30 a.m.

- Deemed date of this email: 11: 50 a.m. on April 30, 2026

To:

Superior Court of Justice of Ontario ("SCJ")
361 University Avenue Courthouse
1st floor
Judicial Administration
Toronto, Ontario

Attention: Manager of Court Operations (kind attention: Ms. Monica Simion)

Attention: a person in chart of the "Court Office" in the place where the adjudication was made

Subject: filing of Form 22 under the Criminal Proceeding Rules pursuant to, inter alia, Rule 4.08(1)

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

Please find attached my duly completed and duly executed Form 22 under the Criminal Proceeding Rules that requires the Manager of Court Operations at the Originating Courthouse of the Originating Court Office to send them to the clerk of the court Superior Court of Justice (Central East Region) 50 Eagle Street West, Newmarket, Ontario L3Y 6B1. I confirm that I have not found any prescribed fees per se but to the extent that you say that there are fees so prescribed associated with the same, kindly provide me with the required monetary amount so I can remit payment. I do see under Reg 293/92, the amount of, albeit imprecise and to be determined (if applicable) under section 1(1) 6. For making up and forwarding of papers, documents and exhibits, $105, plus any applicable transportation costs. While much of this may be covered by the requirement under Rule 43.03 and contained in Form 1, I note that "sending" is distinct from "forwarding" along with the potential of "making up" is not included under Rule 4.08(1). Nonetheless, should you believe an amount is owed including transportation costs, I remain available to review the same.

I will include a copy of this document in any event in the Application Record out of an abundance of caution.

Thank you.
Respectfully submitted,
Mr. Kevin A. McLean (BA, JD, CIM)
Enclosures

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[i] which is distinct from an "information number" provided by the non-originating courthouse (a "Non-Originating Courthouse") of OCJ 10 Armoury Street Courthouse (which was not a Toronto Police Services Board ("TPS") occurrence number contained in the erroneous information package (the "False Information Package" or "Fictitious Information Package")Type of document: enclosure of the Applicant's Book of Authorities for the hearing of his Form 5 Notice of Application ("NOA") and Constitutional Question (the "Form 5 NOCQ") and the hearing of the Applicant's Form 1 NOA (the "Form 1 NOA") as of March 24, 2026, subject to a potential joint book of authorities or additional authorities predicated upon any additional authorities that are material or relevant to any additional facts, evidence or documents arising between now and the date of the hearing on May 13, 2026

Warm regards,

Mr. Kevin A. McLean (BA, JD, CIM)

Chartered Investment Manager

Email: mcleansettlement@gmail.com

Fax: 416.981.7117

Phone number: 647.370.9354

On Thu, Apr 30, 2026 at 11:20 AM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

Date: April 30, 2026
Classification: intended recipients only

Reply to: Mr. Kevin A. McLean (BA, JD, CIM) (DOB: March 25, 1983; Driver's Licence: M16514331830325)
Reply via email: mcleansettlement@gmail.com
Reply via fax: 416.981.7117
Phone number (in the event of an issue with an email or fax): (647) 370-9354
Sender's Status: Applicant

Relevant Particulars

- **Style of cause:** *His Majesty The King vs. Mr. Kevin A. McLean (BA, JD, CIM) (the "The King vs. K.A. McLean")*
- **Year of commencement of the Criminal Proceeding**: 2024
- **Known or presumed file number:** 24-457197 (or with that number string or digits) and to precisely clarified by the "Court Office" where the Criminal Proceeding 'was commenced' in 2024 being that of SCJ 361 University Avenue Courthouse[i]
- **Originating "Court Office" where the Criminal Proceeding was commenced:** 1st floor of SCJ 361 University Avenue Courthouse
- **Originating Courthouse:** SCJ 361 University Avenue Courthouse

Filing Requirements pursuant to Criminal Proceeding Rules based upon the

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- Place of filing: in the "Court Office" where the Proceeding was commenced (the "Originating Court Office" within the Originating Courthouse") except where they are filed in the course of a Hearing or where the rules provide otherwise (see: Rule 4.05(1) of the Criminal Proceeding Rules)

- Exception to Rule 4.05(1) in relation to place of filing: An affidavit, transcript (none), record or factum to be used on the hearing of an application shall be filed with the "Court Office" in the place where the hearing is TO BE HELD (see: Rule 4.05(3))
- Deemed date of filing and service of documents as of today's date: April 30 at 9:30 a.m.
- Deemed date of this email: 11:13 a.m. on April 30, 2026

To:

Superior Court of Justice of Ontario ("SCJ")
361 University Avenue Courthouse
1st floor
Judicial Administration
Toronto, Ontario

Attention: Manager of Court Operations (kind attention: Ms. Monica Simion)

Attention: a person in chart of the "Court Office" in the place where the adjudication was made

Subject: confirmation of service on the Manager of Court Operations and personal service on Chief Justice of the SCJ (The Honourable Justice CJ GB Morawetz) as of today's date this morning

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

Out of an abundance of caution, I write to confirm that at approximately 9:31 a.m. this morning (April 30, 2026), service was effected of my Form 1 Notice of Application and Form 5 Notice of Application and Constitutional Question on the Manager of Court Operations where the order or determination was made by reference to the "Court Office" at issue (the "Originating Court Office") at the Originating Courthouse (see: Rule 5.01(3)).

I also confirm that the judge in question, with the benefit of new evidence since the time of the previous documents denoted above, Chief Justice Morawetz was personally served pursuant to Rule 5.02(1)(c) by leaving a copy of the document with a person in charge of the "Court Office" in the place where the adjudication was made.

Moreover, to the extent that compliance with any other provisions such as Rule 5.01(1) was required, although it is debatable whether an "Intake Court Endorsement" amounted to a warrant or an order, at best it was a determination made, it was effected at the time denoted above.

For the purpose of filing pursuant to the Criminal Proceeding Rules, I confirm that the attached documents are now filed electronically in compliance with Rule 5 as they are notices of application and are required to be filed electronically in the "Court Office" in which the proceeding was commenced and they are not filed in the course of a hearing per se (see: Rule 4.05(1)).

I further confirm that since the Notices of Application (one a Form 1 and another a Form 5) are and were not affidavits, transcripts, records or factums, they are filed in the "Court Office" where the proceeding was commenced and not where it is to be heard. You will note the address and location of where the Notices of Application will be heard in light of the conflicts of interest, lack of independence and lack of impartiality or at least the appearance thereof due to the office and region in which Chief Justice Morawetz was and is located for the time being along with his connection to

Madam Justice Shore. In this regard and for record keeping purposes, I will be relying heavily on the McIntosh v. Shore, McWatt, and Morawetz decisions wherein Madam Justice Shore defamed the plaintiff to some 90 other Judges in the Toronto Region but not outside of the same. As such, my applications cannot be heard in the Toronto Region and must be heard outside of it; therefore, I have chosen the Central East Region (Newmarket Courthouse) for the date thereon. I can also confirm that my Application Record is complete and will be filed at said courthouse along with any factum(s).

While perhaps somewhat of an inconvenience to your "Court Office" to be required to transmit the documents to the Central East Region, Newmarket courthouse (SCJ), I am not the cause of that but I thank you in any event for doing so forthwith as required by the Criminal Proceeding Rules.

I confirm that as of this morning the Manager of Court Operations is in receipt of the Notice of Application Form 1, which will be the final and only NOA as per the new evidence discovered since March 2026. The Manager of Court Operations is required to forthwith return to the clerk of the court where the Application is returnable (Central East Region, Newmarket Courthouse) true copies of any order, warrant, indictment, information, exhibits, and any other documents touching the matter, along with the required form of certificate denoted in the Criminal Proceeding Rules along with a certification.

As there are no underlying proceedings to continue, Chief Justice Morawetz cannot order that such proceedings continue as they were null and void at the time of in my view the act taken by him orally in chambers with an INTAKE COURT ENDORSEMENT (SEPT 23 2024), since that was and is not a process or warrant as required under the Criminal Code. However, to the extent there are distinguishing features from that which was gleaned from the falsified documentation filed with the OCJ 10 Armoury Street Courthouse or created internally by said courthouse (the “Transferee Courthouse”), then it was null and void when the falsification occurred and became part of the record at OCJ 10 Armoury Street Courthouse. Since I have never seen any “order” and an Intake Court Endorsement does not amount to an “order” but at best a direction, I reserve my rights to make further submissions, which can be done by way of factum or other evidence.

Thank you for your prompt attention to the obligations that have arisen as of today’s date and I will check with the Central East Region courthouse at issue by end of day tomorrow. Should you need more time than that, kindly advise so I am not unnecessarily following up with the Central East Region Newmarket courthouse (SCJ).

Respectfully submitted,
Mr. Kevin A. McLean (BA, JD, CIM)
Enclosures

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[i] which is distinct from an “information number” provided by the non-originating courthouse (a “Non-Originating Courthouse”) of OCJ 10 Armoury Street Courthouse (which was not a Toronto Police Services Board (“TPS”) occurrence number contained in the erroneous information package (the “False Information Package” or “Fictitious Information Package”)Type of document: enclosure of the Applicant’s Book of Authorities for the hearing of his Form 5 Notice of Application (“NOA”) and Constitutional Question (the “Form 5 NOCQ”) and the hearing of the Applicant’s Form 1 NOA (the “Form 1 NOA”) as of March 24, 2026, subject to a potential joint book of authorities or additional authorities predicated upon any additional authorities that are material or relevant to any additional facts, evidence or documents arising between now and the date of the hearing on May 13, 2026

Warm regards,

Mr. Kevin A. McLean (BA, JD, CIM)

Chartered Investment Manager

Email: mcleansettlement@gmail.com

Fax: 416.981.7117

Phone number: 647.370.9354

On Mon, Mar 30, 2026 at 11:06 AM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

Acknowledgement of Ms. Simion's Auto-Reply and Welcome to Sancha Clarke

Dear Court Staff and Legal Professionals,

I am writing to acknowledge receipt of Ms. Simion's auto-reply regarding her current absence. I appreciate her prompt communication and clarity in notifying us of this temporary change.

I warmly welcome Ms. Sancha Clarke, who will be serving as the substitute during Ms. Simion's leave. I value your support and expertise, and I am grateful for your willingness to assist during this period.

Thank you in advance for your cooperation and continued professionalism as we navigate this staff transition. Please do not hesitate to reach out to Ms. Clarke for any assistance required.

Yours sincerely,

Kevin A. McLean (BA, JD, CIM)

APPENDIX

Ms. Simion's Auto-Reply Message:

Hello, Bonjour

Thank you for your email. I am attending an - all day meeting today, my response time may be slower than usual. I will get back to you as soon as possible.

If your matter is urgent please contact sancha.clarke@ontario.ca

Warm regards,

Mr. Kevin A. McLean (BA, JD, CIM)

Chartered Investment Manager

Email: mcleansettlement@gmail.com

Fax: 416.981.7117

Phone number: 647.370.9354

On Mon, Mar 30, 2026 at 9:10 AM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

Date: March 30, 2026

Classification: Intended Recipients Only

Reply to: Mr. Kevin A. McLean (BA, JD, CIM) (DOB: March 25, 1983; Driver's Licence: M16514331830325)

Reply via email: mcleansettlement@gmail.com

Reply via fax: 416.981.7117

Phone number (in the event of an issue with an email or fax): (647) 370-9354

Sender's Status: Applicant

(nota bene: a similar letter if not the same will be sent to the email thread regarding access to the Information/Indictment and any Endorsements pursuant to the *AJA* and its attendant regulation along with the guidance from the MAG CSD Court Information Access Guide (2019))

RELEVANT PARTICULARS

- **Style of Cause:** *His Majesty The King v. Mr. Kevin A. McLean* (the "**The King v. K.A. McLean**")
- **Year of Commencement of the Criminal Proceeding:** 2024
- **Known File Number:** 24-457197 (or with that number string or digits, subject to precise clarification by the court office (the "**Originating Court Office**") where the criminal proceeding (the "**Criminal Proceeding**") was commenced in 2024, being that of the SCJ 361 University Avenue Courthouse)
- **Originating Court Office:** 1st floor of SCJ 361 University Avenue Courthouse (the "Originating Court Office")
- **Originating Courthouse:** SCJ 361 University Avenue Courthouse (the "**Originating Courthouse**")
- **Location in the Originating Courthouse of the Ex Parte In Camera Hearing(s):** Conducted within the highly restricted, physically inaccessible judicial chambers of the undisclosed SCJ Judge on or after Friday, September 20, 2024, and prior to October 2, 2024. The clandestine nature of this location fundamentally exacerbates the prejudice flowing from the subsequent destruction of the record.
- **Name of the Informant:** Represented to be Court Officer (Toronto Region) Mrs. Frugoni-Rojas, a part-time contractor to the Toronto Police Service (the "**TPS**"). It is respectfully submitted that this designation constitutes a deliberate, calculated, and systemic fabrication embedded within the purportedly sworn materials (the "**False Information Package**"). This assertion is incontrovertibly corroborated by the recent revelation that, pursuant to the strict, uncompromising statutory dictates of section 508.1 of the *Criminal Code*, RSC 1985, c C-46 (the "**Criminal Code**"), informations laid other than in person necessitate a highly specific, legally binding statutory declaration. Specifically, the declarant must explicitly state that all matters contained within the information are true to their knowledge and belief. The calculated, surgical omission of the requisite page four of six from the False Information Package deliberately obfuscates the absolute absence of

this mandatory statutory statement. This statement operates not as a mere procedural formality, but as a substantive, foundational jurisdictional prerequisite, entirely distinct from a mere physical or electronic signature. The failure to perfectly and flawlessly adhere to this statutory mandate renders the originating process fundamentally defective, establishing a total absence of jurisdiction *ab initio*.

- **Deemed Sworn Date of the Undisclosed Informant or Signature on the Form 4 Indictment:** September 23, 24, or 25, 2024, as logically extrapolated from the stringent timeline flags governing the constitutional right to be tried within a reasonable time, established in *R. v. Jordan, 2016 SCC 27* (the "*Jordan*"), which are embedded within the metadata of the False Information Package.
- **Name of the Presiding Jurist and Document Type:** Name: The Honourable Madam Justice Sharon Shore (the "**Madam Justice Shore**")
  - Conventional Area of Jurisdiction: Family Law
  - Primary Location: Originating Courthouse
  - Designation Therein: Family Law Team Leader for the Originating Court Office
  - Judicial Chambers: Undisclosed floor and office number within the Originating Courthouse
  - Secondary Location: Divisional Court, 130 Queen Street West, Toronto, Ontario
  - Document Type: Intake court endorsement (the "**Intake Court Endorsement**"), purportedly issued in lieu of a Form 6 Summons or Form 7 Warrant for Arrest.
  - Contents Therein: Statutorily and constitutionally mandated to be disclosed forthwith by the Originating Court Office and any concurrent custodial or administrative entities possessing physical, digital, or networked control over said records.
- **Date of the Applicant's Arrest:** October 2, 2024, at approximately 7:30 p.m.
- **Location of the Applicant's Arrest:** TPS 14th Division, located at 350 Dovercourt Road, Toronto (the "**TPS 14th Division**")
- **Arresting Police Officers:** Constable Mr. Anthony Romano (Badge No. 6097) and Detective Constable Mr. Michael Roman Kolankowski (Badge No. 82239) of the TPS 14th Division.
- **Date of Form 10 Undertaking and Signatories:** October 2, 2024; executed by Mr. Kevin A. McLean and Sergeant Mr. Sean Cassidy.
- **TPS Occurrence Numbers and Dates at Issue:**
- Date: September 22, 2024; Number: 24-2082035
  - Date: September 15, 2024; Number: 2024-2028093 (Case Manager: Eric Tang, Badge No. 10942)
- **Authorizing Officer for Release from Imprisonment:** Detective Mr. Abulhameed K. Virani of the TPS 52nd Division.
- **CPIC Information (Originating Agency Identifiers):**
  - 52nd Division: ON30247
    - 14th Division: ON30243

- TPS Headquarters: ON30244

FILING REQUIREMENTS PURSUANT TO THE CRIMINAL PROCEEDING RULES

- **Place of Filing:** The Originating Court Office, subject to the strict exceptions delineated wherein documents are filed directly in the course of a hearing or where alternative statutory mandates unequivocally prevail pursuant to Rule 4.05(1) of the *Criminal Proceedings Rules for the Superior Court of Justice (Ontario)*, SI/2012-7 (the "**Criminal Proceeding Rules**").
- **Exception to Rule 4.05(1):** Pursuant to the procedural mechanics of Rule 4.05(3) of the *Criminal Proceeding Rules*, any affidavit, evidentiary record, or factum intended for the adjudication of an application hearing shall be filed specifically in the court office corresponding to the geographic location where the hearing is prospectively scheduled to convene.
- **Deemed Date of Filing of this Document:** March 30, 2026 (deemed date of filing the Form 1 and Form 5 herein, March 16 and 18, 2026)

Filed with or to: SCJ 361 University Avenue Courthouse 1st Floor Toronto, Ontario Attention: Manager of Court Operations, Ms. Simion

SUBJECT: Further Constitutional, Statutory, and Jurisprudential Analysis Pertaining to the Absolute Obligation to Preserve, Extract, and Produce Court Records — Demanded Forthwith in the Paramount Public Interest and in accordance with the Charter, the Administration of Justice Act and its regulation(s), the Criminal Code and the Criminal Proceedings Rules of the SCJ (2024)

Dear Madam, Sirs, Mesdames, and Bearers of Other Gender-Neutral Pronouns:

I extend my formal gratitude for your indulgence in reviewing this correspondence, the express purpose of which is to entirely and prospectively eliminate any potential for confusion or misunderstanding regarding my absolute legal entitlements. This specifically concerns the strict administrative requirements imposed upon the Executive Branch, and more particularly, the obligations legally binding the Manager of Court Operations in relation to the Court Office where this Criminal Proceeding was ostensibly commenced in excess of eighteen months prior. To ensure the provision of a fully comprehensive articulation that covers all outstanding jurisdictional anomalies, while simultaneously confirming my proactive willingness to assist the administrative apparatus where legally permissible and technologically applicable, I have meticulously drafted this notice to ensure that all jurisprudential and operational bases are covered *per se*. Should you have any questions, queries, or require specific clarification, I demand that you contact me forthwith so that I may immediately explain or elucidate the necessary technical or legal exposition.

I. THE AXIOMATIC NATURE OF THE OPEN COURT PRINCIPLE AND THE CONSTITUTIONAL IMPERATIVE OF A RECORDED PROCEEDING

1. It is submitted that the jurisprudence of this jurisdiction, and indeed the broader Anglo-Canadian legal tradition, unequivocally reinforces the inviolable sanctity of the open court principle. This foundational doctrine is not merely an administrative preference; it is deeply and permanently entrenched within the foundational architecture of section 2(b) of the *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982 (UK)*, 1982, c 11 (the "**Charter**"). A superior court of inherent jurisdiction speaks exclusively and undeniably through its formal record. The Superior Court of Justice and the Ontario Court of Justice operate inherently and statutorily as courts of record, a defining, unalterable status expressly codified under section 11 of the *Courts of Justice Act*, RSO 1990, c C.43 (the "**Courts of Justice Act**"). When a court of record egregiously fails to generate, preserve, or subsequently produce the very documentation that memorializes its sovereign decrees, it ceases to function as a court of law. In such a vacuum of accountability, it devolves rapidly into an unchecked apparatus of arbitrary state power, fundamentally hostile to the rule of law.
2. The necessity for the meticulous, enduring, and technologically verifiable preservation of a public record is not a mere procedural formality, a bureaucratic suggestion, or a dispensable administrative nicety. Rather, it constitutes a profound, non-delegable public duty and the absolute bedrock upon which judicial accountability is constructed. As elucidated with striking clarity and binding authority by The Honourable Justice Durno in *R. v. Spajic, 2003 CanLII 48210 (ON SC)* (the "*Spajic*"), relying upon the authoritative pronouncements in *R. v. Hannemann*, [2002] OJ No 3350 (SCJ) (the "*Hannemann*") and drawing heavily from the historical mandates of the Zuber Report: "The creation of a record in criminal proceedings fulfils a 'public duty' and is a 'basic requirement' of a trial." The issuance of any judicial endorsement, particularly an Intake Court Endorsement authorizing the coercive, physical detention of a citizen, fundamentally demands an unimpeachable, permanently accessible documentary foundation. The physical deprivation of liberty is the most severe, draconian sanction the state can violently impose prior to an actual finding of guilt; therefore, the documentary authorization for such a catastrophic deprivation must be perpetually verifiable, forensically sound, and strictly immune from arbitrary deletion.
3. Consequently, the astonishing, unprecedented admission by Mr. Sinnadurai, legal counsel formally employed by the Ministry of the Attorney General, conveyed in written correspondences dated June 25, 2025, and July 4, 2025, must be scrutinized with maximum judicial rigor. The explicit, formalized concession that an exhaustive internal and external audit of the Criminal E-Intake Portal yielded absolutely zero record of any filing involving the Applicant, Court Officer Mrs. Frugoni-Rojas, or Justice of the Peace Jiri, elevates this matter far beyond the mundane realm of routine administrative oversight. This complete, ontological absence of an originating process establishes a fundamental jurisdictional nullity that irremediably taints, poisons, and invalidates all subsequent state actions, rendering the entire prosecution an incurable abuse of process.

4. *Nota Bene regarding Potential Counter-Arguments on Curable Irregularities:* It is heavily anticipated that opposing counsel may attempt to mitigate this catastrophic systemic failure by proffering the desperate argument that the absence of the record constitutes a mere, curable procedural irregularity pursuant to the remedial provisions of section 485 or section 686(1)(b)(iv) of the *Criminal Code*. The Crown will likely rely heavily upon an expansive misreading of the jurisprudence flowing from *R. v. Krannenburg, 1980 CanLII 15 (SCC)* (the "*Krannenburg*"). This proposition is fundamentally flawed, intellectually untenable, and constitutionally offensive. Section 485 operates exclusively and narrowly to cure procedural inadvertence—such as the failure of a jurist to act at a specific, statutorily mandated time regarding routine adjournments or minor remands. It is wholly, unequivocally, and permanently impotent to cure the total, inexplicable absence, destruction, or intentional spoliation of the originating process or the Intake Court Endorsement itself. The absolute non-existence of the sworn information entirely deprives the court of its jurisdiction *ratione materiae* (subject-matter jurisdiction) and *ratione personae* (personal jurisdiction) *ab initio*. Applying the venerable doctrine of *omnia praesumuntur rite esse acta* (the presumption of regularity) is conceptually absurd and legally impossible in this specific factual matrix, precisely because the Crown's own authorized agent has affirmatively, in writing, conceded the absolute non-existence of the record. One cannot presume the regularity of a document that the state admits does not exist. Therefore, the defect is demonstrably not an irregularity capable of retroactive, *ex post facto* rectification, but an absolute, unmitigated nullity. This structural void renders any subsequent deprivation of liberty, specifically including the Applicant's aggressive arrest on October 2, 2024, entirely *ultra vires* and tantamount to a profoundly unconstitutional arbitrary detention, triggering egregious, actionable violations under section 9 of the *Charter*.

II. THE STRUCTURAL VULNERABILITY, INFORMATION ASYMMETRY, AND DEMOCRATIC PERIL OF EX PARTE AND IN CAMERA PROCEEDINGS

5. The Applicant's constitutional posture is rendered exceedingly perilous, and the state's reciprocal obligations to maintain transparency are correspondingly elevated to their absolute zenith, by the undeniable operational fact that the foundational Intake Court Endorsement was ostensibly generated during an *ex parte* and *in camera* proceeding. The intersection of these two highly clandestine, inherently secretive procedural realities engenders a unique, highly dangerous structural vulnerability within the justice system. It places the targeted accused in a position of extreme, virtually insurmountable informational asymmetry. A proceeding conducted entirely in secret, fiercely shielded from the purifying light of public scrutiny and completely devoid of adversarial challenge, relies entirely and exclusively upon the absolute, unquestionable integrity of the presiding jurist and the subsequent, flawless preservation of the record by the registry to maintain any fragile semblance of democratic legitimacy.

6. As definitively established by the Supreme Court of Canada in the seminal decision of *Dersch v. Canada (Attorney General), 1990 CanLII 3820 (SCC)* (the "*Dersch*"), an accused must

absolutely be granted meaningful, timely access to the sealed packet to effectuate their right to make full answer and defence. When a coercive endorsement is generated *ex parte*, the resultant documentary record is typically sealed by strict operation of law and placed immediately into the exclusive, highly restricted, and electronically fortified custody of the court registry. Consequently, the accused is rendered entirely reliant upon the unimpeachable integrity of the state apparatus and the judiciary to rigorously, securely preserve documents the accused has never been permitted to review, challenge, or authenticate. If the court apparatus itself—acting either through unacceptable gross negligence, catastrophic systemic incompetence, or contumacious, deliberate design—destroys or permanently deletes the Intake Court Endorsement prior to the accused's first meaningful opportunity to challenge its facial and sub-facial validity, the foundational authority for the state's coercive action evaporates instantaneously. The resulting constitutional prejudice is incalculable; the accused is violently subjected to the full coercive power of the state apparatus without any available mechanism to verify whether the initial judicial authorization was predicated upon fabricated police evidence, improper legal tests, or, most alarmingly, whether it ever actually existed at all.

7. *Nota Bene regarding Potential Section 1 Justification Arguments (The Oakes Test Failure):* It is highly probable that opposing counsel or the Presiding Judge might advance an alternative, fallback legal theory asserting that the failure to preserve the record, while deeply unfortunate, constitutes a reasonable limit on the Applicant's rights, demonstrably justified in a free and democratic society pursuant to section 1 of the *Charter*. This demands a rigorous application of the framework established in *R. v. Oakes, 1986 CanLII 46 (SCC)* (the "*Oakes*"). However, this argument is destined for spectacular, immediate failure *in limine*. The *Oakes* test possesses an absolute, non-negotiable threshold requirement: before any balancing of societal interests can even be contemplated, the limit on the *Charter* right must be explicitly "prescribed by law." The arbitrary destruction, spoliation, or systemic deletion of a foundational court record operates in direct, hostile contravention of section 11 of the *Courts of Justice Act*, which statutorily mandates the creation and perpetual maintenance of a record. Furthermore, such destruction violates the strict records retention schedules promulgated by the Ministry of the Attorney General itself. Because the deletion is fundamentally unlawful, unauthorized by any statute, and constitutes an *ultra vires* act of administrative spoliation, it cannot, by any stretch of legal interpretation, be deemed "prescribed by law." Therefore, the *Oakes* analysis is immediately aborted at the first step. Consequently, the severe breaches of section 7, section 9, and section 11(d) of the *Charter* are rendered absolute, irremediable, and entirely incapable of constitutional justification.

III. SPOLIATION, UNACCEPTABLE NEGLIGENCE, AND THE TOTAL FRUSTRATION OF THE RIGHT TO MAKE FULL ANSWER AND DEFENCE

8. It is an irrevocably established, foundational principle of fundamental justice that the Crown, its policing agencies, and the judicial registry bear an inescapable, overarching, and continuous constitutional burden to rigorously preserve evidence relevant to a prosecution. The inexplicable spoliation, permanent deletion, or systemic destruction of said evidence catalyzes a

direct, profound, and often terminal infringement of the rights guaranteed and protected under section 7 and section 11(d) of the *Charter*. The destruction of a judicial authorization is emphatically not merely the loss of a piece of paper or a corrupted file pathway; it is the total obliteration of the legal mechanism that lawfully subjects a free citizen to the perilous machinery of the criminal justice system.

9. To properly, holistically assess the devastating constitutional ramifications of the missing Intake Court Endorsement, and to formulate the appropriate, likely terminal, judicial remedy, it is absolutely imperative to dissect and forensically analyze the precise parameters of the destruction. As strictly mandated by the Supreme Court of Canada in *R. v. La, 1997 CanLII 309 (SCC)* (the "*La*"), where original, foundational documents have gone inexplicably missing while in the exclusive custody of the state, the Crown bears an affirmative, extremely heavy legal obligation to satisfactorily explain the exact circumstances of the loss and to affirmatively prove, with cogent evidence, that the loss was not occasioned by unacceptable negligence. The judicial inquiry must rigorously isolate and meticulously examine four distinct vectors: to what extent the document was destroyed, by whom the eradication was specifically executed, exactly when the spoliation occurred in the procedural timeline, and how the physical or digital destruction was mechanically effectuated.

A. By Whom the Record Was Destroyed: The Unassailable Custodial Burden of the State

10. Canadian jurisprudence meticulously delineates varying thresholds of prejudice dependent entirely upon the identity, institutional affiliation, and legal obligations of the spoliator. In the seminal decision of *R. v. Carosella, 1997 CanLII 402 (SCC)* (the "*Carosella*"), a third-party, independent sexual assault crisis centre deliberately destroyed highly relevant counselling notes pursuant to an internal, pre-existing administrative policy designed explicitly to prevent their disclosure in a criminal court. The Supreme Court of Canada decisively affirmed the drastic remedy of a stay of proceedings, ruling that the systemic destruction fatally and irremediably compromised the accused's fundamental right to make full answer and defence. Crucially, this terminal remedy was granted irrespective of the undeniable fact that the Crown prosecution service itself was entirely uninvolved and not complicit in the actual destruction. Justice Sopinka eloquently articulated that while the precise extent of the prejudice falls to be considered primarily at the remedy stage, the actual *breach* of the *Charter* right crystallizes instantaneously the very moment highly relevant, potentially exculpatory material is destroyed and rendered forever inaccessible to the defence.

11. Conversely, in scenarios where third-party destruction involves peripheral, highly tangential materials possessing no demonstrable, obvious, or logical relevance to the core, substantive issues at trial, appellate courts have historically declined to grant the ultimate remedy of a stay, as evidenced in the reasoning of *R. v. P.S.L., 1995 CanLII 8939 (BC CA)* (the "*P.S.L.*"). However, it is absolutely paramount to fiercely distinguish the present factual matrix from the benign scenario in *P.S.L.*: an Intake Court Endorsement is emphatically not a peripheral administrative sticky note, nor is it a tangential, hearsay witness statement regarding character. It

is the absolute, foundational jurisdictional prerequisite for the entire criminal prosecution. It is the legal engine that drives the deprivation of liberty.

12. *Non-Obvious Legal Theory Integration regarding Contumacious Spoliation and Institutional Accountability:* If the deliberate destruction of relevant, yet ultimately secondary and privately held, records by an independent third-party clinic in *Carosella* necessitated the ultimate, severe remedy of a stay of proceedings, *a fortiori* (with even greater force of reason), the destruction, deletion, or systemic loss of the foundational judicial authorization by the judiciary or the official court registry itself constitutes an infinitely more egregious, structurally fatal constitutional violation. The court registry is the ultimate, exclusive, publicly funded guardian of the legal record. When the very state custodian entrusted with safeguarding the legal process actively, negligently, or systemically obliterates the singular piece of documentation that purportedly legitimizes the violent deprivation of a citizen's liberty, it violently invokes the severe equitable doctrine of *spoliator contumacem* (the contumacious spoiler). This ancient and uncompromising doctrine dictates that the harshest possible adverse inference is inherently drawn against the spoliating party. Applied directly to the present matter, the state's professed impossibility of producing the Intake Court Endorsement mandates an immediate, unhesitating declaration of invalidity regarding the underlying *acta*, legally confirming that the state apparatus operated entirely outside of its lawful jurisdiction from the moment of arrest.

13. *Nota Bene regarding the Burden of Proving Exculpatory Value:* It is highly anticipated that the Crown will inevitably advance the argument that the Applicant bears the heavy evidentiary burden of affirmatively proving that the missing Intake Court Endorsement would have been materially exculpatory or helpful to his defence, and that without such proof, no stay can issue. This argument represents a cyclical logical fallacy. It is intellectually and legally impossible for an accused to strictly prove the exculpatory contents of a document that the state has unilaterally destroyed prior to disclosure. As mandated by *Carosella*, when the state permanently obliterates the foundational jurisdictional document, severe prejudice to the right to make full answer and defence is irrevocably presumed. The Applicant is entirely deprived of the fundamental ability to test the jurisdictional boundaries of his own detention. The Crown cannot profit from an evidentiary void it exclusively created.

B. When and How the Record Was Destroyed: Distinguishing Systemic Failure from Benign Technological Eradication

14. The temporal chronology and the precise mechanical nature of the destruction critically inform the severity of the *Charter* breach and the availability of viable remedies. In the highly relevant appellate decision of *R. v. MacLeod, 1994 CanLII 5243 (NB CA)* (the "*MacLeod*"), the official court reporter routinely and systemically erased the magnetic tape recordings of a preliminary inquiry after exactly ninety days, strictly adhering to an arbitrary, internal bureaucratic retention policy following the accused's initial discharge. When the Crown subsequently—and lawfully—preferred a direct indictment, the vital recordings were permanently unrecoverable. The New Brunswick Court of Appeal unequivocally held that the perpetual preservation of crucial evidence by the Crown and the official court apparatus is

absolutely mandatory. The appellate court ruled that the systemic, policy-driven destruction of that evidence constituted a fatal, insurmountable, and incurable *Charter* violation. The court brilliantly noted that mandating a new trial would be a farcical exercise in complete futility due to an "incorrectible systemic error," thereby mandating an immediate, final acquittal.

15. Similarly, in the persuasive ruling of *R. v. Arnold Basque, 2010 NBCP 27 (CanLII)* (the "*Basque*"), the systemic destruction of crucial court recordings—which occurred subsequent to a routine, administrative courthouse closure—completely frustrated the defendant's capacity to prepare a complex constitutional application regarding unreasonable delay under section 11(b). The court recognized that this administrative obliteration directly and irreversibly prejudiced the accused, immediately resulting in a judicial stay of proceedings. It is intellectually acknowledged that a singular, unforeseeable technological malfunction, completely absent of any unacceptable institutional negligence, may not automatically yield a stay of proceedings, as cautiously demonstrated in *R. v. Rozsa, 2005 MBQB 78 (CanLII)* (the "*Rozsa*"). In *Rozsa*, the loss of a singular day's transcript permitted the court to order a limited re-hearing of specific witnesses. However, the *Rozsa* remedial paradigm (ordering a retrospective re-hearing) is profoundly, logically, and legally inapplicable herein. One cannot conceptually or legally retroactively "re-hear" an *ex parte* authorization for an arrest *after* the physical arrest, the traumatic public humiliation, and the resultant, irreversible deprivation of liberty have already irreparably transpired. The constitutional injury is entirely complete and impervious to retroactive procedural band-aids.

16. *Nota Bene regarding Counter-Arguments on Authored Misfortune:* The Crown may desperately, yet predictably, attempt to analogize the present circumstances to the highly restrictive, fact-specific ruling in *R. v. White, 1998 ABCA 395 (CanLII)* (the "*White*"). In *White*, the Alberta Court of Appeal rightfully refused to grant a new trial despite entirely missing trial transcripts because the accused had intentionally, unlawfully absconded to a foreign jurisdiction, remaining a fugitive for eleven years. The court held that the accused had authored his own misfortune, directly causing the transcripts to fall victim to a standard ten-year destruction policy. Such an analogy to the Applicant is unequivocally fallacious, legally desperate, and factually offensive. The Applicant herein has acted with paramount, unyielding expediency and procedural diligence. There has been absolutely no authored delay, no absconding, no fugitive status, and certainly no passage of time sufficient to legally or logically justify the routine, systemic purging of a critical Intake Court Endorsement generated mere months ago. The destruction here defies any standard retention schedule and strongly suggests targeted, malicious eradication or profound, catastrophic systemic collapse.

17. *Nota Bene regarding Potential Counter-Arguments on Alternative, Substitute Evidence (The Inapplicability of the J.G.B. Standard):* It is highly anticipated that the Crown will vigorously attempt to circumvent the catastrophic, fatal spoliation of the formal judicial record by seeking to adduce secondary, substitute evidence. Relying upon the general disclosure principles espoused in *R. v. J.G.B., 2001 CanLII 24101 (ON CA)* (the "*J.G.B.*"), opposing counsel will likely argue that peripheral police notes, internal TPS occurrence reports, or

Canadian Police Information Centre (CPIC) digital entries contain "essentially the same information as the lost evidence," and thus, the Applicant suffers no substantive legal prejudice. This argument betrays a fundamental, deeply troubling misunderstanding of the jurisprudential nature of a sovereign judicial fiat. The ancient "Best Evidence Rule" applies with unyielding, absolute rigidity to sovereign commands and judicial orders. A judicial endorsement is a strictly formalistic, highly regulated exercise of sovereign state power; its existence cannot be casually reverse-engineered, inferred, or legally substituted by the hearsay observations of the executive branch (the investigating police) or administrative data-entry clerks inputting text into a police database. A CPIC notification is a mere administrative tracking tool utilized by law enforcement; it is emphatically, undeniably not a judicial decree. To permit secondary, executive-branch police evidence to legally replace a missing, foundational Superior Court order is to fatally conflate the executive and judicial branches, completely obliterating the constitutional separation of powers designed to protect the citizenry from arbitrary policing.

C. To What Extent the Record Was Destroyed: The Epistemological Void of Jurisdiction and the Fallacy of the De Facto Doctrine

18. The sheer magnitude, totality, and unapologetic finality of the spoliation in this matter dictate the inescapable legal conclusion that a fundamentally fair trial is a structural, constitutional impossibility. The complete eradication of the Intake Court Endorsement and the originating information entirely deprives any reviewing appellate or trial court of the necessary documentary mechanisms to assess the territorial jurisdiction of the purportedly issuing jurist, the facial and sub-facial constitutional validity of the warrant, the sufficiency of the underlying reasonable and probable grounds, or the strict parameters of the mandated release conditions under section 503 or section 514 of the *Criminal Code*. Without the physical or securely extractable digital manifestation of the endorsement, the Applicant's arrest defaults instantaneously and irrevocably to a warrantless, highly arbitrary detention.

19. *Nota Bene regarding Potential Counter-Arguments on the De Facto Doctrine:* A highly sophisticated Crown prosecutor might attempt to creatively salvage the fundamentally unlawful arrest by invoking the obscure *de facto* doctrine. The Crown would argue that the arresting officers at the TPS 14th Division operated subjectively in "good faith" based upon an active CPIC notification, and therefore, their coercive actions should be entirely shielded from retroactive constitutional scrutiny despite the catastrophic destruction of the underlying judicial endorsement by the court registry. This argument is fatally defective and relies on a gross misapplication of the doctrine. The *de facto* doctrine serves historically to validate the routine acts performed under color of authority by improperly appointed officials, specifically to preserve broad societal public order and prevent administrative chaos; it emphatically does not operate to retroactively manufacture subject-matter or territorial jurisdiction where the specific, empowering legal instrument for a targeted arrest has been inexplicably destroyed or fabricated by the state itself. The written judicial endorsement is the exclusive, irreplaceable constitutional bridge conferring territorial authority to arrest. Without the verifiable, tangible existence of that exact endorsement, the arresting officers possessed absolute zero lawful authority. An arrest

executed entirely without verifiable territorial jurisdiction transcends a mere procedural anomaly; it constitutes an actionable civil battery, a tortious false imprisonment, and an egregious, shocking section 9 *Charter* violation. The subjective "good faith" of a beat cop cannot miraculously cure an absolute epistemological and jurisdictional void created by the state's failure to maintain its own authority to detain.

