Court of Appeal File No.: COA-25-CV-0958
Court File No.: CV-22-00680949-00CP

COURT OF APPEAL FOR ONTARIO

B E T W E E N

G.G. and W.W.

Plaintiffs/Appellants

and

HIS MAJESTY THE KING IN RIGHT OF THE PROVINCE OF ONTARIO, NATIVE CHILD AND FAMILY SERVICES OF TORONTO, LINCK CHILD, YOUTH AND FAMILY SUPPORT, BRANT FAMILY AND CHILDREN'S SERVICES, BRUCE GREY CHILD & FAMILY SERVICES, CHILDREN'S AID SOCIETY OF HAMILTON, CATHOLIC CHILDREN'S AID SOCIETY OF HAMILTON, CHILDREN'S AID SOCIETY OF TORONTO, CHILDREN'S AID SOCIETY OF THE DISTRICT OF NIPISSING AND PARRY SOUND, CHILDREN'S AID SOCIETY OF ALGOMA, CHILDREN'S AID SOCIETY OF LONDON AND MIDDLESEX, CHILDREN'S AID SOCIETY OF OXFORD COUNTY, DUFFERIN CHILD & FAMILY SERVICES, DURHAM CHILDREN'S AID SOCIETY, FAMILY AND CHILDREN'S SERVICES OF FRONTENAC, LENNOX AND ADDINGTON, FAMILY AND CHILDREN'S SERVICES OF LANARK, LEEDS AND GRENVILLE, FAMILY AND CHILDREN'S SERVICES OF GUELPH AND WELLINGTON COUNTY, FAMILY AND CHILDREN'S SERVICES NIAGARA, FAMILY AND CHILDREN'S SERVICS OF RENFREW COUNTY, FAMILY & CHILDREN'S SERVICES OF ST. THOMAS AND ELGIN, FAMILY & CHILDREN'S SERVICES OF THE WATERLOO REGION, HALTON CHILDREN'S AID SOCIETY, HIGHLAND SHORES CHILDREN'S AID, HURON-PERTH CHILDREN'S AID SOCIETY, JEWISH FAMILY AND CHILD SERVICE, KAWARTHA-HALIBURTON CHILDREN AID SOCIETY, KENORA-RAINY RIVER DISTRICTS CHILD AND FAMILY SERVICES, NORTH EASTERN ONTARIO FAMILY AND CHILDREN'S SERVICES, PEEL CHILDREN'S AID SOCIETY, SARNIALAMBTON CHILDREN'S AID SOCIETY, SIMCOE MUSKOKA FAMILY CONNEXIONS, THE CHILDREN'S AID SOCIETY OF HALDIMAND AND NORFOLK, THE CHILDREN'S AID SOCIETY OF OTTAWA, THE CHILDREN'S AID SOCIETY OF THE DISTRICT OF THUNDER BAY, THE CHILDREN'S AID SOCIETY OF THE DISTRICTS OF SUDBURY AND MANITOULIN, THE CHILDREN'S AID SOCIETY OF THE UNITED COUNTIES OF STORMONT, DUNDAS AND GLENGARRY, VALORIS FOR CHILDREN AND ADULTS OF PRESCOTT-RUSSELL, WINDSORESSEX CHILDREN'S AID SOCIETY, YORK REGION CHILDREN'S AID SOCIETY, AKWESASNE CHILD AND FAMILY SERVICES, ANISHINAABE ABINOOJII FAMILY SERVICES, CATHOLIC CHILDREN'S AID SOCIETY OF TORONTO, DILICO ANISHINABEK FAMILY CARE, DNAAGDAWENMAG BINNOOJIIYAG CHILD & FAMILY SERVICES, KINA GBEZHGOMI CHILD & FAMILY SERVICES, KUNUWANIMANO CHILD & FAMILY SERVICES, NIIJAANSINAANIK

CHILD AND FAMILY SERVICES, NOGDAWINDAMIN FAMILY AND COMMUNITY SERVICES, OGWADENI:DEO, PAYUKOTAYNO JAMES AND HUDSON BAY FAMILY SERVICES, TIKINAGAN CHILD AND FAMILY SERVICES and WEECHI-IT-TE-WIN

