

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

WILLIAM ADAMSON SKELLY and ADAMSON BARBECUE LIMITED

Applicants

and

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, CITY OF
TORONTO, BOARD OF HEALTH FOR THE CITY OF TORONTO, and
EILEEN DE VILLA

Respondents

APPLICATION UNDER Rules 14.05(3)(d) and (g.1) of the *Rules of Civil Procedure* and
Canadian Charter of Rights and Freedoms, ss 2(b), 2(c), 7, 8, 15(1), 24 and *Constitution Act*,
1982, s. 52.

NOTICE OF APPLICATION

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 will come on for a hearing at Toronto, Ontario on a date that has yet to be determined but will be scheduled by the Court at the next available sitting of Civil Practice Court in 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 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 this court office, 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 proof of service, in the court office where the application is to be heard as soon as possible, but at least four days before the hearing.

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 OPPOSE THIS APPLICATION BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

Date _____ Issued by _____
Local Registrar

Address of court office: Superior Court of Justice
330 University Avenue
Toronto ON M5G 1E6

TO: ATTORNEY GENERAL FOR ONTARIO
Constitutional Law Branch
720 Bay Street, 4th Floor
Toronto, ON M7A 2S9

Mr. Zachary Green
Tel: 416-326-2220
Email: zachary.green@ontario.ca

Mr. Padraic Ryan
Tel: 416-326-2220
Email: padraic.ryan@ontario.ca

Lawyers for the Respondent,
Her Majesty the Queen in right of Ontario

AND TO: CITY SOLICITOR'S OFFICE
City of Toronto, Legal Services
Station 1260, Metro Hall
55 John Street, 26th Floor
Toronto, ON M5V 3C6

Ms. Kirsten Franz (LSO# 459460)
Tel: 416-392-1813
Email: kirsten.franz@toronto.ca

Ms. Penelope Ma (LSO# 663670)
Tel: 416-397-7690
Email: penelope.ma@toronto.ca

Lawyers for the Respondents,
City of Toronto, Board of Health for the City of Toronto,
and Eileen De Villa

I. CLAIMS FOR RELIEF

The applicants make this application for:

- (a) A Declaration that sections 2, 4(1), 7, 9.1 and 10 of the *Reopening Ontario (A Flexible Response to COVID-19) Act*, 2020, S.O. 2020, c. 17 (the “ROA”) are unconstitutional, breaching section 91(11) of *the Constitution Act*, 1867.
- (b) A Declaration that sections 2, 4(1), 7, 9.1 and 10 of the ROA are unconstitutional, breaching section 91(27) of *the Constitution Act*, 1867.
- (c) A Declaration that Ontario Regulation 82/20 of the ROA, enacted by the Government of Ontario, is unconstitutional, breaching section 91(11) of *the Constitution Act*, 1867.
- (d) A Declaration that Ontario Regulation 82/20 of the ROA, enacted by the Government of Ontario, is unconstitutional, breaching section 91(27) of *the Constitution Act*, 1867.
- (e) A Declaration that sections 2, 4(1), 7, 9.1 and 10 and Ontario Regulation 82/20 of the ROA, enacted by the Government of Ontario, is unconstitutional, breaching section 36(1) of *the Constitution Act*, 1982.
- (f) A Declaration that sections 2, 4(1), 7, 9.1 and 10 of the ROA and Ontario Regulation 82/20 enacted under the ROA are arbitrary, irrational, unreasonable,

greatly disproportionate, and not rationally connected to any measurable and demonstrable benefit.

- (g) A Declaration that sections 2, 4(1), 7, 9.1 and 10 of the *ROA* and Ontario Regulation 82/20 enacted under the *ROA* breaches, is inconsistent with, and frustrates the purpose of section 7.0.2 (2)(b) of the *Emergency Management and Civil Protection Act*, RSO 1990, c E.9.
- (h) A Declaration that reasonable alternatives to the emergency measures facilitated via the enactment of sections 2, 4(1), 7, 9.1 and 10 of the *ROA* and Ontario Regulation 82/20 existed at the time of Adamson Barbecue Limited's closure per section 7.0.2(2)(b) of the *Emergency Management and Civil Protection Act*, RSO 1990, c E.9.
- (i) A Declaration that the *Reopening Ontario (A Flexible Response to COVID-19) Act*, 2020, S.O. 2020, c. 17 *Rules for Areas in Stage 1*, O. Reg. 82/20, violates and limits the applicants' rights under sections 2(b), 2(c), 7, 8, and 15(1) of the *Canadian Charter of Rights and Freedoms*, Part 1 of the *Constitution Act*, 1982, being Schedule B to the *Canada Act 1982 (UK)* (the "*Charter*").
- (j) A Declaration that sections 2, 4(1), 7, 9.1 and 10 of the *ROA*, enacted by the Government of Ontario, violate and limit the applicants' rights under sections 2(b), 2(c), 7, 8, and 15(1) of the *Charter*.

