

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

GREGORY TOOMBS, GEORGE KAVALLIS, NORM RYDER, PATRICK JARDINE, DAVID HAMILTON, CHRISTOPHER SUMMERS, GLEN GREIG, TERRY FEDORAK, RODNY BARRETT, JENNIFER BAKER, BRUCE JUNKER, BLAINE GILBERTSON, BLAINE GILBERSTON, BLAIR KREITZER, KEN GRYSIUK, RICHARD LAST, DARREN SCHLAMB, CHRISTOPHER LAWSON, SARAH LAWSON, EUGENE LAHO, NORMAN TRAVERSY, DAVID CURTIS, GIUSEPPE MARCELLINO, JAMES ROLLO, GEORGE HARDING, KAREN PERREAULT, DAVID LAWSON, ROBERT DRINNA, JOE KNIPFEL, ANDRE MARTIN, ARMAND DURELLE, GILLES MARTIN, GORDON SKINNER, CHERYL AMUIR, AND PAUL TAYLOR.

(On behalf of Canadians & others injured at work, while working in Canada)

Applicants
Lead Plaintiffs

- and -

WorkSafeBC (Aka 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 (aka the Workers Compensation Board of Ontario), Workplace Safety & Insurance Appeals Tribunal – WSIAT (aka the Workers Compensation Appeals Tribunal of Ontario), Commission des normes, de l'équité, de la santé et de la sécurité du travail – CNESST, WorkSafeNB (aka 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 (aka the Workers Compensation Board of Newfoundland & Labrador), Workplace Health, Safety & Compensation Review Division – WHSCRD, Yukon Workers' Compensation Health and Safety Board – YWCHSB (aka the Workers Compensation Board of Yukon Territory), Yukon Workers' Compensation Appeal Tribunal – YWCAT, Northwest Territories Workers' Safety and Compensation Commission – NWTWSCC (aka the Workers Compensation Board of Northwest & Nunavut Territories) and NWT and Nunavut Workers' Compensation Appeals Tribunal – NWTNWCAT

Respondents

NOTICE OF CONSTITUTIONAL QUESTION

TO THE RESPONDENTS

The Lead Plaintiffs, on behalf of a Class of Plaintiffs, acting as the Applicants in this notice, intend to claim a remedy, under section 24(1) of the *Canadian Charter of Rights and Freedoms* in relation to an act or omission of the governments and agencies of the Governments of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland & Labrador, Yukon Territory, Northwest Territories, and Nunavut Territory, here after referred to as the Respondents.

The question is to be argued by video conference, at John Sopinka Courthouse, the Ontario Superior Court of Justice, 45 Main St E, Hamilton, ON L8N 2B7, Telephone (905) 645-5252.

The date and time of the hearing shall be determined by the Registrar of the Court.

THE FOLLOWING ARE THE MATERIAL FACTS GIVING RISE TO THE CONSTITUTIONAL QUESTION:

1. The Applicants are representative of a class of individuals, all of whom have suffered injuries from work, while working in various jurisdictions of the Respondents in Canada.
2. That all the Respondents are government agencies and as such their staff are government office holders. As such, the *Charter of Rights and Freedoms* (the “**Charter**”) applies to the actions and inactions of the Respondents.
3. That the Applicants have had their lawful entitlement to workers compensation unlawfully denied in various ways by the Respondents. In doing so the Respondents have knowingly or ought to have known they have infringed sections 2, 7, 12, 14 and 15 of the *Charter of Rights and Freedoms*, which cannot be justified in a free and democratic society.

4. Additionally, the Applicants intend to question the constitutional validity of all of the provincial/territorial workers compensation legislation in Canada.
5. The grounds of the questions is that all of the provincial/territorial workers compensation legislation infringes s. 6 of the *Charter* and s. 91 and 92 of the *Constitution of Canada*. As such must be declared of no force and effect under s. 52 of the Constitution.
6. As such a federal workers compensation system must be established in their place, with federal legislation that empowers a federal board and appeals tribunal and recognizes the historic trade. Specifically, the **Six Meredith Principles**.
7. That in response to the unconstitutional conduct of the respondents the applicants filed a Notice of Charter Class Claim and this Notice of Constitutional Question has been filed to ensure the Notice of Charter Class Claim is dealt with as a Constitutional matter.

THE FOLLOWING ARE THE LEGAL BASIS FOR THE CONSTITUTIONAL QUESTION:

8. That section 2 of the *Charter* provides for individual freedoms including freedom of thought, opinion, and assembly; section 6 provides for mobility rights of Canadians, that section 7 of the *Charter* provides for the right to life, liberty, and the security of the person; that section 12 of the *Charter* provides for the right not to be treated with cruel and unusual treatment and/or punishment; that section 14 of the *Charter*, provides the right to an interpreter if a

person does not understand the proceedings; and section 15 of the *Charter* provides for the right to be treated with equality

9. That section 24(1) of the *Charter of Rights and Freedom* allows for any individual or class of individuals to apply to a court to obtain such remedy as the court considers appropriate and just against any government in Canada by any individual in Canada.

10. That section 33(1) of the Charter of Rights and Freedoms confirms that the Charter of Rights and Freedoms applies to Federal, and Provincial/Territorial government actions and/or laws.

11. That section 52 of the *Constitution* provides that all parts of the Constitution, including the *Charter of Rights and Freedoms* are the supreme law of Canada and any law and/or of government action/inaction that conflicts with the *Constitution* is of no force and/or effect.

12. That section 91 and 92 of the *Constitution* provides the limits of the Federal and Provincial/Territorial governments.

Date: April 18, 2022.

Paul Taylor

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***Lead Plaintiff - Self-Represented
Spokesperson for the Lead Plaintiffs***

Gregory Toombs

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Lead Plaintiff - Self-Represented

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Lead Plaintiff - Self-Represented

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TO: WORKPLACE SAFETY & INSURANCE BOARD

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**(NT & Nunavut), and the Northwest Territories & Nunavut Workers'
Compensation Appeals**

AND TO: The ATTORNEY GENERAL OF ONTARIO

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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

John Sopinka Courthouse
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**NOTICE OF CONSTITUTIONAL
QUESTION**

Moving Party:
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Self-represented Lead Plaintiff
Spokesperson for Lead Plaintiffs