

FORM 59A
Courts of Justice Act
ORDER

ONTARIO SUPERIOR COURT OF JUSTICE (DIVISIONAL COURT)

[SEAL]

BETWEEN:

KEVIN ALEXANDER MCLEAN

APPLICANT

- and -

TD HOME AND AUTO INSURANCE COMPANY, SECURITY NATIONAL INSURANCE COMPANY, TD GENERAL INSURANCE COMPANY, EXECUTIVE f, 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 in the Applicant's Notice of Motion of January 22, 2025 (see: **Schedule "A"**), was heard by telephone conference on January 30, 2025.

ON READING the following materials in support of the Applicant's Notice of Motion (see: **Schedule "A"**; the Motion Record, filed and served upon the Respondents on January 23, 2025, and **Schedule "B"**) and on hearing the submissions of the Applicant in attendance *pro se* and Mr. Boyce in attendance for the Tribunal:

1. THIS COURT ORDERS, DECLARES AND CONFIRMS 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 motion was not the Honourable Madam Justice Shore and/or any other justice of the ONSC Superior Court, in his or her rotation with the Divisional Court pursuant to the *Courts of Justice Act*, 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;
2. THIS COURT DECLARES THAT the Licence Appeal Tribunal (the "**Tribunal**") has failed or neglected to comply with section 10 of the *JRPA* and section 20 of the *SPPA* and THIS COURT ORDERS THAT the Tribunal forthwith file the record of proceeding, in accordance with section 10 of the *JRPA* and section 20 of the *SPPA*, before Vice Chair Morrisette as it was from December 24, 2023ⁱ, to the date of September 12, 2024, inclusiveⁱⁱ ;
3. THIS COURT ORDERS THAT the Tribunal is prohibited from any form of participation, where permissible by law, in this JRPA Proceeding until it strictly and fully complies with Order #2;
4. THIS COURT ORDERS THAT if the Tribunal is unable to comply with Order #2 herein, it shall advise this Court, with a copy to the Applicant, the respondents, and any other interested persons as to the reasons why it is unable;
5. THIS COURT ORDERS THAT the Applicant is entitled to seek any ancillary or consequential relief relating to the above if the Tribunal does not comply with Order #2 by written submissions to the presiding motion judge, with service upon the Tribunal with a copy to the respondents, by way of email to the ONSC Div. Ct. Registrar to my attention; and
6. THIS COURT ORDERS THAT that the Applicant is entitled to costs of this motion in any event of the cause and payable forthwith with the amount to be determined by agreement between he and the Tribunal or if no agreement is reached between them, this COURT ORDERS THAT that the Applicant may provide written submissions, limited to three pages, on such quantum entitlement within two days of not reaching any agreement between he and the Tribunal and within five days after the pronouncement of this order. THIS COURT FURTHER ORDERS THAT that the Tribunal may provide any responsive quantum costs submissions, limited to three pages, within three days of being served with the same.

Date of issuance

RCP-E 59A (January 2, 2024)

SCHEDULE “A”

SCHEDULE “B”

The Applicant relied upon the materials in the court file as of January 30, 2025, prior to the commencement of the hearing of his motion (defined as “**Motion #1**”) which were specifically emphasized by the Applicant as follows:

- a. The Motion Record, filed and served on January 23, 2025 (the “**NOM #1 Motion Record**” or “**Motion Record**”);
- b. The *JRPA* Application of the Applicant of November 15, 2024 (the “**JRPA Application**”);
- c. The Applicant’s Factum of December 10, 2024 (the “**Factum**”);
- d. The Applicant’s Application Record of December 12, 2024 (the “**Application Record**”);
- e. The Applicant’s filed and issued Certificate of Perfection (the “**Certificate Of Perfection**”) and affidavit of service filed with the ONSC Divisional Court (the “**Affidavit #1**” or “**AOS**”);
- f. Affidavit #2 of the Applicant made on December 30, 2024 (“**Affidavit #2**”);
- g. Affidavit #4 of the Applicant made on January 18, 2025 (“**Affidavit #4**”);
- h. The Applicant’s tendered, filed and served requisitions herein;
- i. The Applicant’s oral outline for his motion or “speaking notes of the Applicant, dated January 29, 2025, and filed with the ONSC Divisional Court and served upon the Tribunal prior to the commencement of the hearing of NOM #1 (the “**Speaking Notes**”); and
- j. The statutes, regulations and authorities cited in the Applicant’s Notice of Motion of January 22, 2025, and cited in the Applicant’s Oral Outline For NOM #1.

ENDNOTES

ⁱThe JRPA Applicant, in his capacity as an applicant or appellant before the Tribunal, filed his “application pursuant to section 280(2) of the *Insurance Act* for automobile insurance dispute resolution” and served on the insurance company with the fax number of 416.774.3120 (which he defined as his “LAT Appeal” in his Factum)

ⁱⁱthe date of Vice Chair Morissette’s decisions and orders involving the Applicant’s judicial review application (“JRPA Application”) certain orders sought in NOM #14 and NOM #15 that were dismissed or refused and/or not determined by the Vice Chair Morissette of the LAT (i.e. Vice Chair Morissette refused to exercise his statutory power of decision in relation to Orders #1 and #2 in NOM #14 and Order #4 in NOM #14.