- (k) A Declaration that the violations and limits of the applicants' *Charter* rights described herein are not reasonable and cannot be demonstrably justified in a free and democratic society.
- (l) A Declaration pursuant to section 52(1) of the *Constitution Act*, 1982, declaring the *Reopening Ontario (A Flexible Response to COVID-19) Act*, 2020, S.O. 2020, c. 17 *Rules for Areas in Stage 1*, O. Reg. 82/20 to be unconstitutional and of no force and effect.
- (m) A Declaration pursuant to section 24(1) of the *Charter* that the *Reopening Ontario (A Flexible Response to COVID-19) Act*, 2020, S.O. 2020, c. 17 *Rules for Areas in Stage 1*, O. Reg. 82/20 unjustifiably violated the applicants' rights and freedoms under sections 2(b) and 2(c) of the *Charter* and are thus deserving of such a remedy as the court deems appropriate and just in the circumstances, including *Charter* damages.
- (n) A Declaration pursuant to section 52(1) of the *Constitution Act*, 1982 that the November 24, 2020 section 22 order ("Section 22 Order") and the November 25, 2020 section 24 directions ("Section 24 Directions") (collectively, the "*HPPA* Orders") issued by the respondent, Eileen De Villa, against the applicants, under the guise of the *Health Protection and Promotion Act*, R.S.O. 1990 c. H.7 (the "*HPPA*"), unjustifiably violated and limited the applicants' rights under sections 2(b), 2(c), 7, 8, and 15(1) of the *Charter* and therefore were of "no force or effect" at all material times.

- (o) Alternatively, a Declaration pursuant to section 24(1) of the *Charter* that the *HPPA* Orders and the subsequent actions taken by and on behalf of the City of Toronto and the Board of Health for the City of Toronto in furtherance of the impugned *HPPA* Orders unjustifiably infringed and violated the applicants' rights and freedoms under sections 2(b), 2(c), 7, 8, and 15(1) of the *Charter*, and are thus deserving of such a remedy as the court deems appropriate and just in the circumstances, including *Charter* damages.
- (p) In the alternative to the relief claimed at subparagraphs 1(j) and (k), a Declaration that the *HPPA* Orders issued by the respondent, Eileen De Villa are *ultra vires* her authority as a Medical Officer of Health for the City of Toronto, and were therefore are of no force or effect at all material times.
- (q) A Declaration that despite the issuance of the *HPPA* Orders and at all material times, the applicants remained an "occupier" of the premises municipally known as 7 Queen Elizabeth Boulevard, Toronto, Ontario, as that term is defined in the *Trespass to Property Act* R.S.O. 1990.
- (r) An Order staying the Ontario Superior Court of Justice action bearing Court File Number CV-21-658546-0000 and the related third-party action bearing Court File Number CV-21-658546-00A1, until matters at issue in this notice of application have been heard and conclusively determined by this Honourable Court and the avenues of appeal for all parties have been exhausted.

- (s) An Order for leave of the presiding judge or officer that witnesses may be examined at the hearing of this application in the same manner as trial, pursuant to Rule 39.03(4) of the *Rules of Civil Procedure*, if requested by the Applicants.
- (t) An Order discharging the Order of the Honourable Justice Kimmel, dated December 4th, 2020, issued in Ontario Superior Court File Number CV-20-00652216-0000, which was previously issued pursuant to section 9 of the *Reopening Ontario (A Flexible Response to COVID-19) Act, 2020*, S.O. 2020, c. 17 (the “Section 9 Order”).
- (u) An Order extending the applicants deadline to bring a notice of motion to vary or discharge the Section 9 Order, as contemplated at paragraph 3 of the Section 9 Order, if necessary.
- (v) An Order dispensing with the requirement for the applicants to serve and file a notice of motion to vary or discharge the Section 9 Order, and instead continue under this notice of application with the request for relief which was contemplated at paragraph 3 of the Section 9 Order, if necessary.
- (w) An Order abridging the time for the service and filing of this Notice of Application, the Notice of Constitutional Question, and all supporting materials, if necessary.
- (x) An Order for case management, an expedited timetable for the exchange of materials, and a final hearing scheduled on an urgent basis.

