

Court File No:

**COURT OF APPEAL FOR ONTARIO**  
(*APPEAL IN AN APPLICATION*)

*B E T W E E N :*

**SARAH HARJEE, EVAN KRAAYENBRINK, HIBAH AOUN, SARAH  
LAMB, SAM SABOURIN, JACKIE RAMNAUTH, MARK MCDONOUGH,  
LINDA MCDONOUGH and DAVID COHEN**

*Appellants*

and

**HIS MAJESTY THE KING IN RIGHT OF THE PROVINCE OF ONTARIO**

*Respondent*

APPLICATION UNDER the *Canadian Charter of Rights and Freedoms*, s. 24(1) and 52(1), Part 1 of the *Constitution Act, 1982*, being Schedule B of the *Canada Act 1982 (UK)*, 1982, c. 11 and Rule 14.05 of the *Rules of Civil Procedure*, RRO 1990, Reg. 194.

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**NOTICE OF APPEAL**

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**THE APPELLANTS APPEAL** to the Court of Appeal from the judgment of Perell J. dated the 13<sup>th</sup> day of December, 2022 made at Toronto, Ontario (the “Decision”). The Decision dismissed the Application for a declaration that sections 2(2.1) and 2.1 of Schedule 1 of O. Reg 364/20 of the *Reopening Ontario Act*, S.O. 2020, c. 17 (“the Regulation”) were unconstitutional. The Regulation created requirements for patrons of certain businesses to show proof of having received a COVID-19 vaccine. The Decision also dismissed relief sought under section 24(1) of the *Canadian Charter of Rights and Freedoms* (“*Charter*”) for damages in the amount of \$1000 per Applicant.

**THE APPELLANTS ASK** that the Judgement be set aside and a judgment be granted as follows:

1. A declaration pursuant to section 52(1) of the *Constitution Act, 1982*, being Schedule B of the *Canada Act, 1982 (UK)*, 1982, c. 11 that sections 2(2.1) and 2.1 of Schedule 1 of O. Reg 364/20 made pursuant to the *Re-Opening Ontario Act (A flexible response to COVID-19)*, 2020, S.O. 2020, c 17 are of no force or effect as it infringes upon sections 2(a), 7 and 15 of the *Charter* and is not justified under section 1 of the *Charter*.
2. A declaration pursuant to section 24(1) of the *Charter* that sections 2(2.1) and 2.1 of Schedule 1 of O. Reg 364/20 made pursuant to the *Re-Opening Ontario Act (A flexible response to COVID-19)*, 2020, S.O. 2020, c 17 are unconstitutional as it infringes upon sections 2(a), 7 and 15 of the *Charter* and is not justified under section 1 of the *Charter*.
3. An award of \$1000 per Applicant, pursuant to section 24(1) of the *Charter* against Ontario for damages suffered because of a breach of their *Charter* rights.
4. Granting such further and other relief as counsel may advise and this Honourable Court may permit.

**THE GROUNDS OF APPEAL are as follows:**

5. The Honourable Application Judge Perell J. erred in fact and law by finding:

- i. the Appellants' religious freedoms under section 2(a) of the *Charter* were not infringed by the Regulations;
- ii. the Appellants' rights to liberty and security of person under section 7 of the *Charter* were not infringed by the Regulations;
  - a. failing to consider relevant expert evidence in making his determination that the Regulations did not infringe on section 7 security of the person;
- iii. the Appellants' right to equal protection and benefit under the law without discrimination under section 15 of the *Charter* were not infringed by the Regulations, and that the appellants were not discriminated on the basis of religion and disability; and
- iv. taking impermissible judicial notice of certain facts which were either incorrect, not in the record or were points of controversy between the parties.

**THE BASIS OF THE APPELLATE COURT'S JURISDICTION IS:**

6. Pursuant to section 6(1)(b) of the *Courts of Justice Act*, RSO 1990, c. 43, an appeal of a final order of the Superior Court of Justice lies in the Court of Appeal.

7. Leave is not required to appeal a final order from the Superior Court of Justice.

January 11, 2023



**Sayeh Hassan**

[Redacted]

**Henna Parmar**

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**Jorge Pineda**

[Redacted]

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**TO:**  
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**SARAH HARJEE, et al.**

**HIS MAJESTY THE KING IN RIGHT  
OF THE PROVINCE OF ONTARIO**

and

**APPELLANTS'**

**RESPONDENT**

*ONTARIO*  
COURT OF APPEAL

Proceeding commenced at TORONTO

NOTICE OF APPEAL

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