FACTUM

Court File No. 462/20

ONTARIO
SUPERIOR COURT OF JUSTICE
(DIVISIONAL COURT)

B E T W E E N:

WORK SAFE TWERK SAFE

Applicant/Moving Party

and

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO AS REPRESENTED BY THE SOLICITOR GENERAL AND THE MINISTRY OF HEALTH

Respondents

FACTUM OF THE APPLICANT/MOVING PARTY

June 25, 2021

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FACTUM OF THE MOVING PARTY (APPLICANT)

PART I - INTRODUCTION

1. This factum is in support of an urgent motion brought by Work Safe Twerk Safe ("**WSTS**") in the application to challenge closure of strip-clubs via regulations or alternatively, the provisions targeting the strippers enacted under the *Reopening Ontario (A Flexible Response to COVID-19) Act*, *2020*, SO 2020, c 17 ("**ROA**").

2. The purpose of ROA is as follows:

> [2] As part of its response to the pandemic, the Ontario Government enacted the *Reopening Ontario (A Flexible Response to COVID-19) Act, 2020, S.O. 2020, c. 17* ("*ROA*"). The ROA continued various orders that had been made pursuant to *s. 7.0.1* of the *EMCPA*. The ROA sets out a regulatory framework by which the government determines staged control measures to be applied to public health units across the Province. The ROA was designed to allow for a targeted approach to identify what stage a public health unit would be placed in based on epidemiological statistics, among other considerations. Ontario's Response Framework published on November 22, 2020 describes the risk factors

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and priorities that the control measures are attempting to balance through the targeted approach, including:

a. Limiting the transmission of COVID-19;
b. Avoiding business closures;
c. Maintaining health care and public health system capacity;
d. Protecting vulnerable Ontarians, such as the elderly and those with compromised immune systems; and
e. Keeping schools and child-care centres open.

Her Majesty the Queen in Right of Ontario v Adamson Barbecue Limited, 2020 ONSC 7679 (CanLII), para 2 *("**Adamson Barbecue**").*

3. WSTS agrees with the purpose of the ROA but it disagrees that the regulations or alternatively, the regulatory provisions flowing from the ROA protect vulnerable Ontarians. WSTS believes the regulations enacted pursuant to the ROA caused and/or contributed to the vulnerability of strippers in Ontario as described herein.

4. The purpose of a properly constituted public health regulation is one informed by evidence and does not target a specific group of individuals, arbitrarily or discriminatorily. Further, the process for enacting such a regulation must be for a valid purpose (i.e. connected to the enabling statute) and within the jurisdiction of the Province, standards which the regulations do not meet.

Hudson's Bay Company ULC v Ontario (Attorney General), 2020 ONSC 8046 (CanLII), para 5 *("**HBC**").*

PART II - SUMMARY OF FACTS

5. WSTS is a federally incorporated non-profit entity. It is the only federally organized group that focuses on, and advocates for the rights dignity, safety and security of strippers in all of Canada. It is incorporated under the *Canada Not-For Profit Corporations Act*, SC 2009, c-23. While WSTS was recently incorporated, its history of advocacy is extensive, and it is a well-established group in the city of Toronto which serves the interests of strippers and has membership

working in different jurisdictions in Ontario and throughout Canada with both current and former strippers providing safety and support to each other.

Affidavit of Tuulia Law; Affidavit of L.M.

6. In March 2020, the Respondents ordered mandatory closures of all non-essential businesses as of March 24, 2020 (the "**First Closure**") pursuant to O Reg 82/20: *Order Under Subsection 7.0.2(4) – Closure of Places of Non-Essential Businesses* under the *Emergency Management and Civil Protection Act*, RSO 1990, c E-9 ("**EMPCA**"). These respective legislations are **not** subject of this judicial review; they have been revoked and continued under the ROA; and they are described for context.

7. Following this mandatory First Closure, the non-essential businesses ordered closed were permitted to re-open on or around July 17, 2020 under *Rules for Areas in Stage 3*, O Reg 364/20 with staggered openings throughout Ontario.

8. Following this re-opening of non-essential businesses, the Respondent enacted the ROA in July 2020. This legislation is **not** subject of this judicial review and is provided for context.

9. Pursuant to the ROA, the Respondent continued O. Reg 364/20, *Rules for Areas in Stage 3* and O. Reg 263/20: *Rules for Areas in Stage 2* / *Step 2* (collectively, the "**Regulations**") and provided amendments to accommodate strip-clubs sometime after the filing of this Application. These Regulations or alternatively, the provisions are subject of this Application.