- (y) Such further and other relief under section 24 of the *Charter* and 52 of the *Constitution Act* as counsel may request and this Honourable Court permit.
- (z) The costs of this application plus applicable taxes; and
- (aa) Such further and other Relief as to this Honourable Court may seem just.

II. THE GROUNDS FOR THE APPLICATION ARE:

A. The Parties

1. The corporate applicant is Adamson Barbecue Limited (“Adamson BBQ”). Adamson BBQ is a corporation incorporated under the laws of the Province of Ontario. Adamson BBQ formerly operated two beloved barbecue restaurants in the City of Toronto, with locations at 7 Queen Elizabeth Boulevard (the “Etobicoke Location”) and 176 Wicksteed Avenue (the “York Location”). There was also a third Adamson BBQ restaurant in Aurora, Ontario, located at 15195 Yonge Street.

2. The individual applicant is William Adamson Skelly. He is better known by his friends and family as Adam Skelly. Adam was the sole owner and operator of all three Adamson BBQ locations.

3. The respondent, Her Majesty the Queen in Right of Ontario (the “Ontario Government”) was responsible for the enactment of the impugned *Reopening Ontario (A Flexible Response to COVID-19) Act, 2020*, S.O. 2020, c. 17

4. The respondent, City of Toronto, is a municipality in Ontario incorporated pursuant to section 2(2) of the *City of Toronto Act, 1997*, S.O. 1997, C. 2, and continued pursuant to section 125(1) of the *City of Toronto Act, 2006*, S.O. 2006, c. 11, Schedule A.

5. The respondent, Board of Health for the City of Toronto Health Unit (the “Board of Health”), is comprised of unelected officials appointed through statute and established pursuant to the *City of Toronto Act, 1997* (No. 2), S.O. 1997, c. 26 and continued pursuant to s. 405 of the *City of Toronto Act, 2006*, S.O. 2006, c. 11, Schedule A. The Board of Health has been deemed to be a board of health established under the *HPPA*.

6. The respondent, Eileen De Villa, is the Medical Officer of Health for the City of Toronto. At all material times, Eileen De Villa led and directed the Board of Health.

B. Overview

7. Adamson BBQ was a dine-in restaurant. Both Adamson BBQ locations were bright, open, and airy, with plenty of seating. The Etobicoke Location had large bay doors that opened and allowed both indoor and outdoor dining.

8. On November 23, 2020, the City of Toronto was declared to be in “Stage 1 Lockdown” by the Government of Ontario, subjecting businesses and restaurants in the City of Toronto to the most severe restrictions imposed by the *Reopening Ontario (A Flexible Response to COVID-19) Act, 2020*, S.O. 2020, c. 17 (“*ROA*”), as will be outlined below.

9. The lockdown measures prevented Adamson BBQ from operating profitably. The dine-in experience was the crux of the business. Earlier restrictions had proven takeout and UberEATS to be unsustainable. The first series of lockdown measures in the spring and summer of 2020

created considerable financial strains on the restaurants. Adam had to lay off one third of his staff. Sales plummeted, and Adam began to have trouble keeping up with the operating costs of the business.

10. During this period, Adam became increasingly skeptical and concerned of the government actions and policies imposed in response to COVID-19. Adam believed that the drastic restrictions were unjustified.

11. Adam could not afford another lockdown. To secure and protect his livelihood and as a means of peaceful protest of the Stage 1 restrictions, Adam opened his restaurants between November 24th and 26th, 2020 for dine-in service.

12. Adam's protest was met with the might and fury of several arms of the state: the Crown, the Toronto Police Service, the Toronto Board of Health, and the Toronto Municipal Licensing and Standards. In the end, Adam was arrested and charged criminally for his peaceful demonstration.

13. On November 28, 2020, the respondent, the Government of Ontario, also brought a civil application against the applicants, seeking an Order pursuant to Section 9 of the *ROA*, restraining the applicants from continuing to operate and protest the restrictions. On December 4, 2020, The Honourable Justice Kimmel granted the Section 9 Order. In September of 2021, the applicants were also sued in a civil action commenced by the City of Toronto and the Board of Health, seeking the recovery of approximately \$168,000.00 in expenditures.