20. *Nota Bene regarding the Rule Against Collateral Attack:* The Crown may also desperately assert that any challenge to the validity of the Intake Court Endorsement in the trial court constitutes an impermissible collateral attack on an order of a superior court judge, relying on the principles in *R. v. Litchfield, 1993 CanLII 44 (SCC)*. This argument is a profound misapplication of the law. The rule against collateral attack strictly presupposes the verifiable, documentary existence of a facially valid court order. Without the actual production of the formal record, there is legally no order to attack; it is a profound jurisdictional void. The Applicant is not merely challenging the *merits* or the underlying legal reasoning of an existing order; the Applicant is fundamentally challenging the *existence* of the order itself. A phantom order, shrouded in spoliation, cannot be shielded by the rule against collateral attacks.

IV. THE ANALOGICAL IMPERATIVE TO COMPEL CREATION OR RIGOROUS FORENSIC EXTRACTION OF THE JUDICIAL RECORD

21. The judicial inquiry must now transition from the basic question of whether the record has been properly, physically archived, to the far more complex question of whether the Superior Court of Justice is legally mandated—by virtue of its sweeping inherent jurisdiction and analogous, progressive statutory principles—to aggressively extract a digital record from its existing, highly sophisticated electronic data repositories where the physical paper or surface-level digital manifestation is ostensibly missing.

22. While it is fully, intellectually acknowledged that the courts, when acting strictly in their core adjudicative capacity, are not strictly governed by the standard administrative constraints of the *Freedom of Information and Protection of Privacy Act*, RSO 1990, c F.31 (the "**FIPPA**"), the broad statutory principles governing the extraction of machine-readable records offer a highly persuasive, parallel legal paradigm. This progressive statutory paradigm is inextricably linked to the court's own inherent, common-law jurisdiction to aggressively maintain transparency, ensure public accountability, and fiercely control its own process against administrative decay.

23. Under the progressive, modern FIPPA regime, specifically section 2(1)(b), a "record" is broadly and expansively defined to encompass any information capable of being produced from a machine-readable format by means of normally utilized computer hardware and software. In the landmark, binding appellate decision of *Toronto (City) Police Services Board v. Ontario (Information and Privacy Commissioner), 2009 ONCA 20 (CanLII)* (the "*Toronto Police*"), the Ontario Court of Appeal definitively, powerfully rejected the regressive, obstructive proposition that the electronic extraction, database parsing, or digital reformatting of raw server data constitutes the improper "creation" of a newly minted record that somehow falls outside strict statutory disclosure obligations. The appellate court decreed, adopting a generous and purposive approach to transparency, that an institution must adduce cogent, compelling, and specific

evidence demonstrating that the highly technical extraction process would "unreasonably interfere" with its core operations. A mere, unsubstantiated bureaucratic assertion that database extraction necessitates "time and effort" or basic IT resources is profoundly, legally insufficient.

24. Modern Ontario court registries do not operate on archaic paper ledgers; they operate on highly sophisticated, multi-layered SQL databases and integrated, province-wide case management software (such as the heavily funded Criminal E-Intake Portal and the legacy ICON/FRANK systems). Even when a specific entry or PDF is maliciously "deleted" from the surface-level user interface by a clerk, the underlying relational metadata, server audit logs, unalterable user-action timestamps, and relational database primary keys invariably persist in the server architecture. To permit the official court registry to improperly shield behind feigned, exaggerated technological opacity—while simultaneously utilizing that very same technology network to instantly issue warrants, summmons, and endorsements across the province—is an offensive affront to the *Charter* and constitutes an egregious, hypocritical departure from the *status quo ante*. The rigorous, forensic extraction of the deep digital footprint of the Intake Court Endorsement from the court's internal server architecture is not a favor; it is a non-negotiable administrative and constitutional duty owed directly to the Applicant to legitimize his detention.

V. ABSOLUTE STATUTORY EXEMPTION FROM PECUNIARY LEVIES FOR THE ACCUSED SEEKING TO VERIFY JURISDICTION

25. Pursuant to the comprehensive, binding directives enshrined within the Ministry of the Attorney General's Court Services Division Policies and Procedures on Public Access to Court Files, Documents and Exhibits (the "**MAG CSD Guide**"), Ontario’s judicial paradigm is firmly and resolutely anchored upon the fundamental principle of unhindered, cost-free accessibility, particularly for those deeply vulnerable individuals whose liberty is actively placed in jeopardy by the coercive mechanisms of the state.

26. Crucially, section 7.1.1 of the MAG CSD Guide stipulates unambiguously, without equivocation, that there is absolutely no pecuniary levy, search fee, extraction toll, or administrative tariff imposed upon an accused individual or their retained counsel to access criminal court documents or to comprehensively search criminal court files within the Superior Court of Justice. Furthermore, court staff are explicitly, statutorily, and mandatorily directed to provide accurate copies of informations, indictments, and judicial interim release documents immediately upon request, entirely devoid of any copy fees or processing charges. This strict, taxpayer-funded directive is explicitly reiterated and reinforced in section 7.3.1, pertaining specifically to the mandatory, cost-free provision of all judicial endorsements.

27. Therefore, irrespective of whether the necessary retrieval process necessitates simple photocopying, intricate electronic database extraction by specialized IT professionals, highly technical forensic recovery of deleted metadata arrays, or the laborious physical reconstruction of the missing file from disparate, siloed sources, the financial burden of this extensive administrative remediation rests entirely, exclusively, and legally upon the public purse. The state cannot profit from its own incompetence. Any aggressive attempt by the registry to impose processing costs upon the Applicant for the state's catastrophic failure to maintain its own

foundational records will be fiercely, relentlessly litigated as a further, unconstitutional barrier to access to justice and a continuation of the abuse of process.

VI. FINAL DEMAND, EXHAUSTIVE FORENSIC REQUIREMENTS, AND CONCLUDING REMARKS

28. The Applicant is emphatically not the architect of this unprecedented administrative malfeasance, this structural failure, or this terrifying epistemological void regarding the state's authority to arrest. The absolute, unyielding obligation to recreate, extract, or forensically produce the true Information, the Indictment, and the highly specific Intake Court Endorsement remains entirely, singularly with the state apparatus and the judiciary. It must be executed forthwith, utilizing all available technological resources, at absolutely no cost to the Undersigned.

29. Given that the Superior Court of Justice is aggressively compelled by overarching constitutional imperatives and deeply rooted common law to provide these specific documents upon request to an accused, the operative standard for production vastly exceeds the already high statutory framework of FIPPA. The superior court is, in fact, obligated by its very nature to maintain, flawlessly safeguard, and, if necessary due to disaster, technically generate and reconstruct these records irrespective of a formal, written request. This is an essential, fundamental, non-delegable function of its basic existence as a court of record; without the record, there is no court.

30. You are hereby formally, legally demanded to advise the Applicant forthwith of the exact, granular parameters regarding the deletion, spoliation, or systemic loss of the Intake Court Endorsement. The Applicant demands immediate, specific forensic disclosure of the digital chain of custody, including but not limited to the following:

- By whom the specific record was deleted, altered, or modified (including the production of specific user identification numbers, proxy logins, IP addresses, or terminal IDs utilized in the action);
- Precisely when the deletion, alteration, or modification occurred (timestamped to the exact second utilizing the server's master clock);
- How the digital or physical eradication was mechanically executed (e.g., via an automated server-side purge script, a manual database override by an administrator with elevated privileges, or physical shredding of the paper docket);
- The current status of all disaster recovery protocols, daily server backup tapes, and mirrored cloud environments that should inherently contain the uncorrupted file; and
- To what extent the underlying relational digital metadata, deep server audit trails, and transactional database logs remain extractable by a competent third-party forensic IT auditor.

  Failure to disclose these highly specific forensic particulars forthwith will be aggressively construed as ongoing, contumacious spoliation of evidence designed to permanently shield an unlawful arrest from judicial review.

31. The Applicant unequivocally and aggressively reserves the absolute right to rely upon the full contents of this formal notice for any and all lawful legal purposes in any upcoming litigation. This explicitly includes, but is in no way limited to, the aggressive pursuit of powerful prerogative remedies such as a writ of *certiorari* to immediately quash the fatally flawed proceedings, and a writ of *mandamus* to legally compel the physical or forensic production of the withheld documentary evidence *in limine* prior to any further steps being taken by the Crown.

32. *Non-Obvious Legal Theory Integration regarding Section 24(1) Stay of Proceedings as a Structural Necessity:* Furthermore, should the massive resources of the state remain inexplicably incapable of producing the foundational judicial authorization that purportedly permitted the Applicant's violent arrest and subsequent restrictive conditions of release, the detention is instantly rendered facially, legally invalid. A comprehensive stay of proceedings under section 24(1) of the *Charter* is thus not merely an available remedial option or a discretionary preference, but an absolute, uncompromising structural necessity. A fundamentally fair trial simply cannot legally proceed, nor can public confidence in the administration of justice survive, when the prosecution is built entirely upon the ashes of an obliterated, unverified, and potentially fabricated judicial record.

VII. THE SUBSTANTIVE, JURISPRUDENTIAL DISTINCTION BETWEEN DIFFERING CHARTER BREACHES, TEMPORAL SPOLIATION CHRONOLOGIES, AND THE CROWN'S FAILURE TO PREFER A REPLACEMENT INFORMATION

33. It is legally imperative to recognize and vigorously articulate the substantive distinction—a distinction carrying a profound, outcome-determinative jurisprudential difference—between an infringement of the broad open court principle under section 2(b), a severe deprivation of the core principles of fundamental justice under section 7, and the highly specific, deeply technical trial-rights guarantees enshrined within the various subsections of section 11 of the *Charter*. Each of these distinct constitutional breaches demands a completely separate analytical framework, requires different evidentiary burdens, and triggers vastly differing remedial thresholds ranging from simple declarations to terminal stays.

34. The Applicant, acting in good faith, is amenable to operating within a reasonable, strictly judicially supervised timeline for the state's highly technical production and forensic extraction of the mandated record, should such a restorative, complex administrative IT endeavor be technologically required. The Applicant does not seek to arbitrarily ambush the court registry if the record remains genuinely, albeit laboriously, extractable.

VIII. THE DEMARCATION BETWEEN A JURISDICTIONAL "TRANSFER" OF CUSTODY AND THE STATUTORY "USE" OF A RECORD

35. In evaluating the state's capacity and obligation to extract the mandated record, a profound jurisprudential and statutory distinction must be drawn between a formal "transfer"—which dictates the absolute relinquishment and reassignment of legal custody and/or control of a document from one sovereign entity to another—and the administrative "use" of a record. As established by analogous administrative and privacy law frameworks (such as the Canadian Bar

Association's analysis of cross-border data flows under PIPEDA), a "transfer" of information for the purposes of processing or administrative handling emphatically does not constitute a full legal disclosure or a total loss of ultimate accountability by the originating body.

36. When the Superior Court of Justice (the judiciary) generates an Intake Court Endorsement, it theoretically retains ultimate, non-delegable custody and absolute constitutional control over its formal *acta*. However, the Ministry of the Attorney General (MAG), the Court Services Division (CSD), and the Toronto Police Service (TPS)—all entities functioning within the executive and administrative branches—actively, aggressively, and continuously *use* these digital records to populate the Canadian Police Information Centre (CPIC) database and to effectuate the highly coercive deprivation of liberty.

37. This distinction is legally devastating to any Crown argument seeking to silo accountability. Because the MAG and the TPS actively *use* the Intake Court Endorsement to enforce warrants, the fact that formal, theoretical "custody" may remain siloed within the judiciary absolutely does not shield the executive branch from strict accountability for executing an arrest predicated upon spoliation. The state cannot simultaneously claim that they merely "transferred" the data to CPIC (thereby losing control), nor can they claim the judiciary has exclusive, impenetrable custody to block an audit, when the MAG actively and continuously *uses* the phantom record to legally justify the detention of the Applicant.

38. *Non-Obvious Legal Theory Integration regarding Equitable Estoppel via Statutory Use:* If the executive branch (the Crown and the TPS) actively "uses" the digital footprint of the endorsement to violently effectuate an arrest, they are legally and equitably estopped from subsequently asserting that the record does not exist or is inaccessible due to inter-branch jurisdictional silos when the accused rightfully demands its production. The state is estopped from simultaneously wielding a sword of jurisdiction while raising a shield of spoliation. If the executive branch *uses* the record to detain, they are inextricably bound to prove its existence to the detainee.

39. However, a critical, potentially fatal temporal and factual dichotomy exists that strictly dictates the absolute legal viability of the ongoing proceedings. There is a monumental, unbridgeable constitutional gulf between a scenario wherein the foundational records were actively deleted, maliciously destroyed, or irreparably spoliated contemporaneously in 2024—effectively neutering the state's jurisdiction at the exact, terrifying moment of the initial deprivation of liberty—versus a scenario wherein such administrative destruction accidentally occurred *pendente lite* much later in 2026 due to routine server maintenance. This chronological variance strictly and absolutely determines whether a fundamentally fair trial was rendered an absolute impossibility *ab initio* (from the very beginning), or whether the prejudice materialized only recently.

40. Furthermore, an alternative, equally fatal, and highly concerning factual matrix must be immediately addressed by the Crown. If the foundational records were, in fact, never technologically deleted, systematically destroyed, or maliciously spoliated, but rather a profound, substantive legal defect existed in the originating process that legally necessitated the

swearing of a brand new, replacement information—a highly standardized, restorative procedural mechanism that the Crown was duty-bound to execute but inexplicably, negligently failed to undertake—the resultant jurisdictional void remains completely unhealed. In such a shocking scenario, the catastrophic failure is not one of technological spoliation, but of fundamental, inexcusable prosecutorial negligence in failing to maintain the court's strict jurisdiction over the specific offence and the targeted accused.

IX. THE CRITICAL DISTINCTION BETWEEN UNABLE AND UNWILLING: DEMARCATING QUALIFIED ADMINISTRATIVE PRIVILEGE VERSUS ABSOLUTE ADJUDICATIVE IMMUNITY

41. The fundamental constitutional inquiry presently placed before the court is a dichotomy of profound, system-altering gravity: is the heavily funded state apparatus genuinely, technologically *unable* to extract the requisite record due to a catastrophic, unprecedented systemic IT failure, or is it merely, stubbornly *unwilling* to do so, seeking highly improper, strategic refuge behind an impenetrable, deliberately misconstrued veil of judicial privilege? This critical distinction ultimately dictates the required remedial response and permanently shapes the overarching constitutional narrative of this prosecution. If the state is genuinely, fundamentally *unable* to produce the record, it operates as a devastating de facto concession of incurable, permanent spoliation. Such a confirmed inability confirms an epistemological void where the evidentiary foundation of the state's authority once resided, instantly rendering the underlying assumption of jurisdiction an absolute nullity and mandating an immediate stay of proceedings. If, however, the state is technologically fully capable yet deliberately *unwilling* to produce the existing, verifiable administrative record by improperly invoking a manufactured, overbroad, and weaponized privilege, it constitutes an egregious, shocking obstruction of justice. It transforms a routine administrative duty into a highly adversarial, hostile posture, manifesting a contumacious infringement upon the Applicant's paramount, unassailable right to make full answer and defence. To resolve this manufactured standoff, a precise, rigorous, and intellectually honest legal demarcation must be drawn between the deeply entrenched concept of absolute adjudicative privilege and the highly qualified, highly circumstantial parameters of administrative privilege. Conflating the two serves only to subvert the fundamental rule of law and obscure dangerous state overreach.

42. In Canadian jurisprudence, adjudicative privilege—frequently and interchangeably conceptualized in the case law as deliberative privilege—serves a singular, vital, and historically revered purpose: to aggressively, unapologetically safeguard the internal deliberations, cognitive processes, and intellectual communications of adjudicative bodies. This stringent, uncompromising privilege guarantees that the sacrosanct sphere of judicial cognition remains completely undisturbed. It ensures that a judge’s personal notes, early draft memoranda, preliminary recommendations, and the deeply internalized intellectual reasoning underpinning a final judicial decision remain unassailably secure and entirely immune from any external forensic compulsion, public inquiry, or cross-examination. Adjudicative privilege is absolutely fundamental to preserving the uncompromising integrity, functional independence, and essential

impartiality of the decision-making process itself; it is, therefore, absolute in its nature. This bedrock constitutional principle is vividly and authoritatively illustrated in highly instructive decisions such as *R. v. Li, 2008 CanLII 92006 (ON SC)*, wherein a judge's personal, hand-written note-taking generated during a pre-trial conference is strictly, fiercely shielded from the Attorney General's superintendence. This absolute immunity arises precisely and exclusively because the creation of such private, intellectual notes fundamentally involves the core cognitive matters assigned directly by law to the adjudicative function of the judiciary. Permitting the subpoena, discovery, or forensic examination of a judge's internal thought processes would instantly shatter the impermeable cognitive sanctuary of the bench, inflicting a fatal, irreversible chilling effect upon the essential independence of the entire judiciary.

43. Conversely, administrative privilege—frequently referred to in the jurisprudence as administrative immunity—operates on a distinctly separate, markedly lower, and highly permeable jurisprudential plane. Administrative privilege safeguards the basic institutional and operational functions of the judiciary, completely divorced from the cognitive act of judging. These functions encompass the routine bureaucratic machinery of justice: the mechanical logistics of the courthouse, the formulation of standard scheduling directives, the bureaucratic assignment of specific jurists to specific daily dockets, and the broad, day-to-day managerial operations of the registry staff. Crucially, as articulated with undeniable clarity and permanently binding authority by the Supreme Court of Canada in *MacKeigan v. Hickman, 1989 CanLII 40 (SCC)* (the "*MacKeigan*"), administrative privilege is decidedly *not* absolute; it operates merely as a functional adjunct to adjudicative privilege and is explicitly, inherently, and purposefully qualified in its nature. The Supreme Court in *MacKeigan* affirmed that while the routine administrative functions of a judge or chief justice are generally protected from frivolous, routine outside scrutiny to preserve broad institutional independence, this highly qualified immunity can, and absolutely must, be pierced and overridden when there exists a compelling, superseding, and valid reason to deeply review the fundamental administration of justice. The exposure of systemic constitutional violations, the forensic verification of territorial jurisdiction, the investigation of fabricated warrants, and the vindication of an individual's right against arbitrary, baseless detention unequivocally and overwhelmingly constitute such compelling reasons. The administrative, bureaucratic assignment of a judge does not go to the unassailable "heart" of the adjudicative function; rather, it is merely the operational predicate—the bureaucratic, paper-pushing mechanism—that allows the adjudication to eventually occur in a specific room. When the operational predicate itself is tainted by highly credible allegations of fabrication or systemic spoliation, the qualified privilege must yield entirely to the sterilizing sunlight of constitutional scrutiny.

44. *Nota Bene regarding the Metadata Exception to Privilege:* The Crown cannot blanket-claim administrative or adjudicative privilege over the entire digital environment. Digital metadata—such as server timestamps, user login IDs, and document creation tracking logs—is purely, fundamentally administrative. Metadata is entirely devoid of cognitive reasoning or judicial deliberation. It merely records the mechanical reality of a document's journey through a

server architecture. Shielding metadata under the guise of judicial privilege is a gross distortion of the doctrine designed solely to conceal state spoliation.

45. *Nota Bene regarding the Improper Laurentian University Analogy:* It is heavily anticipated that the Crown may improperly, desperately attempt to invoke the *ratio decidendi* of the landmark commercial decision authored by Chief Justice Morawetz in *Laurentian University of Sudbury, 2022 ONSC 429 (CanLII)* (the "*Laurentian*") in a bid to completely shield the basic administrative records sought herein. In *Laurentian*, the court granted a stay against a sweeping Speaker's Warrant formally issued under the *Auditor General Act*, RSO 1990, c A.35, successfully thwarting the forced disclosure of highly sensitive internal documents. However, any reliance by the Crown upon this specific framework in a criminal context would be an egregious, intellectually dishonest misapplication of the law. The *Laurentian* decision was unequivocally, specifically, and exclusively predicated upon the preservation of deeply entrenched, substantive *solicitor-client privilege* and the highly specialized, rigidly protected statutory mediation privilege arising directly from the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36. In *Laurentian*, the Auditor General's broad, roving legislative oversight powers—powers designed primarily for financial and value-for-money auditing of public institutions—clashed violently with ancient privileges that the Supreme Court has repeatedly deemed fundamental substantive rights, not mere procedural rules of evidence. The present constitutional matrix involving the Applicant is starkly, totally, and irreversibly distinguishable on every conceivable metric. There is absolutely zero solicitor-client privilege, and absolutely zero statutory mediation privilege, invoked or even tangentially relevant herein. The Applicant is not a roving legislative committee conducting a broad, generalized financial audit of a university; the Applicant is a specifically targeted accused citizen fighting a severe deprivation of liberty, actively and legally demanding the foundational jurisdictional document that purportedly authorized his own violent arrest. The balancing of constitutional interests in the criminal sphere—where the very liberty of the subject is actively imperiled by the coercive power of the state—bears absolutely no resemblance whatsoever to a commercial insolvency audit designed to protect financial restructuring negotiations.

46. Furthermore, a critical, indisputable distinction must be immediately drawn regarding the very physical, mechanical, and digital nature of the exact documents sought by the Applicant. There is a monumental, unbridgeable jurisprudential gulf separating a judge's highly private, cognitive adjudicative notes from the routine, highly procedural, and standardized notations affixed to the back of an Information-To-Wit. The latter form the very physical bedrock of the formal Information Package. These documents are explicitly procedural, fully public-facing administrative records verifying to the world that the coercive jurisdiction of the state was lawfully assumed, temporally triggered, and mechanically executed by a specific officer. An Intake Court Endorsement is emphatically not a private diary entry, nor is it a draft intellectual deliberation; it is the absolute *res gestae* of the state's sovereign authority to detain. It is a formalized, standardized tracking instrument, and the specific notations on it—dates, precise times, digital signatures, and the identity of the assigned jurist—constitute basic administrative

metadata. They do not, under any circumstances, reveal *why* the judge ruled a certain way (which remains fiercely and properly privileged), they only reveal *that* the judge ruled and *who* that specific judge was. Such public-facing, output-oriented administrative notations emphatically do not attract absolute adjudicative privilege. To the extent that they attract any minor, qualified administrative privilege regarding the mere logistical assignment of the presiding jurist (e.g., Justice of the Peace Jiri), that highly qualified, weak privilege must comprehensively, immediately, and totally yield to the overwhelming, paramount public interest in verifying the strict constitutional validity of a severe deprivation of liberty.

47. As courageously, forcefully recognized in *R. v. Germain, 1984 CanLII 1238 (AB QB)* (the "*Germain*"), when the administrative actions, procedural oversights, or catastrophic systemic failures of a jurist or the court registry directly precipitate an egregious *Charter* breach against an individual, the injured citizen possesses an inalienable, constitutionally enshrined, and actionable right to a substantive remedy directly under section 24(1). The state cannot simultaneously violently strip a citizen of their liberty and then maliciously hide the foundational paperwork authorizing that stripping behind a misapplied, over-extended, and legally bankrupt claim of judicial privilege. Compelling the physical or digital production of basic administrative records confirming whether a jurist was lawfully assigned, or whether they even received the purportedly sworn information, does not pierce the judge's personal immunity in any way, nor does it expose the individual jurist to any civil, criminal, or personal liability. Rather, as Lord Diplock famously and correctly affirmed in *Maharaj v. Attorney-General of Trinidad and Tobago (No. 2)*, it imposes liability appropriately, broadly, and exclusively upon the State itself within the realm of public law for its own systemic administrative failures. The sophisticated Canadian constitutional framework seamlessly accommodates both the injured citizen’s fundamental right to a robust remedy and the essential adjudicatory independence of the justices. Because producing the basic administrative record to confirm the existence of jurisdiction creates absolutely zero "personal risk," zero civil peril, and zero professional consequence for any individual justice, the Crown's desperate argument that disclosure will inflict a chilling effect upon the independence of the bench is factually vacant, logically absurd, and legally hollow.

48. While the Supreme Court of Canada, in the seminal, foundational decisions of *Valente v. The Queen, 1985 CanLII 25 (SCC)* and *Beauregard v. Canada, 1986 CanLII 24 (SCC)*, fundamentally underscored that judicial independence strictly requires the courts to be completely separate in authority from the executive branch, this essential, protective concept must never be weaponized as an offensive tool against the accused. This crucial institutional independence—often summarized by the popular concept of the judiciary being "masters in their own house," as eloquently articulated in the landmark report by Chief Justice Jules Deschênes—was designed explicitly, purposefully, and solely to prevent *executive* or *legislative* interference with the core functions of the courts. It highly empowers courts to act as impartial umpires and fierce, uncompromising defenders of the Constitution against state overreach. However, it was never designed, nor can it ever be lawfully permitted, to be manipulated into an impenetrable,

hostile bureaucratic fortress designed specifically to conceal jurisdictional nullities from a private citizen whose *Charter* rights have been aggressively extinguished by an *ultra vires* police arrest. The courts are the ultimate guardians of the Constitution, not powerful adversaries to those seeking its basic protection. Refusing to produce foundational administrative records on the spurious, generalized, and intellectually lazy grounds of an inflated, completely misapplied privilege brings the entire administration of justice into profound, perhaps irreversible, disrepute. It maliciously, unconstitutionally transforms a vital constitutional shield (judicial independence) into an impermissible, tyrannical sword wielded directly and unfairly against the accused citizen.

X. UNYIELDING JURISDICTIONAL OVERSIGHT UNDER THE AUDITOR GENERAL ACT: THE LEGISLATIVE BIFURCATION OF CUSTODIAL CONTROL VERSUS STATUTORY "USE" AND THE UNIVERSAL CRIME-FRAUD EXCEPTION

49. To the exact extent that the state apparatus attempts to permanently, improperly shield the spoliated or entirely fabricated records behind the aforementioned, legally bankrupt misapplication of judicial or administrative privilege, the Applicant explicitly, forcefully invokes the highly strict, uncompromising statutory oversight mechanisms enshrined directly within the *Auditor General Act*, RSO 1990, c A.35 (the "**Auditor General Act**"). The Ontario judicial and administrative framework operates upon a widely recognized, highly specific "split" governance paradigm. While the core, intellectual adjudicative functions of the judiciary are rightfully, heavily insulated by the constitutional doctrine of judicial independence, the Ministry of the Attorney General (the "**MAG**"), which strictly manages, funds, and operates the Court Services Division (the "**CSD**"), operates unequivocally and undeniably as a standard "ministry of the public service." Consequently, the MAG, its entire staff, and all of its vast administrative operations are fundamentally, statutorily subject to the plenary, aggressive audit and investigatory powers of the Auditor General as explicitly mandated under sections 10 and 11 of the *Auditor General Act*.

50. *Nota Bene regarding Unwritten Constitutional Principles vs. Executive Malfeasance:* The Crown will undoubtedly attempt to argue that subjecting the court's administrative records to the Auditor General violates the unwritten constitutional principle of judicial independence, attempting to place the entirety of the courthouse outside legislative review. This is a fatal overreach. The constitutional protection fiercely shields *adjudicative* independence; it emphatically does not shield the physical servers, the digital metadata, or the bureaucratic malfeasance committed by the executive-branch staff (MAG employees) who manage the Court Services Division. The "methods of business" (as defined under Section 11 of the Act) of the CSD are strictly executive functions. Unwritten constitutional principles cannot be bastardized to shield executive crime-fraud, systemic technological spoliation, or the fabrication of warrants.

51. Section 10(2) of the *Auditor General Act* deliberately, legislatively expands the Auditor General's investigative access far beyond the narrow concepts of mere physical possession or exclusive institutional ownership, granting an absolute, unyielding statutory right of free access to all records "belonging to or used by" a ministry. This deliberate legislative bifurcation between pure custody and operational utility is of paramount, game-changing constitutional

significance in the present matter. While the judiciary may forcefully, traditionally claim exclusive custodial ownership over its formal *acta* (the formal record of proceedings), it is an incontrovertible, undeniable operational reality that these exact, identical records are systematically, continuously "used by" the MAG, its highly trained Registrars, Crown Counsel prosecuting the matter, and the Toronto Police Service (via CPIC integrations) to mechanically execute and legally justify highly coercive state actions, including physical arrests. By explicitly, actively "using" the Intake Court Endorsement—or, far more concerningly, utilizing the unverified "phantom" digital footprint thereof—to continuously validate an ongoing, deeply restrictive deprivation of liberty, the MAG irrevocably, permanently subjects that specific record and its entire digital chain of custody to the Auditor General's unfettered, penetrating jurisdictional scrutiny.

52. Furthermore, the sweeping powers granted under section 11 of the *Auditor General Act* explicitly, boldly empower the Auditor General to aggressively examine "any person" directly on oath regarding instances of severe administrative malfeasance, deep structural deficiencies, or the deliberate, calculated circumvention of established internal technological controls. The apparent, highly suspicious technological siloing of court data, the systemic, entirely unexplained bypass of highly standardized case management infrastructure (such as the heavily utilized Criminal E-Intake Portal or the province-wide ICON/FRANK systems), and the resultant terrifying epistemological void regarding the Applicant's fundamental arrest warrant constitute a catastrophic, totally unprecedented systemic failure of the MAG's internal operational controls. This profound administrative collapse absolutely warrants, and indeed demands, an immediate, highly targeted "Special Investigation" by the Auditor General into the absolute veracity, the actual retention policies, and the complete digital workflow integrity of the MAG's court records pertaining to this Applicant.

53. *Non-Obvious Legal Theory Integration regarding the Systemic Crime-Fraud Exception:* Crucially, the Crown absolutely cannot selectively, dishonestly weaponize administrative privilege to thwart such a vital, democratically essential investigation. The Applicant formally asserts the application of the universal "Crime-Fraud exception" applied dynamically to systemic executive spoliation. It is a foundational, unassailable, and ancient tenet of Canadian law that absolutely no privilege—whether it be the highly guarded solicitor-client privilege, absolute adjudicative privilege, or qualified administrative privilege—can ever, under any circumstances, be invoked as an impenetrable legal cloak to actively shield a profound abuse of process, conceal rampant administrative malfeasance, or obscure the systemic, criminal fabrication of "phantom" judicial authorizations subsequently used to effectuate an unlawful, violent police arrest. The "fraud" in this context is the state's deliberate circumvention of its own mandated court tracking software (ICON/FRANK) to manufacture jurisdiction. The Auditor General's strict statutory mandate to relentlessly investigate institutional transparency, forcefully verify the absolute integrity of the state's administrative machinery, and fearlessly expose severe abuses of process absolutely, totally overrides any open-textured, defensive, and self-serving claims of administrative privilege advanced by a desperate Crown.

54. It is deeply, fundamentally incumbent upon the Ministry of the Attorney General, the highest echelons of the Court Services Division, and all affiliated, front-line court staff to acutely recognize the intense practical severity and the high degree of personal legal exposure inherent within these powerful statutory mechanisms. The formal invocation of section 11 of the *Auditor General Act* is absolutely not a theoretical, academic abstraction; it forcefully, legally empowers the Auditor General to legally compel the physical attendance of, and examine strictly under penalty of perjury, any specific court clerk, intake registrar, IT administrator, or operational official involved in any capacity in the digital chain of custody, the highly irregular circumvention of standardized case management infrastructure, or the physical handling of the purportedly fabricated Information Package. Such a compelled, sworn examination would subject the entire administrative apparatus, and its individual, identifiable human actors, to rigorous, legally binding, and highly uncomfortable scrutiny regarding their specific operational conduct and their potential legal complicity in the deliberate spoliation of the judicial record.

55. The Applicant respectfully, yet firmly, submits, however, that this drastic, highly intrusive, and massively resource-intensive statutory escalation is entirely, immediately avoidable. The absolute necessity of invoking the Auditor General's plenary, severe investigatory powers, and the corresponding, uncomfortable exposure of individual court staff and high-ranking MAG personnel to sworn, transcribed examinations, evaporates instantaneously upon the prompt, voluntary, and entirely transparent disclosure of the formally requested materials. By forthwith providing a true, unredacted, and technologically, forensically verifiable copy of the complete Information, the formal Indictment, and the foundational Intake Court Endorsement, the state apparatus can seamlessly, quickly cure the terrifying epistemological void, instantly restore the fundamental integrity of the public record, and permanently preclude the dire necessity of an independent, highly public audit. The stark choice between proactive, restorative constitutional transparency and compelled, severe statutory inquisition rests entirely, heavily with the current, accountable custodians of the record.

XI. DIRECT LIAISON WITH TECHNICAL CUSTODIANS, THE FORENSIC IMMUTABILITY OF CLOUD-BASED ARCHITECTURE, AND THE BINDING DIRECTIVES OF THE CANADIAN JUDICIAL COUNCIL

56. To the exact extent that the Crown or the Court Services Division deems it administratively expedient, I remain entirely content and proactively willing to communicate directly and exclusively with the designated Chief Court Information Officer, the primary information controller, and/or the formally appointed information custodian. Possessing a highly sophisticated, deeply integrated background in advanced information technology, systems architecture, and cryptographic data management, I am extensively proficient in algorithmic coding, relational database querying, and the rigorous forensic mechanics of enterprise-grade server infrastructure. This technical fluency permits a highly streamlined, peer-to-peer technical dialogue with your IT personnel, thereby conserving the court's invaluable administrative resources and preserving vital judicial economy.

57. Furthermore, out of profound respect for the court's administrative time, I am equally prepared and legally positioned to interface directly with the relevant third-party enterprise storage vendors and cloud-hosting providers currently retained by the Ministry of the Attorney General. To the extent that the provincial administrative apparatus is leveraging Amazon Web Services (AWS) for its data warehousing—a deployment topology that appears incontrovertibly evident given the province's existing digital infrastructure footprint—it is a foundational, axiomatic reality of AWS cloud architecture that the platform completely neutralizes any spurious claims of accidental, localized data loss. AWS natively and automatically executes encrypted, highly redundant backups of all electronic documents and transactional metadata. Specifically, AWS architecture systematically archives these unalterable data iterations at a minimum frequency of three times per diurnal cycle, persisting these immutable snapshots within highly durable, cryptographically secured Simple Storage Service (S3) "buckets" spanning multiple, geographically distributed availability zones.

58. It is absolutely imperative to respectfully remind the Ministry of the Attorney General and all affiliated court staff that the Superior Court of Justice, its presiding jurists, and its entire administrative architecture are rigorously, unconditionally governed by the technological and ethical mandates promulgated by the Canadian Judicial Council (the "**CJC**"). These binding architectural directives, which explicitly govern the SCJ courts and its judges, include the *Ethical Principles for Judges*, the *Blueprint for the Security of Court Information*, the *Model Definition for Judicial Information*, the *Model Policy for the Retention of Court Information*, and the *Model Policy for the Classification of Court Information*. These instruments strictly dictate the absolute preservation, cybersecurity, metadata classification, and unalterable retention of all judicial records.

59. Any assertion by the registry that a purportedly generated Intake Court Endorsement has simply vanished and cannot be forensically extracted from a redundant AWS S3 bucket directly contravenes the strict data-governance, automated-backup, and cyber-hygiene protocols universally mandated by these CJC articles. A failure to retrieve a document from a system explicitly designed for absolute, multi-layered redundancy does not evidence a mere technological glitch; rather, it provides overwhelming, forensic corroboration of an intentional, highly sophisticated bypass of the court's mandated security architecture. The deliberate circumvention of these CJC-mandated protocols to permanently eradicate an arrest authorization fundamentally shatters the *Ethical Principles for Judges* and further cements the inescapable application of the Crime-Fraud exception regarding the state's ongoing, contumacious spoliation.

60. Thank you kindly or your attention to the same and I will presume all of the above is correct as it relates to the likes of inter alia, the file number herein, the particulars of that which was undisclosed et al.

Respectfully submitted,

Mr. Kevin A. McLean (BA, JD, CIM)

To be forward to the Chief Justice of the SCJ out of an abundance of caution

Warm regards,

Mr. Kevin A. McLean (BA, JD, CIM)

Chartered Investment Manager

Email: mcleansettlement@gmail.com

Fax: 416.981.7117

Phone number: 647.370.9354

On Sat, Mar 28, 2026 at 1:19 PM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

> Dear Ms. Simion:
>
> I hope you are well.
>
> As the Manager of Court Operations of the Originating Court Office in the Originating Courthouse where the Criminal Proceeding was commenced, would you kindly confirm whether you have or have not returned to the clerk of the court at the place where Form 1 Notice of Application is returnable true copies of the Order (if the INTAKE COURT ENDORSEMENT (SEPT 23 2024 or any other date known to you if that could be at law to be considered a "order" which I say it could not), or warrant (if the INTAKE COURT ENDORSEMENT (SEPT 23 2024 or any other date known to you if that could be at law to be considered a "order" which I say it could not, together with true copies of the indictment, information (to the extent that the original, authentic and undisclosed Criminal Code Form 2 Information and/or Criminal Code Form 4 Indictment was duly completed and authorized, and then in relation to the Criminal Code Form 2 Information received by the formerly undisclosed SCJ Judge, and duly sworn before said Judge in person (chambers as admitted by SCJ RMO Ms. Amirthalingam in 2025 (Summer/Fall)) exhibits, and any other proceedings (noting the definition of "Proceeding" under the Criminal Proceeding Rules) or documents touching the matter, and the notice served with a certificate attached thereto in the requisite form and then in certified manner:
> Pursuant to the accompanying notice I herewith return to this Honourable Court the following:
> - True copies of:
> - the information;
> - the conviction (or as the case may be);
> - the exhibits, if capable of reproduction and relevant to the matters in question;
> - any other papers or documents touching the matter, if capable of reproduction and relevant to the matters in question.
>
> And I hereby certify to this Honourable Court that I have above truly set forth all exhibits, papers, and documents in my custody or power relating to the matter set forth in the said notice of application.
> Date: _____
> Manager of Court Operations at SCJ 361 University Avenue Courthouse (1st floor)"
>
> A simple "yes" or "no" shall suffice. If it is "yes", would you please provide me with a copy of the same or confirm when it was "returned' the same.

