

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

**GREGORY TOOMBS, NORM RYDER, PATRICK JARDINE, DAVID HAMILTON,
CHRISTOPHER SUMMERS, TERRY FEDORAK, ROD BARRETT, JENNIFER
BAKER, BRUCE JUNKER, BLAINE GILBERTSON, KEN GRYSIUK, RICHARD
LAST, DARREN SCHLAMB, CHRIS LAWSON, SARAH LAWSON, EUGENE LAHO,
NORMAN TRAVERSY, DAVID CURTIS, PATRICIA O'CONNOR, GIUSEPPE
MARCELLINO, JAMES ROLLO, ANDRE MARTIN, ARMAND DURELLE, GILLES
MARTIN, GORDON WAYNE SKINNER, AND PAUL TAYLOR.
(On behalf of Canadians & others injured at work, while working in Canada)**

**Moving Parties
(Lead Plaintiffs)**

- and -

**WorkSafeBC (Also known as the Workers Compensation Board of British Columbia),
Workers' Compensation Appeal Tribunal of BC – WCATBC, Alberta Workers
Compensation Board – AWCB, Alberta Appeals Commission – AAC, Saskatchewan
Workers Compensation Board – SWCB, Saskatchewan Board Appeal Tribunal – SBAT,
Workers Compensation Board of Manitoba – WCBM,
The Appeal Commission of Manitoba – ACM, Workplace Safety & Insurance Board –
WSIB (Also known as the Workers Compensation Board of Ontario), Workplace Safety &
Insurance Appeals Tribunal – WSIAT (Also known as the Workers Compensation Appeals
Tribunal of Ontario), Commission des normes, de l'équité, de la santé et de la sécurité du
travail – CNESST, WorkSafeNB (Also known as the Workers Compensation Board of New
Brunswick), New Brunswick Workers' Compensation Appeals Tribunal – NBWCAT,
Workers Compensation Board of PEI – WCBPEI, Workers' Compensation Appeal
Tribunal of PEI – WCATPEI, Workers' Compensation Board of Nova Scotia – WCBNS,
Workers' Compensation Appeal Tribunal of Nova Scotia – WCATNS, Workplace Health,
Safety and Compensation Commission – WHSCC (Also known as the Workers
Compensation Board of Newfoundland & Labrador), Workplace Health, Safety &
Compensation Review Division – WHSCRD, Yukon Workers' Compensation Health and
Safety Board – YWCHSB (Also known as the Workers Compensation Board of Yukon
Territory), Yukon Workers' Compensation Appeal Tribunal – YWCAT, Northwest
Territories Workers' Safety and Compensation Commission – NWTWSCC (Also known as
the Workers Compensation Board of Northwest & Nunavut Territories) and NWT and
Nunavut Workers' Compensation Appeals Tribunal – NWTNWCAT**

**Responding Parties
(Respondents)**

**NOTICE OF MOTION
TO APPOINT REPRESENTATION FOR THE CLASS
TO ALLOW LEAD PLAINTIFFS TO SERVE OUTSIDE ONTARIO
TO CERTIFY CLAIM AS A CHARTER CLASS CLAIM**

Mr. Paul Taylor (“**Mr. Taylor**”), acting as the main contact and spokesperson for the self-represented representative Lead Plaintiff’s & Moving Parties, will make a Motion to the Ontario Superior Court of Justice on a date to be set by the registrar.

PROPOSED METHOD OF HEARING: The motion is to be heard Orally.

THE MOTION IS FOR:

1. An order under Rule 37 of the *Rules of Civil Procedure* to appoint an amicus curiae to represent the class of plaintiffs and that the cost be paid for out of the insurance fund.
2. That in the alternative, to allow Mr. Taylor to act as Lead Self-represented Representative, until such time as the Lead Plaintiffs can retain counsel.
3. An order under Rule 17.03 (1)(2) of the Rules of Civil Procedure to allow the Lead Plaintiffs to serve the Fresh as Amended Statement of Charter Class Claim and Notice of Constitutional Question on the Defendants, that reside outside of Ontario.
4. An order granting the Lead Plaintiff’s, the ability to serve the Defendants, that reside outside of Ontario, alternative to personal service.