C. Relevant Statutes

The Emergency Management and Protection Act

14. On March 17, 2020, the Emergency Management and Civil Protection Act, RSO 1990, c E.9 (the “*EMCPA*”) was invoked by the legislature and a Declaration of Emergency was made by the Lieutenant Governor in Council under Ontario Regulation 50/20 on the basis that “...the outbreak of a communicable disease, namely COVID-19 Coronavirus disease, constitutes a danger of major proportions.”

15. On March 23, 2020, the Lieutenant Governor in Council made Emergency Orders under O. Reg. 51/20, 52/20, and 82/20 (the “Regulation”), which classified businesses as essential and non-essential, and restricted movement of the public. These orders went into force at 11:59 pm on March 23, 2020 (the “First Lockdown”).

16. Under a series of orders, the First Lockdown transitioned to a regional scheme between June 11 and 17, 2020, and was fully lifted for indoor facilities and businesses on July 13, 2020 by Ontario Regulation 364/20, which went into force on July 17, 2020.

17. The state of emergency was extended on six separate occasions by July 24, 2020.

The Reopening Ontario Act

18. On July 21, 2020, Bill 195 was passed by the legislature and came into force on July 24, 2020 as the *ROA*, ending the state of emergency. By virtue of section 17, the *ROA* revoked the *EMCPA*, indicating that there was no longer a declared emergency, but also preserving a lesser state of emergency under s. 7.0.2 of the *EMCPA* within the *ROA*.

19. The *ROA* imposes restrictions that are to be adhered to by members of the public and certain types of businesses deemed “non-essential”. The *ROA* includes a regulation known as *Ontario Regulation 82/20: Rules for Areas in Shutdown Zone and at Step 1* (the “**Lockdown**”).

Regulation”). The Lockdown Regulation sets out a range of control measures, from minor to severe, that are to be adhered to whenever the Government of Ontario feels like declaring a particular jurisdiction in the province as being “Grey” (the colour code indicating a “Stage 1” designation).

20. Specifically, the control measures impose the following restrictions on restaurants during a Stage 1 lockdown:

- a) Restaurants are permitted to open only for the purpose of providing take-out, drive-through or delivery service.
- b) The person responsible for a business that is open shall ensure that any person in the indoor area of the premises of the business wears a mask or face covering, subject to exceptions for specified individuals (e.g., for children under two).
- c) The person responsible for a business that is open shall limit the number of persons in the place of business so that members of the public are able to maintain a physical distance of at least two metres from every other person in the business.
- d) The person responsible for a business that is open must prepare and make available a safety plan that, among other things, describes the measures and procedures which have been implemented or will be implemented in the business to reduce the transmission risk of COVID-19.
- e) Each person responsible for a business that is permitted to open shall ensure that the business meets the specified conditions or is closed.

The Health Protection and Promotion Act

21. The *Health Protection and Promotion Act* provides for organization and delivery of public health programs and services, and the promotion and protection of public health generally.

Under the *HPPA*, boards of health have jurisdiction over certain areas, known as health units, across the province of Ontario. The respondent, Toronto Public Health, serves the City of Toronto Health Unit.

22. The *HPPA* requires every board of health to appoint a medical officer of health. At all material times, the respondent, Eileen De Villa, was the Medical Officer of Health for the City of Toronto Health Unit (the “MOH”), appointed by Toronto Public Health pursuant to section 62(1) of the *HPPA*.

23. Section 22 of the *HPPA* provides the MOH with authority, under strict circumstances, to make an order requiring a person to take or refrain from taking any action that is specified in the order (a “Section 22 Order”). A Section 22 Order can only be issued when a MOH has “reasonable and probable grounds” to believe a communicable disease presents a risk to the health of persons in the health unit served by the MOH **and** that a Section 22 Order is necessary to decrease or eliminate the risk to health presented by the communicable disease.

24. If a MOH believes a Section 22 Order will not be complied with, section 24 of the *HPPA* provides the MOH with the authority to give directions to persons who services are engaged by or who are the agents of Toronto Public Health to take actions aimed at ensuring compliance with a Section 22 Order (“Section 22 Directions”).