I enclose and attach a copy of my letter to the Primus Inter Pares of the SCJ in The Honourable Mr. Chief Justice Morawetz that was faxed this morning.
Thank you.
Mr. Kevin A. McLean (BA, JD, CIM)

Warm regards,

Mr. Kevin A. McLean (BA, JD, CIM)

Chartered Investment Manager

Email: mcleansettlement@gmail.com

Fax: 416.981.7117

Phone number: 647.370.9354

On Tue, Mar 24, 2026 at 11:32 AM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

> Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:
>
> As promised, kindly find attached part 2 of 2. I will now serve a copy of the same along with the relevant persons. Thank you.
>
> Mr. Kevin A. McLean (BA, JD, CIM)
>
> REPLY TO: Mr. Kevin A. McLean (BA, JD, CIM) (DOB: March 25, 1983; Driver's Licence: M16514331830325)
> REPLY VIA EMAIL: mcleansettlement@gmail.com
> REPLY VIA FAX: 416.981.7117
> TELEPHONE (in the event of an obstruction with email or facsimile transmission): (647) 370-9354
> SENDER'S STATUS: Applicant

On Tue, Mar 24, 2026 at 11:31 AM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

> **DATE:** March 24, 2026
> **CLASSIFICATION:** For intended recipient(s) and subject to service on the Attorney General of Ontario, the Attorney General of Canada, et al.
>
> **REPLY TO:** Mr. Kevin A. McLean (BA, JD, CIM) (DOB: March 25, 1983; Driver's Licence: M16514331830325)
>
> **REPLY VIA EMAIL:** mcleansettlement@gmail.com
>
> **REPLY VIA FAX:** 416.981.7117
>
> **TELEPHONE** (in the event of an obstruction with email or facsimile transmission): (647) 370-9354
>
> **SENDER'S STATUS:** Applicant

RELEVANT PARTICULARS

Style of Cause: *His Majesty The King v. Mr. Kevin A. McLean (BA, JD, CIM)* (the "***King v. McLean***")

Year of Commencement of the Criminal Proceeding: 2024

Known File Number: 24-457197 (or a substantially similar numerical string, to be precisely clarified by the court office (the "**Court Office**") where the criminal proceeding (the "**Criminal Proceeding**") was ostensibly commenced in 2024, being that of the Superior Court of Justice located at 361 University Avenue)

Originating Court Office: First floor of the Superior Court of Justice, 361 University Avenue Courthouse

Originating Courthouse: Superior Court of Justice, 361 University Avenue Courthouse (the "**Originating Courthouse**")

Location of the Ex Parte In Camera Hearing(s): Conducted within the judicial chambers of the undisclosed Superior Court of Justice Judge on or subsequent to Friday, September 20, 2024, and prior to October 2, 2024

Name of the Informant: Explicitly not Court Officer (Toronto Region) Mrs. Frugoni-Rojas (a part-time contractor retained by the Toronto Police Service), as extrapolated from the falsities embedded within the false information package (the "**False Information Package**") and the recent doctrinal discovery that, pursuant to section 508.1 of the *Criminal Code*, RSC 1985, c C-46, an information laid by telecommunication necessitates no signature, but merely a statutory statement of belief.

Deemed Sworn Date of the Undisclosed Informant or Signature on the Form 4 Indictment: Either September 23, 24, or 25, 2024, as extrapolated from the systemic delay indicators delineated within *R. v. Jordan*, 2016 SCC 27 (the "***Jordan** Decision*") flags contained within the False Information Package.

Name of the Adjudicator at Issue and Document Type Rendered:

- **Name:** The Honourable Madam Justice Sharon Shore (the "**Presiding Justice**")
- **Area of Conventional Jurisdiction:** Family Law
- **Primary Location:** Superior Court of Justice, 361 University Avenue Courthouse
- **Designation:** Family Law Team Leader for the Court Office located on the first floor
- **Judicial Chambers:** Undisclosed floor and office number within the Originating Courthouse
- **Alternative Location:** Divisional Court, 130 Queen Street West, Toronto, Ontario
- **Document Type:** intake court endorsement (the "**Intake Court Endorsement**"), constituting neither a *Form 6 Summons* nor a *Form 7 Warrant for Arrest*
- **Contents Therein:** To be fully disclosed by the Court Office of the Originating Courthouse and any affiliated entities possessing custody or control of the aforementioned document.

  Date of Applicant's Arrest: October 2, 2024, at approximately 7:30 p.m.

  Location of Applicant's Arrest: Toronto Police Service Division 14, situated at 350 Dovercourt Road, Toronto (the "**TPS 14th Division**")

  Arresting Police Officers: Constable Mr. Anthony Romano (Badge No. 6097) and Detective Constable Mr. Michael Roman Kolankowski (Badge No. 82239) of the TPS 14th Division

  Date of Form 10 Undertaking and Signatories: October 2, 2024; executed by Mr. Kevin A. McLean (BA, JD, CIM) and Sergeant Mr. Sean Cassidy

  Toronto Police Service Occurrence Numbers and Relevant Dates:

- September 22, 2024: Occurrence No. 24-2082035
- September 15, 2024: Occurrence No. 2024-2028093

  Case Manager: Eric Tang (Badge No. 10942), Email: 10942@tps.ca

  Authorizing Detective for Release from Imprisonment (October 2, 2024): Detective Mr. Abdulhameed K. Virani of the Toronto Police Service 52nd Division

  Canadian Police Information Centre (CPIC) Identifiers:

- 52nd Division: ON30247 (Investigating Agency for Downtown West/Major Crimes)

- 14th Division: ON30243
- TPS Headquarters: ON30244

Filing Requirements pursuant to the *Criminal Proceedings Rules for the Superior Court of Justice (Ontario)*:

- **Place of Filing:** The Court Office where the Criminal Proceeding was commenced, subject to the exception delineated in rule 4.05(3) of the *Criminal Proceedings Rules for the Superior Court of Justice (Ontario)* (the "***Criminal Proceeding Rules***").
- **Exception:** An affidavit, transcript, record, or factum to be utilized on the hearing of an application must be filed with the Court Office in the jurisdiction where the hearing is to be held.
- **Deemed Date of Filing:** March 24, 2026, at 11:30 a.m.

TO:

The Court Office where the Criminal Proceeding was commenced, governed by the *Criminal Proceeding Rules* enacted pursuant to subsection 482(1) of the *Criminal Code*, RSC 1985, c C-46.

Superior Court of Justice of Ontario

Toronto Region

361 University Avenue, 1st Floor

Toronto, Ontario M5G 1T3

ATTENTION: The Manager of Court Operations (statutorily recognized as the Clerk of the Court or Registrar), Ms. Monica Simion.

Dear Sirs/Mesdames:

I. PROCEDURAL POSTURE AND SUBMISSION OF AUTHORITIES

1. The present correspondence is respectfully submitted to the Court Office of the Superior Court of Justice to effectuate the formal filing of the Applicant's book of authorities (the "**Book of Authorities**"). Meticulous particularity has been employed in the enumeration of the preceding identifiers to facilitate absolute administrative precision.
2. Enclosed herewith, pursuant to the stringent mandates of the *Criminal Proceeding Rules*, is the fully indexed and comprehensively tabulated Book of Authorities. The proactive transmission of these materials at this nascent juncture is calculated to ensure that the presiding judicial officer, the Attorney General of Ontario, and the Attorney General of Canada are provided with ample opportunity to review the foundational jurisprudence well in advance of the scheduled hearing. To circumvent any logistical impediments stemming from electronic file size limitations, the Book of Authorities shall be transmitted in sequential installments, with the primary volume appended to this underlying correspondence.

II. STATUTORY NON-COMPLIANCE AND JURISDICTIONAL NULLITY

3. Given the idiosyncratic and ostensibly unprecedented nature of this proceeding—particularly regarding the locus of its commencement—a profound procedural anomaly has been discovered. It is submitted as a mathematical and logical impossibility that Court Officer Mrs. Frugoni-Rojas acted as the informant in this matter. This deduction is crystallized when juxtaposing the structural deficiencies of the False Information Package against standard pro forma documentation, such as the adult common information document promulgated by the Lincoln County Law Association (the "**Lincoln County Pro Forma**").
4. Initial scrutiny was directed toward the authenticity of the digital signature attributed to Mrs. Frugoni-Rojas, analyzing its validity under the *Canada Evidence Act*, RSC 1985, c C-5, and the *Secure Electronic Signature Regulations*, SOR/2005-30. However, rigorous legal analysis reveals that the signature inquiry is fundamentally a red herring. An examination of the Lincoln County Pro Forma demonstrates that a signature is statutorily superfluous in this specific context; rather, what is demanded is a formal statement of belief.
5. Pursuant to subsections 508.1(1) and 508.1(2) of the *Criminal Code*, RSC 1985, c C-46, an information laid by a peace officer via telecommunication requires no signature. The statutory imperative dictates solely that a statement in writing be produced, asserting that all matters

contained within the information are true to the officer's knowledge and belief. It is a trite and unassailable legal principle that a "statement" does not, *ipso facto*, equate to a "signature".

6. The False Information Package exhibits a fatal structural lacuna. Specifically, it attempts to insert a superfluous signature on the second page—a location where standard pro forma architecture dictates no such authorization is warranted. Furthermore, the critical page housing the statutorily mandated statement of belief (equivalent to page four of six in the Lincoln County Pro Forma) has been wholly omitted. Such a fundamental breach of statutory prerequisites cannot be construed as a mere procedural irregularity; rather, it constitutes a strict jurisdictional defect, rendering the information an absolute nullity *ab initio*.

III. EXTRAPOLATIONS CONCERNING THE EX PARTE PROCEEDING

7. It is highly irregular, albeit historically documented by the Superior Court of Justice Regional Manager of Operations, that the laying of the subject information occurred *ex parte* and *in camera* within the judicial chambers of the Presiding Justice.

8. The ensuing syllogism is inescapable: if the *ex parte in camera* hearing (the "**Ex Parte Hearing**") was conducted without verbatim transcription or electronic recording, the procedural mechanism utilized could not have been a mere written statement deemed under oath pursuant to section 508.1 of the *Criminal Code*, RSC 1985, c C-46. Consequently, the information was not lawfully laid until it was formally sworn or affirmed before a recognized justice.

9. The deduction therefore follows that while an information may have been submitted *post facto* to the swearing thereof, the issuance of the Intake Court Endorsement to the Court Office is marred by substantive temporal and technical errors. Whether the issuance of the Intake Court Endorsement functionally crystallizes into a formal "process" (comparable to a summons or warrant) remains a profoundly complex legal question, strictly reserved for adjudication at the forthcoming hearing of the notices of application (the "**Notices of Application**").

10. It must be further underscored that an individual does not acquire the legal status of an "accused" until such time as an information is validly sworn, an act which formally inaugurates the criminal proceedings. The failure to adhere to the strict statutory mechanisms governing the commencement of such proceedings renders all subsequent *acta* entirely *ultra vires*.

IV. ADMINISTRATIVE REQUISITIONS AND PRODUCTION OF CERTIFICATES

11. In the overriding public interest, and in strict adherence to the Applicant's entitlements enshrined within the *Criminal Proceeding Rules*, it is hereby formally demanded that a true copy of the certificate required under rule 43.03 of the *Criminal Proceeding Rules* be produced and remitted to the Applicant forthwith. This production is imperative to ascertain the precise inventory of documents that have been transmitted to the Court Office designated to adjudicate the Notices of Application.

12. If the certificate mandated by rule 43.03(3) of the *Criminal Proceeding Rules* has already been executed and dispatched, unequivocal confirmation of its transmission date is formally requested to facilitate secondary requisition protocols.

13. It is conceivable, pursuant to rule 4.10 of the *Criminal Proceeding Rules*, that the *Form 4 Indictment* was submitted directly to the Presiding Justice rather than the customary criminal intake registry. Irrespective of the localized routing, absolute confirmation of the court file number is required. If the file number posited herein (derived from the highly flawed False Information Package) is inaccurate, the Court Office is directed to provide the correct alphanumeric designation assigned to the Intake Court Endorsement.

14. The right is hereby unequivocally reserved to rely upon the contents of this correspondence for any and all lawful purposes, including but not limited to the preservation of the Applicant's fundamental procedural rights.

15. The Applicant's filings are deemed filed on the date and at the precise time of electronic transmission, as governed by rule 4.01(5) of the *Criminal Proceeding Rules*.

Respectfully submitted,

Mr. Kevin A. McLean (BA, JD, CIM)

APPENDIX A: STATUTORY REFERENCES

Criminal Code, RSC 1985, c C-46

Information laid otherwise than in person

508.1 (1) For the purposes of sections 504 to 508, a peace officer may lay an information by any means of telecommunication that produces a writing.

Alternative to oath

(2) A peace officer who uses a means of telecommunication referred to in subsection (1) shall, instead of swearing an oath, make a statement in writing stating that all matters contained in the information are true to the officer's knowledge and belief, and such a statement is deemed to be a statement made under oath.

1997, c. 18, s. 56

On Wed, Mar 18, 2026 at 12:33 PM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

> Subject: UPDATE & ENCLOSURES: Form 5 with Schedule "A" / Status of Certificate of Return
>
> VIA ELECTRONIC MAIL
>
> Ms. Monica Simion Manager of Court Operations Superior Court of Justice – Toronto Region 361 University Avenue, 1st Floor Toronto, Ontario M5G 1T3
>
> Dear Ms. Simion:
>
> Please find attached a copy of the email correspondence that was delivered to the Attorney General of Ontario (AGO) and the Attorney General of Canada (AGC), alongside a copy of my Form 5 Notice of Application and Constitutional Issue, including Schedule "A". Please be advised that a physical copy of these same documents will follow via mail.
>
> Further to my previous correspondence dated March 16, 2026, kindly provide an update as to whether the certificate of return is now complete.
>
> I will confirm with your office once all of the relevant persons have been served and personally served.
>
> Thank you kindly for your time and ongoing attention to this matter.
>
> Respectfully submitted,
>
> Mr. Kevin A. McLean (BA, JD, CIM) Applicant – Self-Represented

On Mon, Mar 16, 2026 at 9:53 AM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

> Dear Ms. Simion et al: out of an abundance of caution, I have copied the Supervisor for the 1st floor for SCJ 361 University Courthouse as was done last night in relation to my non-FIPPA access request. Thank you.
>
> Yours faithfully,
>
> */KAM*
>
> Mr. Kevin A. McLean (BA, JD, CIM)

On Mon, Mar 16, 2026 at 9:48 AM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

March 16, 2026
VIA ELECTRONIC SERVICE AT FIRST INSTANCE

Ms. Monica Simion
Manager of Court Operations
Superior Court of Justice – Toronto Region
361 University Avenue, 1st Floor
Toronto, Ontario M5G 1T3
Re: Service Pursuant to Rules 5.01, 5.02, 4.05, and 43.03(3) –
Form 1 Notice of Application (Criminal Proceedings Rules)
Applicant: Mr. Kevin A. McLean (BA, JD, CIM)
Dear Ms. Simion et al:
Please accept this correspondence, together with the enclosed **documents**, as **formal electronic service** upon you in your capacity as **Manager of Court Operations at the originating court office** for the purposes of **Rules 5.01, 5.02, 4.05, and 43.03(3)** of the Criminal Proceedings Rules for the Superior Court of Justice (Ontario).
This service is effected to **trigger your mandatory statutory obligations under Rule 43.03(3)**, which requires the Manager of Court Operations to return forthwith to the clerk of the court at the place where the application is returnable:
"true copies of the conviction (or as the case may be), together with true copies of the indictment, information, exhibits and papers or other documents touching the matter, as fully and as entirely as they remain in your custody, together with this notice and the certificate prescribed in the said rule."
For clarity, **the originating court office for this Criminal Proceeding is the 1st-floor court office at 361 University Avenue**, being the only office with custody or power over the impugned Intake Court Endorsement and any associated acta.

Nuanced Clarification Regarding Custody, Power, and the Scope of "Documents"

In light of your response last night to my access request, with thanks, I note that these issues can be nuanced. To eliminate any issues involving any apparent discretion and the broader ambit of "documents" — including **exhibits, the information, endorsements, papers, or documents in your custody and *power*** (as opposed to mere control) — I have taken the step of giving and serving the same to avoid any issues regarding the scope of Rule 43.03(3). Kindly provide me with the **completed certification** once it has been transmitted on a forthwith basis.

Enclosures Served Electronically

1. **Form 1 – Notice of Application (Criminal Proceedings Rules)**
2. **Schedule "A" – Relief Sought, Grounds, and Evidentiary Framework**

These **documents** are served for the purpose of initiating the Manager's **mandatory certification obligations** under Rule 43.03(3) and compelling the return of all Informations, endorsements, warrants, exhibits, papers, and documents touching the matter.

Clarification Regarding Filing Requirements and Returnability

As the **Criminal Proceeding was commenced in the Superior Court of Justice at 361 University Avenue, 1st floor**, all filings are required to include that address, which has been done in the Form 1 Notice of Application.
Further, pursuant to **Rule 4.05**, all filings — except those made in limine during a hearing — must be filed **with your Court Office**, being the originating office. This does **not** mean that your Court Office is the returnable forum for the Notice of Application; rather, it remains the office where filings must be made. The Form 1 Notice of Application is **returnable before the clerk of the court in Courtroom 241**, consistent with the governing procedural framework.

Notice of Personal Service on the Presiding Judicial Officer

A copy of the Form 1 Notice of Application will also be **personally served on the Honourable Madam Justice Shore** by leaving a copy with her, together with mailed copies of the same, in accordance with **Rule 5.02(1)(c)**.

Service Coordinates of the Applicant

Mr. Kevin A. McLean (BA, JD, CIM)
Email: **mcleansettlement@gmail.com**
Fax: **416-981-7117**
Telephone: **(647) 370-9354**

Thank you for your attention to this matter and kindly coordinate separately by email thread regarding my Non-FIPPA access request as you did last night.
Respectfully submitted,
Mr. Kevin A. McLean (BA, JD, CIM)
Applicant – Self-Represented

3 attachments

T-2448-26 - Kevin Alexander McLean v. Royal Canadian Mounted Police et al - Stamped Copy - May 19 - 2026.pdf
1066K View as HTML Scan and download

Form 1 - NOA - THE KING V. KA MCLEAN - APPLICANT - KAM BA JD CIM - 29-APRIL-2026.pdf
977K View as HTML Scan and download

Information Package 4810 998 24 48129169-00 (4).pdf
329K View as HTML Scan and download

TAB 93

VIA ELECTRONIC MAIL AND FACSIMILE
(Transmitted concurrently via electronic mail to: SCJOfficeoftheChiefJustice.Mail@ontario.ca)
(Transmitted concurrently via facsimile to: 1-416-327-6011)
(To be followed via Courier, Express Post, and/or Registered Mail)

TO:

The Honourable Associate Chief Justice of the Superior Court of Justice of Ontario (the "**Superior Court Of Justice**" or the "**SCJ**"), Madam Justice Faye E. McWatt
In her capacity as the Acting Chief Justice of the SCJ consequent to the departure of the former Chief Justice of the SCJ, Former Judge Mr. Geoffrey B. Morawetz
130 Queen Street West
Toronto, Ontario

SUBJECT I: URGENT PEREMPTORY DEMAND FOR ADMINISTRATIVE DIRECTIVES ISSUED PURSUANT TO THE CAPACITY OF ACTING CHIEF JUSTICE OF THE SUPERIOR COURT OF JUSTICE AND THE PRESERVATION OF THE COURT RECORD

A strict, unyielding requisition commanding the immediate, incontrovertible direction of court staff and registry clerks to forthwith execute mandatory, non-delegable ministerial and administrative duties assigned by law to the judiciary, specifically encompassing the following statutory, constitutional, and procedural frontiers:

1. **Obligations Executed Pursuant to the *Administration of Justice Act*, Attendant Regulations, and the Canadian Judicial Council Administrative Frameworks:**
   a. To compel uncompromising, immediate compliance with the non-delegable public duty to furnish the applicant (the "**Applicant**") with a complete, unadulterated, and cryptographically verifiable copy of the formal information (the "**Information**") or the indictment (the "**Indictment**") wherein the Applicant is explicitly designated as the accused (the "**Accused**"), originating on or around September 2024. Said provision is statutorily mandated to be fulfilled upon request and without the exaction, imposition, or prerequisite of any prescribed administrative fees, entirely consistent with section 2 and section 7 of the *Ministry of the Attorney General Court Services Division Court Information Access Guide (2019)* (the "**MAG CSD Guide**"). It is submitted that the financial burden of this extensive administrative remediation rests entirely and exclusively upon the public purse, thereby ensuring unfettered, equitable access to justice and preventing the state apparatus from profiting monetarily from its own systemic obfuscation and deliberate documentary sequestration.
   b. To compel the provision, via secure electronic transmission, of any and all judicial endorsements (the "**Endorsements**") wherein the Applicant is recognized as a party, absolutely free of charge, as rigidly dictated by section 7 of the *MAG CSD Guide*. The perpetual preservation and unfettered dissemination of such foundational adjudicative authorizations constitute an irreducible minimum of judicial accountability, without which the coercive penal power of the state operates within an unconstitutional, untraceable vacuum.
   c. To enforce absolute, unwavering compliance with the *Canadian Judicial Council Model Policy for the Classification of Court Information* (the "**CJC Classification Policy**"), which unequivocally, and without jurisdictional exception, designates pleadings, orders, and reasons for judgment as public information (the "**Public Information**"). The continued, orchestrated suppression of these foundational *acta* directly and maliciously contravenes this established national framework, thereby representing an *ultra*

5980 *vires* abrogation of the open court principle and an impermissible encroachment upon the fundamental liberties of the Accused.

2. **Obligations Executed Pursuant to the *Criminal Proceedings Rules*:**
   a. To compel the Manager of Court Operations of the originating court office (the "**Originating Court Office**") situated within the originating courthouse (the "**Originating Courthouse**") to strictly comply with the executory duty to forthwith provide the required certified return. This mandate is dictated pursuant to rule 43.03 of the *Criminal Proceedings Rules for the Superior Court of Justice (Ontario)* (the "**Criminal Proceedings Rules**").
   *(**Nota Bene**: It is rigorously submitted that the temporal parameter governing this administrative requirement has been irrevocably crystallized as a "forthwith" obligation since April 30, 2026. The continued administrative paralysis exhibited by the registry in effectuating this mandatory appellate return is entirely hostile to the rule of law, representing a profound, actionable abdication of the ministerial duties statutorily imposed upon the public service, effectively functioning as a localized suspension of habeas corpus protections).*

Dear Madam:

I. PROCEDURAL POSTURE, EXHAUSTION OF ADMINISTRATIVE REMEDIES, AND IDENTIFICATION OF THE TRANSMISSION

1. It is with a resolute commitment to unyielding procedural rectitude and a profound, unwavering dedication to the preservation of the constitutional order that this comprehensive correspondence is directed to your immediate attention. The paramount constitutional and administrative exigencies delineated herein fundamentally engage the core inherent jurisdiction of the Superior Court of Justice. Should these catastrophic documentary and jurisdictional matters be left unrectified, they threaten to irreparably compromise the public's confidence in the administration of justice, systematically eroding the foundational pillars upon which the rule of law and the separation of powers are constructed.
2. The *Ethical Principles for Judges* promulgated by the Canadian Judicial Council explicitly and uncompromisingly dictate that judicial independence, institutional integrity, and administrative diligence are paramount operational imperatives. The current, protracted administrative obfuscation characterizing the Toronto Region registry stands in direct, unapologetic contravention of these venerated tenets, projecting an appearance of a judicature that has been thoroughly captured by external executive or law enforcement influences.
3. Annexed hereto are two comprehensive, voluminous compilations of documentary evidence, encapsulated as meticulously preserved electronic correspondence threads, which extensively detail the relevant attachments and the protracted historical communications germane to the two distinct legal imperatives denoted above. The provision of these exhaustive records serves to definitively establish the complete, unassailable exhaustion of all available administrative remedies at the registry level prior to this formal escalation:

   a. The mandatory obligations owed pursuant to the *Administration of Justice Act* and its attendant regulations, which have been met consistently with an unacceptable, protracted, and profound institutional opacity that borders on contumacious obstruction; and
   b. The mandatory procedural obligations owed pursuant to the *Criminal Proceedings Rules*, the contravention of which functionally deprives the reviewing appellate tribunal of the foundational record necessary to conduct a constitutionally sound adjudication, thereby intentionally paralyzing the appellate mechanism and shielding *ultra vires* conduct from judicial scrutiny.
4. The persistent, seemingly orchestrated sequestration of these foundational *acta* by the administrative apparatus transcends mere procedural irregularity or bureaucratic inadvertence; it constitutes an actionable, systemic obfuscation that operates to categorically deny the Applicant's fundamental right to make full answer and defence as enshrined within section 7 and section 11(d) of the *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982 (UK)*, 1982, c 11 (the "**Charter**"). The meticulous preservation of the adjudicative history

within the annexed exhibits is of paramount importance to ensuring that all structural irregularities, technological spoliations, and unauthorized *acta* are systematically documented and subsequently addressed before a competent tribunal of inherent jurisdiction.

5. Furthermore, the deafening administrative silence exhibited by the Originating Court Office represents a profound, actionable breach of the doctrine of legitimate expectations. As authoritatively articulated by the Supreme Court of Canada in *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 SCR 817 (the "*Baker*"), where a public authority issues specific representations regarding the administrative procedure it will adhere to—in this instance, the explicit, codified assurances contained within the *MAG CSD Guide* and the national guidelines articulated by the Canadian Judicial Council affirming that foundational records shall be provided forthwith and without tariff—the failure to honor those representations constitutes a profound breach of procedural fairness. The administrative state cannot be permitted to operate as an impenetrable monolith. The Applicant's indefeasible right to verify the jurisdictional parameters of his own state-mandated detention cannot be subordinated to the indefinite administrative stasis or the clandestine machinations of a captured registry.

II. JURISDICTIONAL TRANSFER, THE DOCTRINE OF THE TAINTED TRIBUNAL, AND CONSTITUTIONAL RUPTURE

6. In relation to the latter procedural obligations, it is formally affirmed that the substantive hearing for the Form 1 Notice of Application (the "**Form 1 NOA**") and the Form 5 Notice of Application and Constitutional Question (the "**Form 5 NOCQ**") has been meticulously scheduled to convene before the Superior Court of Justice within the Newmarket Courthouse (the "**Central East Region**"). This strategic transplantation of venue is strictly necessitated by the absolute, demonstrable impossibility of procuring a fair, impartial, and constitutionally unassailable hearing within the City of Toronto (the "**Toronto Region**").
7. Such an incurable, systemic apprehension of bias is precipitated by the historically undisclosed, clandestine involvement of the former Chief Justice, Mr. Geoffrey B. Morawetz (the "**Former Chief Justice Morawetz**"), acting in inextricable, localized concert with the largely undisclosed administrative machinations of Madam Justice Shore. It is a matter of incontrovertible geographical and administrative record that Madam Justice Shore has presided as the family law team leader (the "**Family Law Team Leader**") at the Superior Court of Justice located at the 361 University Avenue Courthouse since or around 2020. *(It is further noted for the absolute preservation of the historical record that Madam Justice Shore was appointed to the bench in 2018, rendering the weaponization of her specialized familial registry for the issuance of a criminal intake endorsement an astonishing, ultra vires jurisdictional aberration that defies all established parameters of subject-matter allocation).*
8. It is respectfully submitted that the capacity to obtain an untainted, equitable adjudication within the City of Toronto—whether before the Superior Court of Justice or the Ontario Court of Justice—has been permanently and irremediably vitiated. The legal standard necessary to establish a reasonable apprehension of bias, as definitively enunciated by the Supreme Court of Canada in *Committee for Justice and Liberty v. National Energy Board*, [1978] 1 SCR 369 (the "*Committee Decision*"), dictates that an informed, right-minded person, viewing the matter realistically and practically, and having thought the matter through, would conclude that there is a reasonable apprehension that the decision-maker would not decide the case impartially.
9. When this robust jurisprudential extrapolation is superimposed upon the factual architecture herein—where the Chief Justice intervened as an undisclosed adjudicator while harbouring apparent conflicts, where a family law registry was utilized to clandestinely synthesize criminal process, and where registry personnel were deliberately manipulated to obstruct access to the resultant files—the threshold for a reasonable apprehension of bias is not merely surpassed; it is obliterated.
10. While the Applicant fundamentally eschews the levying of castigation in the absence of incontrovertible, objective evidentiary substantiation, the extant record renders it profoundly manifest that Madam Justice Shore, whilst presiding over a collateral proceeding, operated entirely beyond the lawful parameters of her adjudicative mandate. Such extra-jurisdictional conduct engages the absolute

5982 nullity defined by the venerated maxim *Factum a judice quod ad officium ejus non pertinet, ratum non est* (an act of a judge which does not pertain to their office is of no force), and undeniably renders the resultant decrees operating entirely *coram non judice*.

11. Furthermore, the evidentiary substrate incontrovertibly suggests a calculated, deliberate manipulation of the former Registrar of the Divisional Court (Ms. Gentles) and associated registry personnel (namely, Ms. Ibula), thereby effectuating a widespread, systemic abuse of process explicitly targeted against the Applicant. This systemic prejudice and institutional malfeasance is cast into stark, undeniable relief when juxtaposed against the administratively sound, procedurally unimpeachable, and equitable treatment concurrently afforded to the Applicant by the Federal Court of Canada. Given that the Applicant remains the constant variable across these disparate jurisdictional fora—maintaining at all times strict, unwavering adherence to every applicable statute, regulation, and common law precept—the resultant procedural dichotomy is highly probative. It serves to definitively demonstrate that the rampant misconduct proliferating within the Superior Court of Justice and the Divisional Court in the Toronto Region is the direct, proximate consequence of a coordinated fraud perpetrated upon both the Superior Court of Justice and the Ontario Court of Justice—institutions separated by a mere stone's throw in geographical proximity, yet similarly compromised by this localized institutional capture, the full, clandestine scope of which remains the subject of ongoing, multi-jurisdictional investigations of which the Applicant was previously unaware.

12. Under the antecedent leadership of the judiciary, acting in the capacity of the President of the Court of Ontario pursuant to the *Courts of Justice Act*, this systemic charade was permitted to flourish unabated. This profound abuse of process and fraud upon the court (the "**Fraud Upon The Court**") was initially orchestrated by the executive branches of government, yet it was tragically, actively, and systemically facilitated by certain Justices of the Peace and judges of the Ontario Court of Justice operating within the Toronto Region. The clandestine synthesis of penal instruments within the obscured recesses of civil administrative chambers functionally bypasses the rigorously audited criminal registries, explicitly the Integrated Court Operation Network (the "**ICON**"). This evasion represents a catastrophic rupture in the separation of powers, the bifurcation of subject-matter jurisdiction, and profoundly subverts the zero trust architecture (the "**Zero Trust Architecture**") mandated by the *Canadian Judicial Council Blueprint for the Security of Court Information*, Seventh Edition (the "**CJC Seventh Blueprint**").

13. The subsequent forensic discovery of Former Chief Justice Morawetz's undisclosed intervention was not merely an administrative shock; it constituted an egregious ethical transgression that offends the very bedrock of judicial impartiality. By continuing to exercise administrative and adjudicative authority without proactively disclosing his inherent conflict of interest to the Applicant, a structural vulnerability of immense proportions was injected into the proceedings. Furthermore, the abrupt proclamation of his "retirement" was conspicuously synchronized with active litigation advancing before the Divisional Court of Ontario. This litigation encompassed the formal filing of critical instruments—some of which were statutorily required to be directed exclusively to his attention pursuant to section 123 of the *Courts of Justice Act*. The strategic timing of this departure cannot serve to permanently immunize an extra-judicial deprivation of liberty from rigorous appellate scrutiny, nor does it extinguish the non-delegable administrative and ethical responsibilities of the office he has vacated.

III. THE PARAMOUNT IMPORTANCE OF DOCUMENTARY RECORD-KEEPING WITHIN A COURT OF RECORD AND THE OPEN COURT PRINCIPLE

14. Notwithstanding the aforementioned historical infractions and the profound institutional dysfunction they represent, the historical reality is acknowledged, and institutional focus must now pivot irrevocably toward immediate systemic remediation. Consequently, this correspondence serves to formally present the Acting Chief Justice with the constitutional opportunity—and the corresponding, unavoidable statutory requirement—to decisively direct the court staff, specifically including the Manager of Court Operations of the Originating Courthouse at the Originating Court Office.

5983 15. Such directives must compel absolute, uncompromising compliance with the executory duties associated with the undisclosed criminal proceeding (the "**Criminal Proceeding**") ostensibly commenced in September 2024 within the Toronto Region. It is strictly demanded that the Acting Chief Justice ensure the administrative apparatus functions with absolute transparency, affirmatively rectifying the profound failures perpetrated during the tenure of Former Chief Justice Morawetz. The Superior Court of Justice speaks exclusively and undeniably through its formal record. When a court of record egregiously fails to generate, preserve, or subsequently produce the very documentation that memorializes its sovereign decrees, it ceases to function as a court of law, devolving rapidly into an unchecked apparatus of arbitrary state power that is fundamentally hostile to the rule of law.

16. The existential essence of a court of record is inextricably bound to the unimpeachable integrity of its documentary repository. As explicitly codified within the *Canadian Judicial Council Model Policy for the Retention of Court Information* (the "**CJC Retention Policy**"), the transition to a digital paradigm dictates the absolute realization that "digital is different." The digital court record is not merely a passive reflection of the proceedings; it constitutes the active, verifiable jurisdictional foundation upon which the coercive power of the state is justified. The failure to retain, appropriately classify, and freely disseminate these records violates the most fundamental precepts of judicial administration. A court that permits its records to be concealed, technologically altered, or strategically withheld ceases to operate independently and becomes a mere instrument of executive prerogative. The sudden vanishing of a digital file implies a far more sinister reality than the misplacement of a paper dossier; it implies deliberate algorithmic suppression, database-level deletion, or unauthorized access controls implemented to shield malfeasance.

17. The solemn obligation to meticulously preserve the judicial record transcends mere bureaucratic formality; it is a foundational pillar of judicial independence and systemic integrity as definitively articulated within the *Canadian Judicial Council Ethical Principles for Judges* (the "**Ethical Principles**"). The Ethical Principles unequivocally mandate that judicial independence, integrity, and diligence are paramount. The intentional or negligent spoliation of the digital record constitutes a grave departure from these ethical imperatives, fundamentally compromising public confidence in the judicature. Furthermore, the CJC Seventh Blueprint rigidly imposes the Zero Trust Architecture. This paradigm necessitates the uncompromising, continuous verification of all users, devices, and digital pathways. The clandestine synthesis of the Information within a localized familial registry utterly circumvents these mandated security protocols, neutralizing the Zero Trust Architecture, bypassing the chief court information officer (the "**CCIO**"), and rendering the resultant *acta* functionally illegitimate and structurally compromised.

18. It is equally imperative to recognize the strictures of the CJC Classification Policy. This national framework explicitly, and without ambiguity, categorizes pleadings, orders, reasons for judgment, and court records not subject to a formalized, judicially pronounced sealing order as Public Information. The deliberate suppression and continued administrative sequestration of the foundational *acta* directly contravene this formalized classification schema. Such an action constitutes an *ultra vires* abrogation of the Open Court Principle and an impermissible elevation of executive secrecy over judicial transparency, effectuating a profound denial of fundamental justice.

19. The supreme law of the land vehemently rejects the concept of unrecorded, *in camera* penal authorizations. The Supreme Court of Canada, in *Sherman Estate v. Donovan*, 2021 SCC 25 (the "*Sherman Estate*"), decisively affirmed that the open court principle (the "**Open Court Principle**") is a constitutionally protected presumption of public access to adjudicative records. Unfettered judicial openness actively deters systemic mischief, prevents the tribunal from operating *coram non judice*, and ensures unwavering public confidence in the administration of justice. The deliberate execution of an ex parte chamber proceeding entirely devoid of the transparency afforded by an open courtroom, lacking a contemporaneous audio recording or transcription, and purportedly authorizing a deprivation of liberty based upon an unsworn or subsequently sequestered Information, is antithetical to the principles of fundamental justice. The absolute unavailability of the *acta* necessitates immediate institutional intervention to restore the *status quo ante*.

20. INCORPORATION OF THE EVIDENTIARY RECORD, THE DOCTRINE OF SPOLIATION, AND THE EXTRAPOLATION OF LEGAL PRINCIPLES

20. The exhaustive historical context, the persistent administrative obfuscation, and the incontrovertible forensic realities are comprehensively detailed within the appended enclosures. Said enclosures, distinctly paginated and delineated as Exhibit "A" (the "**Exhibit A**") and Exhibit "B" (the "**Exhibit B**"), are hereby incorporated by reference in their entirety, constituting a permanent evidentiary substrate for all future adjudicative review.

Nota Bene (Anticipatory Rebuttal regarding Procedural Irregularity versus Jurisdictional Nullity): It is highly anticipated that the Crown or the administrative apparatus may desperately hypothesize that the catastrophic failure of the registry to produce the foundational *acta*—specifically including the statutorily mandated Information and the intake court endorsement (the "**Intake Court Endorsement**")—constitutes a mere curable procedural irregularity, ostensibly salvageable under the remedial provisions of section 601 or section 485 of the *Criminal Code*. Such a postulation is intellectually bankrupt, factually unsustainable, and legally vacuous. Section 485 operates exclusively to cure procedural inadvertence; it is permanently impotent to cure the total, inexplicable absence, structural alteration, or intentional spoliation of the originating process.

The complete absence of the originating instrument, exacerbated by a direct, contumacious contravention of the CJC Retention Policy, fundamentally deprives the tribunal of subject-matter jurisdiction (*ratione materiae*) and personal jurisdiction (*ratione personae*) *ab initio*. As elucidated by the Supreme Court of Canada in *Kourtessis v. M.N.R.*, [1993] 2 SCR 53 (the "*Kourtessis*"), jurisdiction is the absolute, non-negotiable prerequisite for any lawful adjudicative act. Consequently, the preceding adjudicative actions and the resultant deprivations of liberty constitute an absolute nullity, functioning entirely *coram non judice*. They are utterly devoid of legal force and entirely incapable of retrospective validation or *ex post facto* rectification. The *de facto* doctrine cannot miraculously cure an absolute epistemological and jurisdictional void created by the state's failure to maintain its own transparent authority to detain in direct contravention of its own supreme administrative frameworks.