Defendants/Respondents

Proceeding under the *Class Proceedings Act, 1992,* S.O. 1992, C.6

FACTUM OF THE INTERVENER,
THE CANADIAN CIVIL LIBERTIES ASSOCIATION

March 12, 2026

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I. OVERVIEW AND STATEMENT OF INTERVENER'S POSITION

1. Class actions play a critical role in advancing human rights and protecting the rights of vulnerable individuals. Over the past two decades, class actions have enabled vulnerable groups to seek accountability and redress in cases involving significant human rights and *Charter* violations, such as strip searches,[1] immigration detention,[2] solitary confinement,[3] mistreatment of mentally ill patients,[4] and police misconduct.[5] These class actions go beyond providing a remedy to the immediate class members; they address systemic discrimination, power exploitation, and arbitrary conduct by the state and other well-resourced defendants.

2. In its 2013 decision in *Fischer*, the Supreme Court of Canada recognized the social, economic, and political barriers faced by claimants who seek access to justice through litigation.[6] These barriers to access to justice are magnified in cases involving power imbalance, relationships of ongoing vulnerability and dependence, and fear of reprisal – factors that are routinely present in class actions involving systemic wrongdoing and *Charter* violations.

3. The Supreme Court's recognition that class actions play an important role in overcoming substantive and procedural barriers to access to justice is not limited to the preferable procedure criterion of the certification test. It applies with full force to the interpretation of the *Class Proceedings Act* ("*CPA*")[7] and must inform the development and application of any common law principle that governs and informs the application of the *CPA*, including the *Ragoonanan* principle.

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[1] *Farrell v. Attorney General of Canada*, 2023 ONSC 1474.
[2] *Richard v. Canada (Attorney General)*, 2025 ONCA 713.
[3] *Francis v. Ontario*, 2021 ONCA 197 [*Francis* ONCA]; *Brazeau v. Canada (Attorney General)*, 2020 ONCA 184.
[4] *Banman v. Ontario*, 2023 ONSC 6187.
[5] *Good v. Toronto (Police Services Board)*, 2016 ONCA 250 [*Good*].
[6] *AIC Limited v. Fischer*, 2013 SCC 69 [*Fischer*] at paras. 27, 29.
[7] *Class Proceedings Act, 1992*, SO 1992, c 6, [*CPA*].

4. The Canadian Civil Liberties Association ("CCLA") intervenes in this appeal to assist this Honourable Court to determine whether the *Ragoonanan* principle should be reconsidered, modified or abandoned. As this Court considers the correctness of its decision in *Hughes*, it must answer the following question: Is the *Ragoonanan* principle the correct response to the wrong that it seeks to prevent – protecting defendants from speculative claims[8] – or does it go too far by immunizing defendants from meritorious claims and depriving class members of access to justice?

5. The CCLA's position is that the *Ragoonanan* principle is inconsistent with the text and purpose of the *CPA* and the principles endorsed by the Supreme Court in *Fischer*. As a result, it must be abandoned or reformulated to align with the remedial purpose of the *CPA* and the objectives of class proceedings. These objectives are advanced when all, not just some, of the defendants responsible for the harmful conduct are included in the class proceeding and held accountable.

6. The CCLA submits that while the *Ragoonanan* principle may appear benign on its face, in practice, it overshoots its purpose and effectively acts as an escape hatch for wrongdoers. By requiring a representative plaintiff to have a *personal* cause of action against each named defendant, even when the defendant is implicated in systemic practices that place vulnerable groups at risk of harm, the *Ragoonanan* principle can insulate those responsible for the creation and operation of discriminatory and harmful systems from accountability.

7. Further, the rigid requirements of the *Ragoonanan* principle frustrate the objectives of the *CPA* by restricting the Court's ability to exercise its broad discretionary powers under s. 12 of the *CPA* to make orders for the fair conduct of class proceedings. As a result, the *Ragoonanan* principle has the capacity to perpetuate the very power imbalance and impunity that give rise to class actions

[8] *Ragoonanan Estate v. Imperial Tobacco Canada Ltd.*, 2000 CanLII 22719 (ON SC) [*Ragoonanan*] at para. 56.

against powerful defendants, including the state and entities that perform governmental functions. There is no principled basis to uphold the *Ragoonanan* principle today: the existing certification test weeds out speculative claims, and Ontario's "loser pays" costs regime disincentivizes the pursuit of unmeritorious class proceedings.