D. The Applicants Peaceful Assembly in Protest of the Stage 1 Lockdown

25. Since the outset of COVID-19 restrictions in March of 2020, Adam Skelly believed that the local, provincial, and federal response to the virus had been conducted in an arbitrary, excessive, ill fashioned, and coercive manner.

26. As a restaurant owner, Adam was earning his livelihood in an industry that was hardest hit by restrictions. By September of 2020, Adam had to lay off one third of his workforce. Like many Canadians, he was frustrated and confused about the stream of conflicting narratives and the seemingly endless restrictions that were threatening his livelihood and the livelihood of his wife and young children.

27. On November 23, 2020, Toronto and Peel were ordered into another lockdown.

28. Out of a concern for his family's economic security and, more broadly, a concern for the future of Canada, Adam chose to peacefully protest COVID-19 restrictions and keep his business alive by opening his restaurants for indoor dining.

29. Adam was one of the first Canadian small business owners brave enough to publicly voice dissent against the restrictions on small businesses. It was certainly not easy to do at that time. The media was hysterical. Hyperbolic headlines and sensational stories about the virus filled both newspapers and social media feeds.

30. Adam announced his intentions to open his restaurant via the Adamson BBQ social media account on Instagram. His Instagram post went viral, garnering tens of thousands of views, clicks, comments, and shares. Though Adam's post garnered considerable support, it was also polarizing.

31. Between November 24 and November 26, 2020, Adam opened his dine-in restaurant in protest of the latest enactment of severe COVID-19 restrictions imposed by the Lockdown Regulation under the *ROA*.

32. The Ontario Government and the City of Toronto responded to Adam's protest with a coordinated and extreme show of force. Hundreds of police officers and other city officials were dispatched to Adam's restaurant over the coming days. At one particularly pathetic point of the protest, dozens of Toronto police officers stood shoulder to shoulder to prevent people from entering the Etobicoke Location to order food. Adam was arrested on the third day of the peaceful protest and the premises was then barricaded and seized by the Toronto Police.

33. The intense show of force only underscored the point of Adam's protest. The spectacle garnered the attention of local, national, and international media.

34. The Crown "threw the book" at Adam. He was charged with multiple provincial offences under the *ROA*, the *HPPA*, and the *Trespass to Property Act*.

35. The Ontario Government also obtained an *ex-parte* Order of this Honourable Court pursuant to section 9 of *ROA*, prohibiting both Adam and Adamson BBQ from conducting its business and continuing the peaceful assembly and protest. The Section 9 Order was issued by the Honourable Justice Kimmel.

36. More recently, the applicants were named as defendants in a lawsuit commenced by the City of Toronto and the Toronto Board of Health for the recovery of approximately \$168,000.00, which the Board of Health needlessly expended as part of the efforts to close the applicants' restaurants. The claim was issued under Ontario Superior Court File Number CV-20-00652216-0000.

37. The provisions of the *ROA* and the actions and Orders of the Board of Health, under which the respondents' placed their authority, unjustifiably infringed and violated the applicants' *Charter* protected rights.

38. These violations then served as a catalyst for a series of court orders, criminal charges, and a civil action against the applicants.

39. Adam's life has been forever changed because of this experience. He was ultimately required to close both restaurants soon after his arrest. Adam's decision to exercise his *Charter* protected rights have had a devastating impact on him and his family.

40. This application seeks to rectify these injustices.

E. Charter violations

Section 91 of the Constitution Act, 1867

41. That the *ROA* and correlating Regulations are *ultra vires* the Ontario Government as the pith and substance of the impugned law contains matters of national and international emergency concerns, quarantine powers and criminal law powers.

42. The objectives and goals to prevent the spread of COVID-19 cannot be captured within the provincial division of powers.

Subsection 36(1) of the Constitution Act, 1982

43. The impugned provisions of the *ROA* and O. Reg 82/20 do not promote equal opportunities for the well-being of Canadians. The emergency measures imposed on the applicants reduce economic development and create disparity in opportunities and represent an

abusive and unreasonable provision of public services, in breach of subsection 36(1) of the *Constitution Act, 1982*

Subsection 2(b) Freedom of Expression and 2(c) Freedom of Assembly

44. The *ROA*, O. Reg. 82/20 and government officials denied the applicants and supporting members of the public an essential means by which to convey information about their beliefs, concerns, and critiques of the government actions. It is well recognized that public manifestations in all types of forms and demonstrations are valid means by which individuals may convey information and raise awareness of the various issues through peaceful demonstrations and protest.