(a) **First**, O. Reg 364/20 shut down the strip-clubs, which targeted the strippers for an improper purpose and the re-opening plan continues to target the strippers without regard to their *Charter* rights.

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Affidavit of Marina Tronin, exhibits 1-3; Tesla Motors Canada ULC v Ontario (Ministry of Transportation), 2018 ONSC 5062 (CanLII), para 52 *("**Tesla**").*

(b) **Second**, O. Reg 263/20 closed strip-clubs for a second time and later after the closures, certain changes were made. It is not clear whether the changes were a result of the Application or whether it was a result of an email sent to Province by a strip-club owner. These changes were the colour coded schemes implemented in October. These changes also demanded strip-clubs to enact "Safety Plans" before re-opening. It is not clear how these Safety Plans will be implemented and/or enforced.

Affidavit of Tuulia Law and Affiavit of L.M..

10. WSTS believes that they had a legitimate expectation that they would be consulted based on past practice, which they were not. Further, it is WSTS's position that Regulations negatively impact the strippers' rights in section 2, 7 and 15 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, s 91(24) (*"Charter*").

11. Despite the legislative changes, the Regulations continued to negatively impact the strippers' *Charter* rights as described herein.

12. Briefly, the legislative changes after this Application was filed includes:

(a) The legislative changes accommodate only the strip-club owners without regard to the strippers' *Charter* rights and off-loading the risk of implementing any Safety Plans as defined herein to the strippers;

O Reg 263/20, s 3.3*; O Reg 364/20,* s. 3.3*; Affidavit of Tuulia Law; Affidavit of L.M.*

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(b) The legislative changes prohibit, rather than regulate, a specific activity – stripping – that is not connected to the enabling statutory powers or alternatively, regulate an activity in which is *ultra vires*.

Shoppers Drug Mart Inc. v Ontario, 2011 ONSC 615 (CanLII), para 39 *("**Shoppers**").*

PART III - STATEMENT OF ISSUES, LAW & AUTHORITIES

A. THERE IS A SERIOUS ISSUE TO BE TRIED WITH IRREPARABLE AND NON-COMPENSABLE HARM

13. The test of interlocutory relief is as follows:

(a) There is a serious question to be tried;

(b) The applicant will suffer irreparable harm if the injunction is not granted; and

(c) The balance of convenience favours granting the injunction.

*RJR-MacDonald Inc. v Canada (Attorney General), 1994 CanLII 117 (SCC), [1994] 1 SCR 311 ("**RJR**") at* para 64*.*

14. The threshold to establish the serious issue to be tried is a low threshold; the moving party must show only that based on a preliminary assessment of the merits that the application is neither frivolous nor vexatious. A prolonged examination of the merits is generally neither necessary nor desirable.

RJR, at para 64.

15. The Respondents' have established their reopening plan despite being aware of WSTS's desire to be consulted as WSTS is in the best position to provide expertise into the Province's reopening plan.

Affidavit of Tuulia Law; Affidavit of L.M.

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16. The Respondents' ignored, silenced and erased the concerns of the strippers in the Province's reopening plan. Their plan only accommodates the strip-clubs and/or managements' concerns without regard to the strippers' *Charter* rights.

Affidavit of Tuulia Law; Affidavit of L.M.

17. The Respondents' conduct is not expected to change given their persistent behaviour to ignore the strippers' concerns including contributing to the public's biased perceptions about strippers in the media with their stigmatizing comments in the press and to the media. The Respondents' are free to regulate as they see fit but they are not to do so at the risk of the strippers' *Charter* rights.

Affidavit of Tuulia Law; Affidavit of L.M; Affidavit of Marina Tronin.

18. There is risk to the strippers' families and children as they seek to return to work without any certainty as to how they will also have their *Charter* rights protected.

Affidavit of Tuulia Law; Affidavit of L.M.

19. The irreparable harm refers to the nature of the harm as opposed to the magnitude; irreparable harm cannot be quantified in monetary terms or that cannot be cured.

RJR, para 64.

20. The strippers' families and children are at risk and the strippers are put in a vulnerable and precarious position by having to accept work conditions without any certainty as to how the Safety Plans will be enforced or implemented. Their lives and their families' and/or children's lives cannot be quantified.

Affidavit of Tuulia Law; Affidavit of L.M.