Nota Bene (Technological Spoliation and the GrapeCity Forensic Metamorphosis): It is further submitted that the evidentiary record confirms profound structural corruption of the electronic documents system. Forensic analysis demonstrates that the state law enforcement apparatus maliciously manipulated the digital artifact utilizing *GrapeCity Documents for PDF 6.0.2.0* software. This technological interference resulted in a catastrophic structural collision, attempting to stitch together proprietary civil drafting architecture with archaic criminal requirements, thereby producing an irremediable "Item already has an owner" object exception within the document's metadata. Furthermore, the total absence of verified public key infrastructure (the "**PKI**") cryptographic hashes guarantees that the document was improperly exported and fraudulently altered *post facto* to obscure the identity of the drafting authority. The deliberate application of third-party software to expunge or mutate a judicial signature irrevocably destroys the statutory presumption of systemic integrity afforded under section 31.2(1) of the *Canada Evidence Act*, RSC 1985, c C-5, and constitutes a direct, actionable breach of the information systems security mandates outlined in the CJC Seventh Blueprint.

Nota Bene (Integration of the Maxims of Herbert Broom and Equitable Estoppel): To forcefully fortify the aforementioned assertion of nullity, the Applicant formally invokes the venerated legal maxims masterfully articulated by Herbert Broom. The clandestine synthesis and subsequent technological manipulation of penal instruments within an obscured familial registry unequivocally engages the ancient doctrine of *Fraus omnia corrumpit* (fraud vitiates everything). This maxim operates to systematically unravel the resultant *acta*, stripping them of all presumptive validity, dissolving any purported jurisdictional shield, and rendering any reliance upon administrative limitation periods thoroughly inapplicable.

Furthermore, the registry's persistent failure to produce the unadulterated foundational documents activates the severe equitable presumption of *Omnia praesumuntur contra spoliatorem* (every presumption is made against the wrongdoer). The deliberate obfuscation of the primary record constructs an irrefutable foundation for the drawing of an insurmountable adverse inference against the

state apparatus, compelling the necessary conclusion that the withheld records would incontrovertibly expose state-sponsored documentary fabrication and judicial overreach. Additionally, the fundamental precept of *Nemo debet esse judex in propria causa* (no one should be a judge in their own cause) is profoundly implicated by the undisclosed conflicts characterizing the Toronto Region's initial assumption of jurisdiction. Finally, the administrative paralysis exhibited by the court clerks cannot, under any juridical theory, be permitted to prejudice the constitutional rights of the Accused, adhering strictly to the maxim *Actus curiae neminem gravabit* (an act of the court shall prejudice no man).

21. It is submitted that the failure of the Manager of Court Operations to execute these ministerial duties directly offends the Open Court Principle—a foundational hallmark of a democratic society fiercely guaranteed under section 2(b) of the *Charter*. This pervasive administrative silence critically compromises the independence of the judicial branch, subverts the adjudicative authority of its section 96 judges, and operates as a direct, unmitigated affront to the protections against arbitrary detention enshrined within section 9 of the *Charter*.

V. THE THIRTEEN CONSTITUTIONAL DUTIES OF THE PRIMUS INTER PARES

22. Recognizing your elevated and critically important position as the acting *Primus Inter Pares*, the Applicant has meticulously distilled thirteen distinct, non-delegable duties that are inherently, constitutionally affixed to the office of a Chief Justice of a superior court of record (collectively, the "**13 Chief Justice Duties**"). It is respectfully submitted that you are constitutionally, statutorily, and ethically bound to execute the following imperatives to immediately restore the compromised integrity of the institution:

a. ultimate jurisdiction (the "**Ultimate Jurisdiction**"): The possession of the definitive and final authority over the adjudicative and administrative functions of the Court, ensuring that the judicial hierarchy remains intact. This duty demands the active prevention of the dangerous fragmentation of adjudicative power across disparate registries, and guaranteeing that the *status quo ante* is preserved against unauthorized, localized deviation or rogue administrative practices. A Chief Justice cannot, under any circumstances, permit a familial registry to operate as a rogue, unaccountable silo dispensing criminal warrants;

b. constitutional trust stewards (the "**Constitutional Trust Stewards**"): The absolute, non-delegable responsibility to serve as the primary guardian of the constitutional trust bestowed upon the judicial branch by the sovereign and the citizenry. This sacred social contract is fundamentally predicated upon the absolute, unassailable neutrality of the bench and the unwavering transparency of its documentary repositories. The persistent, intentional withholding of the Information from the Accused shatters this trust irreparably, necessitating intervention;

c. imperviously influenced mandate (the "**Imperviously Influenced Mandate**"): The strict requirement to remain completely impervious to external influences, bearing the unique, heavy burden of ensuring the Court as a whole remains fiercely insulated from such pressures. This encompasses shielding the tribunal from political maneuvering, executive law enforcement overreach, or internal administrative coercion designed to protect institutional allies (see: *Faber c. R., 2015 QCCS 12* (the "*Faber*"), paragraph 111, underscoring the absolute necessity of institutional fortitude against state encroachment);

d. master of the roster (the "**Master of the Roster**"): The absolute, plenary authority over the scheduling, assignment, and equitable distribution of judicial resources. This power is essential to actively prevent the emergence of opaque "judicial silos" or the arbitrary, clandestine, and *ad hoc* assumption of jurisdiction by individual members of the bench operating outside the formal assignment architecture, such as a family law jurist orchestrating an *ex parte* criminal detention without the knowledge of the central intake judiciary;

e. self-assignment power (the "**Self-Assignment Power**"): The inherent, affirmative authority to seize carriage of, take over, or self-assign matters of profound institutional and constitutional significance. This power must be exercised aggressively where the delivery of high-quality justice or the overarching reputation of the tribunal is placed at imminent risk due to administrative capture, spoliation of the record, or internal obfuscation that prevents a puisne judge from discharging their duties;

f. administrative steward (the "**Administrative Steward**"): The rigorous duty to oversee, audit, and regulate the clerical and registry functions as a necessary, integrated extension of judicial sovereignty. This stewardship ensures that the administrative arm of the court does not descend into a state of bureaucratic lawlessness, technological spoliation, or procedural stasis. This duty inextricably encompasses the robust oversight of the chief court information officer (the "**CCIO**") to ensure rigid compliance with the *Canadian Judicial Council Model Definition of Judicial Information*, thereby actively safeguarding the adjudicative and administrative information over which the court exercises exclusive dominion;

g. institutional reputation guardian (the "**Institutional Reputation Guardian**"): The uncompromising obligation to serve as the public face of the Court and the stalwart protector of its standing in the public eye. This necessitates the immediate, transparent rectification of any localized conduct that may cast a pall upon the perceived impartiality, competence, or integrity of the judiciary as a whole, specifically including the necessary remedying of the anomalous weaponization of the civil registry mechanism to bypass criminal oversight;

h. efficiency operation duty (the "**Efficiency Operation Duty**"): The overarching responsibility to ensure the seamless, lawful, and highly efficient operation of all Court functions. This duty requires decisively preventing the occurrence of administrative lacunae, the functional stagnation of the list, or the deliberate stalling of constitutional applications through the calculated refusal of registry staff to certify returns under the *Criminal Proceedings Rules*;

i. ethical compliance guarantee (the "**Ethical Compliance Guarantee**"): The occupation of a preferred, paramount position to ensure and actively guarantee absolute compliance with the highest standards of judicial ethics within the tribunal. This role demands acting as the final, internal arbiter of professional conduct and institutional morality against jurists who operate *coram non judice* or manipulate registry procedures for collateral purposes;

j. complaint laying power (the "**Complaint Laying Power**"): The intrinsic, affirmative authority to initiate formal disciplinary complaints against colleagues to the Canadian Judicial Council where severe ethical breaches, jurisdictional usurpations, spoliation of *acta*, or undisclosed conflicts of interest are identified. This power is central to maintaining the self-regulating nature and public legitimacy of the judicature, ensuring that internal misconduct does not remain buried behind administrative firewalls;

k. puisne judge removal power (the "**Puisne Judge Removal Power**"): The administrative authority and concurrent duty to relieve, restrict, or reassign a colleague from specific judicial duties during the pendency of ethical inquiries or formal complaints. The exercise of this power proactively preserves the public's perception of institutional integrity and prevents further adjudicative contamination while investigations proceed;

l. moral barometer (the "**Moral Barometer**"): The solemn role of serving as the absolute ethical and integrity barometer for the entire judicial institution, establishing the incontrovertible standard for comportment, transparency, and unyielding professionalism across all judicial districts, thereby demanding that every registry operates uniformly and lawfully; and

m. moral authority (the "**Moral Authority**"): The power to impose judicial will upon other puisne judges and registry officials through the strategic exercise of moral authority regarding ethical directives to which they may not be strictly legally subject, but are profoundly ethically bound to follow for the collective good, the preservation of the rule of law, and the maintenance of public trust.

VI. IMPOSITION OF PEREMPTORY DEADLINE, DEMAND FOR COMPLIANCE, AND PROSPECTIVE ESCALATION

23. Guided by the aforementioned constitutional imperatives, the stringent security and retention mandates of the CJC Seventh Blueprint, and the absolute, foundational necessity of restoring the fractured court record to ensure a procedurally fair adjudication, a rigid, peremptory deadline is hereby formally established. It is strictly demanded that the Applicant be provided with a complete, unadulterated, natively generated, and cryptographically sound copy of the authentic *Criminal Code* Information, the corresponding information package (the "**Information Package**"), and any and all Endorsements wherein the Applicant was recognized as a party, by no later than **3:00 p.m. today**.

5987 24. The imposition of such a rigid, unforgiving temporal parameter is definitively and legally justified. The Applicant maintains an absolute, non-derogable entitlement *ex debito justitiae* (as a matter of right) to receive the Information, the Indictment, and any corresponding Endorsements immediately upon request, fundamentally devoid of any administrative tariffs, prerequisites, or bureaucratic conditions. While the statutory guidance generously dictates provision within a reasonable time upon request, it is an incontrovertible, documented matter of record that precisely two and a half months have precipitously elapsed since the initial requisition was formally submitted to the Originating Court Office at the Originating Courthouse. This protracted delay effectively constitutes a constructive refusal of access, a flagrant violation of the doctrine of legitimate expectations, and renders the continuation of the proceedings an incurable, systemic abuse of process.

25. In direct correlation to the strict, uncompromising mandates established by rule 43.03(3) of the *Criminal Proceedings Rules*, it is further required that by no later than **3:00 p.m. today**, formal confirmation be provided via return electronic mail explicitly verifying that any and all documents, things, papers, physical evidence, informations, warrants, orders, and determinations have been lawfully and fully certified by the Manager of Court Operations at the Originating Court Office at the Originating Courthouse. This executory obligation remains flagrantly outstanding, functioning as a deliberate, administrative bottleneck to appellate review. It is saliently noted that the temporal modifier explicitly utilized by the Superior Court of Justice within its own jurisprudence and binding procedural rules is "forthwith," a term denoting immediate action without unjustified delay, bureaucratic resistance, or systemic hesitation.

26. To the extent that the administrative apparatus purports to require an extension of the aforementioned temporal boundary—an exigency which is preemptively declared to be neither legally possible nor administratively acceptable given the massive passage of time—immediate formal notification must be provided delineating the specific, catastrophic, and objectively verifiable impediment (e.g., a documented medical emergency or a total catastrophic failure of the provincial IT infrastructure). Mere administrative inconvenience, personnel shortages, deliberate ignorance, or the alleged necessity of physical archival retrieval shall not suffice to toll this strict deadline.

27. Failing absolute, unqualified compliance with these directives prior to the expiration of the stipulated 3:00 p.m. deadline, the Applicant intends to elevate these profound, systemic failures immediately to the attention of the Canadian Judicial Council (the "**CJC**") and other relevant executive oversight authorities. This escalation is necessitated, in substantial part, by the widespread, deeply entrenched, and broadly manifested failures of Former Chief Justice Morawetz, who was historically and comprehensively apprised of these exact procedural usurpations, technological manipulations, and documentary spoliations, yet maintained an impermissible, deliberate stasis that functioned to shield the offending jurists and administrators.

28. Furthermore, the persistent, coordinated refusal to produce the foundational records inevitably implicates profound deficiencies in internal technological controls and the prudent, lawful administration of public resources. Should compliance remain unfulfilled, the Applicant explicitly reserves the right to invoke the plenary investigatory mandate of the Auditor General of Ontario pursuant to the *Auditor General Act*, RSO 1990, c A.35. A comprehensive Value-for-Money performance audit is strictly required to ascertain whether the capital deployed for the modernization of the court's digital infrastructure (including the DRD systems and the ICON registries) has been fundamentally misused to facilitate the clandestine fabrication of *acta* and to defeat the auditing mechanisms designed to protect the public.

29. Finally, the Applicant further reserves the absolute right to pursue all available prerogative remedies before the presiding justice in Newmarket, including a writ of *certiorari* to quash the fatally flawed proceedings that are manifestly *coram non judice*, and an order in the nature of *mandamus* to compel the physical or forensic production of the withheld documentary evidence *in limine*. The state cannot, and shall not, shield an extra-judicial deprivation of liberty behind the manufactured opacity of its own captured registry.

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30. To invoke the poignant, resonant articulation of an incredible trailblazer in his own right, Mr. Don Lemon, "silence is not an option." To the extent that the impenetrable wall of silence—which projects the most objective appearance of an unconstitutional, coordinated solidarity between the executive branches and the judicial branch—is permitted to continue, the Applicant shall decisively exercise all available remedial rights before the Canadian Judicial Council. Such an escalation is necessitated not solely for the vindication of personal liberties, but intrinsically and fundamentally for the indispensable benefit of the broader public interest and the absolute preservation of institutional integrity within the Province of Ontario.

31. Furthermore, the Applicant explicitly reserves the absolute prerogative to submit this comprehensive correspondence and its extensively annexed evidentiary record to the immediate attention of the relevant advisory committee and those esteemed persons involved in the consideration and appointment process for the prospective Chief Justice of the Superior Court of Justice (the "**Appointment Committee**"). The transmission of this documentation shall guarantee that the appointing authorities are seized of an objective, factual, and incontrovertible record detailing the profound, systemic internal failings of the Superior Court of Justice that metastasized during the tenure of Former Chief Justice Morawetz, and which have inexcusably remained uncorrected subsequent to his departure.

32. It is formally affirmed that, should these catastrophic jurisdictional and administrative errors be affirmatively corrected *in limine*, the escalatory measures delineated herein shall not be effectuated. To proceed with such formal complaints following a full, transparent, and immediate institutional cure would constitute an act of bad faith, a posture strictly and unconditionally disavowed by the Applicant. Trusting implicitly that such extraordinary measures shall not be rendered strictly necessary, a decisive administrative response—manifested through either affirmative remedial action or a formalized, judicially reviewable negative refusal—is awaited on or prior to the expiration of the stipulated peremptory deadline.

It is strictly anticipated that the Court, its presiding jurists, and its administrative delegates shall govern themselves accordingly in absolute adherence to the rule of law and the constitutional imperatives articulated herein.

Respectfully submitted,



Mr. Kevin A. McLean (BA, JD, CIM)

Applicant – Self-Represented

Tab 94

5990

FORM 301 - Rule 301

NOTICE OF APPLICATION

e-document-c T-2448-26 ID 1
FILED
FEDERAL COURT
COUR FÉDÉRALE
May 15, 2026
15 mai 2026
Tristan Mercieca
TOR 1
DEPOSE

(Court Seal)

Court File No. _____

FEDERAL COURT

BETWEEN:

KEVIN A. MCLEAN

Applicant

and

ROYAL CANADIAN MOUNTED POLICE, MICHAEL DUHEME, JEFF BALL, and STEPHANE BRISSON

Respondents

APPLICATION UNDER sections 18, 18.1 and 18.2 of the *Federal Courts Act*, R.S.C. 1985, c. F-7, and the Rule 300-301 Federal Courts Rules, SOR/98-106, Part -1,

NOTICE OF APPLICATION

TO THE RESPONDENTS:

A PROCEEDING HAS BEEN COMMENCED by the applicant. The relief claimed by the applicant appears on the following page.

THIS APPLICATION will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court orders otherwise, the place of hearing will be as requested by the applicant. The applicant requests that this application be heard at **Toronto, Ontario.**

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or a solicitor acting for you must prepare a notice of appearance in Form 305 prescribed by the Federal Courts Rules and serve it on the applicant's solicitor, or where the applicant is self-represented, on the applicant, WITHIN 10 DAYS after being served with this notice of application.

Copies of the Federal Courts Rules information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO OPPOSE THIS APPLICATION, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

Date: _____

Issued on: May 19, 2026
Issued by: Tristan Mercieca (Registry Officer)
Address of Local Office: Toronto Local Office / Bureau local de Toronto 180 Queen St. W., Suite 200 /180, rue Queen O., Bureau 200 Toronto, Ontario M5V 3L6

Issued by: _____

(Registry Officer)

Address of local office:

Federal Court Registry
180 Queen Street West,
Suite 200
Toronto, Ontario
M5V 3L6

TO (name and address of each respondent):

TO:

RCMP National Headquarters 73 Leikin Drive Ottawa, ON K1A 0R2 Canada
Email: Legal_Services@rcmp-grc.gc.ca

TO:

Commissioner of the RCMP Mr. Michael Duheme 73 Leikin Drive Ottawa, ON K1A 0R2 Canada

5992 Email: Michael.Duheme@rcmp-grc.gc.ca

TO:

Director General of RCMP Access To Information and Privacy Branch (the "ATIP Branch") Mr. Stephane Brisson 73 Leikin Drive Ottawa, ON K1A 0R2 Canada
Email: stephane.brisson@rcmp-grc.gc.ca

TO:

Director, Privacy, RCMP ATIP Branch Mr. Jeff Ball 73 Leikin Drive Ottawa, ON K1A 0R2 Canada
Email: Jeff.ball@rcmp-grc.gc.ca

NAME AND ADDRESS of every other person required to be served

TO:

Mr. Matt Peggs
Assistant Commissioner of the RCMP
Regional Commander of the Central Region of Ontario (formerly the "O" Region (O Division, Ontario, Commanding Officer, 'O' Division)) for the RCMP
RCMP Central Region Headquarters
Royal Canadian Mounted Police

130 Dufferin Avenue
London, Ontario N6A 4K3
Canada
Telephone : 519-640-7254
Alternate Telephone : 1-800-387-0020
Fax : 519-640-7425
TDD : 519-640-7495

(Originating Agency Identifier in Canadian Police Information Centre ("CPIC"): **ON80300**)

AND TO:

The RCMP Milton Detachment known as the Toronto West Detachment (the "TWD")
TORONTO WEST - MILTON DETACHMENT
2755 High Point Drive
Milton, Ontario L9T 5E8
Canada
Telephone : 905-876-9500
Fax : 905-876-9595
Attention: Regional COM Mr. Matt Peggs
Attention: Officer-in-Charge
(Originating Agency Identifier in Canadian Police Information Centre ("CPIC"): **ON80313**)

APPLICATION

5993

(Where the application is an application for judicial review)

This is an application for judicial review in respect of:

(Identify the tribunal)

The Royal Canadian Mounted Police ("RCMP")

The Applicant notes that the RCMP is a "Tribunal" under the Federal Courts Rules (*FCR*) under Rule 317 and by cross-reference to section 2(1) of the *Federal Courts Act* (the "*FCA*") under the "Other Tribunal" component of the definition of: **"federal board, commission or other tribunal"** means any body, person or persons having, exercising or purporting to exercise jurisdiction or powers conferred by or under an Act of Parliament or by or under an order made under a prerogative of the Crown, other than the Tax Court of Canada or any of its judges or associate judges, any such body constituted or established by or under a law of a province or any such person or persons appointed under or in accordance with a law of a province or under section 96 of the Constitution Act, 1867.

Section 2 of the *FCR* states: tribunal has the same meaning as **"federal board, commission or other tribunal"** in the Act. Ergo, the RCMP is a Tribunal under the Court Rules and under the *Federal Courts Act*.

Moreover, the person or persons, exercising validly pursuant to delegation by the Head of the Government Institution (RCMP) or purporting to exercise powers pursuant to an Act of Parliament (specifically the *Privacy Act* and/or *ATIA*) are part of the definition of Tribunal or **"Federal Commission, Board, or Other Tribunal"** under the *FCA*. Pursuant to section 73(1) of the *Privacy Act*, Mr. Brisson is listed as the Director General ATIPB of the RCMP, and Mr. Jeff Ball has represented himself to be a Director of Privacy with the RCMP.

(Set out the date and details of the decision, order or other matter in respect of which judicial review is sought)

In relation to the decisions, orders, or other matters in respect of which judicial review is sought, some involve that which could be considered an "Order" (see: section 2 of the *FCR*) as they involve a decision or other disposition of a Tribunal.

The other matters in respect of which judicial review is sought involve the purported exercising of jurisdiction or powers under the *Privacy Act* which stem from documents in the possession of the Applicant but also documents not in the possession of the Applicant.

The details of the decision, order or other matter in respect of which judicial review is sought involving the failure to search issue, which constitutes an Order under the *FCA* and *FCR*, was on April 27, 2026, and so communicated to the Applicant by the RCMP via email. Nonetheless, the Respondent took an extension of time of some 60 days from the date of receipt of the Applicant's express mail, with tracking, access request under the *Privacy Act*, which was received by the RCMP on March 11, 2026. 60 days from said date was May 11, 2026.

The RCMP did not communicate to the Applicant that it conducted any further searches of the required repositories including but not limited to: Foundational Metadata Repositories for the Foundational Metadata; and the Offline Historical Database with respect to any hexadecimal dumps involving any potential amended or purged data that was consistent or not consistent with the "False Information Package" which was filed in a transferee courthouse known as the OCJ 10 Armoury Street Courthouse. The failure to search decision of the RCMP and the individual Respondents, some or all (as known to each), is the subject of the mandamus relief *infra*.

The details of the decision, order or other matter also involve the neglect or failure to consider the requirement of the Head of the RCMP to consider whether, pursuant to ss. 8(2), particularly clause 8(2)(m) of the *Privacy Act*, and expressly or by

interpretation section 19 of the *ATIA*, to disclose to the Applicant any Personal Information and to the public at large or certain segments of the public any record under the *ATIA* requests of the Applicant in April and May 2026.

1. The applicant makes application for:

    a. **Loss of Jurisdiction by the RCMP Tribunal:**
        1. **A Declaration** that the RCMP Tribunal, pursuant to section 2 of the FCR and section 2 of the FCA lost jurisdiction over, or acted without jurisdiction in relation to, Matter No. **P-2025-16999** (albeit the PII Access Request (March 11 2026) was made and delivered on March 11, 2026) by reason of: a. a breach of the duties of good faith and procedural fairness; b. the presence of conflicts of interest, actual bias, and/or a reasonable apprehension of bias; and c. a profound lack of operational independence and impartiality;
        2. **A Declaration** that the Respondent exceeded its statutory mandate, refused to exercise its mandatory jurisdiction, and/or improperly purported to exercise powers outside of its jurisdiction in an *ultra vires* manner, rendering any and all steps, proceedings, and decisions in Matter No. **P-2025-16999** void *ab initio*;
    b. **Mandamus:** An Order in the nature of writ of mandamus compelling the RCMP to discharge its public duty to act to the Applicant to search for the requested Personal Information;
    c. **Mandamus:** An Order in the nature of Writ of Mandamus compelling the RCMP, through the Head of the RCMP in the RCMP Commissioner, Mr. Michael Duheme, to discharge its public duty to consider whether a public interest disclosure is required under section 8(2)(m) of the *Privacy Act* with reference to section 19 of the *Access to Information Act*;
    d. **Compliance Confirmation:** An Order directing the RCMP to provide a sworn affidavit or declaration from a qualified person detailing the searches conducted pursuant to this Order, including audits of the Foundational Metadata Request and hexadecimal searches of the Offline Historical Database relating to the Applicant's Personal Information. An Order that this affidavit or declaration shall be served on the Applicant and filed with this Honourable Court within five (5) days of the date of this Order;
    e. **Prohibition:** An Order in the nature of writ of prohibition enjoining the Respondent, its delegates, administrators, custodians, and any affiliated bodies from expunging, altering, transferring, sanitizing, migrating, obfuscating, or archiving beyond rapid retrieval any metadata, system logs, or historical audit trails associated with Police Case ID: 457197 (and any related TPS Case File or Occurrence Number) pending the final adjudication of this Application and the exhaustion of all appeals;
    f. **Prohibition:** An Order in the nature of writ of prohibition or injunctive relief restraining from searching repositories that were not within the scope of PII Access Request (March 11 2026) for the purposes of said access request;
    g. **Judicial Oversight:** An Order that this Honourable Court remain seized of this matter to oversee compliance with the Orders herein and to address any subsequent issues arising from the Respondent's execution of these directives;
    h. **Interim and injunctive relief:** An Order granting immediate interim injunctive relief pending the final disposition of this Application;
    i. **Permanent injunctive relief:** An Order granting permanent injunctive relief to abate the ongoing statutory breaches;
    j. **Bad faith and improper motives:** A Declaration that by failing to discharge public ministerial or executory duties to act to the Applicant at first instance and in the face of demands by the Applicant, the Respondents engaged in improper motives, bad faith, abuse of process, or other impermissible

reasons for purporting to exercise a power pursuant to an Act of Parliament or refusing to exercise jurisdiction or a power under an Act of Parliament;

k. **Breach of Fiduciary duties:** A Declaration that the Respondents breached their duties of good faith and/or fiduciary duties to the Applicant and the public by their conduct herein;

l. **Procedural unfairness**: A Declaration that the Respondents breached their duties owed to the Applicant of procedural fairness, natural justice, and administrative fairness;

m. **Decision making bias, dependence and partiality:** A Declaration that the Respondents were actually biased towards the Applicant and/or exhibited the appearance of bias to a reasonable and informed observer. A further **Declaration** that there was and is a reasonable apprehension of bias, lack of independence, lack of impartiality amongst the Respondents and all of those within the ATIP Branch and the RCMP policing forces as it relates to the issues and grounds in this Proceeding herein;

n. **Dependence and partiality**: A Declaration that the Respondents were operating under, or had the reasonable appearance of, a conflict of interest, a lack of institutional independence, and/or a lack of impartiality;

o. **Police Case ID: 457197**: A Declaration that the Police Case ID: 457197 or part of that number is a jurisdictional identifier uniquely assigned by the RCMP;

p. **Admissions and Estoppel by record:** A Declaration that the April 27, 2026, letter signed by Ms. Worrell on behalf of Mr. Jeff Ball, Director, Privacy (RCMP) with a metadata author of Kristen Wardrop, and the appended three page document from the RCMP, when measured against the referenced letter appended by the appellant under MFIPPA involving the Halton Regional Police Services Board (indexed as 2024 CanLII 67092 (ON IPC) (Order MO-4542; Appeal MA21-00096) (the "Halton Police 2024 Case")), amounts to an admission at law or, in the alternative, that Respondents are estopped by record as end noted[i];

q. **Unrequested search of Specialized Policing Services of RCMP**: A Declaration that the Respondent, RCMP, and Mr. Ball's inclusion of an admission that it searched in the "Specialized Policing Services" amounts to an institutional admission that the Applicant's Personal Information migrated out of standard divisional boundaries and directly into the RCMP's national operational and technological command[ii];

r. **Originating Police Agency (RCMP):** A Declaration that the RCMP was the originating law enforcement agency by reference to either the RCMP former Ontario ("O" or "O Division") Headquarters, later renamed to "Central Region" in London, Ontario, with an ORI Number of ON80300 under CPIC (the "CPIC Number 80300") and its RCMP Regional Commander ("Reg. COM"), Mr. Matt Peggs or the RCMP Toronto West Detachment located in Milton, Ontario (the "Toronto West Detachment" or "TWD") with CPIC ORI Number ON803313, which is responsible for Toronto West;

s. **TPS 14th Division in Toronto (West) without copy of INTAKE COURT ENDORSEMENT (SEPT 23 2024) and/or "warrant in the first":** A Declaration that one of the underlying reasons the Toronto Police Services Board ("TPS"), 14th Division did not have a copy of the purported process(es) or warrants and the arresting Police Officers did not have a copy on "him" or "her" and were unable to produce it when formally requested to do so, pursuant to the Applicant's Charter rights and section 29 of the Criminal Code, was because the RCMP had sole possession, control and custody in its file under Police Case ID: 457197 or otherwise, and the respective RCMP and TPS digital architectures do not synchronize;

t. **The most convenient fictitious Justice for the False Information Package:** A Declaration that the underlying reason Justice of the Peace Mr. George Jiri was utilized as the fictitious authorizing justice of the peace was due to, inter alia, his proximity in Peel Regional Police Services (OCJ Brampton) to the OCJ Brampton Courthouse which was the closest courthouse to the RCMP TWD (Milton):

u. **RCMP possession of Authentic Information Package:** A Declaration that the RCMP has maintained possession (actual and sole, as it relates to Executive Branches of government of law

enforcement) of the underlying authentic, completed, sworn (deemed or in person) Information package (the "Authentic Information Package"), alongside any endorsements or warrants, since their completion, including any transcription by the "law enforcement applicant" of an in-person judicial chambers appearance and/or via telecommunication that "produced a writing" and/or that did "not produce a writing";

v. **RCMP denoted unlawful seizure and search:** A Declaration that the RCMP through designated agents on its behalf unlawfully seized the Applicant's property (primarily chattels including private, confidential and/or privileged documentation from this residence at Unit 410-775 King Street West, City of Toronto, Province of Ontario, M5V 2K3) and/or without lawful execution upon him with a search and/or seizure warrant, on or after September 20, 2024 and prior to October 2, 2024;

w. **Improper motives to not search the PIB and other repositories:** A Declaration that the sole reason the RCMP ATIP Branch did not search the Personal Information Bank request and any locations under the control of it was because it knew, or was deemed to know, that it would have irrevocably implicated the RCMP Specialized Policing Services' (the "SPS") unit or an alternate RCMP department;

x. **Forthwith search of Foundational Metadata Location and Offline Historical Database Location:** An Order that, on account of the RCMP SPS' unit being involved with the Applicant commencing in 2024 but concealed from the Applicant, such a search of the RCMP CPIC database, including Foundational and Offline Historical Database repositories, must be executed forthwith, and that the RCMP ATIP Branch must assign qualified individuals to conduct an audit under the Foundational Metadata Request alongside a specialized, qualified individual to conduct the specialized mainframe analysis of hexadecimal dumps and hexadecimal inputs;

y. ***Privacy Act*, section 10**: A Declaration that the Applicant is legally entitled to all of his personal information under the control of the Government Institution (RCMP) that has been used, is being used, or is available for use for an administrative purpose pursuant to ss. 10(1)(a) of the *Privacy Act*, or is organized or intended to be retrieved by the name of an individual or by an identifying number, symbol, or other particular assigned to an individual (see: ss. 10(1)(b) of the *Privacy Act*);

z. **Temporal computation declaration:** A Declaration that the Applicant provided, by his PII Access Request (March 11 2026), received on said date and not March 12, 2026, sufficiently specific information regarding the location of the information as to render it reasonably retrievable by the government institution;

aa. Offline Historical Database:

1. A Declaration that the RCMP has exclusively control of the Offline Historical Database over any and all other police service board and police services in the country;
2. A Declaration and Order that the Applicant is entitled to any and all transactional logs including "ADD", "MODIFY", "CLEAR", and "CANCEL", but solely in relation to Personal Information concerning himself[iii];

bb. **Inapplicability of *Privacy Act*, ss. 19(1)(d):**

1. A Declaration that ss. 19(1)(d) of the *Privacy Act* bears no applicability to the Personal Information sought by the Applicant in a PIB or otherwise, as such Personal Information relates to that which was uploaded or input into CPIC, as those inputs provide the ultimate source of truth in relation to public court records like an Information or an Indictment, court endorsements, a summons, and/or an arrest warrant, which are universally publicly available after a process has been issued and/or an individual has been arrested;
2. A Further Declaration that not only is the Applicant legally entitled to the same but so is the public at large, and no equitable duty of confidence arises as the Personal Information of the Applicant—also the Personal Information of a presiding Judge, of which they are both entitled to the same under the *Privacy Act* and the public under *ATIA*, along with the name of the fictitiously input Justice of the Peace under the *Privacy Act*—is unequivocally public information and constitutes public records subject to the ss. 19(2) of the *Privacy Act* override;

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cc. **Duty of Confidence never arises with non-exempt PIB's and CPIC:**
    1. A further Declaration that the Personal Information sought by the Applicant in a PIB and in any repository involving CPIC or related to CPIC could not meet the common law test for "confidential information" because whether classified as Personal Information or information (i.e. transactional logs, terminal ID's, issuing court, issuing court level, geographic location, system identification numbers, modification to WANT records) (i) such information was not communicated in a relationship of confidence; (ii) the information by its very nature is NOT confidential; and/or (iii) the information was not communicated for a purpose that necessitates confidentiality;

dd. **PII Access Request (March 11 2026) related to administrative data (not "intelligence"):** A Declaration that the Personal Information that the Applicant was seeking under the *Privacy Act* constituted administrative data of himself and not intelligence per se, but rather the administrative record of a transaction on a federal mainframe (CPIC), and the likes of the Terminal ID, ORI, issuing authority, name of a judicial officer, and system identification number (SID) are structural artifacts of the RCMP's own system architecture, and not confidential communications;

ee. **Section 19 inapplicable when RCMP is the originating police force**: A Declaration of Law that Parliament did not include the likes of a federal government established by or pursuant to an Act of the legislature or a province, or an institution of such a government, under ss. 19(1)(d), and to the extent that the RCMP was strictly responsible for its entry, the RCMP can never rely on ss. 19(1)(d) in relation to requests for administrative Personal Information residing in a PIB or in CPIC, alongside Foundational Metadata and Offline Historical Database Personal Information;

ff. **Section 22(1)(b) without merit in relation to PII Access Request (March 11 2026):** A Declaration that the RCMP's reliance on section 22(1)(b), entirely absent the searching of the storage, repositories, or locations housing the Foundational Metadata Request and Offline Historical Database Request, does not fall under ss. 22(1)(b), and by relying on such a subsection, the RCMP admitted that the Applicant had not received access to or disclosure of his own **Personal Information**, which acts as the source of truth to be measured against the "Open Court Principle"[iv];

gg. **Warrant spent on October 2, 2024:** A Declaration that once the warrant (arrest), when signed or not signed by the undisclosed presiding Judge in an "Ex Parte In Camera Hearing", whether in person in judicial chambers or via telecommunication that did or did not produce a writing, was executed on October 2, 2024, the investigative necessity of the CPIC entry definitively expired and transformed into a historical artifact, thus section 22(1)(b) holds no relevance *ab initio* or thereafter despite the blatant absence of a search;

hh. **Identity of the municipal or regional government:** A Declaration that the RCMP is statutorily required to provide the identity of the municipal government or "regional government" that it was vaguely referring to under section 19(1)(d) in its April 27, 2026, letter;

ii. **Consequential Relief:** An Order granting any consequential relief that flows from the above, or the required materials to be filed by the Tribunal that were in its possession at the time of making any decisions, orders, or other matters subject to judicial review herein known or to be known;

jj. **Leave to make further submissions**: An Order granting the Applicant leave to make further submissions and tender further evidence pre- and post-granting of the orders herein to avoid any multiplicity of proceedings and the avoidance of wasteful and deleterious government spending, alongside the inefficient use of government resources;

kk. **Costs:** An Order granting the costs of this Application on a full indemnity basis;

ll. **Interest:** An Order granting prejudgment and post judgment interest on any costs awards or otherwise; and

mm. **Residual Relief**: An Order granting such further and other relief as this Honourable Court may deem just and equitable.

The grounds for the application are:

PARTIES TO THE PROCEEDING: INSTITUTIONAL APPARATUS AND THE INDIVIDUAL APPLICANT

The Applicant and the Foundational Factual Matrix: A Contextual Substratum of Systemic Obfuscation

Introduction and Jurisdictional Nullification

2. It is respectfully submitted that a profound, unprecedented, and systemic manipulation of judicial instruments was effectuated *post facto* to the arrest of Mr. Kevin A. McLean (the "**Applicant**") on October 2, 2024. Consequently, the purported processes, including the underlying criminal proceedings (the "**Criminal Proceeding**"), were rendered void *ab initio* upon the fabrication of a fraudulent document, in direct contravention of the *Criminal Code*, RSC 1985, c C-46 (the "***Criminal Code***"), and upon its subsequent filing within the Ontario Court of Justice 10 Armoury Street Courthouse (the "**Armoury Street Courthouse**"). It must be categorically established *in limine* that the aforementioned fabrication constitutes an absolute nullity, and cannot be construed as a mere procedural irregularity, given the direct contravention of statutory mandates, common law precepts, and equitable principles.
3. The designation of the aforementioned fabrication as an unprecedented information package (the "**False Information Package**") is utilized meticulously, as the historical jurisprudence and public disciplinary registries of this jurisdiction are devoid of any analogous manifestation of malfeasance. The documented transgressions delineate circumstances wherein law enforcement authorities not merely manipulated the endorsement of a process or an arrest warrant through the impersonation of a judicial officer, but effectuated the wholesale falsification of an entire information package, purportedly assembled pursuant to the ***Criminal Code***.[v]

Jurisprudential Distinctions: Subfacial Deficiencies versus Absolute Nullities

4. To substantiate the gravity of subfacial and facial fabrications, reliance is placed upon *R. v. Schertzer*, 2015 ONCA 259 (the "***Schertzer Decision***"), and *R. v. Hansen*, 2018 ONCA 46 (the "***Hansen Decision***"). These appellate authorities adjudicated instances of subfacial fabrication, wherein ostensibly valid judicial authorizations were rendered constitutionally defective due to underlying prevarications promulgated by law enforcement officials regarding the scope of their investigations and the purported existence of reasonable grounds to believe (the "**Reasonable Grounds To Believe**").
5. The ***Schertzer Decision*** involved the falsification of police notes designed to conceal an unlawful search, whereas the ***Hansen Decision*** addressed the invalidation of search warrants predicated upon misleading information sworn by affiants. Applying the legal principles elucidated therein to the present factual matrix, it is evident that the actions deployed against the Applicant transcend mere subfacial deficiencies; they constitute overt, absolute fabrications of judicial processes *ab initio*.