II. QUESTION IN ISSUE

8. The CCLA intervenes as a friend of the Court to assist this Court in considering whether the *Ragoonanan* principle should be reconsidered, modified or abandoned.

III. LAW & ARGUMENT

a) Common law principles used to interpret the *CPA* must be consistent with the text of the *CPA* and objectives of class proceedings

9. The *Ragoonanan* principle is a common law construct adopted in the year 2000, in the context of a Rule 21.01(b) motion in a product liability class action. It is grounded in the perceived need to bring s. 5(1)(a) in line with Rule 21.01(b), and in the rationale that the "machinery of the courts" should not be used to adjudicate claims by "a speculative group of putative class members" against defendants in relation to which the named plaintiff lacks a personal cause of action.[9] In adopting the *Ragoonanan* principle, Justice Cumming reasoned that "[i]t would be wrong to put a defendant to the expense of the litigation process if there is no reasonable cause of action against that defendant on the face of the pleading."[10]

10. Two years later, this Court upheld the *Ragoonanan* principle in *Hughes*, another Rule 21.01(b) motion to strike a pleading against manufacturers who did not manufacture the defective product owned by the representative plaintiff.[11] In *Hughes*, this Court did not consider the social,

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[9] *Ragoonanan* at paras. 52-54.
[10] *Ragoonanan* at para. 56.
[11] *Hughes v. Sunbeam Corp. (Canada) Ltd.*, 2002 CanLII 45051 (ON CA) at paras. 14-18.

political, or economic barriers to access to justice faced by vulnerable and marginalized individuals subjected to institutional or systemic wrongdoing. Nor did it consider whether such a rigid prerequisite to commencing class actions is a reasonable or proportional response to the prospect of speculative claims, particularly when the certification criteria already serve as screening mechanisms against claims that are hypothetical, speculative or devoid of merit.

11. The *Ragoonanan* principle is not codified in, or mandated by, the *CPA*. The *CPA* does not expressly or implicitly require a named plaintiff with a personal cause of action against each named defendant. Section 2(1) of the *CPA* only refers to "one or more members of the class of persons"[12] commencing a putative class proceeding – a requirement that should be interpreted liberally and consistently with the remedial purpose of the *CPA*. Importantly, s. 5(1) of the *CPA* mandates that the court ***shall*** certify a proceeding if the criteria for certification are met.[13]

12. The *Ragoonanan* principle materially modifies the legislated certification test by imposing technical requirements that are inconsistent with the text and purpose of the *CPA*. Importantly, the two elements of the certification test directly affected by the *Ragoonanan* principle are entirely silent on the requirement for a representative plaintiff with a personal cause of action against each named defendant. Section 5(1)(a) merely requires that the pleadings disclose a cause of action, while s. 5(1)(e) simply requires a representative plaintiff who would fairly and adequately represent the interests of the class; produce a workable methodology for advancing the proceeding on behalf of the class and notifying class members of the proceeding; and have no conflicts of interest on the common issues, with other class members.[14]

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[12] *CPA*, s. 2(1).
[13] *CPA*, s. 5(1).
[14] *CPA*, s. 5(1)(e).

b) The *Ragoonanan* principle is inconsistent with the Supreme Court's recognition of the importance of substantive justice in *Fischer*

13. The *Ragoonanan* principle cannot be reconciled with the Supreme Court's 2013 decision in *Fischer*, which recognized the importance of class actions in overcoming procedural and substantive barriers to pursuing litigation.[15] These include economic, psychological, and social barriers that may arise from a myriad of factors, including emotional or physical frailty, fear of reprisals by the defendants and alienation from the legal system.[16]

14. In determining whether *Hughes* was correctly decided, this Court should consider whether the *Ragoonanan* principle is defensible given Ontario's current class actions landscape and the principles articulated by the Supreme Court in *Fischer*, which emphasized that "class proceedings exist not only to provide access to a procedure, but also to substantive results."[17] Substantive access to justice is virtually impossible to achieve when those implicated in wrongdoing are shielded from class proceedings through technical requirements not otherwise prescribed by the *CPA*.