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21. More importantly and damaging, however, is how Premier Ford prioritized the families of the strip-club patrons in his comments to the press without regard to the strippers' *Charter* rights:

> 01:18
>
> **P**: Oh, I feel sorry…
>
> 01:18
>
> **J:** Thank you
>
> 01:19
>
> **P:** [talking over journalist] ...for the people when they go to their house and tell them that they were at the Brass Rail.
>
> 01:23
>
> **J:** [laughs]
>
> 01:24
>
> **P:** [Smiles – see screen capture below from media interview] That's who I feel sorry for. Seriously, man. I wouldn't want to be on the end of that one.
>
> *Affidavit of Marina Tronin.*

22. The balance of convenience strongly favours granting the interlocutory relief and in the public interest. The court must inquire as to what would happen if the relief is not granted.

> *RJR*, para 63-67.

23. If the relief is not granted, the Respondents will continue with their wanton disregard for the strippers' *Charter* rights including the impact on the third parties – the strippers' families and children. The strippers' families and children are left with little to no recourse and put in a vulnerable and precarious position as a result of the Respondents' legislation. The only option is to grant interlocutory relief.

> *Affidavit of Tuulia Law; Affidavit of L.M.*

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B. THE REGULATIONS AMOUNT TO EGREGIOUS BEHAVIOUR

24. The Regulations are *ultra vires* because they amount to an egregious case for being irrelevant, extraneous and completely unrelated to the statutory purpose.

> *Katz Group Canada Inc. v. Ontario (Health and Long-Term Care), 2013 SCC 64 (CanLII), [2013] 3 SCR 810,* para 28.

25. The test for egregious behaviour includes:

(a) Behaviour that singles out a specific group without an opportunity to be heard or any fair process whatsoever; and

(b) Behaviour that exercised for an improper without legal justification or in good faith.

> *Tesla Motors Canada ULC v Ontario (Ministry of Transportation), 2018 ONSC 5062 (CanLII),* para 64 *("Tesla"); Roncarelli v Duplessis, 1959 CanLII 50 (SCC), [159] SCR 121 at* p 137. *("**Roncarelli**").*

(i) The Regulations Singled Out The Strippers Without Any Opportunity To Be Heard or Any Fair Process

26. Similar to *Tesla*, the targeted nature of the provisions invited a certain level of fairness, none of which is present. This is especially so when there is a history of consultation with the WSTS when laws are enacted that target strippers.

> *Tesla,* para 63.

(a) **First**, the strippers were excluded from the enactment of the Regulations similar to how the Ontario Government excluded Tesla Motors.

(b) **Second**, the Ontario Government's amendments continued to single out and exclude the strippers.

(c) **Third and final**, the strippers, similar to Tesla Motors, had no opportunity to respond. The Ontario Government singled out strippers for financial and reputational harm; thus, the true target required strippers an opportunity to respond.

Tesla, para 63.

27. On financial and reputational harm, this Honourable Court has held the following:

> Moreover, where an executive decision singles out a person or business for financial and reputational harm and is taken on certain assumed facts, basic fairness calls out for the target to be entitled to provide a response. The government's asserted rationale for limiting the transition program to franchised dealerships is laden with factual assumptions that were susceptible to being proved or disproved with evidence. Tesla was not asked to provide any facts that might have been relevant to those factual assumptions.
>
> In conclusion, the decision to exclude Tesla by limiting the transition program to only franchised dealerships is arbitrary and unrelated to the purposes of the statutory or regulatory discretion being exercised. In my view, it is egregious, as that term was used by Dickson J. above, because, not only was it made for an improper purpose, but because the Minister singled out Tesla for reprobation and harm without provided Tesla any opportunity to be heard or any fair process whatsoever.
>
> *Tesla*, para 63.

28. Similar to *Tesla* and in sum, the Ontario Government singled out the strippers for financial and reputational harm and continued to single them out and exclude them, maintaining that financial and reputational harm.

Affidavit of Tuulia Law; Affidavit of L.M.; Affidavit of Marina Tronin.

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(ii) The Regulations Were Enacted For An Improper Purpose And Not In Good Faith

29. When regulations are enacted for an improper purpose that affects an individual's rights or legitimate expectations, the Court will intervene.

> *Black v Canada (Prime Minister), 2001 CanLII 8537 (ON CA),* para 48*; Tesla,* paras 45 *and* 47.

30. Further, similar to *Roncarelli*, the Ontario Government's legislative actions in effect canceled the strippers' work without any recourse for the opportunity to be heard and such effect was not done in consultation with the strippers.