5999 A comparative analysis necessitates an examination of *Silva v. R.*, 2021 QCCS 4627, and *Silva v. R.*, 2021 QCCS 4131 (collectively, the "***R. v. Silva Decisions***"). The factual matrix therein involved an officer of the Service de Police de la Ville de Montréal (the "**SPVM**"), Officer Guillaume Joly-Tessier, who temporarily misappropriated a judicial stamp belonging to a Justice of the Peace to forge an arrest warrant. The target of said fabrication was a highly dangerous, convicted fugitive possessing a documented history of severe, violent criminality, including armed robbery and murder. While the misconduct elucidated in the "***R. v. Silva Decisions***" was undeniably deplorable, it was rationalized internally as a manifestation of noble-cause corruption, undertaken *in extremis* to apprehend a significant threat to public safety.

7. Conversely, the circumstances surrounding the Applicant, an individual devoid of any criminal antecedents but for the soundly defeating of the RCMP and former RCMP officers while retained by the soon to be defunct LSBC, stand in stark contrast to the preceding authorities. The fabrication of the *Criminal Code Form 2 Information* (the "**Form Two Information**") within the False Information Package involved the installation of a Toronto Region Court Officer, Mrs. Frugoni-Rojas, as a fabricated informant (the "**Fictitious Informant**"). Furthermore, the process ostensibly engaged a fictitious Justice of the Peace, Mr. George Jiri, improperly ascribed to the Ontario Court of Justice Brampton Courthouse (the "**Brampton Courthouse**"). The Applicant maintained no residential or jurisdictional nexus to the Brampton Courthouse. Geographically and jurisdictionally, the Royal Canadian Mounted Police Milton Detachment (the "**RCMP Milton Detachment**") operated with proximity and oversight regarding specific federal matters within Toronto West. Simply put, unprecedented fraud on two levels of court involving a fictious informant and fictitious judicial officer. More colourfully put, Mr. Jeff Ball, Director, Privacy, of the RCMP ATIB Branch has the audacity to represent that he cannot search the Foundational Metadata Repository and Offline Historical Database Repository. The Applicant pleads that the RCMP ATIB Branch must search but it does not want to search for fear of what it will discover.

Systemic Institutional Obfuscation and the Absence of Competent Jurisdiction

8. The systemic manipulation extended to the purported identification mechanisms, specifically Police Case ID: 457197 and the altered designation "C L (M)", which, calculated upon a balance of probabilities, referenced the Regional Commander of the Central Region, Mr. Matt Peggs (the "**Regional Commander**"), potentially in connection with his investiture into the Order of Merit of the Police Forces. Subsequent investigations executed by the Applicant, initially in March 2025 and subsequently verified directly at the Armoury Street Courthouse in June 2025, confirmed the absolute non-involvement of any legitimately appointed judicial officer from the Toronto Region.
9. Consequently, the purported *ex parte in camera* proceeding (the "**Ex Parte Hearing**") was discovered to have been ostensibly situated at the Superior Court of Justice 361 University Avenue Courthouse (the "**Originating**

Courthouse"). It was subsequently unveiled that the originating office was the family law division situated on the primary level of the Originating Courthouse. This geographical and structural anomaly illuminated the improper involvement of Madam Justice Shore, who, during her tenure as practicing counsel, provided representation to the former spouse of the Applicant's former common-law partner, Mr. Papadimitropoulos.

10. At the material times, Mr. Papadimitropoulos operated as the Statutory Accident Benefits Schedule manager (the "**SABS Manager**") at the TD Insurance Group, wherein he perpetrated a multifaceted fraud concerning the administration of the Applicant's accident benefits. These benefits originated from an automobile collision devoid of fault on the part of the Applicant, which occurred on August 31, 2022. Following the discovery of fraudulent signatures effectuated by Mr. Papadimitropoulos, he was subsequently dismissed from his employment in January 2025. Upon the Applicant's discovery of the aforementioned fraudulent activities on September 19, 2024, the Applicant was subjected to an unlawful exclusion from his residence on September 20, 2024, ostensibly facilitated by proximate law enforcement personnel.
11. The fabricated endorsement, dated September 23, 2024 (the "**Intake Court Endorsement**"), remained facially irregular and evocative of family law or insolvency proceedings, rather than criminal adjudication. The Applicant's subsequent efforts to secure a copy of the *Criminal Code Form 7 Warrant for Arrest* (the "**Form Seven Warrant**") were systematically thwarted by the administrative apparatus at room 241 of the Originating Courthouse.
12. *Nota bene*: It might be argued by the Respondents that the utilization of family court facilities or mislabeled endorsements merely constitutes an administrative irregularity capable of being cured under equitable principles or procedural rules. However, applying Herbert Broom's maxim *actus curiae neminem gravabit* (an act of the court shall prejudice no man), alongside the strict doctrine of jurisdictional competence, it is submitted that a proceeding commenced in a wholly inappropriate division by way of forged documentation constitutes a fundamental nullity, rendering all subsequent enforcement actions *ultra vires*. The Royal Canadian Mounted Police (the "**RCMP**") is consequently bound to produce the unredacted evidentiary materials pursuant to *Rule 317* of the *Federal Courts Rules*, SOR/98-106 (the "***Federal Courts Rules***").

Digital Forgery and the Mandate for Remedial Disclosure

13. It must be emphasized that the execution of the False Information Package was facilitated utilizing GrapeCity manipulation software, currently operating under the nomenclature "Mescius" (the "**GrapeCity Software**"). The metadata extracted from the impugned documentation corroborates the deployment of version 6.0.2.0 of the GrapeCity Software. This revelation, which is the subject of two formalized requests under the *Access to Information Act*, RSC 1985, c A-1 (the "***ATIA***"), funded and submitted by the Applicant in the vernal season of 2026, cements the unprecedented nature of this malfeasance. The imperative is unequivocally placed upon the Head of the Government Institution (the "**Institution Head**") to issue public disclosure notices pursuant to paragraph

6001 8(2)(m) of the *Privacy Act*, RSC 1985, c P-21 (the "***Privacy Act***"), and section 19 of the ***ATIA***, to prevent the perpetuation of this systemic abuse, restoring the *status quo ante* for any other members of the populace who may be subjected to similar covert manipulations.

14. The Criminal Proceeding was rendered a nullity, at law, *ab initio* at the precise moment of its digital fabrication.

The Respondents: Statutory Delegates, Fiduciary Obligations, and the Federal Apparatus

15. The Royal Canadian Mounted Police (the "**RCMP**") is a federal institution and Government Institution under the Privacy constituted and governed by the strictures of the *Royal Canadian Mounted Police Act* (the "***RCMP Act***").
16. Commissioner Michael Duheme, in his capacity as the apex of the institution, is inextricably bound by the administrative and fiduciary obligations legislated by Parliament.
17. Director General Stephane Brisson and Privacy Director Jeff Ball, acting as delegates within the Access to Information and Privacy Branch, are similarly constrained by the unyielding imperatives of statutory compliance.
18. The paramount importance of the *RCMP Act* is underscored by the solemn statutory duties articulated under section 37 thereof, which compels adherence to the highest standard of conduct. This obligation is further entrenched by the oaths sworn by the Respondents to uphold the law, fundamentally precluding any *ultra vires* administrative shielding or institutional complicity.

EQUITABLE REMEDIES IN THE NATURE OF MANDAMUS: COMPELLING THE EXECUTION OF NON-DISCRETIONARY PUBLIC DUTIES

19. Relief in the nature of mandamus constitutes an imperative and equitable prerogative remedy, available to compel the performance of a public duty that has been unlawfully disregarded.
20. The rigorous legal test for mandamus is demonstrably satisfied, as delineated by the Federal Court of Appeal in *Apotex Inc. v. Canada (Attorney General)* (the "*Apotex*").
21. It is self-evident that clear, unequivocally articulated demands were effectuated by the Applicant, triggering the Respondents' strict legal duties to conduct searches of the Foundational Metadata Repository and the Offline Historical Database Repository. The ensuing period of administrative silence and *de facto* refusal necessitates judicial intervention *in limine* to restore the *status quo ante* and compel the execution of the statutory mandate.

PREROGATIVE RELIEF IN THE NATURE OF PROHIBITION: ENJOINING PROSPECTIVE MALFEASANCE AND DIGITAL SPOLIATION

22. An order of prohibition is sought *in limine* to permanently enjoin the Respondents, and any delegated subordinates, from the spoliation, deletion, alteration, or obfuscation of immutable digital artifacts residing within the federal architecture.

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23. The tripartite test for prohibition is incontrovertibly met, predicated upon *prima facie* evidence of impending administrative malfeasance, rendering such extraordinary relief imperative to safeguard the integrity of the administration of justice.
24. The entitlement to such relief is crystallized by the imperative to safeguard the foundational metadata and hexadecimal arrays residing within the Canadian Police Information Centre (the "**CPIC**").

DECLARATORY JUDGMENTS: ESTABLISHING JURISDICTIONAL NULLITY AND VINDICATING SUBSTANTIVE RIGHTS

25. Declaratory judgments are within the absolute discretion of a court with equitable jurisdiction (not to be conflated with Inherent Jurisdiction) like the FCC. They serve as potent instruments of judicial oversight, invoked to authoritatively pronounce upon the rights of the parties and the legal characterization of *acta* undertaken by public bodies
26. While acknowledging the inherently discretionary purview of the Federal Court of Canada (the "**FCC**"), the test for declaratory relief is incontrovertibly satisfied by the presence of a real, substantial, and immediate dispute wherein the Applicant possesses a vital interest.
27. The utility of such declarations is paramount in exposing the systemic bypass of mandatory legislative frameworks, thereby establishing an authoritative and permanent record of the nullity of the manipulated judicial instruments.

OUSTER OF INSTITUTIONAL JURISDICTION: FATAL APPREHENSION OF BIAS, FUTILITY, AND STRUCTURAL INCOMPETENCE

28. **The Test for Losing Jurisdiction**: It is an established principle of administrative law that a reviewing court will completely strip a tribunal of its jurisdiction—refusing to remit the matter back—only under exceptional circumstances where the tribunal is rendered legally incapable of providing a fair or valid rehearing.
29. **The Core Legal Test**: To displace the standard remedy of remitting a case back to a tribunal, an applicant must demonstrate that remittal would be futile, unfair, or fundamentally break the administration of justice. The court rigorously examines whether the tribunal can still fulfill its statutory duty impartially and effectively.
30. **Reasonable Apprehension of Bias (Conflict of Interest)**: The Respondents operate under a reasonable apprehension of systemic bias and conflict of interest, rendering the tribunal legally incapable of providing an independent review, thereby necessitating that this Honourable Court retain absolute jurisdiction over the matter.

6003 **Failure or Refusal to Exercise Jurisdiction**: The Tribunal fundamentally misinterpreted its statutory mandate and displayed a persistent unwillingness to apply the law, culminating in a grave jurisdictional error that requires direct judicial intervention to prevent repeated procedural failures.

32. **The Futility and Operational Exception**: Based on the totality of the Respondents' inadequate responses under the *Privacy Act* and *ATIA*, remitting this matter back to the Tribunal would be futile, serve no practical legal purpose, and constitute an unjustifiable waste of public resources.
33. **Severe Lack of Institutional Competence**: The statutory duty imposed on the Commissioner to determine public interest disclosure places the RCMP in an inherent conflict, irreparably compromising its independence and establishing a structural incapacity to conduct a procedurally fair adjudication of the Applicant's requests.

FORENSIC AND TECHNICAL METADATA IMPERATIVES: EXPOSING THE DIGITAL METAMORPHOSIS OF JUDICIAL INSTRUMENTS

34. **Forensic Analysis of Automated Document Generation**: It is submitted that the impugned document identified as "Information Package 4810 998 24 48129169-00", affixed post facto and no earlier than November 1, 2024, (with first appearance of the Applicant scheduled for November 13, 2024, pursuant to a Criminal Code Form 10 Undertaking which was begrudgingly prepared by the TPS on account of the Applicant demanding incessantly and admittedly, while incarcerated, with passion, and notably without any reference to Police Case ID: 457197 contained in the Criminal Code Form 10 Undertaking) exhibits catastrophic structural anomalies. A critical component of this forensic reality is the identification of *GrapeCity Documents for PDF* version 6.0.2.0 as the document producer—a software development kit ("the SDK") rather than a standard end-user application. The presence of this metadata inextricably proves that the document was generated via an automated back-end script, thereby constituting an unauthorized procedural bypass of the *FRANK/ICON* case management systems.
35. **Integrated Analysis of the False Information Package (the "FIP")**: The table below delineates the profound factual errors, technical metadata failures, and procedural diversions characterizing the FIP:

Category	Specific Deficiency	Location	Legal Implication & Forensic Depth

Case Indexing	Police Case ID: 457197	Page 3	The Barcode of Fraud: Valid ICON/CCO Case IDs are strictly 7 digits. This anomaly signifies an entirely fabricated or transposed file architecture. TPS Case ID and/or occurrence numbers contain the year with hyphen and eight digits. Ergo, the remaining portion of a non-particularized police force confirms, by deduction and exclusionary logic, that the RCMP was the originating police force (nota bene: RCMP refers to its policing units as "forces" whereas the TPS refers to themselves as "services" by way of divisions)

THE TEMPORAL ANOMALY AND ALGORITHMIC SURVEILLANCE AUDIT TRAIL: PRIMA FACIE EVIDENCE OF PRE-EMPTIVE SURVEILLANCE

36. The documentary record reveals a glaring chronological discrepancy within the RCMP's purported *Privacy Act* response dated April 27, 2026. Despite acknowledging receipt of the Applicant's request on March 17, 2026, the matter was unilaterally assigned the federal file identifier P-2025-16999.

37. In the rigorous domain of federal records management, this prefix irrevocably denotes the year the file was initiated. This temporal anomaly establishes *prima facie* evidence that the RCMP had already commenced an active intelligence, surveillance, or audit file concerning the Applicant in 2025, operating in parallel with concurrent civil litigation, thereby completely demolishing the fiction that this was ever a localized municipal matter.

38. Furthermore, the generation of a specific maximum-threshold algorithm log in April 2026, inextricably paired with the query "Q PERS+ REM:000330500", constitutes incontrovertible digital proof that federal actors were actively hunting, verifying, or manipulating the precise identity of the Applicant within a secured federal network.

THE RULE 317 MANDATE: EXTRACTION AND COMPULSORY PRODUCTION OF THE CERTIFIED TRIBUNAL RECORD

39. To secure the comprehensive adjudication of this Application, the transmission of the complete Certified Tribunal Record (the "**CTR**") is mandated pursuant to Rule 317 of the *Federal Courts Rules*.

40. The evidentiary matrix necessitates the extraction and certification of three distinct tiers of Personal Information currently suppressed by the Respondents:

Data Type	Primary Source	Level of Effort	Forensic Value
Active Warrant Status	CPIC "Persons" File	Low (Routine Query)	Operational verification only.

Foundational Metadata (ORI, Terminal ID)	Transaction Logs (PPU 005)	Moderate (Requires Audit)	Identifies the true genesis of the digital record.
Amended/Purged Data (The "Frankendoc")	Offline Historical Database	High (Specialized Extraction)	Exposes post-execution structural metamorphosis and unauthorized jurisdictional transfers.

41. The mandatory certification of these materials, circumventing the pervasive administrative deflections, is legally indispensable for exposing the unauthorized post-execution alterations regarding the identity of the authorizing judicial officer, the date, and the true jurisdictional origin of the warrant, thereby ensuring the Court is equipped to adjudicate the jurisdictional nullity *de novo*. The Applicant repeats and relies upon the exhaustive factual and legal grounds particularized within the Applicant's standalone Written Request and Supporting Submission Pursuant to Rule 317 of the Federal Courts Rules, served upon the Respondents concurrently on May 18, 2026. The Applicant states that the explicit invocation of remedies in the nature of Prerogative Writs of Mandamus and Prohibition, conjoined with specific allegations of bad faith, institutional bias, and systemic conflict of interest involving Regional Commander Mr. Matt Peggs (Central Region), legally expands the mandatory disclosure test of the Certified Tribunal Record (the "**CTR**") to encompass all 18 categories of raw historical metadata, transaction logs, application software library artifacts, and core charging instruments housed within Personal Information Bank (PIB RCMP PPU 005). Said PIB is not an exempt bank under any regulation under the *Privacy Act*.

ACTIONABLE NEGLECT OF STATUTORY DUTY, DOCTRINAL IMPERATIVES, AND INSTITUTIONAL MALFEASANCE

42. It is averred that the impugned conduct transcends mere administrative oversight, constituting an actionable neglect of duty, administrative malfeasance, and the deliberate spoliation of digital evidence orchestrated at the highest echelons of the Central Region Command, specifically implicating Regional Commander Mr. Matt Peggs.
43. The systemic, institutionalized suppression of publicly accessible judicial records fundamentally rebuts the presumption of *omnia praesumuntur rite et solemniter esse acta*, necessitating immediate judicial intervention to enforce the maxim *ubi jus ibi remedium*.
44. The foundational nullities embedded within the orchestrated process invoke the immutable doctrine of *quod ab initio non valet, in tractu temporis non convalescit*, permanently vitiating the Respondent's purported jurisdictional authority. Furthermore, pursuant to the doctrine of *respondeat superior*, the Tribunal bears ultimate vicarious and institutional liability for the orchestrated obfuscation effectuated by its delegates and regional commanders. In light of the unlawful seizure and deprivation of property detailed herein, the equitable principle of *spoliatus debet ante*

6006 *omnia restitui* dictates that immediate restitution and comprehensive disclosure are mandatory prerequisites to the restoration of the *status quo ante*.

THE EXCEPTION TO PLEADING EVIDENCE: PLEADING OF SIMILAR FACT EVIDENCE

45. It is acknowledged that the incorporation of evidentiary particulars within procedural pleadings is conventionally prohibited; notwithstanding said prohibition, an indispensable exception is effectuated when advancing similar fact evidence *in limine*. The extrapolation of overarching legal principles dictates that to establish a nexus of systemic malfeasance, the foundational factual substratum must be delineated with precision to demonstrate a continuing course of conduct. It might be asserted by opposing entities that such evidentiary inclusions contravene the *Rules of Civil Procedure* pertaining to the pleading of material facts exclusive of evidence. This presumption is comprehensively rebutted by the jurisprudential mandate articulated in *R. v. Handy, 2002 SCC 56* (the "*Handy Jurisprudence*"). In the *Handy Jurisprudence*, the Supreme Court of Canada elucidated the doctrine of similar fact evidence, establishing that where the probative value of antecedent conduct demonstrates a systemic pattern or characteristic methodology, such probative value substantially eclipses any purported prejudicial effect. Applied to the present circumstances, the pleading of systemic state-sponsored harassment is not merely permissible but legally mandatory to establish the requisite factual nexus of institutional malfeasance.

The Nullification of State Action and the Clandestine Extraction of Digital Memory

46. Whereas the aforementioned falsification of the documentation (the "**False Information Package**") transcends rational comprehension, similar fact evidence is concurrently pleaded herein implicating the Royal Canadian Mounted Police (the "**RCMP**") and specific former constabulary personnel affiliated therewith, notably Colin Cree and Laurie Windover, operating under the corporate auspices of EFS e-Forensic Services Inc. (the "**Forensic Corporation**"). It is submitted that the Forensic Corporation was retained to execute a forensic duplication of the primary storage apparatus utilized during the period of affiliation with the Law Society of British Columbia (the "**LSBC**"). Said entities were complicit in the clandestine and concealed extraction of the random access memory (the "**Random Access Memory**"), utilizing an invasive and malicious software application designated as "DumpIt". Said application operated independently of the primary hard drive apparatus to execute a covert technological interception.
47. The potentiality of said clandestine extraction of the Random Access Memory was ascertained in the year 2021, prompting the invocation of statutory mechanisms pursuant to the *Freedom of Information and Protection of Privacy Act* directed toward the LSBC. Subsequent to said statutory demands, an extraction iteration was procured in hexadecimal format (the "**Hexadecimal Format**"), necessitating extraordinary technological investigation to

6007 decipher. Consequently, compulsory demands for exculpatory documentation, explanations, and personal information (the "**Personal Information**") were levied upon Mr. Cree and Mr. Windover. It is documented that Mr. Windover, manifesting profound indignation ostensibly resultant from the exposition of the malfeasance orchestrated by the LSBC and the Forensic Corporation, instituted technological barricades against the electronic correspondence address utilized for communications, specifically mclean@searchandseizure.ca (the "**Electronic Mail Address**").

48. *Nota bene:* An analytical evaluation must address the classification of the utilization of the aforementioned malicious software. It is explicitly categorized not as a mere procedural irregularity, but as an absolute nullity *ab initio*, as it constituted a direct contravention of statutory privacy mandates and equitable principles. Pursuant to the legal maxims compiled in Herbert Broom's *A Selection of Legal Maxims*, the principle of *Omnia praesumuntur contra spoliatorem* (every presumption is made against a wrongdoer) is inextricably engaged. The clandestine extraction constitutes an *ultra vires* assumption of investigative authority, rendering the derived *acta* entirely devoid of legal force.

Frivolous Prosecutorial Initiations and Post Facto Fabrications

49. Extrapolating further upon the systemic pattern of harassment, an antecedent fabrication of criminal culpability was orchestrated by the detachment of the RCMP, as the sole police force in North Vancouver by way of agreement between the province and the federal government, situated in North Vancouver, British Columbia, in the year 2017. The allegations promulgated therein were determined by the reviewing Crown Counsel to be so conspicuously frivolous, vexatious, and bereft of substantive merit that prosecutorial authorization was summarily declined *ipso facto*, thereby preserving the *status quo ante*.

Nullity of Seizure and Calculated Ruses of Incarceration for extended captivity, inability to advance legal matters, serious injury, premature death and/or death

50. It is further submitted that upon the realization by the RCMP that a substantively deficient and unlawful investigative maneuver had been executed, culminating in an unlawful lockout and property confiscation concerning the principal residence located at Unit 410-775 King Street West, City of Toronto, Province of Ontario, M5V 2K3 (the "**Principal Residence**"), a meticulously calculated ruse was engineered. The aforementioned lockout, being a direct contravention of overarching common law property rights and the *Residential Tenancies Act, 2006, S.O. 2006, c. 17* (the "*RTA*"), is asserted to constitute an indisputable and irremediable nullity. In this regard, the RCMP clearly waited until the unlawful lockouts occurred to denote the Applicant as "NFA".

6008 Following demands for the restitution of chattels purportedly retained within the Principal Residence, the RCMP systematically transferred the unlawfully confiscated property from the RCMP Toronto West Detachment situated in Milton, Ontario, to a Toronto Police Service (the "**TPS**") division designated as "Toronto West". It is advanced that this geographical relocation was a premeditated subterfuge designed to orchestrate a physical apprehension, effectuating an incarceration without the provision of bail.

52. The underlying objective of this apprehension was the deliberate neutralization of formidable *pro se* litigation capabilities, representing at minimum the third manifestation of such strategic deprivation. Initial representations articulated by personnel of the TPS 14th Division indicated an impending transportation to an alternative maximum-security detention facility, presumably the Millhaven Institution, which is jurisprudentially recognized for its severe custodial conditions. The orchestration was purportedly designed to maximize systemic disadvantage, exploiting the absence of a principal residence and familial support infrastructure within the jurisdictional boundaries of Toronto, Ontario.

GOVERNING STATUTORY AND REGULATORY FRAMEWORKS RELIED UPON

53. The Applicant repeats and relies upon the authorities contained within communications between himself and the RCMP vis-à-vis his access requests under the *Privacy Act* and ATIA, along with any other documents provided to it. The Applicant relies upon the statutory and regulatory frameworks meticulously outlined in the following legislation:

a. *Privacy Act*, R.S.C., 1985, c. P-21;
b. *Privacy Regulations*, SOR/83-508;
c. *Exempt Personal Information Bank Order, No. 5 (ND)*, SOR/85-38;
d. *Exempt Personal Information Bank Order, No. 13 (RCMP)*, SOR/90-149;
e. *Exempt Personal Information Bank Order, No. 14 (CSIS)*, SOR/92-688;
f. *Exempt Personal Information Bank Order, No. 25 (RCMP)*, SOR/93-272;
g. *Access to Information Act*, R.S.C., 1985, c. A-1 (the "***ATIA***")
h. *Access to Information Regulations*, SOR/83-507;
i. *Federal Courts Act*, R.S.C., 1985, c. F-7;
j. *Federal Courts Rules*, SOR/98-106;
k. *Canada Evidence Act*, R.S.C., 1985, c. C-5, Part 1;
l. *Secure Electronic Signature Regulations*, SOR/2005-30, Part 1;
m. *Royal Canadian Mounted Police Act*, R.S.C., 1985, c. R-10;
n. *Royal Canadian Mounted Police Regulations, 2014*, SOR/2014-281;
o. *Commissioner's Standing Orders (Conduct)*, SOR/2014-291;
p. *Commissioner's Standing Orders (Classification Redress Process for Members)*, SOR/2001-248;
q. *Commissioner's Standing Orders (Employment Requirements)*, SOR/2014-292;
r. *Commissioner's Standing Orders (General Administration)*, SOR/2014-293;
s. *Commissioner's Standing Orders (Grievances and Appeals)*, SOR/2014-289
t. *Royal Canadian Mounted Police Public Complaints Commission Rules of Practice*, SOR/93-17;
u. *Enhancing Royal Canadian Mounted Police Accountability Act*, S.C. 2013, c. 18;
v. *Public Complaints and Review Commission Act*, S.C. 2024, c. 25;

w. *Interpretation Act*, R.S.C., 1985, c. I-21;
x. *Criminal Code*, R.S.C., 1985, c. C-46; and
y. *Security Offences Act*, R.S.C., 1985, c. S-7.

This application will be supported by the following material:

54. The Affidavit[vi] of Mr. Kevin A. McLean (BA, JD, CIM) or on his behalf, to be sworn, and the documentary exhibits attached thereto, including:
    a. Tab 1: The Applicant's statutory access request under the *Privacy Act*, dated February 27, 2026, and received by the Respondents on March 11, 2026, requesting the extraction of foundational metadata, raw hexadecimal dumps, and offline historical transaction logs from the CPIC database.
    b. Tab 2: The Canada Post tracking and delivery confirmation certificate, verifying physical delivery and statutory service of the Applicant's *Privacy Act* request at the Respondents' Ottawa headquarters on March 11, 2026
    c. Tab 3: Correspondence from mid-March 2026, containing the Applicant's detailed technical disclosure of relevant Toronto Police Service (TPS) Originating Agency Identifiers (ORIs), Case IDs, and a digital forensic metadata analysis identifying 43 structural anomalies tied to the GrapeCity PDF engine and the "CL (M)" software artifact
    d. Tab 4: Administrative correspondence and records spanning March and April 2026, documenting the Respondents' unilateral 30-day time extension, the subsequent failure to search, and the formal dispute concerning the execution of superficial "live" terminal queries versus the requested offline database extractions
    e. Tab 5: The purported statutory response from the RCMP ATIP branch, dated April 27, 2026, including the selective application of statutory exemptions to active 2025 data pools and the omission of 2024 historical transaction logs.
    f. Tab 6: Electronic mail communications dated October 2, 2024, involving Constable Anthony Romano of the TPS (14 Division) regarding property retrieval, the Applicant's detention, and the processing of the underlying judicial authorizations.
    g. Tab 7: The formal statutory complaint submitted by the Applicant to the Civilian Review and Complaints Commission for the RCMP (CRCC), concerning the administrative handling and tracking of records under the direction of Assistant Commissioner Matthew Peggs.
    h. Tab 8: Unanswered written demands served upon Assistant Commissioner Matthew Peggs, seeking the production of authentic system metadata, verification of the "CL (M)" system artifact, and the return of property seized between September 20, 2024, and October 2, 2024.
    i. Tab 9: The parallel statutory access request submitted by the Applicant under the *Access to Information Act* (*ATIA*) on May 5, 2026, targeting the National Technology Onboarding Program (NTOP) software procurement logs, enterprise licensing, and server-side deployment files for the MESCIUS / GrapeCity PDF software libraries.
    j. Tab 10: Copies of the formal structural complaints submitted to the Office of the Privacy Commissioner of Canada (OPCC) regarding systemic data suppression, unauthorized search paths into Specialized Policing Services, and the ongoing refusal to search Personal Information Bank (PIB) RCMP PPU 005.
    k. Tab 11: Documents and decision from LECA in Spring 2025;
    l. Tab 12: Rule 317 of the *FCR* request of March 18, 2026;
    m. Tab 13: documents involving the Similar Fact Evidence ("SFE") doctrine above;
    n. Tab 14: Residual records: records, documents et al not captured by the above but relevant to the Application; and
    o. Such further and other material as the Applicant may advise and this Honourable Court may permit.

6010 The Applicant hereby requests that the Respondents send a certified copy of the material particularized in the Exhaustive Schedule of the standalone Written Request served upon the RCMP Tribunal on May 18, 2026, which is incorporated by reference herein:

SCHEDULE OF REQUESTED MATERIALS FOR PURPOSES OF A CERTIFIED TRIBUNAL RECORD

SCHEDULE OF REQUESTED MATERIALS

Item Number	Category of Material	Specific Records and Metadata Requested
1	Access Request Administrative Files	The complete internal administrative file, tracking sheets, and analyst worksheets concerning *Privacy Act* file **P-2025-16999**.
2	System Initialization Logs	The complete, unredacted system entry logs from the automated sequential registry system detailing the exact date, millisecond timestamp, and file initialization sequence that generated the prefix year **"2025"** for an access request delivered to the **Respondent** on March 11, 2026.
3	Executive and Inter-Directorate Communications	All electronic communications, emails, instant messages, memorandum chains, and briefing notes concerning the Applicant or file P-2025-16999 exchanged between Director Jeff Ball, Delegate Melissa Simpson, Director General Stéphane Brisson, Regional Commander Matt Peggs, or their authorized agents, and Chief of Staff Tanya Mirsky spanning April 1, 2026, to the present.
4	Internal Legal and Operational Advice	All legal or operational advice solicited or received internally regarding the Applicant's statutory demand for access to the Canadian Police Information Centre (**"CPIC"**) Offline Historical Database metadata, including the Foundational Metadata Request and the Offline Historical Database Request.
5	Raw Forensic Mainframe Ledger Records	The raw, unredacted transaction logs, audit trails, and hexadecimal dumps residing within the secure CPIC Offline Historical Database associated with Personal Information Bank **RCMP PPU 005** tied to the Applicant's name, identifiers, or cross-referenced occurrence numbers (2024-2028093, 24-2082035, and Court File/Case ID 457197) spanning September 15, 2024, to December 31, 2024, inclusive.
6	Cryptographic Audit Trails	The complete cryptographic audit trails capturing all **ADD**, **MODIFY**, **CLEAR**, and **CANCEL** command strings, along with terminal identifiers, physical hardware addresses, Originating Agency Identifiers (**"ORIs"**), and unstructured narrative fields for each sequential transaction executed during the aforementioned temporal window.
7	Forensic Metadata of Search Methodology	The complete electronic system logs generated by Operator NBOISVERT on April 14, 2026, at 07:35:43, detailing the complete input syntax, query parameters, and system constraints utilized to execute the front-facing "Q PERS+" and "Q CNI" live database queries.
8	Internal Directives and Exclusion Policies	Any internal directives, policy documents, or operational notes instructing the Access to Information and Privacy (**"ATIP"**) Branch analysts to omit an interrogation of the Offline Historical Database in response to the Applicant's explicit, specialized request for historical data.
9	Trans-Directorate Processing Records	The complete, unredacted administrative processing file, tracking timelines, and internal analyst notes concerning the concurrent *Access to Information Act* (**"*ATIA*"**) request submitted by the Applicant, explicitly targeting the procurement, enterprise licensing, and National Technology Onboarding Program (**"NTOP"**) integration logs of the Mescius SDK / GrapeCity.Documents.PDF.6.0.2.0 developer engines within the CPIC *infra*structure.
10	Automated File Linking Records	All internal processing records showing any administrative coordination, automated file linking, or database cross-referencing executed between the privacy division handling *Privacy Act* request P-2025-16999 and the information access branch processing the parallel *ATIA* files.
11	Software Exception Logs	Any software error tracking logs, system exception reports, or developer audit alerts generated by the core CPIC mainframe database management system involving database inquiries or structural PDF modifications tied to the Applicant's biographical identifiers or transaction history.
12	Executive Suite Briefing Notes and Action Logs	All briefing notes, corporate risk assessments, institutional action logs, and communications generated by or sent to Commissioner Michael Duheme and Director General Stéphane Brisson regarding the Applicant's personal information or file P-2025-16999.
13	Central Region Command Communications	All emails, letters, instant messages, and administrative directives sent or received by Assistant Commissioner Matthew Peggs (Central Region Command) concerning Police Case ID: 457197, the "Adult Common Information Package," or the collection and retention of the Applicant's property from September 15, 2024, to the present.

6011 **14**	Third-Party Data Transfer Ingestion Ledgers	All cross-jurisdictional system logs showing the electronic receipt, intake vetting, and cryptographic mapping of data transferred from the Toronto Police Service (TPS) or Ontario Court of Justice (OCJ) to the RCMP *infr*astructure involving the Applicant's biographical profiles.
15	Primary Statutory Charging Instruments	A certified copy of the **Criminal Code Form 2 "Information"** and/or **Criminal Code Form 4 "Indictment"** purportedly generated, indexed, or uploaded into federal tracking streams regarding the Applicant's underlying file.
16	Core Courthouse Intake Endorsements	A certified copy of the **Intake Court Endorsement** represented on Page 3 of 5 within the disputed "False Information Package," capturing any handwriting, initials, or automated metadata strings applied during processing.
17	Originating Judicial Authorizations	A certified copy of the **alleged warrant in the first instance** executed, tracked, or registered within the CPIC network in relation to the Applicant's identifiers.
18	Comprehensive Judicial and Executive Orders	Any and all ancillary orders, determinations, statutory authorizations, variances, or judicial directions issued by a Court of competent jurisdiction or a federal board concerning the collection, retrieval, manipulation, or preservation of the Applicant's personal information or physical property.

Date: May 18, 2026



_____

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SOR/2004-283, ss. 35 and 38

[i] The RCMP did not conduct a search for records, as required by the Applicant's PII Access Request (March 11 2026), in the manner they executed in the Halton Police 2024 Case;
The RCMP's representation that it conducted a search in CPIC and Specialized Policing Services is fundamentally flawed as the Applicant did not request a search "in" Specialized Policing Services;
The RCMP did not rely upon ss. 16(2) of the *Privacy Act* as it did in the Halton Police Case, thereby defeating any implication of an ongoing investigation or the utilization of sensitive techniques, and the RCMP has waived that protection for the purposes of this judicial review herein;
The RCMP represented in the Halton Police Case that, "The *Privacy Act* has established the right of applicants to access federally maintained records which contain personal information concerning themselves" whereas in the McLean v. RCMP proceeding, it stated, "The *Privacy Act* has established the right of applicants to access federally maintained records" WITHOUT reference to Personal Information, consistent with the

exemptions relied upon by the RCMP only referencing "information" and "Personal Information of the Applicant," leading to a clear jurisdictional path for judicial review on issues outside of the scope of section 29 and 41 of the *Privacy Act*;
The RCMP in the McLean RCMP Proceeding utilized the language of "If this matter concerned another police department, they may have information of interest to you. The *Privacy Act* does not authorize the RCMP to search files or to disclose information belonging to other police forces" whereas in the Halton Police Case the language used by the RCMP was: "if you were involved with another police department or service, they may have information that concerns you. The *Privacy Act* does not authorize the RCMP to search files or to disclose information belonging to other police forces". The factual inference is that the RCMP only referred to another "department" which be of itself and the RCMP does not have a legal justification under an Act of Parliament to refuse to search the Foundational Metadata and Offline Historical Database so requested by the Applicant including PPU 005, when a request is solely constrained to CPIC, because the RCMP Specialized Policing Services were involved, directly or indirectly;
[ii] i. A further Declaration that the Respondents' search of the Specialized Policing Services was arbitrary, devoid of an explicit request, and strictly unauthorized in relation to the PII Access Request (March 11 2026);
ii. A further Declaration that the Respondents orchestrated a purported extension of time on March 17, 2026, so communicated to the Applicant, because after querying the Applicant's initial identifiers the system did not trigger a police file tied to the TPS but rather triggered a hit tied to a program or database managed under the national SPS umbrella, housing elite federal units—such as Covert Operations, Cyber, and Regional Communications (implicating managers like Regional Commander Mr. Matt Peggs (see: "C" "L" and "(M") in the False Information Package);
iii. A further Declaration that the RCMP's Specialized Policing Services is the precise department that owns, manages, and builds the RCMP's centralized high-tech *infr*astructure including the software development kit of GrapeCity.Documents.PDF that was utilized to manipulate the authentic "Adult Common Information Package" after the inputs were already finalized and then provided to the undisclosed SCJ Judge in the "Ex Parte In Camera Hearing" on or around September 2024;
iv. A further Declaration that the RCMP was inherently responsible for the structural manipulation of the "Adult Common Information Package";
[iii] For absolute clarity, said Order includes Personal Information about him in relation to the type of Personal Information that one would be entitled to obtain post-arrest, including any and all Informations and Indictments, arrest warrants, and/or endorsements;
[iv] The Applicant was not and is not requesting "investigative techniques" and "confidential sources," but rather an audit trail of a definitively concluded "Intake Court Endorsement" and "judicial authorization";
[v] In accordance with the legal maxims compiled by Herbert Broom, specifically fraus omnia corrumpit (fraud vitiates everything) and ex dolo malo non oritur actio (no right of action arises from a deceitful wrong), the entirety of the acta executed under such pretenses is irremediably vitiated and rendered coram non judice.
[vi]And/or by way of Application Record by comprehensive Application and/or by way of singular or multiple affidavits

Tab 95

From: Mr. Kevin A. McLean (BA, JD, CIM)
Email: mclean@searchandseizure.ca

e-document-6 T-2448-26 ID 5
FILED / DEPOSE
FEDERAL COURT
COUR FÉDÉRALE
May 20, 2026
20 mai 2026
Diane Lopez
TOR | 2

Party: Applicant
Document type: PDF signed request pursuant to Rule 317 of the FCR
Short tile: *McLean v. RCMP et al*
Court Level: Federal Court of Canada
Court Office: City of Toronto (180 Queen Street West, Suite 200)

COURT FILE NUMBER: T-2448-26

May 19, 2026

COMPREHENSIVE WRITTEN REQUEST OF THE RCMP (TRIBUNAL) PURSUANT TO RULE 317 OF THE *FEDERAL COURT RULES*, WHICH IS TITLED "MATERIAL IN THE POSSESSION OF THE TRIBUNAL" (AS DEFINED UNDER *FCR*, S. 317 AND FCA, S. 2)

Served on the RCMP in its capacity as a "Tribunal" as defined under *Federal Court Rules*, section 2, where *tribunal* has the same meaning as *federal board, commission or other tribunal* under section 2(1) of the *Federal Courts Act*) on **May 18, 2026**.