5. An order under s. 24(1) of the *Charter of Rights and Freedoms* and s. 1.04(2) of the *Rules of Civil Procedure*, to certify the Lead plaintiff's claim to be a Charter Class Claim, that in the alternative, an order under s. 2 of the *Class Proceedings Act* to certify the Lead plaintiff's claim to be a Charter Class Claim.

THE GROUNDS FOR THE MOTION ARE:

Factual Grounds

6. That every individual in Canada when injured while working, has a right to workers compensation benefits.
7. That since the late 1990's Canada's workers compensation boards & tribunals have deprived those individuals' right to workers compensation benefits through a series of methods. Those methods being, DEEMING, PRE-EXISTING CONDITIONS, FAILING TO LISTEN TO INDIVIDUALS' DOCTORS, INTENTIONAL INSTITUTIONAL DELAYS, DENYING OR REDUCING BENEFITS BASED ON AGE, and SECONDARY INJURIES CAUSED BY THE WORKERS COMPENSATION SYSTEM.
8. That DEEMING, is a method utilized by Canada's workers compensation boards & tribunals to deny those individuals' right to workers compensation benefits, by making a claim an individual can work, and/or that suitable & safe work is available for the individual to perform. As a result, the workers compensation boards & tribunals reduce

or suspend an individual's right to workers compensation benefits. This is done without the workers compensation board and/or tribunal having to prove the alleged claims.

9. That PRE-EXISTING CONDITIONS, is a method utilized by Canada's workers compensation boards & tribunals to deny those individuals' right to workers compensation benefits, by making a claim an individual who was injured while working in Canada, has or had an alleged pre-existing condition. This is done without the workers compensation board and/or tribunal having to prove the alleged claims.

10. That FAILING TO LISTEN TO INDIVIDUALS' DOCTORS, is a method utilized by Canada's workers compensation boards & tribunals to deny those individuals' right to workers compensation benefits, by ignoring any medical statements made by the individual's doctors, whether family doctor, and/or specialists. Additionally, Canada's workers compensation boards & tribunals would use their paid doctors to disallow a legitimate claim and often these paid board and/or tribunal doctor may have even seen the individual, let alone examine the individual.

11. That INTENTIONAL INSTITUTIONAL DELAYS, is a method utilized by Canada's workers compensation boards & tribunals to deny those individuals' right to workers compensation benefits, by having a system that is so fraught with delays, it is in of itself a denial of justice.

12. That DENYING OR REDUCING BENEFITS BASED ON AGE, is a method utilized by Canada's workers compensation boards & tribunals to deny those individuals' right to workers compensation benefits, by reducing, suspending, and/or denying an individual's right to workers compensation benefits. This is done without the workers compensation board and/or tribunal having to prove the alleged claims.

13. That SECONDARY INJURIES CAUSED BY THE WORKERS COMPENSATION SYSTEM is a method utilized by Canada's workers compensation boards & tribunals to cause further injury to those injured while working in Canada. This is done by having an overly complex and lengthy appeal process, which causes secondary injuries to those individuals.

14. That in all, DEEMING, PRE-EXISTING CONDITIONS, FAILING TO LISTEN TO INDIVIDUALS' DOCTORS, INTENTIONAL INSTITUTIONAL DELAYS, DENYING OR REDUCING BENEFITS BASED ON AGE, and SECONDARY INJURIES CAUSED BY THE WORKERS COMPENSATION SYSTEM, are government actions by government officers and/or agencies, which infringe s. 2, 7, 12, and 15 of the *Charter of Rights and Freedoms*.

15. That the Lead Plaintiffs all have been negatively affected by most of the methods used by Canada's workers compensation boards & tribunals, which was to unjustly deny the individuals of their lawful entitlement to workers compensation benefits and in doing so infringed s. 2, 7, 12, and 15 of the Lead Plaintiffs' Charter Rights.

16. That the Class Plaintiffs all have been negatively affected by most of the methods used by Canada's workers compensation boards & tribunals, which was to unjustly deny the individuals of their lawful entitlement to workers compensation benefits and in doing so infringed s. 2, 7, 12, and 15 of the Class of Plaintiffs' Charter Rights.