> In these circumstances, when the de facto power of the Executive over its appointees at will to such a statutory public function is exercised deliberately and intentionally to destroy the vital business interests of a citizen, is there legal redress by him against the person so acting? This calls for an examination of the statutory provisions governing the issue, renewal and revocation of liquor licences and the scope of authority entrusted by law to the Attorney-General and the government in relation to the administration of the Act.
>
> *Roncarelli,* p 137.

31. The power of the Ontario Government is confined to the purpose of the ROA. Prohibiting stripping and subsequently, regulating stripping is done without any legal justification and not in good faith.

> *Shoppers,* para 39.

C. THE CONDITION PRECEDENT IN THE STATUTE IS NOT MET

32. In any event, and despite the above, the condition precedent required for the Regulations has not been met. Specifically, in the ROA, the condition precedent required for the Regulations include rationale for amendments and extensions including how any applicable conditions and limitations on the making of amendments were satisfied.

> *O Reg 263/20,* s 3.3*; O Reg 364/20,* s. 3.3

33. There is no evidence that there is a rationale for the amendments and extensions including how any applicable conditions and limitations on the making of amendments were satisfied which target and exclude the strippers.

D. THIS IS A PROPER CASE TO CONSIDER EXTRINSIC EVIDENCE ON OPERATION AND EFFECT OF LEGISLATION

34. It is the strippers' position that this case fits the description of "proper case" to consider extrinsic evidence. Extrinsic evidence can be admitted for two reasons:

(a) On allegations of colourability; and

(b) On determining the background and context for the challenged legislation, provided the extrinsic evidence is relevant and not inherently unreliable.

> *Reference re Upper Churchill Water Rights Reversion Act, 1984 CanLII 17 (SCC), [1984] 1 SCR 297,* p 318 *("**Upper Churchill**"); R v Morgentaler, 1993 CanLII 74 (SCC), [1993] 3 SCR 463,* p 483-484 *("**Morgentaler**").*

35. The extrinsic evidence is closely connected to the Regulations as throughout the pandemic Premier Ford's words and media press conferences have quickly been enacted into legislation or resulted in legislative amendments shortly thereafter. This Court is entitled to take judicial notice

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of Premier Ford's practice of issuing statements via press releases and press conferences then enacting legislative changes or legislation during the pandemic.

36. Further, this extrinsic evidence is important in contextualizing the Regulations to understand their purpose, operation and effect.

Upper Churchill, p 318*; Morgentaler,* p 483-484.

37. To consider the Regulations without the extrinsic evidence would create unfairness and the Regulations would lose their context, as in this case, strip-clubs were never singled out in the Regulations prior to the biased comments made by Premier Ford and Mayor Tory, which were later published by the media. The extrinsic evidence is relevant to ensure that the Ontario Government does not allow bias to seep into its legislative process, targeting and excluding vulnerable and precarious groups, like strippers.

Affidavit of Marina Tronin.

38. Alternatively, while the court tends not to inquire into the underlying political, economic, social, or partisan considerations of government decisions, *ETFO et al v Her Majesty the Queen,* 2019 ONSC 1308 (CanLII) invites the Court to do so where *Charter* rights have been impacted.

ETFO et al v Her Majesty the Queen, 2019 ONSC 1308 (CanLII), para 131.

39. The Ontario Government enacted legislation under guise of public safety while being selective in whose safety is worth protecting due to biased perceptions about strippers and more broadly, sex work and/or sex workers themselves.

Affidavit of Tuulia Law; Affidavit of L.M.

40. While the Court did not consider speeches from political figures in *Tesla* and *Upper Churchill,* this case should be distinguished from those cases: The strippers, a vulnerable and

precarious group, were/are unfairly targeted and excluded by these statements from political figures. The purpose of the ROA also explicitly states that the government should protect vulnerable Canadians as defined herein. The amendments to the Regulations target and exclude the strippers without a good faith basis.

Shoppers, para 39*; ROA.*

41. Strippers are an inherently vulnerable group in society due to negative and biased perceptions. The pandemic has made them even more vulnerable as the Ontario Government did not provide them any flexibility or consultation in these matters which directly affected them with little recourse, stifling their freedom of expression, association, right to security of person and equality rights.

Affidavit of Tuulia Law; Affidavit of L.M.

42. There is nothing inherently degrading nor risky about stripping but that, as held in *Bedford v Canada (AG)*, a government's decision to enact legislation that targets a group like strippers can cause harm.