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PART 1: STATEMENT OF RULE 317 REQUEST AND OVERVIEW OF SEMINAL PRINCIPLES UNDER RULE 317 TO 319 OF THE *FCR*

1. Rule 317 of the *Federal Courts Rules* is titled "**Material from Tribunal**" and it authorizes a party to request material relevant to an "Application" (see: section 2 of the FCR, which means a proceeding referred to in rule 300) that is in the possession of a "Tribunal" (see: section 2 of the FCA and section 2 of the FCR) whose "Order" (see: section 2 of the FCR) is subject of the Application and not in possession of the party by serving on the Tribunal and filing a written request, identifying the material requested.
2. "Material" is not defined under the FCA or FCR, and the Interpretation Act is not of assistance in this regard but based on statutory interpretation principles, "Material" including that which can be reproduced and where it cannot, the original "Materials" to the Registry. The FCC Registry holds that "Original Material" in trust and it is returned to the Tribunal after the Applicant has been heard subject to the Court's directions. In essence, it is entire collective body of documents, physical items, data, papers, things, records, information, Personal Information et al that are in the possession of the Tribunal.
3. Document discovery in our country varies from province to province and has varied over time with respect to whether the test is "materiality" or "relevance". The latter is a much broader and lower standard for the threshold as to whether the "materials" must be disclosed to the other party(ies). In the context of an Application to the FCC, a document is relevant to an application for judicial review if it may affect the decision that the Court will make on the application. the relevance of the documents requested must necessarily be determined in relation to the grounds of review set forth in the originating notice and evidence filed by a moving party (see: infra, Douze, the Honourable Madam Justice Tremblay-Lamer explicitly adopted the instruction provided by the Court of Appeal in Canada (Human Rights Commission) v. Pathak, 1995 CanLII 3591 (FCA), [1995] 2 F.C. 455, 54 A.C.W.S. (3d) 1344 (C.A.) (Pathak), regarding the parameters of relevance under Rule 317). The reason for the finding as to evidence filed by the Applicant, along with the grounds in the Application, is encompassed by the 20 days after service of the Rule 317 request.
4. "Possession" is not defined under the FCA or FCR, and the Interpretation Act (Federal) does not assist either. This is much like the *Privacy Act*, along with the likes of the provincial privacy protection statutes that do not define the word "control".
5. "Control" has been interpreted by the FCC and FCA since 1995 to encompass the following wherein Letourneau J.A., writing for the court, held as follows, at p. 245:

> "The notion of control referred to in [the Act] is left undefined and unlimited. Parliament did not see fit to distinguish between ultimate and immediate, full and partial, transient and lasting, or "de jure" and "de facto" control. Had Parliament intended to qualify and restrict the notion of control to the power to dispose of the information, as suggested by the appellant, it could certainly have done so by limiting the citizen's right of access only to those documents that the government can dispose of or which are under the lasting or ultimate control of the government."
>
> (see: *Canada Post Corp. v. Canada (Minister of Public Works)* (1995), 1995 CanLII 3574 (FCA), 30 Admin. L.R. (2d) 242, [1995] 2 F.C. 110, cited with approval by the ONCA Ontario Criminal Code Review Board v. Hale, 1999 CanLII 3805 (ON CA)).

6. In Ontario Criminal Review Board, the tribunal therein was found to have control of backup audio tapes created by an independent contractor as the tribunal itself had the power to make a demand for those tapes. It was irrelevant whether they existed or not or what state they were in. The lack of a contractual provision compelling the court reporter to deliver the tapes does not negate the Board's control over them (para 35).
7. However, are "control" and "possession" 'one and the same'? That question need not be answered herein.
8. Nonetheless, the types of possession include all the various types of possession including:
    a. De facto;

6018 b. De jure;
c. Actual;
d. Constructive;
e. Sole;
f. Joint; and
g. Others (denoted infra).

9. As the Respondent RCMP Tribunal is required to transmit all material (which may not be Personal Information of the Applicant) to the FCC that is in its possession whose "Orders" (which include decisions or dispositions by the Tribunal) and that is not in the possession of the Applicant, the issue of whether the Respondent RCMP Tribunal has control of requested Personal Information becomes somewhat moot. Nonetheless, the RCMP's constructive possession is unique herein because it is the custodian, controller and operator of the CPIC architecture so it has constructive possession, at the very least, of materials therein that are relevant to this JR Application before the FCC.
10. While certain decisions have and continue to focus on what was before or available to the Tribunal at the time of the decision, the scope of disclosure broadens significantly when an applicant has sought writs of mandamus, writs of prohibition and alleged conflicts of interest and bias (individual and institutional) et al (see: infra for the authorities in this regard).

PART 1(A): SCHEDULE OF MATERIALS REQUESTED FROM THE APPLICANT TO THE RCMP (TRIBUNAL)

11. With that segue, the Applicant is and has requested, upon service of this written request pursuant to Rule 317 of the Federal Courts Rules, SOR/98-106, Part -1 (the "*Federal Courts Rules*" or the "*FCR*"), materials, particularized infra, in possession of the RCMP tribunal (the "Tribunal"). The schedule of material sought herein is as follows:

SCHEDULE OF REQUESTED MATERIALS

Item Number	Category of Material	Specific Records and Metadata Requested
1	Access Request Administrative Files	The complete internal administrative file, tracking sheets, and analyst worksheets concerning *Privacy Act* file **P-2025-16999**.
2	System Initialization Logs	The complete, unredacted system entry logs from the automated sequential registry system detailing the exact date, millisecond timestamp, and file initialization sequence that generated the prefix year **"2025"** for an access request delivered to the **Respondent** on March 11, 2026.
3	Executive and Inter-Directorate Communications	All electronic communications, emails, instant messages, memorandum chains, and briefing notes concerning the Applicant or file P-2025-16999 exchanged between Director Jeff Ball, Delegate Melissa Simpson, Director General Stéphane Brisson, Regional Commander Matt Peggs, or their authorized agents, and Chief of Staff Tanya Mirsky spanning April 1, 2026, to the present.
4	Internal Legal and Operational Advice	All legal or operational advice solicited or received internally regarding the Applicant's statutory demand for access to the Canadian Police Information Centre (**"CPIC"**) Offline Historical Database metadata, including the Foundational Metadata Request and the Offline Historical Database Request.
5	Raw Forensic Mainframe Ledger Records	The raw, unredacted transaction logs, audit trails, and hexadecimal dumps residing within the secure CPIC Offline Historical Database associated with Personal Information Bank **RCMP PPU 005** tied to the Applicant's name, identifiers, or cross-referenced occurrence numbers (2024-2028093, 24-2082035, and Court File/Case ID 457197) spanning September 15, 2024, to December 31, 2024, inclusive.
6	Cryptographic Audit Trails	The complete cryptographic audit trails capturing all **ADD**, **MODIFY**, **CLEAR**, and **CANCEL** command strings, along with terminal identifiers, physical hardware addresses, Originating Agency Identifiers (**"ORIs"**), and unstructured narrative fields for each sequential transaction executed during the aforementioned temporal window.

6019 7	Forensic Metadata of Search Methodology	The complete electronic system logs generated by Operator NBOISVERT on April 14, 2026, at 07:35:43, detailing the complete input syntax, query parameters, and system constraints utilized to execute the front-facing "Q PERS+" and "Q CNI" live database queries.
8	Internal Directives and Exclusion Policies	Any internal directives, policy documents, or operational notes instructing the Access to Information and Privacy (**"ATIP"**) Branch analysts to omit an interrogation of the Offline Historical Database in response to the Applicant's explicit, specialized request for historical data.
9	Trans-Directorate Processing Records	The complete, unredacted administrative processing file, tracking timelines, and internal analyst notes concerning the concurrent *Access to Information Act* (**"ATIA"**) request submitted by the Applicant, explicitly targeting the procurement, enterprise licensing, and National Technology Onboarding Program (**"NTOP"**) integration logs of the Mescius SDK / GrapeCity.Documents.PDF.6.0.2.0 developer engines within the CPIC infrastructure.
10	Automated File Linking Records	All internal processing records showing any administrative coordination, automated file linking, or database cross-referencing executed between the privacy division handling *Privacy Act* request P-2025-16999 and the information access branch processing the parallel ATIA files.
11	Software Exception Logs	Any software error tracking logs, system exception reports, or developer audit alerts generated by the core CPIC mainframe database management system involving database inquiries or structural PDF modifications tied to the Applicant's biographical identifiers or transaction history.
12	Executive Suite Briefing Notes and Action Logs	All briefing notes, corporate risk assessments, institutional action logs, and communications generated by or sent to Commissioner Michael Duheme and Director General Stéphane Brisson regarding the Applicant's personal information or file P-2025-16999.
13	Central Region Command Communications	All emails, letters, instant messages, and administrative directives sent or received by Assistant Commissioner Matthew Peggs (Central Region Command) concerning Police Case ID: 457197, the "Adult Common Information Package," or the collection and retention of the Applicant's property from September 15, 2024, to the present.
14	Third-Party Data Transfer Ingestion Ledgers	All cross-jurisdictional system logs showing the electronic receipt, intake vetting, and cryptographic mapping of data transferred from the Toronto Police Service (TPS) or Ontario Court of Justice (OCJ) to the RCMP infrastructure involving the Applicant's biographical profiles.
15	Primary Statutory Charging Instruments	A certified copy of the **Criminal Code Form 2 "Information"** and/or **Criminal Code Form 4 "Indictment"** purportedly generated, indexed, or uploaded into federal tracking streams regarding the Applicant's underlying file.
16	Core Courthouse Intake Endorsements	A certified copy of the **Intake Court Endorsement** represented on Page 3 of 5 within the disputed "False Information Package," capturing any handwriting, initials, or automated metadata strings applied during processing.
17	Originating Judicial Authorizations	A certified copy of the **alleged warrant in the first instance** executed, tracked, or registered within the CPIC network in relation to the Applicant's identifiers.
18	Comprehensive Judicial and Executive Orders	Any and all ancillary orders, determinations, statutory authorizations, variances, or judicial directions issued by a Court of competent jurisdiction or a federal board concerning the collection, retrieval, manipulation, or preservation of the Applicant's personal information or physical property.

VOLUME #1(C): RULE 317 JURISPRUDENCE: THE REQUIREMENT OF CERTIFIED TRIBUNAL RECORD (THE "CTR")

12. Consistent with settled jurisprudence regarding the open court principle (the "**Open Court Principle**") entrenched within section 2(b) of the *Canadian Charter of Rights and Freedoms* (the "***Charter***"), informations and indictments (the "**Informations**" and "**Indictments**") are unequivocally treated as public court documents upon the issuance of a process and/or the service of a Criminal Code Summons or the execution of a Criminal Code Form 7 Arrest Warrant. Furthermore, any corresponding endorsements by a judicial officer ("Endorsements") thereto are to be made available upon formal request by an accused party (devoid of prescribed fees) or the public writ large, subject to the prescribed fee schedule delineated within *Regulation 158/03*.
13. Analogously, within the taxation context, it has been established that the Canada Revenue Agency, pursuant to a request under *Rule 317* of the *FCR*, forwarded a certified copy of an information (the "**Information**") to the

6020 Registry. Said document was subsequently treated by the Registry as a public document, with a copy concurrently remitted to the applicant's counsel: *Rémillard v. Canada (National Revenue)*, 2020 FC 1061 at para 5.

14. Documentation transmitted pursuant to *Rule 318* of the *FCR* is strictly incorporated into the receiving Court's official records and is governed *ipso facto* by the **Open Court Principle** (see: *Rémillard*, at paras 25–26 and 37–38). Sections 23 and 26 of the *FCR* mandate that the Court file and its annexes be treated as publicly accessible, subject exclusively to statutory confidentiality or specific judicial sealing orders.
15. The procedural mechanism outlined in *Rules 317* and *318* of the *FCR* is strictly operational and non-exploratory; its function is solely to transition relevant materials into the possession of the Registry, distinguishable from private discoveries which are executed beyond the purview of the Court file (see: *Rémillard*, at paras 57–59 and 65–66). Private discoveries are governed by the implied undertaking rule subject to questions from discovery being read into the court record by affidavit or at a hearing.
16. Should the **Respondent RCMP Tribunal** argue that the applicant is utilizing *Rule 317* as an impermissible exploratory discovery mechanism, such an assertion is preemptively defeated by the fact that the requested records constitute foundational administrative documents that inherently form the basis of the tribunal's jurisdiction and subsequent (or omitted) actions.
17. The protections afforded under section 8 of the *Charter* are rendered inapplicable *in limine*, as no reasonable expectation of privacy ("REOP") can legally persist subsequent to an applicant requisitioning transmission pursuant to *Rule 317* of the *FCR* (see: *Rémillard*, at paras 163–165).
18. Generally, *Rule 317* of the *FCR* encompasses exclusively the material that was available to the administrative decision-maker at the time the decision was rendered (at paras 23, 39, and 41–42). However, a substantially broader scope of disclosure is mandated in circumstances where procedural fairness, reasonable apprehension of bias, or analogous equitable grounds are explicitly contained within the Notice of Application and supported by a cogent evidentiary foundation: *Lill v. Canada*, 2023 FC 1364. Such grounds are unequivocally established herein by the notice of application (the "**JR NOA**") filed by the applicant (the "**Applicant**").

Volume #1(C)(I): Unsearched Repositories; and the RCMP Tribunal (through Mr. Ball) did not rely on any exemption under s. 18

19. The circumstances present herein ostensibly construct a paradox; however, a rigorous legal examination reveals that such a paradox is illusory, even if it is averred that the Royal Canadian Mounted Police (the "**RCMP**") neglected to search the requisite repositories for foundational metadata (the "**Foundational Metadata**") and the offline historical database (the "**Offline Historical Database**") (collectively, the "**Unsearched Repositories**"). The jurisprudential test dictates that the determination rests upon what material was legally available to the decision-maker at the material time.

Volume #1(C)(I)(a): The Misstatement of Law in the RCMP Tribunal Decision: "Privacy Act does not authorize search of files…belonging to other police forces"

20. The failure of the RCMP, as admitted predicated upon its representation in the April 27, 2026, letter communicated to the Applicant that the "The *Privacy Act* does not authorize the RCMP to search files….belonging to other police forces" (see: page 1 of 6, paragraph three).
21. "Files" is not defined under the *Privacy Act* but it is mentioned six (6) times under the *Privacy Act* which are:
    a. EXEMPTIONS
        i. Exempt Banks
            1. Governor in Council may designate exempt banks
                a. Subsection 18(1): The Governor in Council may, by order, designate as exempt banks certain personal information banks that contain **files** all of which consist predominantly of personal information described in section 21 or 22.
            2. Contents of order
                a. Clause 18(3)(b): (3) An order made under subsection (1) shall specify

i. (b) where a personal information bank is designated that contains files that consist predominantly of personal information described in subparagraph 22(1)(a)(ii), the law concerned.

b. The auto population of "files" (three to six) involve the review of exempt banks by the Privacy Commissioner of Canada into those exempt banks.

Volume #1(C)(I)(a)(i): Conclusion on the misstatement of law in this context

22. The Respondent RCMP did NOT claim an exemption under section 18(2) of the *Privacy Act* which states for sake of convenience:

> "Disclosure may be refused
> (2) The head of a government institution may refuse to disclose any personal information requested under subsection 12(1) that is contained in a personal information bank designated as an exempt bank under subsection (1)."

23. The Head of he Government Institution is that of Commissioner Mr. Michael Duheme.

Volume #1(C)(II): For sake of completeness: Review of Exempt PIB's

24. Nonetheless, the exempt PIB's are:

a. Department of National Defence Exempt Bank:

i. Exempt Personal Information Bank Order, No. 5 (ND), SOR/85-38, Part -1: The personal information bank under the control of the Department of National Defence containing the Security and Intelligence Information files No. ND-P70 is hereby designated as an exempt bank on the basis of section 21 of the *Privacy Act*;

b. **Criminal Operational Intelligence Records** (tied to Personal Information contained at subparagraph **22(1)(a)(ii))**

i. Exempt Personal Information Bank Order, No. 13 (RCMP), SOR/90-149, Part -1: Criminal Operational Intelligence Records, No. CMP/P-PU-015, a personal information bank under the control of the Royal Canadian Mounted Police, is hereby designated as an exempt bank on the basis of section 22 of the *Privacy Act*.

1. or the purposes of paragraph 18(3)(b) of the *Privacy Act*, the laws concerned, in relation to those files that are contained in the exempt bank referred to in section 2 that consist predominantly of personal information described in subparagraph **22(1)(a)(ii)** of that Act, are the Criminal Code, the Customs Act, the Excise Act, the Food and Drugs Act, the Immigration and Refugee Protection Act, the Income Tax Act, the Controlled Drugs and Substances Act and the Foreign Interference and Security of Information Act.

c. CSIS Exempt Bank:

i. Exempt Personal Information Bank Order, No. 14 (CSIS), SOR/92-688, Part -1

d. Exempt Personal Information Bank Order, No. 25 (RCMP), SOR/93-272, Part -1,

i. For the purposes of paragraph 18(3)(b) of the *Privacy Act*, the laws concerned, in relation to those files that are contained in the exempt bank referred to in section 2 that consist predominantly of personal information described in subparagraph 22(1)(a)(ii) of that Act, are the Criminal Code, the Foreign Interference and Security of Information Act, the Security Offences Act, the Royal Canadian Mounted Police Act and the Canadian Security Intelligence Service Act.

Volume #1(C)(I)(a): Conclusion on the inapplicability of Exempt Banks to the PII Access Request (March 11 2026) and this NOA for Judicial Review

6022. Leaving aside that the RCMP solely focused on "information" and not "Personal Information", it explicitly relied in its decision on April 27, 2026, wherein it stated:

> "Enclosed is a copy of all of the information to which you are entitled. Please note that some of the information has been exempted pursuant to sections 19(1)(d), 22(1)(b) and 26 of the Act"

26. There is not a single solitary mention of section 18 therein. Ergo, the RCMP Tribunal was not relying on "files contained in a PIB being exempt from disclosure let alone searching.
27. For completeness purposes and to avoid unnecessary and frivolous objections by the RCMP regarding its obligation to transmit a complete, accurate, and full CTR to the FCC and the Applicant, there is also not a single mention of n subparagraph 22(1)(a)(ii). Ergo, any reliance by the RCMP Tribunal on not being able to search files or disclose information (sic) belonging to other police forces is not relevant herein.
28. Hence, the Applicant's judicial review Notice of Application (Form 301) seeking writs of mandamus and prohibition as the relevant Personal Information sought, of which the Applicant did not seek that which was produced in the three page heavily redacted document accompanying the April 27 decision, has not been searched for.
29. Irrespective of the same, there would remain a judicial review independent of that aforementioned mandamus issue, predicated on the requirement (statutory and common law) for the Head of the Government Institution to consider whether to make a public interest disclosure regarding the manipulation of a "Criminal Code Information Package" into a False Information Package which is unprecedented in Canadian legal history (see: R. v. Scherzer and R. v. Hamilton did not contained falsification of the Criminal Code Information Packages but the falsification of underlying legal bases and notes per se; and R. v. Silva (Quebec) involved the stealing of a Justice of the Peace's stamp on account of "noble cause corruption" by a young Police Officer in Mr. Jolly as the public was in a state of terror with a notorious gang connected hitman in Mr. Silva).

VOLUME #1(D): THE FAILURE TO SEARCH BY THE RCMP

30. In light of the above uncontroverted syllogism and the sophisms by the RCMP, the *Privacy Act* not only authorizes but obligates the Government Institution to search for Personal Information requested (not "files") within the scope of an access request whether it is in a Personal Information Bank (a "PIB") and has been used, is being used or is available for use for an administrative purpose or is organized or intended to be retrieved by the name of an individual or by an identifying number, symbol or other particular assigned to an individual (see: section 10 of the *Privacy Act*).
31. However, the word "files" is utilized under some of the attendant regulations under the *Privacy Act* where certain PIB's, pursuant to ss. 18(1) of the *Privacy Act*, making certain PIB's exempt from search and disclosure.
32. The Applicant requested access to the PIB known as PPU 005 and it is not an exempt PIB. Moreover, the PII Access Request (March 11 2026) was not a request for "files" per se but for Personal Information contained in the PIB (PPU 005) and searches of Foundational Metadata and Offline Historical Database with respect to an executed arrest warrant including any original and amended data therein contained his Personal Information. But for the name of the judicial officer who in fact issued an endorsement including an Arrest Warrant (Criminal Code Form 7) all of the Personal Information therein would be on its face and de facto only involving him per se. In relation to the name of the judicial officer who issued the endorsement (dubbed an "Intake Court Endorsement") "warrant in the first", the federal statutory Personal Information definition under section 3(i) (see: means information about an identifiable individual that is recorded in any form including, without restricting the generality of the foregoing…(i) the name of the individual where it appears with other personal information relating to the individual or where the disclosure of the name itself would reveal information about the individual). This is also consistent with the judicial interpretation of Personal Information, and the required interpretation as follows:
    a. Drawing from jurisprudence in the federal public sector, the definition of personal information must be given a broad and expansive interpretation (Dagg v. Canada (Minister of Finance), [1997] 2 S.C.R., dissenting, 403 at para 68; Canada (Information Commissioner) v. Canada (Transportation Accident

6023 Investigation and Safety Board), 2006 FCA 157; Canada (Information Commissioner) v. Canada (Commissioner of the Royal Canadian Mounted Police), [2003] 1 S.C.R. 66, 2003 SCC 8, at para 23).

b. Personal information is information "about" an identifiable individual. "About" means that the information is not just the subject of something but also relates to or concerns the subject (Canada (Information Commissioner) v. Canada (Transportation Accident Investigation and Safety Board), 2006 FCA 157).
c. Information will be about an "identifiable individual" where there is a serious possibility that an individual could be identified through the use of that information, alone or in combination with other information (Gordon v. Canada (Health), 2008 FC 258 (CanLII).Footnote1 Information need not be recorded for it to constitute personal information. It is sufficient that the information be about an identifiable individual even if the information is not in a recorded form, such as oral conversations, biological samples and real time video surveillance. While the absence of a recording may go to the issue of collection, it does not change the fact that the information is personal information (Morgan v. Alta Flights Inc. (2006) FCA 121, affirming (2005) FC 421).
d. The same information can be personal to more than one individual, where, for example, it contains the views of one individual about another individual, or where the same information reveals something about two identifiable individuals (Wyndowe v. Rousseau, 2008 FCA 39 (CanLII)).
e. Information will still be personal information even if it is publicly available within the meaning of the regulations,Footnote2 and is exempt from applicable consent requirements (Englander v. TELUS Communications Inc., 2004 FCA 387 (CanLII)).
f. Subjective information about an individual may still be personal information even if it is not necessarily accurate (Lawson v. Accusearch Inc. 2007 FC 125).

33. The general principles overall are:

a. Privacy Rights' Purpose:
    i. privacy rights are designed to protect the privacy of individuals with respect to Personal Information held by government institutions and to provide individuals with a right of access to that information;
b. *Privacy Act*:
    i. quasi-constitutional;
c. Exceptions from an individual applicant's access rights – interpreted narrowly:
    i. in Lavigne v. Canada (Office of the COMMISSIONER of Official Languages), 2002 SCC 53 (CanLII), [2002] 2 S.C.R. 773, Gonthier J. observed that exceptions from the rights set out in the act should be interpreted narrowly, with any doubt resolved in favour of preserving the right;
d. Burden of proof:
    i. the burden of persuasion on the person asserting the exception (at paras. 30-31 of Lavigne);
e. Privacy Rights only compromised when there is a compelling state interest for doing so:
    i. in Dagg v. Canada (Minister of Finance), 1997 CanLII 358 (SCC), [1997] 2 S.C.R. 403, the SCC articulated the governing principles of privacy law including that protection of privacy is a fundamental value in modern democracies and is enshrined in ss. 7 and 8 of the Charter, and privacy rights are to be compromised only where there is a compelling state interest for doing so (at paras. 65, 66, 71)

34. It is axiomatic that the RCMP is also subject to the Charter pursuant to section 32 of the Charter.
35. *Lex non cogit ad impossibilia* (the law does not compel the impossible) cannot shield the RCMP where the material was, in fact, extant and obtainable.
36. Inasmuch as Informations, Indictments, and any associated endorsements—including but not limited to arrest warrants—are fundamental components governed by the Open Court Principle (which concurrently protects the rights of listeners pursuant to section 2(b) of the *Charter*), the failure of an originating courthouse or originating court office to produce said documents is immaterial. The RCMP possesses the requisite statutory authority to procure such documentation and is legally obligated to do so pursuant to *Rule 317*. From a policy perspective, the Federal Court of Canada and the RCMP are absolutely bound to discharge this requirement to preserve the integrity

6024 of the rule of law (the "**Rule of Law**"). Invoking Herbert Broom's maxim, *omnia praesumuntur rite et solemniter esse acta* (all acts are presumed to have been done rightly and regularly), the public is entitled to presume the RCMP will fulfill its legal duties to procure necessary records.

37. Copies of the aforementioned Informations, Indictments, and corresponding endorsements, alongside copies of arrest warrants—as represented by the Toronto Police Service (the "**TPS**" or the "**Arresting Police Division**") to have been in their possession—are strictly relevant to the JR NOA, specifically concerning the prerogative relief sought in the nature of mandamus and prohibition.
38. Furthermore, the compulsory transmission of these documents will categorically elucidate whether the RCMP was operating *mala fides* by intentionally breaching a public legal duty, or, in the alternative, operating negligently by breaching a public legal duty in a profoundly derelict manner. This evidentiary disclosure is paramount as it directly dictates the quantum and nature of the consequential relief to be awarded.

VOLUME #1(D)(I): THE LEGAL TEST FOR RELEVANCE

39. For the strict purposes of *Rule 317* of the *FCR*, a document is deemed relevant to an application for judicial review if it possesses the capacity to affect the ultimate decision that the Court will render on the application (see: *Douze v. Canada (Citizenship and Immigration)*, 2010 FC 1086 at para 19); *Boudreau v. Canada (Revenue Agency)*, 2022 FC 792 (CanLII), at para 16.

VOLUME #1(D)(II): APPLICATION OF DOUZE V. CANADA (CITIZENSHIP AND IMMIGRATION), 2010 FC 1086

40. In *Douze*, the Honourable Madam Justice Tremblay-Lamer explicitly adopted the instruction provided by the Court of Appeal in *Canada (Human Rights Commission) v. Pathak*, 1995 CanLII 3591 (FCA), [1995] 2 F.C. 455, 54 A.C.W.S. (3d) 1344 (C.A.) (*Pathak*), regarding the parameters of relevance under *Rule 317*:

> "A document is relevant to an application for judicial review if it may affect the decision that the Court will make on the application. As the decision of the Court will deal only with the grounds of review invoked by the **Respondent**, the relevance of the documents requested must necessarily be determined in relation to the grounds of review set forth in the originating notice of motion and the affidavit filed by the **Respondent**. (at para. 10)"

41. The ratio decidendi established in *Douze* has been consistently affirmed across numerous subsequent decisions, including:

    a. *Chopra v. Canada (Public Safety and Emergency Preparedness)*, 2026 CanLII 18896 (FC), at para 10;
    b. *John Doe 1 v. Canada (Attorney General)*, 2024 FC 1024, wherein Mr. Justice Diner articulated:
        i. It is well established that the test for relevance under *Rule 17* is synonymous with that under *Rule 317* of the *FCR* (*Abu* at paras 28 and 43, citing *Douze v. Canada (Citizenship and Immigration)*, 2010 FC 1086 at para 19 and *Nguesso v. Canada (Citizenship and Immigration)*, 2015 FC 102 at para 94). Ergo, a document is classified as "relevant" in this specific context where it "may affect the decision that the Court will make on the application," determined strictly in relation to "the grounds of review and any affidavit filed in support of the application" (*Abu* at para 43).
    c. The relevance of the material requisitioned under *Rule 317* of the *FCR* is the determinative factor. For the purposes of *Rule 317*, a document is relevant to an application for judicial review if it may affect the decision that the Court will ultimately make on the application (see: *Douze v. Canada (Citizenship and Immigration)*, 2010 FC 1086 at para 19; *Boudreau v. Canada (Revenue Agency)*, 2022 FC 792 (CanLII), at para 16; and
    d. Various other binding appellate and trial-level jurisprudence.

VOLUME #1(E): WHY NOTICES OF APPLICATION FOR MANDAMUS NECESSITATE AN EXPANDED INTERPRETATION OF THE CTR

6025 In *Abu v. Canada (Citizenship and Immigration)*, 2021 FC 1031, Mr. Justice Norris articulated the distinguished threshold for mandamus applications as follows:

43. "I begin by noting that one of the usual indicators of relevance in the judicial review context—was the document or information before the tribunal when it made its decision?—does not apply in a mandamus application because it is the failure or refusal of the tribunal to make a decision that has prompted the application in the first place. While this is a sound indicator of relevance when a decision is being reviewed, it is not exhaustive of the concept of relevance in the judicial review context generally. It is well established that the test for relevance in the context of the production of a CTR is whether a document in the possession or control of the tribunal in question "may affect the decision that the Court will make on the application" (*Canada (Human Rights Commission) v. Pathak*, 1995 CanLII 3591 (FCA), [1995] 2 F.C. 455 [at page 460], 1995 CarswellNat 666, at paragraph 10 (WL Can.) (C.A.)).

VOLUME #1(F): JUDICIAL REVIEWS ARE DISTINCT FROM APPEALS – RULE 317 EXCLUSIVELY INVOKED WITHIN APPLICATIONS

44. Mirroring the explicit statutory language of the *FCR*, *Beniey v. Canada (Border Services Agency)*, 2024 FC 972 unequivocally affirmed that *Rule 317* applies exclusively to judicial reviews conducted pursuant to the *Federal Courts Act* (the "**FCA**") and is inapplicable to applications instituted under separate statutory regimes, such as the *Official Languages Act, RSC 1985, c 31 (4th supp)* (the "**OLA**"). This principle was previously crystallized in *Lavigne v. Canada Post Corporation*, 2009 FC 756, wherein it was determined at paragraph 16 that *Rule 317* cannot be invoked against the Commissioner within an application commenced under section 77 of the *OLA*, as the Commissioner's decision is not formally under review.
45. By logical extrapolation, applications commenced pursuant to section 41 of the *Privacy Act* or under the *Access to Information Act* (the "**ATIA**") do not constitute judicial reviews under the *FCA* and therefore do not govern the specific issues herein, wherein a tribunal (the "**RCMP Tribunal**") has explicitly conceded a failure to search delineated repositories.

VOLUME #1(G): THE PRECAUTIONARY PRINCIPLE AND THE RULE OF LAW PRECLUDE SPECULATION

46. As explicated by the Federal Court of Appeal in *Canadian Copyright Licensing Agency (Access Copyright) v. Alberta*, 2015 FCA 268 [*Access Copyright*] (per Stratas JA at para 15):

> "Parties before the administrative decision maker will often have in their possession all of the material the administrative decision maker considered in making its decision. But not always. And sometimes parties may be unsure whether they do. Sometimes they wish to confirm exactly what the administrative decision maker actually considered in making its decision. Rule 317 of the Federal Courts Rules provides a means by which parties can achieve those ends
>
> (see also: *Friends of the Earth Canada v. Canada (Attorney General)*, 2023 FC 1438 (CanLII), at para 9).

47. Herein, the Applicant less than little: he has nothing.

VOLUME #1(H): THE DISCOVERY OF IMPROPER MOTIVE FACILITATES MEANINGFUL JUDICIAL REVIEW

48. It is an accepted legal tenet that the certified record and its surrounding context may unveil whether an administrative decision was predicated upon an improper motive or driven by alternative impermissible rationales (*Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65 at para 137).

6026 In the event that the reviewing court is deprived of the evidentiary foundation relied upon by the administrative decision-maker, the detection of a reviewable error may be rendered an impossibility (*Access Copyright* at para 14). The paramount and overarching consideration is whether the requested disclosure will permit a meaningful and substantive judicial review of the impugned decision (*GCT Canada Limited Partnership v. Vancouver Fraser Port Authority*, 2021 FC 624 at para 26).

VOLUME #1(I): THE DIFFERENTIAL LEGAL TEST FOR PROHIBITION UNDER RULE 317

50. In *Air Passenger Rights v. Canada (Attorney General)*, 2021 FCA 201, Associate Justice Gleason of the Federal Court of Appeal delineated at paragraph 21:

> "[21] Turning to the first of the foregoing assertions, as the applicant rightly notes, the breadth of materials that are subject to disclosure under Rules 317 and 318 of the Federal Courts Rules is broader where bias or breach of procedural fairness is alleged, particularly where, as here, relief in the nature of prohibition is sought. In such circumstances, disclosure is not limited to the materials that were before the tribunal when an order was made. Rather, where such arguments are raised, documents in the possession, control or power of a tribunal that are relevant to the allegations of bias or breach of procedural fairness are subject to disclosure.

51. Indeed, were it otherwise, this Court would be deprived of evidence necessary for the disposition of an applicant's claims of bias or breach of procedural fairness and the availability of relief in the nature of prohibition would be largely illusory: see, e.g., Humane Society of Canada Foundation v. Canada (National Revenue), 2018 FCA 66, 289 A.C.W.S. (3d) 875 at paras. 5-6; Gagliano v. Canada (Commission of Inquiry into the Sponsorship Program & Advertising Activities), 2006 FC 720, 293 F.T.R. 108 at para. 50, aff'd 2007 FCA 131; Majeed v. Canada (Minister of Employment & Immigration), 1997 CarswellNat 1693, [1993] F.C.J. No. 908 (F.C.T.D.) at para. 3, aff'd [1994] F.C.J. No. 1401 (F.C.A.). Thus, the first assertion advanced by the AGC as to the scope of permitted disclosure under Rules 317 and 318 is without merit."
52. Allegations encompassing bias and profound breaches of procedural fairness have been meticulously pleaded and are comprehensively encapsulated within the operative iteration of the application record (the "**Application Record**").
53. Concurrently, prerogative relief in the form of a writ of prohibition (the "**Writ of Prohibition**") is actively sought by the Applicant. Herbert Broom's maxim *ubi jus ibi remedium* (where there is a right, there is a remedy) dictates that the Court must possess the requisite evidentiary record to formulate such a remedy.
54. *Ipso facto*, given that the remedies of mandamus and prohibition are concurrently pursued, the restrictive test evaluating solely the materials available at the precise moment of the RCMP Tribunal's decision is fundamentally inapplicable. While the Applicant submits that this narrower threshold would nonetheless be satisfied, the prevailing appellate jurisprudence unequivocally binds the Court, by virtue of vertical *stare decisis*, to compel the RCMP Tribunal to transmit the expansive array of materials in certified format to both the Federal Court and the Applicant.
55. Should it be argued that the broader array of documents falls outside the technical "control" of the decision-maker because they were not explicitly reviewed, such an argument constitutes a logical fallacy. The jurisprudence explicitly overrides this limitation where bad faith, bias, or procedural fairness are pleaded, transferring the metric of discoverability from "what was reviewed" to "what may affect the Court's disposition of the fairness allegations."

Volume #1(H)(ii): Judicial Treatment of Air Passenger Rights

56. When allegations of bias or breaches of procedural fairness are advanced within a notice of application, the legally permissible scope of materials subject to mandatory disclosure under *Rules 317* and *318* is substantially broadened. This augmented scope is a jurisprudential imperative designed to guarantee that the reviewing Court is vested with the requisite evidentiary matrix to judiciously dispose of these claims (*Air Passenger Rights v. Canada (Attorney*

6027 *General)*, 2021 FCA 201 at para 21). Consequently, where bias or a breach of procedural fairness is averred, all documentation possessing relevance to such allegations must be subject to compulsory disclosure (*Ron W Cameron Charitable Foundation v. Canada (National Revenue)*, 2023 FCA 175 [*Ron W Cameron*] at para 26); *Delisle (Kannabis Shop) v. Kahnawake Cannabis Control Board*, 2026 CanLII 14519 (FC), at para 13.

57. In circumstances where an allegation of a breach of procedural fairness, a reasonable apprehension of bias, or actual bias is asserted within a notice of application or notice of appeal, the orthodox convention restricting production to relevant material physically before the decision-maker is invariably expanded. Supplemental documents demonstrating relevance to the specific allegation become subject to production: *Humane Society of Canada Foundation v. Canada (National Revenue)*, 2018 FCA 66 at para 6 (*Humane Society*); *Air Passenger Rights v. Canada (Attorney General)*, 2021 FCA 201 at para 21 (*Air Passenger Rights 2021*). The Federal Court of Appeal definitively codified this expanded obligation in *Air Passenger Rights 2021* (see: paragraph 21); *Jewish National Fund of Canada Inc. v. Canada (National Revenue)*, 2025 FCA 114 (CanLII), at para 13.
58. Furthermore, averments detailing discrimination on the basis of disability or egregious breaches of procedural fairness serve as sufficient independent catalysts to warrant expanded disclosure pursuant to *Rule 317*. When such arguments are substantively raised, documents demonstrating relevance to the allegations—irrespective of whether they were physically reviewed by the decision-maker—are strictly subject to disclosure (*Air Passenger Rights v. Canada (Attorney General)*, 2021 FCA 201 at para 21); *Ron W. Cameron Charitable Foundation v. Canada (National Revenue)*, 2023 FCA 175 (CanLII), at para 26. Application of this law dictates that the Applicant's pleadings of specific biases mandate production of the entire foundational record to assess the veracity of the tribunal's omissions.

VOLUME #1(I): THE IMPERATIVE OF A FORMAL REQUEST

59. In *Wheeldon v. Canada (Attorney General)*, 2012 FC 355, Mr. Justice Phelan articulated the absolute necessity of tendering a formal written request, notwithstanding the absence of a strictly prescribed statutory form. The Court observed the fatal deficiency when an applicant sought supplementary information without formalizing the requisite demand pursuant to *Rule 317* of the *FCR*. Specifically, the **Respondent** formally notified the Court that it refrained from producing the entirety of the material pertaining to the impugned decision strictly because the procedural formality of *Rule 317* was not strictly adhered to by the applicant: *Wheeldon v. Canada (Attorney General)*, 2012 FC 355 (CanLII), at para 15.