17. That across Canada individuals injured while working in Canada have been denied their lawful right to access to justice. This is when they have suffered great injustice at the hands of the workers compensation boards and tribunals. This has been based on the previous doctrine that administrative boards and tribunals are provided great deference by the courts. As a result of this deference, success against these administrative boards and tribunals has extremely rare. This is even in the case of judicial reviews of the decisions. This causes counsel who provide services based on pro bono or contingency basis to not take on such cases. The only way to create interest is for the Lead Plaintiffs to have their claim certified as a Charter Class Claim.

18. That the Lead Plaintiffs, on numerous occasions and continue to, attempt to obtain affordable representation to represent the Class Plaintiffs but have not been successful, yet. To ensure justice is not denied, Mr. Taylor, with leave of the court, has agreed to be the Self-represented Litigant Representative, but only until such time as counsel can be retained by the Lead Plaintiffs.

19. That s. 6 of the *Charter* provides that any Canadian has a right to take up residence and/or employment in any part of Canada. To even reside in one region of Canada and work in another. As such, people routinely work in various regions across Canada and routinely are injured while working in these regions of Canada. As such, these Canadians can and have been denied their lawful entitlement to works compensation benefits based on the previously referenced methods. These individuals have been negatively affected by most of the methods used by Canada's workers compensation boards & tribunals, which was to unjustly deny the individuals of their lawful entitlement to workers compensation benefits and in doing so infringed s. 2, 7, 12, and 15 of the Class of Plaintiffs' Charter Rights.

20. That often foreign workers are hired to work in Canada on a temporary basis. These workers are commonly known as foreign temporary workers. These workers work in every region of Canada and come from many different parts of the world. Even not having a right to permanently remain in Canada, while they work in Canada, they do have full protection from the Charter. As such, these individuals have been denied their lawful entitlement to works compensation benefits based on the previously referenced methods. These individuals have been negatively affected by most of the methods used by Canada's workers compensation boards & tribunals, which was to unjustly deny the individuals of their lawful entitlement to workers compensation benefits and in doing so infringed s. 2, 7, 12, 14, and 15 of the Class of Plaintiffs' Charter Rights.

Statutory Grounds

21. Rule 1.04, 2.03, 17.03, and 37 of the *Rules of Civil Procedure*.
22. Section 176 of the *Workplace Safety and Insurance Act, 1997*.
23. Section 11(2) of the *Courts of Justice Act*.
24. Section 2 of the *Class Proceedings Act*.
25. Section 2, 7, 12, 14, 15, and 24(1) of the *Charter of Rights and Freedoms*.
26. Section 96 of the *Constitution of Canada*.

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

27. Affidavit of Mr. Taylor & supporting documentation, Affidavit of other Lead Plaintiffs & supporting documentation, and the Lead Plaintiff's Factum; and
28. Such further and other material as Mr. Taylor may require and this Court may permit.

April 18th, 2022

Paul Taylor

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

*Lead Plaintiff - Self-Represented
Spokesperson for the Lead Plaintiffs
And Moving Parties*

Gregory Toombs

[REDACTED] [REDACTED] [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Lead Plaintiff - Self-Represented

George Kavallis

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Lead Plaintiff - Self-Represented

Norm Ryder

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Lead Plaintiff - Self-Represented

Patrick Jardine

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Lead Plaintiff - Self-Represented

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Lead Plaintiff - Self-Represented

Christopher Summers

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Lead Plaintiff - Self-Represented

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Lead Plaintiff - Self-Represented

Terry Fedorak

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Lead Plaintiff - Self-Represented

Rodny Barrett

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Lead Plaintiff - Self-Represented

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Lead Plaintiff - Self-Represented

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Lead Plaintiff - Self-Represented

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Lead Plaintiff - Self-Represented

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Lawyer for the Government of Canada

BACKSHEET

Toombs et al.
(Plaintiffs)

v.

The WCB et al.
(Defendants)

Court file No. CV-21-00076781-00CP

Ontario Superior Court of Justice

PROCEEDING COMMENCED AT

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NOTICE OF MOTION

Moving Party:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Self-represented Lead Plaintiff
Spokesperson for Lead Plaintiffs
and Moving Parties

RCP-E 4C (May 1, 2016)