> As strippers, we have not been consulted about reopening safely. This lack of consultation from the government affects strippers in a deep and visceral manner.
>
> There is no way to tell how the Safety Plans will be implemented or who will be implementing them; I believe that based on past practice in strip-clubs delegating cleaning areas of the strip clubs to strippers that strippers will be the ones tasked with implementing all or parts of the Safety Plan, possibly without management clearly explaining that these new tasks are part of the Safety Plan. It is not clear how this will be in compliance with any public health guidelines. I do not trust that club management will be transparent as to the content of Safety Plans or display them in a place, such as the changing rooms, where strippers can readily see them. I have not seen any Safety Plans nor am aware of any Safety Plans despite strip-clubs operating since last year as restaurants; I would not feel comfortable asking to see these Safety Plans from a strip-club because I would fear reprisal

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if I spoke up about any violations of the Safety Plans and/or other public health guidelines based on my experience and experiences of WSTS members.

I help take care of my family members and some of our members are mothers as well as care-takers for other family members, similar to myself. This uncertainty about our work could harm our families' well-being and our health and security.

To work in a strip club, strippers are often coerced into signing contracts with illegal clauses or forced to abide by arbitrary rules that negatively affect our health. We are given the choice to sign these contracts on the spot, or not work at that strip club anymore. I fear that myself and members of our group would be coerced into signing documents now and in the future, and it has been my experience that these documents and rule changes do not have strippers' health or safety in mind.

Also, even during past consultations with the city of Toronto, club owners used coercive tactics to get their say in the city survey, effectively attempting to silence us, the strippers.

As strippers, we are often ignored because we are classified as independent contractors, with little to no rights nor voice in the work place; we fear retaliation for speaking out in opposition of strip clubs; we also fear being policed and further stigmatized and potentially criminalized by other state actors, which we believe includes local health units. In my experience, the local public health unit in Toronto also assumes that strippers are vectors of disease and have posted signs in our workplaces, suggesting that we are vectors of disease which scare clients. Similar public comments by public officials, such as by Doug Ford or John Tory, can lead or do lead to similar reactions from the public in general: That we are to be feared and are vectors of disease.

I do not feel safe with the alleged Safety Plans that are supposed to be put in place or implemented. I fear that strippers may be unable to ask to see the Safety Plans without fear of reprisal or job loss and that the strippers may be required to sign off on any implementation of the Safety Plans with little to no say or recourse in terms of *Charter* violations.

From what I understand about the Province's reopening plans, strippers could be able to return to working at strip clubs in Stage 3, which may happen as soon as July. Given the lack of consultation with strippers about pandemic safety measures so far, at WSTS, we are concerned that the government will continue to exclude us on

> matters of public health and occupational safety, effectively silencing us. This lack of consultation led to pandemic regulations that, in my opinion, did not adequately consider what strippers actually do, namely, that we make the majority of our money from selling private dances to clients. In this context, I am significantly worried about my health, safety, and bodily autonomy, and the health, safety and bodily autonomy of my fellow strippers. Strippers are in the best position to properly advise the Province on best practices in public health responses.
>
> I believe that the contact tracing conducted at strip clubs during the period they were open in the pandemic was inadequate because it did not include contact tracing for private dances or any guidance about this for strippers. Clients often don't provide their full legal names to strippers, and strippers only use their stage names to clients. Together, this and the lack of stripper-focused contact tracing guidelines made me worried that, if I had gotten COVID-19 from a client, they would not have been able, or because of stigma, willing, to identify me if public health contacted the client for contact tracing. This meant the focus on keeping clients safe excluded and stigmatized strippers as the only risky parties in stripper-client interactions. This is why it is essential that strippers be consulted on reopening plans for strip clubs
>
> *Affidavit of L.M., para 14 – 21.*

43. The strippers, however, were/are in the best position to provide input on how to keep their workplaces safe, which their voices were silenced, erased and/or ignored:

> I previously instructed my legal counsel to reach out to the government to assist with helping resolve the matter before filing a legal claim. I am aware that no response was received.
>
> Each time there were amendments, the Respondents didn't reach out nor communicate with our group despite being aware of our existence and desire to be consulted. The Respondents, instead, choose to send their publicly available links to our legal counsel each time.
>
> *Affidavit of L.M., para 10-11.*
>
> Because the erotic dance sector is small and tightly knit (especially in particular municipalities/regions, as evinced by blacklisting by clubs across Ottawa), and because clubs are required to record and keep on file dancers' legal names, it is likely that management