VOLUME #1(J): AUTHORITY FOR THE APPLICABILITY OF RULE 317 UNDER AN ATIA REVIEW

60. The standard of correctness is universally applicable in determining the applicability of *Rule 317* to a section 44 review under the *ATIA*, as such an inquiry constitutes a pure question of law (at para 11). A review instituted under section 44 retains the fundamental character of a judicial review, as it invariably scrutinizes the administrative decision-maker's ultimate determination regarding the disclosure of records (at paras 14–15 and 26). The decision itself embodies "the subject of the application," thereby satisfying the strict statutory language and threshold requirements encapsulated within *Rule 317* (at para 15): *Preventous Collaborative Health v. Canada (Health)*, 2021 FC 253. By applying this doctrine to the present facts, the failure to produce the required documents transforms the administrative inaction into the direct subject matter of the application, thereby triggering the compulsory production requirements of *Rule 317*.

VOLUME #2: STATEMENT OF ISSUES

61. The issues are provided herein to ensure that this proceeding is determined in a manner that is just, most expeditious and least expensive outcome of every proceeding with consideration being given to the principle of proportionality, including consideration of the proceeding's complexity, the importance of the issues involved and the amount in

6028 dispute (see: rule 3(a) and (b)) and in the event that there is an objection to some of the material requested the Court has the benefit of the relevant issues:

a. **Definitional Parameters under the *Privacy Act*:** Predicated upon the assertion that the RCMP purported to exercise jurisdiction and powers pursuant to the *Privacy Act, RSC 1985, c P-21*—an Act of Parliament—what is the proper jurisprudential and statutory interpretation of the following operative terms within the context of the present application: i. "Order"; ii. "Material"; and iii. "Relevant".

b. **The Legal Doctrine of Possession:** Given the absence of an explicit statutory definition of "possession" within the *Federal Courts Act, RSC 1985, c F-7*, the *FCR*, or the *Interpretation Act, RSC 1985, c I-21*, what is the prevailing common law and jurisprudential definition of "possession" specifically as it applies to the production of records in applications before the Federal Court of Canada?

c. **Expanded Scope of Disclosure (*Rules 317* and *318*):** To what extent is the legally permissible scope of mandatory disclosure, compelled under *Rules 317* and *318* of the *FCR*, augmented and expanded in circumstances where an applicant explicitly pleads and seeks relief based upon: i. A Writ of Mandamus; ii. A Writ of Prohibition; iii. The reasonable apprehension of bias, existence of a conflict of interest, institutional lack of independence, and/or lack of impartiality; and/or iv. Egregious breaches of the principles of procedural fairness;

d. **Subsection 19(1)(d) misguided yet revealing reference:**
   i. **Principal Issue for Determination:**
      1. Whether the invocation of the statutory exemption enumerated within subsection 19(1)(d) of the *Privacy Act* operates, *sub silentio*, as an admission of the originating law enforcement agency status of the federal constabulary; and furthermore, whether the totality of the circumstances encompassing the disposition of the subject chattels, the internal reorganization of the federal institution, the alleged documentary irregularities, and the anomalous remuneration of court personnel furnishes a triable inference of systemic procedural manipulation or institutional impropriety.
   ii. **Particularized Sub-Issues:**
      1. a) **Disposition of Chattels and Warrant Protocols:** Whether the ostensibly irregular handling of the subject chattels by the municipal police service—specifically, the uncatalogued sequestration thereof within a provisional repository, compounded by ensuing contradictory representations concerning the purported transfer to the Property Evidence Management Unit, and conjoined with the failure to produce an executory warrant of arrest—furnishes sufficient evidentiary weight to support the inference that the federal constabulary, rather than the municipal entity, operated as the primary or originating agency, thereby providing the foundational rationale for the invocation of subsection 19(1)(d).
   iii. b) **Institutional Reorganization as Statutory Circumvention:**
      1. Whether the redesignation of the federal constabulary's "O" Division to the "Central Region," whilst remaining under the continuous administrative authority of the presiding Regional Commander, is liable to be construed as a deliberate structural realignment executed with the specific intent of satisfying the jurisdictional phrasing contained within subsection 19(1)(d) ("regional government established by... an Institution of such a government"), thereby operating as an artifice to insulate agency records from mandatory disclosure.
   iv. c) **Inherent Prejudice to the Governmental Institution (understandable yet non-legal justification for non-disclosure):**
      1. Whether, by invoking the aforementioned statutory exemption, it is implicitly conceded by the federal institution that the execution of a comprehensive search would invariably yield specific foundational metadata—comprising the Originating Agency Identifier (ORI),

particulars of the issuing tribunal, and the identity of the presiding judicial officer—which would conclusively establish the agency's direct involvement, thereby occasioning inherent prejudice to the institution.

v. d) **Alleged Documentary Alteration and Software Exploitation:**
    1. In consideration of the publicly documented technical vulnerabilities inherent to the software framework identified as GrapeCity.Documents.PDF 6.0.2.0, whether a balance of probabilities suggests that said framework was utilized to effectuate a systematic obfuscation or manipulation of the primary evidentiary record, thereby converting the Authentic Information Package into the False Information Package.

vi. e) **Procedural Irregularities Indicative of Federal Agency Practices:**
    1. Whether the particularized errors and omissions identifiable within the False Information Package bear a greater indicia of alignment with the administrative practices of a federal agency operating within a regional framework—an entity arguably lacking the high-volume, routine process-issuing expertise characteristic of municipal police forces—than with those of the municipal police service itself.

vii. f) **Probative Inferences Regarding Personnel Remuneration:**
    1. What juridical inferences may be properly drawn from the sudden and material escalation in the remuneration of the named Court Officer, propelling said individual to a publicly disclosed threshold of elevated compensation in the year 2025, in immediate sequence to the allegedly unauthorized utilization of her identity as an informant—an averment she purportedly could not traverse upon confrontation. Furthermore, whether this temporal pattern of compensation raises a triable issue as to the possibility that such financial advancement was furnished as a clandestine commission or improper inducement to secure acquiescence to the aforementioned inclusion of her identity.

e. **Subsection 22, "Law Enforcement and Investigation"**: the absence of section 22(1)(a) but the inclusion of 22(1)(b) misguided yet enlightening, illuminating and informative reference:

i. The central issues in this application for judicial review concern the Royal Canadian Mounted Police's (the "RCMP") unlawful withholding of Foundational Metadata and Offline Historical Database records under the *Privacy Act*, R.S.C. 1985, c. P-21 (the "*Act*"). Specifically, the issues are framed as follows:
    1. **The Jurisdictional Misdirection:** Did the RCMP ATIP Branch err in law by declining to invoke the specific exemption under paragraph 22(1)(a) of the *Act*—which would require identifying itself as an "investigative body" under the *Privacy Regulations*—and instead relying on paragraph 22(1)(b), thereby assuming an evidentiary burden of proving "injury" that it cannot legally or factually satisfy?
    2. **The Failure to Establish a Reasonable Expectation of Injury:** Can the disclosure of historical, transactional, or administrative metadata (including CPIC logs, Foundational Metadata, and offline database entries) be reasonably expected to cause "injury" to the enforcement of any law or the conduct of lawful investigations under paragraph 22(1)(b), particularly where the underlying investigation is stale, inactive, or structurally concluded?
    3. **The Temporal and Procedural Boundaries of "Investigations":** Can the RCMP assert an ongoing investigative character over CPIC transactions that merely log the completion of past, expired, or time-barred administrative processes (such as a summons or arrest warrant), particularly where any potential prosecution is long-concluded or barred under the constitutional ceilings established in *R. v. Jordan*?
    4. **The Mischaracterization of Public Court Records as Confidential Sources:** Does paragraph 22(1)(b)(ii) permit the withholding of ministerial metadata (such as Originating Agency [ORI] codes, court levels, court locations, names of judicial officers, or Source Identifiers [SID]) under the guise of protecting a "confidential source," when the informant

on a Criminal Code Form 2 Information is a matter of public record post-arrest or post-issuance of process?

5. **The Exclusion of Ultra Vires Conduct from "Lawful Investigations":** Applying the doctrine of the indivisibility of the Crown (*Benedict v. Ontario*), can information generated through, or corrupted by, fraudulent manipulation or the compilation of false information packages ever be characterized as "obtained" or "prepared" in the course of a "*lawful* investigation" under subsection 22(1)?

f. **Pre-emptive Resolution of Anticipated Objections (The Establishment of Novel Precedent):** In the event the RCMP (the "**RCMP Tribunal**") neglects its statutory duty to transmit all relevant material to the Registry and the applicant (the "**Applicant**"), does the present factual matrix warrant the establishment of a novel legal precedent? Specifically, where there exists an underlying allegation of fraud perpetrated by law enforcement in concert with Crown Counsel during a criminal proceeding that is strictly *void ab initio*, and where a criminal prosecution could not lawfully have been sustained due to the deliberate filing of an admittedly false information package into a transferee courthouse (the Ontario Court of Justice, 10 Armoury Street Courthouse), is the RCMP Tribunal precluded from relying upon spurious legal justifications to outright refuse a requisite search for the Personal Information of the Applicant?

VOLUME #3: LEGAL BASES

VOLUME #3(A): THE OFFICE OF THE PRIVACY COMMISSIONER DETERMINES THE EXTENT OF THE RCMP'S STATUTORY DUTY AND PARAMOUNTCY OF CONTROL OVER MULTI-JURISDICTIONAL ENTRIES WITHIN THE CANADIAN POLICE INFORMATION CENTRE (THE "CPIC")

62. The Office of the Privacy Commissioner of Canada (the "**OPCC**") previously initiated a comprehensive investigation pertaining to formal complaints registered against the Royal Canadian Mounted Police (the "**RCMP**") which was titled by the OPCC, Disclosure of information about complainant's attempted suicide to US (United States) Customs and Border Protection not authorized under the *Privacy Act* (see: https://www.priv.gc.ca/en/opc-actions-and-decisions/investigations/investigations-into-federal-institutions/2016-17/pa_20170419_rcmp/).
63. Said complaints concerned the unauthorized extraterritorial disclosure of personal information (the "**Personal Information**") regarding an individual's historical medical distress—specifically, a suicide attempt—to the United States Customs and Border Protection (the "**CBP**"). The impugned data, originally uploaded by the Toronto Police Service (the "**TPS**") to the CPIC database, was subsequently weaponized by the CBP to formally deny the complainant entry into the United States. The OPCC determined the complaints to be entirely well-founded, conclusively ruling that the dissemination constituted a direct contravention of the *Privacy Act, RSC 1985, c P-21*, as it satisfied neither the rigid parameters of a valid "law enforcement" exemption nor the doctrine of "consistent use".
64. In November 2013, the complainant was engaged in transnational travel originating from Toronto Pearson International Airport. During the preclearance protocol, CBP agents detained the individual, subjecting her to interrogatory measures predicated upon a historical medical emergency dated June 2012.
65. The complainant was formally deemed inadmissible to the United States pursuant to the *Immigration and Nationality Act* (United States), predicated strictly upon health-related statutory grounds (specifically, the categorization of a mental disorder allegedly posing a threat to public safety).

The Genesis of the Disclosed Intelligence:

6094. The CBP extracted this sensitive intelligence directly via the CPIC mainframe. The TPS had previously instituted a "Caution flag" denoting "Suicidal Tendencies," running concurrently with a "Special Interest Police" (the "**SIP**") entry categorized as "Mental Health - Attempted Suicide - Drugs," following their deployment to the complainant's 2012 medical distress incident.
67. Notwithstanding the fact that the TPS physically inputted the data and the CBP acted as the ultimate consumer of said data, the formal complaint was strategically and correctly levied against the RCMP.
68. The RCMP operates as the absolute statutory steward and supreme technological administrator of the CPIC infrastructure. Furthermore, it exercises exclusive jurisdiction over the Memorandum of Cooperation (the "**MOC**") executed with the Federal Bureau of Investigation, which technically facilitates the access of United States agencies to the CPIC databanks.
69. Consequently, the RCMP is encumbered with the ultimate and inescapable legal responsibility to ensure that any intelligence disseminated to foreign state actors maintains strict adherence to the *Privacy Act*. *Ipso facto*, the RCMP is precluded from operating as a mere passive repository or "blind conduit"; rather, it is compelled by law to actively govern, monitor, and regulate the propriety and legality of any data uploaded by ancillary police forces. Invoking the foundational legal maxims authored by Herbert Broom, *qui facit per alium facit per se* (he who acts through another acts himself) and *qui non prohibet quod prohibere potest assentire videtur* (he who does not prevent what he has the power to prevent is deemed to assent), the RCMP's failure to actively restrict unlawful data sharing renders it directly culpable for the resultant privacy breaches.

Jurisprudential Analysis and Determinations of the OPCC

70. The determinative legal issue hinged upon whether the extraterritorial transmission of the data to the CBP, absent the explicit consent of the complainant, was legally justifiable pursuant to the stringent statutory exemptions articulated within subsection 8(2) of the *Privacy Act*.

Analysis of Paragraph 8(2)(f) (Agreements with Foreign States for Law Enforcement):

71. The RCMP advanced the argument that the admissibility screening protocols executed by the CBP inherently constitute a public safety and law enforcement mandate, ostensibly designed to preemptively guard against tangible threats to property or human safety.

The Finding of the Commissioner

72. The OPCC unequivocally ruled that the immigration admissibility assessments conducted by the CBP do not satisfy the rigorous definitional thresholds of "law enforcement" or "criminal justice" within the strict purview of the MOC. The complainant had engaged in no statutory infractions and was subject to no penal sanctions; her activities were strictly limited to international transit. The OPCC firmly established that deeply sensitive health intelligence must exclusively be disseminated to border authorities in circumstances where the individual in question exhibits a demonstrable, empirical threat to public safety.

Analysis of Paragraph 8(2)(a) (The Consistent Use Doctrine):

73. The RCMP averred that leveraging the health data to evaluate transnational public safety aligned consistently with the originating purpose of its collection by the municipal constabulary.
74. The OPCC rejected this premise, finding that the primary operational intent behind the collection of such data by frontline officers is to chronicle localized incidents and ensure the immediate tactical safety of officers and the public during direct, real-time interactions. The utilization of such highly confidential health records for the facilitation of a foreign immigration assessment constitutes an application that an individual could not "reasonably

6032 expect," barring the existence of a clear, present, and imminent danger. Thus, the transmission strictly failed the test for consistent use.

The Intransigence of the RCMP

75. The RCMP formally dissented from the OPCC's findings and outright refused the implementation of the recommended directives. The Tribunal steadfastly maintained the position that the CBP operates as a valid law enforcement entity and that the "SHARE USA" default parameter must remain universally active to theoretically preserve public safety.
76. Notwithstanding the institutional recalcitrance regarding system defaults and the precise lexicon of the policies, the OPCC acknowledged the substantive collateral benefit: the intense scrutiny of the RCMP's architectural administration catalyzed local agencies to unilaterally purge thousands of mental health records from the CPIC network, thereby drastically mitigating the probability of analogous privacy infractions.
77. This inherent limitation encapsulates precisely why the investigative reports generated by the OPCC are not, *ipso facto*, subject to judicial review *per se*; the OPCC operates functionally as an ombudsman, authorized to recommend remedial avenues that the impugned Government Institution possesses the discretion to disregard. This structural limitation perfectly mirrors the statutory frameworks of the *Personal Information Protection and Electronic Documents Act, SC 2000, c 5* and the *Access to Information Act, RSC 1985, c A-1*.
78. The Office of the Information Commissioner has some different statutory powers but that is not at issue herein.
79. Conversely, the *Privacy Act* dictates a markedly more restrictive paradigm concerning an applicant's right to invoke the jurisdiction of the Federal Court of Canada. Adjudicative access is narrowly circumscribed, crystallized specifically when a complainant seeks relief pursuant to section 41 of the *Privacy Act* following a formal refusal of access. Ergo, the present application for judicial review is correctly and inescapably predicated upon the egregious failure of the RCMP to conduct a requisite search for the Personal Information of the applicant (the "**Applicant**") pursuant to his formally submitted Access Request (dated March 11, 2026), and the concomitant failure of the Head of the RCMP to execute the mandatory statutory contemplation mandated under subsection 8(2) of the *Privacy Act*.

VOLUME #3(A)(I): SUMMARY OF JURISPRUDENTIAL EFFECT REGARDING THE INPUTTING OF FALSE OR INACCURATE DATA INTO CPIC BY ANY LAW ENFORCEMENT APPARATUS

80. The OPCC's determinations establish an irrevocable precedent: the RCMP is strictly prohibited from operating as a passive host or "blind conduit" for intelligence contributed by external police forces. Given its paramount structural and administrative role, the RCMP is legally bound to exercise an active, governing supremacy over all Personal Information transiting the national infrastructure.
81. The jurisprudential rationale underpinning the OPCC's findings is delineated into the following determinative principles:
    - **a. The Doctrine of Sufficient Control**
        - **i.** The OPCC explicitly concluded that the quantum of control exercised by the RCMP over the CPIC mainframe is unequivocally sufficient to trigger the robust protections of section 8 of the *Privacy Act*. Even in circumstances where a municipal entity, such as the TPS, originated the data upload and maintained nominal carriage of their localized investigative file (denoted by an occurrence number), the Commissioner of the RCMP remains the ultimate, non-delegable authority accountable for the administration, operation, and statutory compliance of the overarching system.
            1. Herein, it is a matter of evidentiary record that at least one of the specific case identification numbers associated with the impugned records is demonstrably not attributable to the TPS; namely, Police Case ID: 457197 (visibly stamped upon the upper right-hand quadrant of the admitted False Information Package). Both the TPS and the Ontario Provincial Police (the "**OPP**") have formally and unequivocally disclaimed any jurisdictional relation to said case identification number, a repudiation which logically and necessarily leaves the RCMP as the sole remaining institutional custodian.

Paramount Stewardship of the Bilateral Agreement

82. Predicated upon the fact that the RCMP acts as the exclusive Canadian signatory to the MOC executed with the Federal Bureau of Investigation, the OPCC ruled that the RCMP bears the sole, non-transferable burden of ensuring that any cross-border intelligence dissemination strictly comports with both the MOC and the domestic imperatives of Canadian privacy legislation.

The Imperative for Active Policy and Architectural Safeguards

83. The OPCC profoundly criticized the RCMP's legally bereft posture that the onus of statutory compliance rests entirely upon the contributing municipal or provincial agencies. The OPCC firmly established that the RCMP must actively engineer the CPIC policies, user protocols, and foundational technical defaults to preemptively neutralize the potential for unauthorized data proliferation.
84. 30. By way of specific illustration, the OPCC mandated that the RCMP restructure the technical baseline of the system's "SHARE USA" feature to automatically suppress the transmission of deeply sensitive health data, rather than permitting dissemination to function as the unexamined default parameter.
85. 31. This precise conflict crystallizes the overarching precedent: while the RCMP attempts to shield itself behind the facade of a collaborative, decentralized system where localized forces "own" their respective data, the OPCC definitively ruled that supreme architectural stewardship equates inextricably to absolute legal accountability. To achieve compliance with the *Privacy Act*, the RCMP must actively audit, regulate, and restrict the manner in which both domestic and foreign agencies interface with the databanks under its sovereign control.

VOLUME #3(B): THE NOVEL LEGAL ISSUES FORMULATED FOR ADJUDICATION

86. The novel legal controversies presented for adjudication herein are robust and multifaceted. It is axiomatic that these issues fundamentally engage the broader public interest, extending far beyond the immediate evasive tactics deployed against the Applicant, and possess central, systemic importance to the integrity of the administration of justice. The resolution of these distinct, untested issues will be effortlessly achieved upon the compulsory transmission of the certified tribunal record (the "**CTR**") to both the Federal Court of Canada and the Applicant. The subsequent enumeration is strictly illustrative, explicitly provided to pre-empt and neutralize any unnecessary, frivolous, or meritless objections the **Respondent** may attempt to mount under *Rule 318* of the *Federal Courts Rules, SOR/98-106* (the "***FCR***").

The First Novel and Untested Issue

87. A primary determinative issue hinges upon whether the originating data sequence inputted into the CPIC repository—irrespective of the specific law enforcement agency acting as the originating terminal, whether acting as a principal or an agent, and under whatever alphanumeric case identification number—materially mirrored the contents of the admitted False Information Package. Should the inputted data align with said package, the Applicant is undeniably entitled to its disclosure as his proprietary Personal Information, notwithstanding the fact that the underlying data is demonstrably false and fabricated: *Lawson v. Accusearch Inc.*, 2007 FC 125.

The Second Novel and Untested Issue

88. The subsequent issue necessitates an inquiry into whether the initial data matrix entered into CPIC—specifically referencing a "warrant in the first" and the identifier "MCLEAN, Kevin"—was structurally accurate at the precise moment of inception, irrespective of the underlying, contested merits of the "Ex Parte In Camera Hearing" or the purportedly valid INTAKE COURT ENDORSEMENT (dated September 23, 2024). Crucially, the Court must determine if this data was subsequently subjected to post-hoc amendment, either prior to or immediately following

6034 the physical arrest of the Applicant. If the metadata was technically correct at the first instance, but later strategically altered to forcefully synchronize with the relevant data points required by CPIC (specifically the Foundational Metadata, encompassing the Originating Agency Identifier (the "**ORI**"); the designated issuing authority or "court field"; the remarks/narrative field; and the System Identification Number (the "**SID**") generated upon entry), such alterations constitute a profound abuse of process. Collectively, these elements are categorized as the foundational data elements comprising a "WANT record".

89. It is submitted as a highly probable extrapolation that the originating law enforcement agency, designated by the initial ORI, was not the identical agency that subsequently executed the surreptitious amendments to the WANT record. These potential, unauthorized systemic alterations encompass four distinct vectors of modification:
    a. The deliberate modification or reassignment of the ORI, falsely transferring jurisdictional appearance to a separate police service;
    b. The structural alteration of the jurisprudential authority or "court field" to legitimize an otherwise *void ab initio* warrant;
    c. The substantive revision of the remarks or narrative field to retroactively justify the apprehension of the Applicant; and
    d. The systemic desynchronization or reallocation of the SID, designed to obfuscate the original timestamp and audit trail of the fabricated entry.
90. The forensic veracity of these administrative maneuvers—and the exposure of the underlying malfeasance—can only be illuminated through a rigorous examination of the automated hexadecimal transaction logs and sequence trails. Consequently, this determination can solely be achieved through the unmitigated disclosure of the Applicant's Personal Information, which is definitively housed within a Personal Information Bank (the "**PIB**") and remains under the absolute control and constructive possession of the centralized federal repository.

VOLUME #3(C): THE JURISPRUDENTIAL DOCTRINE OF POSSESSION UNDER THE FEDERAL COURT RULES

91. A masterful comprehension of the legal doctrine of "possession" is absolutely paramount when navigating the *FCR*, specifically concerning the mandatory production of documentary evidence. This doctrine governs both the general discovery apparatus (Rules 222-223) and, crucially, the compulsory transmission of tribunal records under *Rule 317*.

The Definition of Possession in the Strict Context of Rule 317

92. *Rule 317* of the *FCR* vests an applicant in a judicial review proceeding with the absolute right to requisition material relevant to the application that resides within the possession of the impugned Tribunal.
93. 73. Within the architecture of the *FCR*, the concept of "possession" vehemently rejects the archaic limitation of mere physical custody. The appellate jurisprudence has consistently expanded "possession" to broadly encompass the legal right, authority, or institutional ability to procure the document. While the *FCR* omits a rigid definitional clause for "possession," the overwhelming weight of document production jurisprudence establishes that it strictly incorporates:
    a. **Actual Possession:** The immediate, physical custody of the document; and
    b. **Constructive Power or Control:** Vesting the entity with the absolute right or jurisdictional authority to demand and obtain the document, irrespective of its immediate physical locale.

94. Consequently, for the purposes of *Rule 317*, if a Tribunal possesses the overarching legal right or technical capacity to access relevant data, that material is definitively deemed to be in its "possession" for production purposes, even if the physical servers or archives are geographically displaced.

The Tripartite Categorization of Possession

95. In advanced civil procedure, possession is jurisprudentially categorized into three distinct operational forms:
    a. **Sole Possession:**
        i. **Definition:** The most absolute iteration of possession. It manifests when a singular entity exercises exclusive physical custody and administrative dominion over a record.
            1. If the Tribunal maintains the singular physical iteration of a memorandum within its immediate administrative confines, it exercises sole possession.
            2. The Tribunal retains the exclusive, unfettered right to utilize, manipulate, and produce the material.
    b. **Joint Possession**
        i. **Definition:** This formulation arises when two or more distinct entities share physical custody, administrative access, or control over a record, resulting in a shared, indivisible right to possess the material.
        ii. **Application:**
            1. In circumstances where the RCMP and an external municipal police force mutually interact with a shared digital architecture (such as CPIC), both entities may exercise Joint Possession over the underlying data matrices. In the realm of document production, shared possession with a non-party does not immunize the party from production; they remain legally compelled to produce the material or actively seek the requisite consent, as their legal right to the document remains absolute.
    c. **Constructive Possession**
        i. **Definition:** This represents the most expansive and vital formulation of possession. It dictates that an entity holds possession when it lacks immediate physical containment of the material, yet wields the *de jure* legal right, institutional power, or technical authority to requisition and obtain it.
        ii. **Application:** This doctrine frequently serves as the epicenter of contentious document production litigation. If the RCMP archives its historical data utilizing external federal infrastructure but retains the sovereign right to demand the extraction of those logs at will, the RCMP is irrevocably bound by Constructive Possession. Similarly, if records are held by a delegated agent or legal counsel, the principal entity maintains Constructive Possession because it exercises the power of directive over the agent. **Rule 317 Implications:** A Tribunal is strictly legally barred from resisting a *Rule 317* request by pleading an absence of physical custody if it possesses the statutory or administrative authority to compel the retrieval of the document from its current host. The RCMP is not seeking that an independent contractor provide its backup tapes but rather it is a demand unto itself if you will.

VOLUME #3(D): A COMPARATIVE LINGUISTIC ANALYSIS OF THE RCMP'S DECISIONS (THE HALTON POLICE CASE VS. THE MCLEAN RCMP PROCEEDING)

Volume #3(D)(I): The RCMP Decision in the Halton Police FIPPA Case

96. To illuminate the institutional bad faith and strategic linguistic manipulation deployed by the RCMP herein, the Applicant heavily relies upon a comparative analysis of the strikingly similar, yet critically divergent, language utilized by the RCMP in *Halton Regional Police Services Board (Re)*, 2024 CanLII 67092 (ON IPC) (the "**Halton Police Case**"). In the Halton Police Case, Adjudicator Faughnan, presiding under the *Municipal Freedom of Information and Protection of Privacy Act, RSO 1990, c M.56* (the "**MFIPPA**"), reproduced the RCMP's formal refusal letter at paragraph four, which stated:

> "This is in response to your request made under the *Privacy Act*, which was received by this office on March 2, 2015, in which you are seeking a report of all inquiries made by any officer/civilian member of any Canadian or USA police force since 1970 under your identifiers including any inquiries made on CPIC/PARAS."

6036 Based on the information provided, a search for records was conducted. Be advised that we can neither confirm nor deny the existence of the information requested. If the information did exist, it would be subject to exemption in its entirety pursuant to Paragraph 22(1)(b) of the *Privacy Act*...

The *Privacy Act* has established the right of applicants to access federally maintained records which contain personal information concerning themselves. If you were involved with another police department or service, they may have information that concerns you. The *Privacy Act* does not authorize the RCMP to search files or to disclose information belonging to other police forces."

Volume #3(D)(II): The Distinctions Possessing Profound Legal Significance

Volume #3(D)(II)(a): The Execution of a "Search for Records"

97. In the Halton Police Case, the RCMP formally averred that "a search for records was conducted," utilizing the term without limitation. The term "record" lacks a precise definition under the *Privacy Act*, contrasting sharply with the *Access to Information Act* which broadly defines it as "any documentary material, regardless of medium or form."
98. Conversely, in the present proceeding (the "**McLean RCMP Proceeding**"), the RCMP artificially narrowed its purview, strictly representing that a search was conducted solely within "CPIC and Specialized Policing Services"—despite the Applicant explicitly demanding a search of the Foundational Metadata and Offline Historical Database.

Volume #3(D)(II)(b): The Deployment and Subsequent Waiver of the "Neither Confirm Nor Deny" Shield

99. In the Halton Police Case, the RCMP explicitly deployed the powerful statutory shield of section 16(2), stating it could "neither confirm nor deny" the existence of the requested intelligence. In stark contrast, the RCMP completely abandoned this shield in the **McLean RCMP Proceeding**.

The Legal Ramifications of Waiving Section 16(2):

100. The mechanism of Section 16(2) permits a Government Institution to completely obfuscate the existence of a record, an extraordinary measure designed to preserve the sanctity of active, highly sensitive investigations. The author of the RCMP decision in the **McLean RCMP Proceeding** explicitly chose not to invoke this provision.
101. **The Legal Import:** By declining to invoke Section 16(2) *in limine*, the RCMP legally waived its right to obfuscate the existence of the records. Because it failed to issue an NCND response, the RCMP is now irrevocably tethered to its specifically cited exemptions (Sections 19, 22, and 26).
102. Should the **Respondent** attempt to argue during these proceedings that the existence of the requested Metadata is hypothetical or that confirming its existence would compromise investigative integrity, such an objection is a strict nullity. The **Respondent** has preemptively waived this protection and cannot retroactively reconstruct a Section 16(2) shield to evade production under *Rule 317*. It chose the route it did by granting itself an extension of time and it could have amended its decision from April 27, 2026, and the record will reflect that the Applicant provided it with opportunity to do so but it declined.
103. Consequently, the RCMP is legally estopped from asserting that the Personal Information sought is immune from basic acknowledgment before this Honourable Court. It falls under the principle at least by analogy from Turigan v. Alberta, ABCA, 1988, involving "estoppel by record".

Volume #3(D)(II)(c): The Strategic Erasure of "Concerning Themselves"

104. In the Halton Police Case, the RCMP stated, "The *Privacy Act* has established the right of applicants to access federally maintained records *which contain personal information concerning themselves*." Alarmingly, in the **McLean RCMP Proceeding**, the RCMP deliberately truncated this sentence, stating merely, "The *Privacy Act*

6037 has established the right of applicants to access federally maintained records," entirely deleting the reference to Personal Information.

105. This surgical erasure is not benign; it perfectly substantiates the Applicant's assertion regarding the Foundational Metadata. Under Section 3 of the *Privacy Act*, "personal information" unequivocally encompasses transaction histories and assigned identifying numbers. By deliberately removing the qualifier "concerning themselves," the RCMP attempted to linguistically sever its statutory duty to track biographical metadata logs, unlawfully recharacterizing the underlying server operations as mere "federal administrative records" exempt from the Applicant's reach.

Volume #3(D)(II)(d): Misinterpretations Regarding Authorization and Ownership

106. In the Halton Police Case, the RCMP hypothesized, "*If* you were involved with another police department... they may have information that concerns you." In the **McLean RCMP Proceeding**, the RCMP shifted to an operative past-tense certainty: "If this matter *concerned* another police department... The *Privacy Act* does not authorize the RCMP to search files or to disclose information belonging to other police forces."

107. 99. The hypothetical "If" in the Halton matter was logical, as the requestor sought fifty years of generalized data. Herein, the Applicant demanded highly specific, targeted access to Personal Information directly indexed under Police Case ID: 457197—an identifier formally disavowed by both the TPS and the OPP. The RCMP's assertion that it lacks "authorization" to search its own sovereign database for records that do not "belong" to other forces is a profound misstatement of law.

VOLUME #4: WITHOUT A SEARCH, CORRECTION RIGHTS CEASE TO EXIST AS LEGISLATED BY PARLIAMENT

VOLUME #4(A): PERSONAL INFORMATION IS AKIN TO ONE'S OWNERSHIP

108. It is a well-settled jurisprudential axiom that *Rule 317* of the *FCR* does not demand that the requested material be legally "owned" by the administrative Tribunal, nor does it require exclusive, physical geographic custody. The singular, uncompromising statutory threshold is that the material resides within the "possession" of the Tribunal.

109. Furthermore, relying upon established jurisprudence (such as the determinations of Mr. Justice Tysoe in the Supreme Court of British Columbia in *Mazhero*), the Personal Information of an applicant is inherently "owned" by the applicant themselves—it emphatically does not legally "belong" to other police forces, regardless of their status as the originating agency.

110. In *Atlantic Prudence Maritime Inc. v. Canada (Minister of Transport)*, 1983 2 FC 183 (FCA) (the "**Atlantic Prudence Decision**"), the Federal Court of Appeal conclusively established that possession within the context of administrative record production must be subjected to a highly practical, functional interpretation, firmly rejecting the archaic constraints of narrow property concepts. The appellate court unequivocally ruled that a Tribunal is strictly prohibited from evading its production obligations by advancing the specious claim that records are "owned" by third parties, provided those records were relied upon, hosted, or technically accessible by the Tribunal in the execution of its administrative mandate.

111. 103. This overarching principle was subsequently codified and expanded in *Canada (Attorney General) v. Cloutier*, 2008 FC 322 (the "**Cloutier Decision**"). The Federal Court definitively held that material housed within an electronic database accessible by a government institution constitutes absolute possession for the strict purposes of a *Rule 317* request. The Court forcefully rejected the obsolete notion that electronic data must be physically manifested in print or localized within a specific geographic office to be "possessed," holding that technological accessibility acts as the absolute functional and legal equivalent of possession.

VOLUME #4(B): CONSTRUCTIVE AND JOINT POSSESSION WITHIN DECENTRALIZED DATABASE ARCHITECTURES

112. Under the doctrine of Constructive Possession, an entity holds possession of material whenever it exercises the legal right, administrative power, or technological capacity to command its retrieval, completely independent of physical containment. In the modern administrative apparatus, data is perpetually decentralized across complex virtual architectures. To restrict the definition of possession to physical, paper-based custody would render the operation of *Rule 317* an archaic and absolute nullity (the "**Nullity**").

113. 105. The CPIC database represents a colossal, centralized national infrastructure. While municipal entities input localized intelligence via their discrete ORIs, the foundational technological mainframe, the database schema, and the physical server arrays are owned, operated, and exclusively maintained by the RCMP. The interaction between the RCMP and external police forces does not constitute total operational separation; rather, it manifests as a textbook paradigm of Joint Possession over the transactional metadata.

114. 106. When an external law enforcement agency instantiates a WANT Record into CPIC, that specific data matrix is instantly ingested into a database strictly hosted upon federal servers. The corresponding transactional logs, sequence trails, and hexadecimal dumps are automatically and autonomously generated by the federal system architecture itself. The RCMP holds the supreme administrative credentials, the systemic audit tools, and the absolute physical dominion over the server farms required to extract this intelligence. Consequently, the raw forensic mainframe ledger records sought by the Applicant reside indisputably within the Constructive Possession of the RCMP.

VOLUME #4(C): THE RCMP AS THE PARAMOUNT CUSTODIAN AND SOVEREIGN ADMINISTRATIVE STEWARD

115. In *Canada (Information Commissioner) v. Minister of National Defence*, 2011 SCC 25 (the "**National Defence Decision**"), the Supreme Court of Canada formulated a rigid bipartite test to determine whether a government institution exercises control over records for statutory production purposes:

a. First, does the record relate to a substantive departmental matter?
b. Second, could the institution reasonably expect to obtain a copy of the record upon executing a request?

116. Although the *National Defence Decision* was adjudicated under the *Access to Information Act*, its foundational logic applies *a fortiori* to the legal concept of possession encapsulated within *Rule 317*. The administration, forensic auditing, and structural security of the CPIC infrastructure are indisputably departmental matters under the exclusive purview of the RCMP. As the sovereign national steward of CPIC, the RCMP possesses the absolute, unassailable legal and technical right to obtain, audit, and extract any record residing within its own database.

117. 109. This conclusion is explicitly supported by provincial adjudicative bodies. As noted in the Halton Police Case, the Information and Privacy Commissioner of Ontario definitively ruled that municipal police boards possess neither custody nor control over the CPIC Offline Historical Database. Because these offline archives are managed with absolute exclusivity by the RCMP, any legal demand for historical transaction logs must be directed solely to the federal institution.

VOLUME #4(D): THE ABSOLUTE NULLITY OF THE "THIRD-PARTY OWNERSHIP" DEFENSE

118. Any anticipated attempt by the **Respondent** to resist the compulsory production mandates of *Rule 317* by falsely characterizing the requested transaction logs and hexadecimal dumps as "belonging" to other police forces is a profound legal absurdity. A transaction log is emphatically not an investigative narrative report, nor does it encompass proprietary, third-party tactical intelligence. It is purely administrative Metadata—an automated, machine-generated chronicle of the systemic operations (*acta*) of the federal mainframe itself. The unique system identification numbers, the ORIs, the hardware terminal addresses, and the microsecond timestamps are intrinsic, systemic properties belonging exclusively to the CPIC platform. They constitute the indisputable administrative footprint of state action. If an arrest warrant was subjected to illicit, post-hoc digital modification—specifically via

6039 the unauthorized exploitation of the GrapeCity SDK API—the transaction logs represent the singular, immutable evidentiary matrix proving that alteration. The deliberate suppression of this critical Metadata by the **Respondent**, disguised beneath the specious veil of inter-agency confidentiality, constitutes an administrative omission that is an absolute Nullity *ab initio*, emphatically not a curable irregularity (the "**Irregularity**"). This obstruction directly and fatally contravenes the statutory purpose of subsection 12(1) of the *Privacy Act* and fundamentally frustrates the compulsory production mechanics of *Rule 317*. The state is strictly prohibited from deploying the complexity of its own decentralized database architecture as a jurisprudential shield to conceal administrative malfeasance or *ultra vires* jurisdictional overreach.

VOLUME #4(E): THE STATUTORY ABSURDITY AND THE FRUSTRATION OF CORRECTION RIGHTS UNDER SUBSECTION 12(2) OF THE PRIVACY ACT

119. Pursuant to subsection 12(2) of the *Privacy Act*, an individual granted access to personal information utilized for an administrative purpose is statutorily vested with the affirmative right to request a correction of said information, mandate the attachment of a formal notation if the correction is refused, and compel the notification of these amendments to any entity that received the data within the preceding two years.

120. The posture adopted by the **Respondent** herein—specifically, the legally specious assertion that it lacks the authorization to search, retrieve, or disclose data inputted into its sovereign infrastructure by ancillary police forces—engineers a profound statutory absurdity (the "**Statutory Absurdity**").

121. If the RCMP is legally permitted to abdicate its overarching search obligations beneath the guise of "third-party ownership," it *ipso facto* obliterates the Applicant's fundamental statutory right to subsequently request the correction of admittedly false or materially inaccurate intelligence housed within the CPIC database. A requestor cannot correct that which the paramount custodian outright refuses to locate.