15. The barriers to access to justice identified by the Supreme Court in *Fischer* are magnified in cases involving systemic *Charter* breaches, which routinely involve highly vulnerable groups in relationships of dependence and power imbalance. In such cases, the *Ragoonanan* principle can both restrict the scope of class actions and impede access to "substantive results" by requiring a named plaintiff with a personal cause of action against each and every wrongdoer involved in the creation, management, or operation of the system that exposes individuals to a risk of harm.[18]

16. Such an outcome is particularly at odds with the Supreme Court's recognition that *Charter*

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[15] *Fischer* at paras. 27-30, referring to the Supreme Court's earlier commentary in *Hollick v. Toronto (City)*, 2001 SCC 68 [*Hollick*] and *Western Canadian Shopping Centres Inc. v. Dutton*, 2001 SCC 46 [*Dutton*]. See also *Hryniak v. Mauldin*, 2014 SCC 7 at paras. 23-25.
[16] *Fischer* at para. 27.
[17] *Fischer* at paras. 31, 34.
[18] See *Francis v. Ontario*, 2020 ONSC 1644 at paras. 464-465 for a description of claims for systemic wrongdoing.

rights must be practically enforceable, not merely aspirational.[19] The *Charter* serves to address the power imbalance between the governed and those who govern, guarantee the fundamental rights and freedoms of all Canadians, and provide remedies for breaches of those rights.[20] While the Motion Judge noted that claims for *Charter* damages are "private interest *Charter* claims", *Charter* damages also serve the functions of vindication and deterrence.[21]

17. The three functions of *Charter* damages – compensation, vindication and deterrence – are consistent with the objectives of the *CPA*. In fact, appellate courts have repeatedly acknowledged that a class proceeding may be the only mechanism available to seek collective redress for systemic misconduct and *Charter* violations.[22] Any common law principle that informs the interpretation and application of the *CPA* must reflect and align with these key principles. The *Ragoonanan* principle, as currently formulated, misses the mark.

c) The *Ragoonanan* principle overshoots its purpose by impeding access to justice in cases involving meritorious claims

18. While the objective of avoiding speculative claims in the class action context is laudable, the *Ragoonanan* principle, in practice, overshoots its purpose by imposing obstacles against the pursuit of important, meritorious claims, including claims for systemic wrongdoing, which are focused on the top-down policies and practices that expose class members to harm.[23]

19. While claims in systemic wrongdoing may arise from the conduct of a single defendant or the operation of a single institution, they may also impugn a system or network of similarly situated

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[19] *Vancouver (City) v. Ward*, 2010 SCC 27 [*Ward*] at para. 1.
[20] *Dickson v. Vuntut Gwitchin First Nation*, 2024 SCC 10 [*Dickson*] at para. 249; *Ward* at para. 1.
[21] *G.G. v. Ontario*, 2025 ONSC 3011 [*GG*] at para. 59; *Ward* at para. 25.
[22] See, for example, *Rumley v. British Columbia*, 2001 SCC 69 [*Rumley*] at paras. 38-39; *Cloud v. Canada (Attorney General)*, 2004 CanLII 45444 (ON CA) [*Cloud*] at paras. 87-88; *Good* at para. 44; *Farah v. Toronto Police Services Board*, 2026 ONSC 41 at paras. 58-67; *Farrell* at paras. 45, 357-362; see also *Das v. George Weston Limited*, 2018 ONCA 1053 at para. 248; *Kerr v. Danier Leather Inc.*, 2007 SCC 44 at para. 67.
[23] *Pugliese* at para. 56; *Farah* at paras. 50-52.

defendants following the same policies and practices.[24] As this Court observed in *Cloud*, in cases alleging systemic wrongdoing, common issues relating to the existence, nature, and breaches of the defendant's duties are a core ingredient of each class member's claim and materially advance the claims of all class members, even if individual issues remain.[25] Appellate courts have repeatedly observed that, in claims for systemic wrongdoing, it is not required that every class member experience the same, or any, harm as a result of the deficient system.[26] As Justice Perell observed in *Banman*, a class action automatically assembles the class members who may benefit from the common issues trial and provides them with legal representation they might not otherwise obtain.[27]