45. *ROA* and government officials restricted freedom of expression by compelling the applicants to express themselves in certain ways. The *ROA* prevents individuals from manifesting in a manner, location, and degree of their choice. Individuals failing to comply with the restrictions are subjected to extraordinary fines and measures.

Section 7 Right to Life, Liberty, and Security of the Person

46. Every Canadian has the right to life, liberty and security of the person, and the right not to be deprived thereof except in accordance with the principles of fundamental justice. The rights afforded under section 7 of the *Charter* touch at the core of what it means to be a human being that is afforded dignity and independence in matters that can be characterized as fundamental or inherently personal.

47. The actions of the respondents have deprived Adam Skelly of his protected rights under section 7 of the *Charter*. The actions include, but are not limited to, the Government actively

restricting Mr. Skelly from operating and accessing his privately owned restaurant, fining him for exercising his legally protected rights, and ultimately arresting him and criminally charging him. The government's conduct went far beyond a reasonable scope of action and used coercive measures to heavily and readily use Mr. Skelly and his business as an example to others. The actions of the respondents cannot be said to accord with the principles of fundamental justice; in fact, the conduct of the respondents offends such principles.

Section 8 Unreasonable Search and Seizure

48. Every individual has a right to reasonable expectation of privacy. The Government action went beyond the reasonable scope of investigation by forcefully entering the restaurant location and seizing the premises under the guise of Eileen De Villa's Section 22 Order and Section 24 Directions.

Section 9 Arbitrarily Detention

49. The Government arbitrarily detained Mr. Skelly both when they arrested him and when they prevented him from accessing and entering his Restaurant. The government conduct that created psychological detention including the series of the orders, fines, and threats of actions, are all captured under section 9. These actions were arbitrarily imposed and were politically motivated.

Section 15 - Equality Rights

50. Government officials violated equality rights protected under section 15 (1) by targeting the applicants and implementing arbitrary and severe punishment. Throughout the pandemic, various groups have protested, manifested causes, and engaged in similar conduct that have not

been met with such harsh and strident government response. The applicants did not receive equal treatment under the law.

51. These violations of sections 2(b), 2(c), 7, 8, 9, and 15(1) of the *Charter* do not constitute reasonable limits and are not demonstrably justified in a free and democratic society pursuant to section 1 of the *Charter*.

F. Statutory Provisions

52. *Canadian Charter of Rights and Freedoms*, including ss. 1, 2(b), 2(c), 15(1), 24 and 52;

53. *Constitution Act, 1867*, ss. 91 and 92;

54. *Rules of Civil Procedure*, including Rule 14; and

55. Such further and other grounds as counsel may advise and this Honourable Court permit

III THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the Application:

(a) The affidavit of Mr. Adam Skelly, to be sworn;

(b) The affidavit of an accountant, quantifying the applicants' financial losses;

(c) The expert affidavit of Dr. Byram Bridle, to be sworn;

(d) The expert affidavit of Dr. Harvey Risch, to be sworn;

(e) The expert affidavit of Dr. Douglas Allen, to be sworn;

(f) The expert affidavit of Dr. Gilbert Berdine, to be sworn;

- (g) The expert affidavit of Dr. Joel Kettner, to be sworn;
- (h) The expert affidavit of Dr. William Briggs, to be sworn;
- (i) The affidavit of Dr. Mark Trozzi, to be sworn; and,
- (j) Such further and other evidence as the lawyers may advise and this Honourable Court may permit.

June 17, 2022

PERRYS LLP
1 Eglinton Ave. E. Suite 803
Toronto ON
M4P 3A1

Ian J. Perry (LSO# 65670S)
ian@perrysllp.com

Tel: 416-579-5055
Fax: 416-955-0369

Lawyers for the applicants,
Adamson Barbecue Limited and
William Adamson Skelly

WILLIAM ADAMSON SKELLY and ADAMSON BARBECUE
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PROCEEDING COMMENCED AT
TORONTO

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PERRYS LLP

1 Eglinton Ave. E. Suite 803
Toronto ON
M4P 3A1

Ian J. Perry (LSO# 65670S)
ian@perrysllp.com

Tel: 416-579-5055
Fax: 416-955-0369

Lawyers for the applicants,
Adamson Barbecue Limited
and
William Adamson Skelly