> would reprise against them if they request to review the Safety Plans or speak out in violation of same.
>
> Because strippers are classified as independent contractors, legal recourse against unfair termination is unavailable to them if they are barred from accessing clubs for enforcing their rights.
>
> In my capacity as a co-founder and member of WSTS, I can attest that we endeavour to consult with public officials or governments. However, our requests are often ignored or rebuffed by government representatives. Despite that, we continue to provide legal information through our events and website to equip strippers to advocate on their own behalf, for example by providing phone numbers to call if their club is not adequately cleaned.
>
> I am aware and believe that the city of Toronto and Province consulted and/or spoke with each other about the strip-club closures.
>
> At the start of COVID, a meeting with the city of Toronto was cancelled without notice, without rescheduling and without any reason. WSTS has not heard from the city since that time. The Ontario Government made disparaging remarks about strippers and chuckled at their press conferences when they spoke about the strippers. This contributed to the biased perceptions about strippers, not connected to the enabling statute.
>
> *Affidavit of Tuulia Law, paras 7-12.*

44. In closing, Tuulia Law and L.M. highlight the harmful effects of the regulations and the re-opening plan on the strippers:

> To work in a strip club, strippers are often coerced into signing contracts with illegal clauses or forced to abide by arbitrary rules that negatively affect our health. We are given the choice to sign these contracts on the spot, or not work at that strip club anymore. I fear that myself and members of our group would be coerced into signing documents now and in the future, and it has been my experience that these documents and rule changes do not have strippers' health or safety in mind.
>
> *Affidavit of L.M., para 16.*
>
> Members of WSTS have told me that they are significantly concerned about their health, the health of their family members, and their continued ability to earn income because they worry that the pandemic strip club regulations will continue to be focused on

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clients' health without considering the risk of strippers catching COVID-19 from clients. This is why WSTS insists strippers should be consulted for and included in the development of public health measures for the restarting of performances at strip clubs.

Affidavit of Tuulia Law, para 16.

PART IV - ORDER REQUESTED

45. An order for a short hearing of this motion;

46. An order for abridging time for service;

47. An order declaring the Regulations *ultra vires*;

48. An order declaring *Charter* violations as per section 2, 7 and 15 which cannot be saved by section 1;

49. An order for costs of this motion

50. An order for damages;

51. Any such further and other relief as counsel may request and the Court may deem just.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 25. day of June, 2021.

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SCHEDULE "A"

LIST OF AUTHORITIESCases

1. *Black v Canada (Prime Minister)*, 2001 CanLII 8537 (ON CA)

2. *Elementary Teachers' Federation of Ontario v Ontario (Minister of Education)*, 2019 ONSC 1308

3. *Her Majesty the Queen in Right of Ontario v Adamson Barbecue Limited*, 2020 ONSC 7679 (CanLII)

4. *Hudson's Bay Company ULC v Ontario (Attorney General)*, 2020 ONSC 8046 (CanLII)

5. *Katz Group Canada Inc. v. Ontario (Health and Long-Term Care)*, 2013 SCC 64 (CanLII), [2013] 3 SCR 810

6. *R v Morgentaler*, 1993 CanLII 74 (SCC), [1993] 3 SCR 463

7. *Reference re: Upper Churchill Water Rights Reversion Act 1980 (Newfoundland)*, [1984] 1 SCR 297, [1984] 1 RCS 297

8. *Roncarelli v Duplessis*, 1959 CanLII 50 (SCC), [159] SCR 121

9. *Shoppers Drug Mart Inc. v Ontario*, 2011 ONSC 615 (CanLII)

10. *Tesla Motors Canada ULC v Ontario (Ministry of Transportation)*, 2018 ONSC 5062 (CanLII)

SCHEDULE "B"

LEGISLATION

1. *Emergency Management and Civil Protection Act*, RSO 1990, c E-9

2. O. Reg 263/20: Rules for Areas in Stage 2 (now Step 2)

3. O. Reg 364/20, Rules for Areas in Stage 3

4. *Reopening Ontario (A Flexible Response to COVID-19) Act*, 2020, SO 2020, c 17

5. *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, s 91(24)

6. O Reg 82/20: Order Under Subsection 7.0.2(4) – Closure of Places of Non-Essential Businesses

WORK SAFE TWERK SAFE Applicant	-and-	HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO AS REPRESENTED BY THE SOLICITOR GENERAL AND THE MINISTRY OF HEALTH Respondents

Court File No. 462/20

ONTARIO
SUPERIOR COURT OF JUSTICE
(DIVISIONAL COURT)

PROCEEDING COMMENCED AT
TORONTO

FACTUM OF THE APPLICANT/MOVING PARTY

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