20. It follows that where there is evidence of the defendants' participation in, and responsibility for, systemic policies and practices that are discriminatory and harmful, any class member subjected to the systemic wrongdoing is well positioned to represent other class members exposed to the same systemic wrongdoing. Yet, as *G.G.* demonstrates, the *Ragoonanan* principle requires potentially dozens of individuals from historically disadvantaged groups to serve as representative plaintiffs, despite the proposed representative plaintiffs' willingness to represent **all** individuals subjected to Birth Alerts.

21. The injustice caused by the *Ragoonanan* principle may manifest in countless different circumstances. Consider, for example, a systemic discrimination claim against multiple regional police services operating under a common provincial framework. A plaintiff, having experienced discriminatory conduct in only one region, would only have a personal cause of action against that particular service. The *Ragoonanan* principle would insulate all other regional police services

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[24] See, for example, *Pugliese v. Chartwell*, 2024 ONSC 1135 [*Pugliese*]; *Gebien v. Apotex Inc.*, 2023 ONSC 6792 [*Gebien*] at paras. 109-126, 271.
[25] *Cloud* at para. 53. See also *Rumley* at para. 33.
[26] *Rumley* at para. 33; *Cavanaugh v. Grenville Christian College*, 2021 ONCA 755 at paras. 5, 65, 68, 75; *Francis* ONCA at para. 110.
[27] *Banman* at para. 357.

engaged in the same discriminatory conduct from accountability, resulting in a fragmentation of claims on purely technical grounds, contrary to the remedial purpose of the *CPA*.

d) The *Ragoonanan* principle impedes the Court's ability to manage class proceedings in accordance with their unique circumstances

22. Not only does the *Ragoonanan* principle import onerous requirements not contemplated by the *CPA*, it also fetters the ability of case management and certification motion judges to exercise their discretion under s. 12 of the *CPA* to make any order they consider just to ensure the fair and expeditious resolution of a class proceeding.[28] As Chief Justice Strathy observed in *ALS Society*, case management judges are "entitled to seek and impose creative solutions to the efficient determination of the issues".[29] This includes the power to "impose procedural terms that will promote access to justice and judicial economy as well as ensure the 'just, most expeditious and least expensive determination' of the proceeding on its merits".[30] However, class action judges have no discretion to dispense with the *Ragoonanan* principle, even if the plaintiff's inability to satisfy this requirement puts an end to an otherwise meritorious class action.

23. The harsh consequences of *Ragoonanan* have been acknowledged by courts, which have held that the *Ragoonanan* principle can be circumvented in cases involving "collective liability", such as conspiracy or enterprise liability, the requirements for which are stringent.[31] Courts have also attempted to devise creative solutions to deal with "the *Ragoonanan* problem" by, for example, conditionally certifying the action and ordering that the defendant be required to produce the name of class members who may agree to act as representative plaintiffs.[32] However, the continued

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[28] *CPA*, s. 12.
[29] *Amyotrophic Lateral Sclerosis Society of Essex v. Windsor (City)*, 2015 ONCA 572 [*ALS*] at para. 70.
[30] *ALS* at para. 68.
[31] *Gebien* at paras. 236, 270, 273, 281, 282, 284.
[32] *Singh v. RBC Insurance Agency Ltd*., 2023 ONSC 1439 at paras. 192-209; *Vecchio Longo Consulting Services Inc. v. Aphria Inc*., 2021 ONSC 5405 at paras. 181-185.

availability of such *ad hoc* discretionary solutions is questionable given this Court's recent determination in *Knisley* that conditional certification is not contemplated by the *CPA*.[33] More importantly, such *ad hoc* solutions ignore, and do little to overcome, the systemic barriers that may preclude prospective representative plaintiffs from stepping forward to act in that capacity.