122. This administrative sleight of hand effectively insulates both the centralized repository and the originating municipal police forces from statutory accountability. Should this Honourable Court validate the RCMP's restrictive interpretation, an individual maliciously targeted by the fabrication of a False Information Package would be permanently saddled with fraudulent data operating actively within the nation's premier law enforcement repository. This permanent taint constitutes an ongoing, egregious violation of fundamental justice.

123. It is a foundational tenet of statutory interpretation that the law does not permit a party to benefit from its own administrative malfeasance (*nullus commodum capere potest de injuria sua propria*). Furthermore, jurisprudential doctrine strictly forbids a reading of a statute that renders a remedial provision—such as the correction rights enshrined in subsection 12(2)—meaningless or illusory (*interpretatio fienda est ut res magis valeat quam pereat*, an interpretation must be adopted so that the provision may have effect rather than fail). The RCMP cannot strategically interpret section 12(1) (access) in a manner that entirely nullifies section 12(2) (correction).

124. **Nota Bene:** Should the **Respondent** attempt to argue that any correction request must instead be directed to the originating municipal or provincial agency, such an argument is fundamentally and irreparably flawed *ab initio*. Municipal police boards are explicitly excluded from the purview of the federal *Privacy Act*. More critically, a municipal entity does not possess the sovereign administrative credentials, the requisite system-wide database access, or the structural authority to execute CPIC metadata notations or mandate downstream notifications across the federal infrastructure. The RCMP, functioning as the supreme technological custodian, remains the sole entity legally and technically capable of executing the statutory mandate commanded by subsection 12(2).

Volume #4(E)(I): The Paramountcy of the Initial Search and the "Meaningful Exercise" of Subsection 12(2)

125. It is a foundational legal axiom that the invocation of the remedial correction rights enshrined within subsection 12(2) of the *Privacy Act* is strictly predicated upon the antecedent execution of a comprehensive search. Stated with stark precision: the realization of statutory rights initiates exclusively with a search. By refusing to proactively interrogate the Foundational Metadata and the Offline Historical Database—repositories over which

6040 the RCMP exercises absolute constructive possession—the RCMP Tribunal entirely and structurally paralyzes the Applicant's capacity to exercise his statutory entitlements.

126. In *Canada (Information Commissioner) v. Canada (Minister of Citizenship and Immigration)*, 2002 FCA 270 (CanLII), 2003 1 FC 219 (the "**Information Commissioner Decision**"), the Federal Court of Appeal conclusively established the parameters safeguarding the effective operation of subsection 12(2). The appellate court ruled that the excessive severance or redaction of records, which renders the resulting disclosure incomprehensible, fundamentally undermines the "meaningful exercise" of the correction rights granted under subsection 12(2) (at para 10).

127. Applying the deductive logic of the *Information Commissioner Decision a fortiori* to the present factual matrix: if the provision of severely redacted information illegally frustrates the meaningful exercise of subsection 12(2), then the **Respondent**'s outright, institutional refusal to even conduct a preliminary search constitutes an absolute evisceration of those identical rights *ab initio*.

Volume #4(E)(II): The Competing Interests and the Disclosure of Authorizing Identities (Paragraphs 3(g) and 3(i))

128. A central determination in the *Information Commissioner Decision* was the resolution of competing statutory interests concerning the disclosure of third-party identities under paragraphs 3(g) and 3(i) of the *Privacy Act*. The Federal Court of Appeal explicitly ruled that a requester's significant private interest in clearing their name in the public domain invariably supersedes a third party's minimal interest in anonymity (at paras 31 and 33). Fairness in administrative inquiries dictates that adverse actions or unfavourable views cannot remain secret and strictly unchallengeable (at para 34).

129. The Applicant herein maintains a profound, legally cognizable interest in clearing his name across the national law enforcement infrastructure, an objective partially realized but requiring further unmitigated disclosure. The singular avenue to definitively establish the falsity of the CPIC data requires the disclosure of the specific authorizing entities—namely, the issuing judicial officers—embedded within the WANT record.

130. Pursuant to the *Information Commissioner Decision*, the names of the authorizing or issuing jurists fall squarely within the purview of paragraph 3(i) of the *Privacy Act* (the name of an individual where it appears with other personal information relating to the individual, or where the disclosure of the name itself would reveal information about the individual).

131. Crucially, this disclosure imperative strictly encompasses the name of the ostensibly fictitious Justice of the Peace, "George Jiri," irrespective of the fact that said individual did not physically execute the data upload. The identities of the actors (real or fabricated) authorizing the state's action against the Applicant constitute "views or opinions about the individual" under paragraph 3(g) and are thus inextricably embedded within the Applicant's own Personal Information.

132. **Nota Bene:** The **Respondent** is pre-emptively estopped from asserting that a refusal to search is justified to protect the privacy interests of the municipal officers or jurists named within the CPIC warrant metadata. As the Federal Court of Appeal unequivocally held, a generalized "chilling effect" or a promise of confidentiality cannot override the statutory duty to disclose, particularly when the requester seeks to challenge fundamentally flawed or unchallengeable state actions (at paras 11-12, 34).

133. Finally, given the high probability that the False Information Package was disseminated to ancillary government institutions—potentially both domestic and foreign—the Applicant possesses an unassailable statutory right to ascertain the precise nature of the uploaded data. This knowledge is an absolute requisite to compelling the downstream notifications mandated by clause 12(2)(c). The RCMP Tribunal's refusal to search acts as a deliberate blockade, shielding downstream consumers of fabricated intelligence from statutory correction.

VOLUME #4(F): THE OPERATIONAL EXCLUSIVITY OF "OFF-LINE SEARCHES" AND THE REDUCTIO AD ABSURDUM OF DELEGATED CONTROL

134. It is a matter of established administrative record and judicial notice that municipal and provincial law enforcement apparatuses are strictly precluded from independently executing "off-line searches" within the CPIC

6041 infrastructure. This systemic limitation was explicitly chronicled by the Information and Privacy Commissioner of Ontario in *Halton Regional Police Services Board (Re)*, 2024 CanLII 67092 (ON IPC), relying upon the foundational analysis articulated within *Order MO-1446*.

135. As delineated within *Order MO-1446*, while ancillary police departments may possess terminal access for standard queries, an "off-line search"—a forensic mechanism utilized to process and extract deep-archive computer records—mandates the explicit submission of a formal request to the RCMP. It is only subsequent to the RCMP's unilateral approval and physical execution of said search that the generated results are formally transmitted to the requesting agency.

136. Crucially, the adjudicator determined that the extracted search results crystallize into a record within the custody and control of the municipal police department *strictly upon their receipt* of the finalized data from the federal repository.

137. Utilizing an advanced legal syllogism, this operational architecture yields an incontrovertible conclusion: if municipal police forces are themselves entirely reliant upon the RCMP to physically access and extract data from the Offline Historical Database, then the RCMP inherently possesses absolute, unassailable custody and control over the foundational archival intelligence. To countenance the **Respondent**'s prevailing posture—that the Applicant is legally barred from requisitioning his own Personal Information directly from the RCMP because said data ostensibly "belongs" to external police forces—engineers a profound *reductio ad absurdum*. It is a legal impossibility for an external police force to "own" or exercise paramount control over a historical dataset to which they lack direct, independent access.

138. **Nota Bene:** Consequently, the RCMP remains the singular, inescapable statutory custodian capable of discharging the search and production obligations mandated by the *Privacy Act* and *Rule 317*. Any assertion by the **Respondent** that the Applicant must uniquely pursue municipal agencies to secure off-line CPIC logs is a deceptive administrative deflection, entirely devoid of operational reality and legal merit.

VOLUME #4(G): THE JURISPRUDENCE OF "CONTROL": THE RIGHT OF DEMAND AND THE PURPOSIVE INTERPRETATION OF ACCESS LEGISLATION

Volume #4(G)(I): The Broad, Liberal, and Purposive Interpretation of Control

139. The jurisprudential conception of "control" under federal access to information legislation commands a remarkably broad, liberal, and purposive interpretation, strictly divorced from archaic notions of physical property or immediate custody.

140. In *Canada Post Corp. v. Canada (Minister of Public Works)*, 1995 CanLII 3574 (FCA) (the "**Canada Post Decision**"), the Federal Court of Appeal definitively rejected restrictive, proprietary constraints upon the statutory definition of control. Articulating the binding precedent on behalf of the appellate court, Létourneau J.A. held at page 245:

> "The notion of control referred to in the Act is left undefined and unlimited. Parliament did not see fit to distinguish between ultimate and immediate, full and partial, transient and lasting, or 'de jure' and 'de facto' control. Had Parliament intended to qualify and restrict the notion of control to the power to dispose of the information, as suggested by the appellant, it could certainly have done so by limiting the citizen's right of access only to those documents that the government can dispose of or which are under the lasting or ultimate control of the government."

Volume #4(G)(II): The Binding Precedent of Hale v. Ontario (Criminal Code Review Board)

141. This expansive interpretive doctrine formulated by the Federal Court of Appeal was explicitly adopted and fortified by the Court of Appeal for Ontario in *Ontario (Criminal Code Review Board) v. Hale*, 1999 CanLII 3805 (ON CA) (the "**Hale Decision**").

142. The *Hale Decision* concerned a highly analogous statutory access request. The requesters sought access to backup audio tapes created and physically retained by a court reporter. Crucially, the court reporter was not an employee, but an independent contractor engaged on a fee-for-service basis by the Ontario Criminal Code Review

6042 Board (the "**Review Board**"). The Review Board and the court reporter formally resisted production, vehemently arguing that the backup tapes were created strictly as a personal *aide-mémoire* for the reporter, remained within the exclusive physical custody of the contractor, and were therefore not under the "control" of the Review Board.

143. The Court of Appeal for Ontario fundamentally rejected this evasion. Justice O'Connor, writing for the unanimous court, ruled that control is not contingent upon immediate physical possession or strict ownership. Rather, because the Review Board operated under a statutory mandate to keep an accurate record of its proceedings, it inherently possessed the *right to demand* access to the independent contractor's backup tapes to verify accuracy. The appellate court unequivocally held that the institutional legal right to make a future demand for the records satisfies the statutory threshold of "control," thereby compelling production.

Volume #4(G)(III): Application to the Present Factual Matrix: Offline Historical Data and Amended, Purged Records

144. Applying the binding jurisprudential logic of both the *Canada Post Decision* and the *Hale Decision a fortiori* to the present factual matrix yields an unassailable legal conclusion. The Applicant herein seeks access to off-line historical data, encompassing the original iterations of the inputted CPIC intelligence, alongside any subsequent unauthorized amendments, systemic purging, or operational alterations executed upon the WANT record.

145. If an administrative tribunal (such as the Review Board) is deemed by an appellate court to exercise absolute control over the independently created and personally housed backup tapes of an arm's-length private contractor—predicated exclusively upon the tribunal's right to demand those records for verification—the conclusion regarding the RCMP is infinitely stronger.

146. The RCMP is not interacting with an arm's-length contractor; it is the sovereign administrator of its own technological infrastructure. The offline historical metadata resides within the RCMP's own proprietary server arrays. The RCMP possesses the supreme, unmitigated statutory and administrative *right to demand*, extract, and audit the historical and purged data matrices generated within its own systems.

147. **Nota Bene:** Should the **Respondent** attempt to artificially distinguish between active terminal data "belonging" to local police and offline historical data, such a distinction is a jurisprudential nullity. The RCMP's unquestionable authority to demand and extract the offline historical data establishes immediate, incontrovertible control. To suggest that the paramount federal law enforcement agency lacks control over the historical audit logs generated entirely within its own sovereign database is a legal absurdity that offends the liberal and purposive interpretative mandate established by the Federal Court of Appeal.

VOLUME #4(H): THE JURISPRUDENTIAL SIGNIFICANCE OF THE UNSOLICITED INQUIRY INTO SPECIALIZED POLICING SERVICES AND THE INVOLUNTARY INSTITUTIONAL ADMISSION OF CENTRALIZED SYSTEMIC MANIPULATION

Volume #4(H)(I): The Inference and the "Data Trigger"

148. The explicit and unsolicited inclusion of the Specialized Policing Services (the "**SPS**") within the formal decision letter executed by the **Respondent**—specifically, via Mr. Jeff Ball—notwithstanding the absolute absence of any such request by the Applicant, precipitates a jurisprudential inference of monumental proportion. This unsolicited inclusion functions as an involuntary institutional admission that the Applicant's dossier migrated entirely beyond the jurisdictional boundaries of standard divisional detachments, becoming inextricably embedded within the RCMP's paramount national operational and technological command.

149. Pursuant to the strict operational strictures governing the *Privacy Act*, an Access to Information and Privacy (the "**ATIP**") directorate is strictly prohibited from executing arbitrary or exploratory searches within branches fundamentally disconnected from the parameters of a specific request. The federal ATIP apparatus exclusively interrogates specific Personal Information Banks (the "**PIBs**") when an initial intake assessment or an automated algorithmic database query affirmatively flags the existence of records within that distinct repository.

6043 150. Consequently, the explicit institutional declaration that an SPS search was effectuated unambiguously exposes the **Respondent**'s internal evidentiary trail. It constitutes an irrefutable "Data Trigger": upon querying the Applicant's initial identifiers, the centralized mainframe did not merely isolate a routine, localized police occurrence. Rather, the systemic query unequivocally triggered a definitive hit tethered directly to an elite program or high-level database administered under the sovereign, national umbrella of the SPS

Volume #4(H)(II): The Proverbial "Pandora's Box" and the MESCIUS / GrapeCity SDK Software Connection

151. The jurisprudential ramifications of this involuntary institutional admission operate akin to the opening of a proverbial Pandora's Box, fundamentally fortifying and entirely legitimizing the Applicant's parallel requests instituted under the *Access to Information Act* concerning the deployment and unauthorized manipulation of MESCIUS and GrapeCity SDK software architectures.

152. As meticulously chronicled within the RCMP National System Architecture and Specialized Operational Support Manuals, the SPS is precisely the paramount federal directorate entrusted with the ownership, administration, and architectural construction of the RCMP's centralized, high-technology infrastructure. This sprawling mandate explicitly encompasses the CPIC mainframe itself, the Canadian Firearms Program, and the National Cybercrime Coordination center (the "**NC3**").

153. Therefore, the ATIP directorate was compelled to search the SPS for a singular, inescapable administrative reason: the SPS serves as the exclusive federal locus where the server-side document compilation logs and the forensic metadata manipulation sequence trails physically and electronically reside

Volume #4(H)(III): The Statutory Validation via the Treasury Board of Canada

154. This operational reality is further cemented by the Treasury Board of Canada's official Info Source publication, which formally registers and delineates the legal parameters of PIB RCMP PPU 005.This registration operates as the definitive, unassailable legal proof that the Offline Historical Database is inextricably bound to the federal statutory jurisdiction exercised by the SPS, rendering any overarching claim of "third-party ownership" over these specific architectural logs a strictly *ultra vires* proposition

155. Relying upon the foundational evidentiary maxim *habemus optimum testem, confitentem reum* (we have the best witness, a confessing defendant), the **Respondent**'s own unsolicited admission that it searched the SPS stands as the highest form of evidentiary proof that the federal apparatus was actively engaged in the architectural processing of the Applicant's data.

156. **Nota Bene:** Should the **Respondent** attempt to mitigate this admission by characterizing the unsolicited SPS search as a mere "routine administrative courtesy" or an over-inclusive clerical error, such an argument must be summarily dismissed *in limine* as an absolute nullity. The federal ATIP apparatus operates within a perpetual state of resource scarcity; it inherently does not expend computational or administrative capital to execute exhaustive forensic searches within the nation's most secure cyber-directorate absent a definitive, algorithmically generated directive necessitating that specific jurisdictional inquiry.

Volume #4(H)(IV): The Indispensable Role of Regional Communications as Cross-Jurisdictional Intermediaries and the Implication of Mr. Matt Peggs

157. Furthermore, the operational architecture of the SPS heavily implicates the substantive involvement of the Regional Communications (the "**Regional COM**") apparatus and specialized operational managers, specifically including Mr. Matt Peggs.

158. Within the highly stratified command structures of the RCMP's National Capital Region and allied specialized frameworks, Regional COM operates as the vital intermediary bridging localized municipal operations (such as the TPS or Peel Regional Police) and the paramount federal mainframe. When an investigative dossier manifests a profound jurisdictional paradox—such as the irreconcilable geographic conflict observed herein between the Toronto Courthouse and the fabricated authority of Brampton-based Justice of the Peace "George

6044 Jiri"—routine frontline detachment channels are inherently bypassed. Such complex, multi-jurisdictional matters are statutorily escalated and routed directly through specialized Regional Command elements.

159. Because the SPS houses the Covert Operations, Cyber, and Protective Policing units any coordination of multi-jurisdictional information packages, covert data intercepts, or specialized tracking records executed by regional managers such as Mr. Peggs would automatically and inescapably be catalogued within the Specialized Investigative and Support Services repositories

Volume #4(H)(V): The Crystallization of the Rule 317 Mandate Regarding Regional Communication Logs

160. By explicitly admitting to the execution of a search within the SPS, the **Respondent** has crystallized the exact jurisdictional authority required for the Applicant to mandate the compulsory production of the comprehensive communication logs of Mr. Matt Peggs pursuant to *Rule 317*.

161. The **Respondent** is now strictly estopped from advancing the specious defense that the Regional COM office, or the communications of its managers, resides "outside the scope" of the proceeding. By formally placing the entirety of the SPS operational branch into the administrative record of its decision, the **Respondent** has voluntarily subjected the operational metadata generated by its regional managers to the transparency mechanisms of the *Federal Courts Rules*.

Volume #4(H)(VI): The Evidentiary "Smoking Gun" and the Absurdity of the Delegated Deflection

162. This explicit reference to the SPS functions as an evidentiary "Smoking Gun"—an incontrovertible admission against interest. It validates, with absolute administrative certainty, that the Applicant's Personal Information triggered elite operational files, confirming the mobilization of national cyber-infrastructure rather than mere localized municipal records

163. Finally, this admission exposes a fatal, irreconcilable administrative contradiction within the RCMP's prevailing posture. It highlights the profound legal absurdity of the ATIP Director formally advising the Applicant to blindly pursue records from a "municipal police force" while his own correspondence concurrently admits that the RCMP was internally compelled to interrogate its most elite, national Specialized Operational Support and Cyber branches to process the dossier

164. The **Respondent**'s attempt to obfuscate this admission beneath the guise of a "routine thorough search." The state is legally prohibited from simultaneously asserting that a file is a mundane municipal matter while actively deploying its highest echelon of federal cyber-infrastructure to interrogate it. The **Respondent** is bound by the contradiction within its own administrative template.

VOLUME #5: CONCLUSION

I. THE TACTICAL AVOIDANCE OF PARAGRAPH 22(1)(A) AND THE UNMET BURDEN UNDER PARAGRAPH 22(1)(B)

165. The deliberate non-reliance by the **Respondent** upon *paragraph 22(1)(a)* of the *Privacy Act* represents a fatal strategic and legal error. Had the **Respondent** relied upon *paragraph 22(1)(a)* of the *Privacy Act*, it would have been inextricably compelled to demonstrate that the personal information was obtained or prepared by a specified investigative body in the course of a lawful investigation.

166. Instead, by retreating to the generalized, harm-based exemption articulated within *paragraph 22(1)(b)* of the *Privacy Act*, the **Respondent** must satisfy a rigorous and elevated evidentiary threshold. It must substantiate, with compelling exactitude, that disclosure "could reasonably be expected to be injurious to the enforcement of any law of Canada... or the conduct of lawful investigations." The established jurisprudence of this Honourable Court emphatically dictates that "injury" under *paragraph 22(1)(b)* of the *Privacy Act* cannot be established by

6045 mere speculation, boilerplate assertions, or administrative trepidation. The **Respondent** has effectively cornered itself: it has invoked an exemption necessitating clear, convincing, and objective evidence of harm to state operations, an evidentiary burden it is fundamentally incapable of discharging in relation to historical system transaction logs (the "**System Transaction Logs**") and metadata.

II. THE HIGH THRESHOLD OF "INJURY TO THE ENFORCEMENT OF LAW" AND THE RULE OF LAW

167. Far from inflicting injury upon the administration of justice, the disclosure of the requested foundational metadata (the "**Foundational Metadata**"), the aforementioned System Transaction Logs, and the offline historical data residing within the Canadian Police Information Centre (the "**Canadian Police Information Centre**") is absolutely indispensable to the preservation of the rule of law.

168. It is precisely the non-disclosure, withholding, or retroactive purging of audit trails and system metadata that profoundly threatens the integrity of both the *Privacy Act* and the *Criminal Code*. System logs operate as the primary and incorruptible mechanism by which state accountability and data integrity are forensically verified.

169. *Paragraph 22(1)(b)* of the *Privacy Act* cannot be improperly weaponized as an impenetrable shield to preclude the discovery of administrative malfeasance, unlawful data retention, or procedural non-compliance. The "injury" contemplated by Parliament is exclusively an injury to lawful law enforcement operations, not the exposure of systemic administrative deviations, fraudulent record manipulations, or the intentional evasion of statutory purging requirements.

III. THE TEMPORAL CEILING OF INVESTIGATIVE EXEMPTIONS AND THE IMPACT OF R. V. JORDAN

170. Records maintained within the Canadian Police Information Centre are fundamentally transactional in their legal character; they memorialize the administrative execution of legal process (for instance, the lodging, modification, or cancellation of a warrant). Once a legal process is completed, executed, or rendered legally defunct, it immediately loses any active investigative character.

171. In the present matter, the underlying proceedings are unequivocally stale-dated, having comfortably and substantially exceeded the presumptive constitutional ceilings promulgated in *R. v. Jordan, [2016] 1 S.C.R. 631*. Where an investigation is legally deceased, irrevocably inactive, or barred from prosecution by the constitutional effluxion of time, the **Respondent** cannot legitimately posit that the disclosure of transactional metadata relates to an active or ongoing investigation.

172. Furthermore, the disclosure of metadata pertaining to a concluded or non-existent matter cannot logically precipitate "injury" to an investigative process that lacks legal vitality. As famously articulated by Lord Denning in *MacFoy v. United Africa Co. Ltd., [1961] 3 All E.R. 1169 (P.C.)*, an act that is void is an absolute nullity; one cannot put something on nothing and expect it to stand, for something on nothing remains nothing.

173. To the extent that it could ever be suggested a valid criminal proceeding existed (namely, a properly constructed arrest warrant, even one ostensibly issued orally), there was not, at law, a valid criminal prosecution (the "**Criminal Prosecution**"). The factual reality that numerous hearings were attended, culminating in an order dismissing the frivolous and meritless charge predicated upon a non-informant within a fabricated information package (the "**False Information Package**"), is indisputable. However, as a matter of strict legal classification, the entire apparatus was void *ab initio* from the precise temporal moment the False Information Package was filed. The contravention of strict statutory dictates mandates that such actions be classified as an absolute nullity rather than a mere procedural irregularity.

IV. THE FALLACY OF INFORMANT PRIVILEGE IN RELATION TO PUBLIC COURT RECORDS AND METADATA

174. The **Respondent** endeavours to improperly conflate the identity of a confidential informant—who is traditionally safeguarded by the near-absolute evidentiary shield of informer privilege—with the identity of a

6046 complainant or a swearing officer executing a form 2 information (the "**Form 2 Information**") pursuant to the *Criminal Code*. This constitutes a profound and fatal legal error.

175. Firstly, upon the issuance of legal process or the execution of an arrest, a Form 2 Information is instantaneously transmuted into a public court record. The identity of the informant contained therein is rendered unequivocally public as an inextricable function of constitutional open court principles.

176. Secondly, the specific metadata requested—encompassing originating agency identifier codes (the "**Originating Agency Identifier**"), issuing court locations, judicial officer identities, and system identification numbers (the "**System Identification Numbers**")—contains absolutely no identifying information concerning legitimately confidential informants.

177. The **Respondent**'s strategic contortion of *paragraph 22(1)(b)(ii)* of the *Privacy Act* to encompass non-identifying, ministerial court metadata represents an impermissible and *ultra vires* expansion of the confidential source exemption, a proposition that is wholly unsupported by the statutory text or established common law principles.

V. ULTRA VIRES CONDUCT, FRAUDULENT MANIPULATION, AND THE LIMITS OF "LAWFUL INVESTIGATIONS"

178. The doctrine of the indivisibility of the Crown, as elucidated in *Benedict v. Ontario (2000), 51 O.R. (3d) 147 (C.A.)*, dictates that the state cannot act in a fractured or divided capacity. The state is legally precluded from claiming the benefits of statutory protections while its agents simultaneously act in direct, deliberate contravention of the law.

179. The existence of a "lawful investigation" operates as a strict, unyielding condition precedent to the application of any exemption enumerated under *subsection 22(1)* of the *Privacy Act*. State action that is birthed from bad faith, systemic fraud, or the deliberate, calculated manipulation of institutional records is *ultra vires* and void *ab initio*.

180. Just as criminal misconduct perpetrated by an individual officer operating under the colour of authority can never be shielded under the guise of "law enforcement and investigation," institutional acts of record manipulation or the compilation of a False Information Package cannot, under any legal fiction, be characterized as a "lawful investigation."

181. To hold otherwise would establish a perilous precedent, permitting the state to invoke statutory privacy exemptions to conceal its own unlawful conduct—a consequence that is profoundly offensive to the principles of fundamental justice, equitable doctrines, and the explicit statutory architecture of the *Privacy Act*.

VI. THE JURISDICTIONAL LEGERDEMAIN: SECTION 19(1)(D) AND THE CENTRAL REGION METAMORPHOSIS

182. In a manifest attempt to orchestrate a sophisticated statutory evasion, the **Respondent** has invoked *paragraph 19(1)(d)* of the *Privacy Act*, alleging that the foundational records constitute personal information obtained in confidence from the government of a province or an institution thereof. This invocation is a jurisprudential sleight-of-hand designed to obfuscate the internal structural metamorphosis of the Royal Canadian Mounted Police.

183. It is a matter of administrative record that the federal entity formerly designated as "O" Division has been systematically restructured into an integrated, multi-jurisdictional intelligence hub now operating as central region command (the "**Central Region**"). The invocation of *paragraph 19(1)(d)* of the *Privacy Act* is predicated upon a deliberate mischaracterization: treating the highly integrated Central Region infrastructure—which is fundamentally federal in its apex control—as an independent "provincial institution" merely because it synergizes with municipal or provincial entities.

184. The refusal to disclose the Originating Agency Identifier, the issuing court level, and the identity of the presiding judicial officer is not animated by a genuine desire to protect intergovernmental confidences. Rather, it is a calculated manoeuvre to prevent the forensic tracing of the data directly back to the executive suites of the Central Region, specifically the purview of the regional commander (the "**Regional Commander**").

6047 185. The evidentiary record strongly supports the inference that the Regional Commander, acting as the multi-jurisdictional intermediary, ingested unverified data and uploaded it directly into the federal mainframe under police case identification number 457197 (the "**Police Case Identification Number**"). It is submitted that the immense institutional weight of the Regional Commander was utilized to bypass standard judicial scrutiny, allowing an irregular and fundamentally flawed authorization to be accepted on its face by the issuing justice.

186. *Nota Bene*: The **Respondent** may counter that the Central Region, by virtue of its joint-forces operations, functions *de facto* as a provincial entity for the purposes of *paragraph 19(1)(d)* of the *Privacy Act*. This argument is entirely devoid of merit and offends the doctrine of federal paramountcy. The Canadian Police Information Centre is a sovereign federal mainframe. The indivisibility of the Crown strictly precludes a federal institution from bifurcating its own hybrid command structure to artificially generate a "third-party" provincial shield where none exists at law. The data residing under the Police Case Identification Number is exclusively within the constructive possession and paramount control of the federal **Respondent**.

187. This structural obfuscation perfectly elucidates why the front-facing municipal police service was entirely incapable of producing a physical arrest warrant during the period of detention. The municipal constabulary was acting merely as the operational appendage for a data file generated, maintained, and entirely controlled within the Central Region infrastructure of the **Respondent**. The concealment of this reality through the misapplication of *paragraph 19(1)(d)* of the *Privacy Act* is *ultra vires* the **Respondent**'s statutory authority.

VII. THE APPLICATION OF EQUITABLE MAXIMS: FRAUD UPON THE LAW AND THE VITIATION OF ADMINISTRATIVE ACTS

188. The deliberate withholding of exculpatory system metadata and the invocation of inapplicable statutory exemptions must be scrutinized through the lens of established equitable maxims. As extensively catalogued in Herbert Broom's seminal treatise, *A Selection of Legal Maxims*, the foundational premise remains resolute: fraud is proved when it is demonstrated that a false representation has been made knowingly, without belief in its truth, or recklessly, careless as to whether it be true or false.

189. Where systemic administrative operations are executed with reckless disregard for statutory prerequisites, producing a False Information Package that results in unlawful deprivation of liberty, an honest belief in the truth of the state's actions is nullified. The motive of the state actor guilty of such reckless promulgation is rendered legally immaterial.

190. Furthermore, the equitable principle of fraudulent concealment forcefully applies to toll any procedural barriers. It has long been an axiom of equity that no length of time is a bar to relief in cases of fraud where there has been no laches on the part of the defrauded party. The maxim *nemo ex suo delicto meliorem suam conditionem facere potest* (no man can improve his condition by his own wrong) strictly precludes the **Respondent** from utilizing its own obfuscatory tactics—namely, hiding the Originating Agency Identifier and the Police Case Identification Number—to prevent the discovery of the underlying nullity.

191. The execution of legal process is bound by strict jealousy, designed to protect against fraud, collusion, and the resulting disgrace to the Crown and the administration of justice. The rule *necessitas quod cogit defendit* (necessity defends what it compels) cannot be invoked by the state when the "necessity" was entirely manufactured by its own creation of a False Information Package.

192. If an individual or an institutional entity, acting under colour of right or the colour of law, executes an illegal act or abuses the process of the court, transforming it into an instrument of oppression or extortion, such conduct constitutes a fraud upon the law. Consequently, the **Respondent** is strictly barred from availing itself of its own illegal acts.

193. It is an unassailable tenet of jurisprudence that fraud vitiates everything it touches (*fraud no doubt vitiates everything*). Where an administrative act or judicial authorization is procured through the reckless or intentional submission of a False Information Package, the resulting instrument is not merely tainted by irregularity; it is an absolute nullity, void *ab initio*, rendering the parties subject to the equitable restoration of the *status quo ante*.

194. The primary function of litigation, and indeed of the administrative tribunal process, is the untrammelled search for truth. Properly interpreted, privacy legislation is designed to promote, rather than hinder, that truth-seeking function. By deliberately refusing to execute a compliant search and by shielding the executive

6048 machinations of the Central Region, the **Respondent** continues to perpetuate a fraud upon the tribunals, upon the law, and upon the administration of justice *in limine*.

VIII. THE FIDUCIARY DUTY OF DISCLOSURE AND THE EQUITABLE INTEREST IN PERSONAL INFORMATION: THE APPLICATION OF MCINERNEY V. MACDONALD

195. The jurisprudence articulated by the Supreme Court of Canada in *McInerney v. MacDonald, [1992] 2 S.C.R. 138* governs the incontrovertible right of an individual to access personal information held by an institutional repository. The apex Court definitively ruled that information regarding oneself, revealed to or compiled by an institution acting in a professional capacity, remains, in a fundamental and immutable sense, the property of the individual.

196. While the **Respondent** may claim structural ownership of the physical and digital architecture comprising the Canadian Police Information Centre, it must be legally emphasized that the **Respondent** acts merely as a custodian of the personal information residing therein. The Supreme Court of Canada categorically established that the subject of the records possesses a trust-like beneficial interest (the "**Beneficial Interest**") in the substantive information itself. This equitable interest mandates that, as an unyielding general rule, the individual possesses a paramount right of access to the information, thereby imposing a corresponding obligation upon the institutional custodian to effectuate its immediate provision.

197. The relationship between the state as the repository of sensitive personal data and the individual to whom that data pertains is inextricably imbued with fiduciary obligations. A fiduciary duty (the "**Fiduciary Duty**") inherently demands that the institutional actor conduct itself with the utmost good faith, loyalty, and transparency. To deny an individual access to their own Foundational Metadata and System Transaction Logs constitutes a profound breach of this Fiduciary Duty, effectively utilizing the confidentiality mechanisms designed to protect the individual as a clandestine shield to facilitate improper institutional conduct.

198. Furthermore, the principles of equity demand a strict reciprocity of information. The necessity for state institutions to compile sensitive, highly private data concerning an individual must be counterbalanced by a corresponding openness and full disclosure to that selfsame individual. As noted in *McInerney v. MacDonald, [1992] 2 S.C.R. 138*, the systematic withholding of records profoundly undermines the structural integrity of the administrative system. If there has been improper conduct in the compilation or maintenance of the records—such as the reckless promulgation of a False Information Package—it is an imperative of justice that such deviations be illuminated rather than sequestered under the guise of an arbitrary statutory exemption.

199. Given the profound disparity in the evidentiary capacities of the parties, the Supreme Court of Canada explicitly mandated that the burden of proof rests entirely and exclusively upon the entity withholding the information. The onus falls squarely upon the **Respondent** to definitively justify any exception to the general rule of access. Such a denial cannot be predicated upon mere speculative administrative inconvenience or the abstract fear of subsequent litigation; it requires the demonstration of a significant likelihood of a substantial adverse effect, a threshold the **Respondent** has conspicuously failed to meet.

200. The **Respondent** possesses no unfettered discretion to arbitrarily deny access to the Originating Agency Identifier or the Police Case Identification Number. Such administrative discretion is heavily circumscribed and must be exercised upon proper equitable principles. Where the **Respondent** refuses a legitimate request for access, this Honourable Court is fundamentally empowered to exercise its superintending equitable jurisdiction, acting *in personam* to ensure the **Respondent** adheres strictly to its standard of conduct and is restrained from acting in a manner inconsistent with the applicant's Beneficial Interest.

201. Ultimately, the deliberate obfuscation of the System Transaction Logs to insulate the machinations of the Central Region and the Regional Commander is diametrically opposed to the fiducial qualities required of a state repository. Where systemic fraud upon the law is alleged, the principles enshrined in *McInerney v. MacDonald, [1992] 2 S.C.R. 138* forcefully compel the immediate unsealing and production of the underlying records, affirming the paramountcy of truth-seeking over the tactical evasion of institutional accountability.

202. But it all comes back to the same issue that the **Respondent** RCMP Tribunal admitted it did not search because of its misguided understanding of the law, as scary as it is, that the *Privacy Act* does not authorize the RCMP to search files OR disclose information belongings to other police forces.

6049 203. The RCMP Tribunal did not rely on section 18 of the *Privacy Act* so none of the Personal Information sought by the Applicant in a PIB was exempt from searching. Moreover, the RCMP Tribunal did not rely on ss. 22(1)(a) at all or even 22(1)(a)(ii) which is required in relation for reliance on an exempt bank. This was and is fatal to the RCMP Tribunal with respect to its decision that it could not search for "files".

204. In relation to any and all Personal Information sought by the Applicant that was highly particularized as statutorily required (see: ss. 12(1)(b): under the control of a government institution with respect to which the individual is able to provide sufficiently specific information on the location of the information as to render it reasonably retrievable by the government institution), the RCMP Tribunal failed to search the CPIC database, as it admitted, for Foundational Metadata and Offline Historical Database in relation to the Applicant's Personal Information. The attached document to the April 27, 2026, decision or disposition of the Tribunal (RCMP), was not even within the spectrum of what would be produced in disclosing Foundational Metadata (i.e. the ORI; the issuing court level; the issuing court location; the name of the judicial officer; and the SID) and/or the Offline Historical Database for amended or purged originally input data including the likes of CLEAR, CANCEL, ADD, MODIFY et al type functions in relation to the Applicant's Personal Information. It is trite that metadata is information that can be Personal Information in relation to an individual.

205. The legal test for the transmission of materials pursuant to *Rule 317* of the *Federal Courts Rules* has been comprehensively and irrefutably satisfied. The requested material was demonstrably available to the administrative tribunal in question (see: *subsection 2(1)* of the *Federal Courts Act*) at the time but nonetheless it is in its possession at the time of this Rule 317 request:

a. Relevant to the core issues on judicial review, specifically the abject failure of the **Respondent** to execute a reasonable, legally compliant search;
b. In the possession (whether actual, constructive, or joint) of the **Respondent**, acting in its capacity as the paramount administrator of the Canadian Police Information Centre; and
c. Not in the possession of the applicant.

206. As the Applicant did not include a specified request such as this in his Notice Of Application ("NOA") it is included hereunder pursuant to Rule 317(3) of the *Federal Courts Rules*.

All of which is respectfully requested by Mr. Kevin A. McLean (BA, JD, CIM)



DATED at Toronto, Ontario, this 18th day of May, 2026.

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APPENDICES

APPENDIX #1

Rule 317 of the Federal Courts Rules

317 (1) A party may request anything that is relevant to the application that is in the possession of a federal board, commission or other tribunal whose order is the subject of the application and that was not when the application was made in the possession of the party.

(2) The request shall be in Form 317.

(3) The request shall be served on the tribunal and on all other parties.

(4) A request under subsection (1) may be made at any time, but if it is made after the applicant has served its record under rule 309, the request may only be made with leave of the Court.

Rule 318 of the Federal Courts Rules

318 (1) Within 20 days after being served with a request under rule 317, the tribunal shall transmit (a) the original or a certified copy of the requested material to the registry, and (b) a copy of the material to the party who requested it or a written notification that the material is not in the possession of the tribunal.

(2) Where the tribunal or a party objects to a request under rule 317, the tribunal or party shall, within 20 days after being served with the request, serve on all other parties and file a written objection stating the grounds for the objection.

(3) The Court may, on motion, examine the material and order that the material, or a portion of it, be transmitted to the registry or returned to the tribunal.

APPENDIX #2:

The formal transformation of the RCMP's "O" Division into the **Federal Policing Central Region** was implemented between late **2023** and **2024**. [1, 2]

Timeline Breakdown:

- **Phase 1 (2022–2023):** The RCMP initiated a broader Federal Policing transformation plan. This included preliminary steps to decommission the old National Division and consolidate its units into Ontario's framework.
- **Phase 2 (October 2023):** Assistant Commissioner Matt Peggs was originally appointed as the Commanding Officer of "O" Division.
- **Phase 3 (2024):** As the organizational structure shifted away from traditional geographic divisions into specialized federal regions, "O" Division was officially rebranded as **Central Region**, with Peggs carrying over his leadership as the newly titled Regional Commander.

- Nothing past this line -