24. Class actions are not homogenous; class members range from investors and everyday consumers to vulnerable and marginalized individuals. As it considers the future role and utility of the *Ragoonanan* principle, this Court should favour a flexible approach that reflects the breadth of claimants that rely on class proceedings to advance their claims. Reformulating the *Ragoonanan* principle to allow any member of the class to act as a representative plaintiff is consistent with the objectives of class actions and the remedial purpose of the *CPA*, which calls for a liberal and purposive interpretation of its provisions.[34]

e) Relaxing or dispensing with the *Ragoonanan* principle would not cause unfairness to defendants or open the floodgates to unmeritorious or speculative claims

25. The *Ragoonanan* principle has the capacity to perpetuate power imbalance and embolden wrongdoers implicated in systemic wrongdoing. These deleterious effects of the *Ragoonanan* principle cannot be justified by reference to the rationale underlying this principle, as the prospect of unmeritorious class actions against improper defendants is mitigated by the existing provisions of the sections 5(1)(b)-(e) of the *CPA*, as well as Ontario's "loser pays" costs regime.[35]

26. Concerns about speculative claims are attenuated by the requirement, under s. 5(1)(b), for an identifiable class of two or more persons with claims against the defendants. Tenuous claims are also weeded out under s. 5(1)(c), which requires 'some basis in fact' in support of the defendant's

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[33] *Knisley v. Canada (Attorney General)*, 2025 ONCA 185 at para. 40.
[34] *Hollick* at paras. 14-16; *Bell Mobility Inc.*, 2013 ONSC 7529 (Div Ct) at para. 11.
[35] *Dutton* at paras. 38-42.

involvement in the impugned conduct for the purposes of the commonality requirement.

27. Section 5(1)(d) serves as an additional safeguard against speculative claims, by requiring that the class action be preferable to other reasonably available means for resolving the class members' common issues or addressing the defendants' impugned conduct. The amended *CPA*, applicable to all claims commenced on and after October 1, 2020, now requires that a class action be "superior to all reasonably available means of determining the entitlement of the class members to relief or addressing the impugned conduct of the defendant". The superiority requirement weeds out speculative claims, precluding certification where a class proceeding is not an appropriate vehicle for advancing claims against all of the defendants.

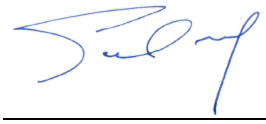
28. Section 5(1)(e) provides a further safeguard against the use of representative plaintiffs that are not properly placed to represent the class. The court must also be satisfied under s. 5(1)(e) that the representative plaintiff is able to represent the best interests of the class without conflict.

29. The certification criteria thus reinforce the court's gatekeeping role and serve as a "meaningful screening device" to weed out unmeritorious claims. Further, Ontario's costs regime deters speculative claims by requiring the unsuccessful party to pay the successful party's costs. These existing safeguards demonstrate that the *Ragoonanan* principle fails to strike the appropriate balance between protecting defendants against unmeritorious claims and ensuring fairness and access to justice to claimants, and support the CCLA's submission that the *Ragoonanan* principle should be modified or abandoned by this Court.

IV. SUBMISSIONS ON COSTS & ORDER

30. The CCLA is intervening as a friend of the Court and takes no position on the outcome of this appeal. The CCLA seeks no costs and requests that no costs be awarded against it.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.



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CERTIFICATE

I, Golnaz Nayerahmadi, Counsel for the Intervener, Canadian Civil Liberties Association certify that:

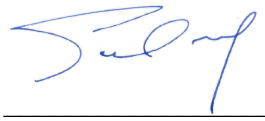
i. I estimate that 10 minutes will be needed for my oral argument.

ii. An order under subrule 61.09(2) (original record and exhibits) is not required.

iii. The factum complies with subrule (3).

iv. This factum does not exceed 10 pages.

v. I am satisfied with the authenticity of every authority listed in Schedule "A".

Date: March 12, 2026 Signature: 

SCHEDULE A – LIST OF AUTHORITIES

17. *Hollick v. Toronto (City)*, 2001 SCC 68

18. *Hryniak v. Mauldin*, 2014 SCC 7

19. *Hughes v. Sunbeam Corp. (Canada) Ltd.*, 2002 CanLII 45051 (ON CA)

20. *Kerr v. Danier Leather Inc.*, 2007 SCC 44

21. *Knisley v. Canada (Attorney General)*, 2025 ONCA 185

22. *Pugliese v. Chartwell*, 2024 ONSC 1135

23. *Ragoonanan Estate v. Imperial Tobacco Canada Ltd.*, 2000 CanLII 22719 (ON SC)

24. *Richard v. Canada (Attorney General)*, 2025 ONCA 713

25. *Rumley v. British Columbia*, 2001 SCC 69

26. *Singh v. RBC Insurance Agency Ltd.*, 2023 ONSC 1439

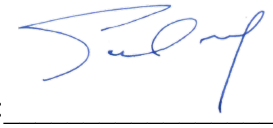
27. *Vancouver (City) v. Ward*, 2010 SCC 27

28. *Vecchio Longo Consulting Services Inc. v. Aphria Inc.*, 2021 ONSC 5405

29. *Western Canadian Shopping Centres Inc. v. Dutton*, 2001 SCC 46

I certify that I am satisfied as to the authenticity of every authority.

Note: Under the Rules of Civil Procedure, an authority or other document or record that is published on a government website or otherwise by a government printer, in a scholarly journal or by a commercial publisher of research on the subject of the report is presumed to be authentic, absent evidence to the contrary (rule 4.06.1(2.2)).

Date: March 12, 2026 Signature: 

SCHEDULE B – LIST OF STATUTES

***Class Proceedings Act, 1992*, SO 1992, c 6**

Plaintiff's class proceeding
2 (1) One or more members of a class of persons may commence a proceeding in the court on behalf of the members of the class. 1992, c. 6, s. 2 (1).

Certification
5 (1) The court shall, subject to subsection (6) and to section 5.1, certify a class proceeding on a motion under section 2, 3 or 4 if,

(a) the pleadings or the notice of application discloses a cause of action;
(b) there is an identifiable class of two or more persons that would be represented by the representative plaintiff or defendant;
(c) the claims or defences of the class members raise common issues;
(d) a class proceeding would be the preferable procedure for the resolution of the common issues; and
(e) there is a representative plaintiff or defendant who,
(i) would fairly and adequately represent the interests of the class,
(ii) has produced a plan for the proceeding that sets out a workable method of advancing the proceeding on behalf of the class and of notifying class members of the proceeding, and
(iii) does not have, on the common issues for the class, an interest in conflict with the interests of other class members. 1992, c. 6, s. 5 (1); 2020, c. 11, Sched. 4, s. 7 (1).

Same
(1.1) In the case of a motion under section 2, a class proceeding is the preferable procedure for the resolution of common issues under clause (1) (d) only if, at a minimum,

(a) it is superior to all reasonably available means of determining the entitlement of the class members to relief or addressing the impugned conduct of the defendant, including, as applicable, a quasi-judicial or administrative proceeding, the case management of individual claims in a civil proceeding, or any remedial scheme or program outside of a proceeding; and

(b) the questions of fact or law common to the class members predominate over any questions affecting only individual class members. 2020, c. 11, Sched. 4, s. 7 (2).

Court may determine conduct of proceeding
12 The court, on its own initiative or on the motion of a party or class member, may make any order it considers appropriate respecting the conduct of a proceeding under this Act to ensure its fair and expeditious determination and, for the purpose, may impose such terms on the parties as it considers appropriate. 2020, c. 11, Sched. 4, s. 14.

Costs
31 (1) In exercising its discretion with respect to costs under subsection 131 (1) of the Courts of Justice Act, the court may consider whether the proceeding was a test case, raised a novel point of

law or involved a matter of public interest. 1992, c. 6, s. 31 (1); 2020, c. 11, Sched. 4, s. 28.

G.G. et al.

Plaintiffs/Appellants

-and-

HIS MAJESTY THE KING IN RIGHT OF THE PROVINCE OF ONTARIO et al.

Defendants/Respondents

Court File No.: COA-25-CV-0958

COURT OF APPEAL FOR ONTARIO

PROCEEDING COMMENCED IN
TORONTO

FACTUM OF THE INTERVENER, CANADIAN CIVIL LIBERTIES ASSOCIATION

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