



**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**

B E T W E E N :

**CHIEFS OF ONTARIO**

Plaintiff

and

**ATTORNEY GENERAL OF CANADA and HIS MAJESTY THE KING IN  
RIGHT OF ONTARIO**

Defendants

**STATEMENT OF CLAIM**

**TO THE DEFENDANT**

**A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU** by the plaintiff. The claim made against you is set out in the following pages.

**IF YOU WISH TO DEFEND THIS PROCEEDING**, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the plaintiff's lawyer or, where the plaintiff does not have a lawyer, serve it on the plaintiff, and file it, with proof of service in this court office, **WITHIN TWENTY DAYS** after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your statement of defence.

**IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.**

**TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED** if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date: , 2024

Issued by: \_\_\_\_\_  
Local Registrar

Address of 393 University Avenue, 10<sup>th</sup> floor  
court office: Toronto, Ontario M5G 1E6

**TO: THE ATTORNEY GENERAL OF CANADA**  
Department of Justice Canada  
Ontario Regional Office  
120 Adelaide Street West, Suite #400  
Toronto, Ontario M5H 1T1

**AND TO: HIS MAJESTY THE KING IN RIGHT OF ONTARIO**  
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## CLAIM

### Overview

1. The defendants cooperate together to ensure that laws other than First Nation laws are enforced in Ontario and that offences under those laws are prosecuted. They do not do so for First Nations laws. As a result, First Nations laws generally do not function effectively in Ontario. This results in inequitable access to important benefits for First Nations people in Ontario, especially those residing on reserve, including access to justice, the rule of law, community safety, protection of property, and individual wellbeing, contrary to s. 15 of the *Canadian Charter of Rights and Freedoms* (the “*Charter*”).
2. These inequalities exist in subject areas where federal and provincial laws do not apply to reserve lands and/or to First Nations people. First Nations laws are especially important and necessary in these subject areas, but these laws are undermined by the lack of enforcement and prosecutions, to the detriment of First Nations people. These inequalities also exist where federal and provincial laws are inadequate, such that First Nations laws are needed to address unique needs or circumstances.
3. These inequalities impede attempts to use First Nations laws to address the legacies of colonialism and pre-existing disadvantages, including addiction, disproportionate victimization, and socio-economic inequalities. This results in serious harm, including death, injury, financial loss, reduced wellbeing, and other hardships.

4. The Chiefs of Ontario seeks declarations and orders aimed at ending this discrimination, including declarations and orders that the defendants must provide sufficient resources to enforce and prosecute First Nations laws.

### **Relief claimed**

5. The plaintiff claims for:
  - a. A declaration that the defendants have discriminated against First Nations people in Ontario contrary to s. 15 of the *Charter* with respect to access to justice and the rule of law, including access to prosecution and policing services, and continue to do so;
  - b. Declarations regarding the extent and nature of the above-referenced discrimination;
  - c. A declaration that Ontario has discriminated against First Nations people in Ontario contrary to the Ontario *Human Rights Code*, R.S.O. 1990, Chapter H.19, with respect to access to justice and the rule of law, including access to prosecution and policing services, and continues to do so;
  - d. Declarations regarding the extent and nature of the above-referenced discrimination contrary to the Ontario *Human Rights Code*;
  - e. Remedies for Ontario's discrimination, including remedies under s. 46.1 of the Ontario *Human Rights Code*;
  - f. Orders that the defendants cease the impugned discrimination, or declarations in lieu thereof;

- g. Orders that the defendants take specific steps to cease the impugned discrimination, with further particulars to be provided at a later date, or declarations in lieu thereof;
- h. A declaration under s. 52 of the *Constitution Act, 1982* that s. 3 of the *Director of Public Prosecutions Act*, S.C. 2006, c. 9, s. 121 and the definition of Attorney General in s. 2 of the *Criminal Code*, R.S.C., 1985, c. C-46 are inconsistent with the *Constitution Act, 1982* and of no force or effect to the extent that they impede the provision of prosecutorial services to First Nations people from federal prosecutors or, in the alternative, other appropriate relief under s. 52;
- i. A declaration under s. 52 of the *Constitution Act, 1982*, that s. 11(2)(a) of the *Community Safety and Policing Act, 2019*, S.O. 2019, c. 1, Sched. 1 and O. Reg. 392/23 are of no force or effect to the extent that they do not make the enforcement of First Nations laws and by-laws a mandatory police function or, in the alternative, other appropriate relief under s. 52;
- j. A declaration that the *Contraventions Act*, S.C. 1992, c. 47 and the *Provincial Offences Act*, R.S.O. 1990, c. P.33 contravene s. 15 of the *Charter* as they are not available with respect to First Nations laws, and remedies arising therefrom, including under s. 52 of the *Constitution Act, 1982*;
- k. If one or more declarations under s. 52 of the *Constitution Act, 1982* are suspended, appropriate interim relief;

- l. Other declarations, orders, and relief under s. 24 of the *Charter* in relation to the alleged infringements of the *Charter* and to prevent those infringements from continuing;
- m. A declaration that Ontario has made reprisals and threats of reprisals against the Chiefs of Ontario and First Nations people in Ontario contrary to sections 8 and 9 the Ontario *Human Rights Code*, and remedies arising therefrom, under s. 46.1 of the *Human Rights Code* and otherwise;
- n. Costs of this action; and
- o. Such further and other relief as counsel for the plaintiff may request and this Honourable Court deems just.

### **The parties**

6. The plaintiff, the Chiefs of Ontario, is a First Nations organization that provides advocacy, coordination, and support on issues of common concern affecting First Nations people in Ontario, as mandated by the Ontario Chiefs-in-Assembly from time to time. This action was commenced as directed by a resolution passed unanimously by Ontario Chiefs at a Chiefs of Ontario assembly.
7. The defendant, the Attorney General of Canada, is the name to be used in proceedings against the federal Crown, including proceedings relating to acts or omissions of employees or agents of the federal government pursuant to the *Crown Liability and Proceedings Act*, R.S.C., 1985, c. C-50.

8. The defendant, His Majesty the King in right of Ontario, is the appropriate designation for the Crown in Right of Ontario in proceedings pursuant to the *Crown Liability and Proceedings Act, 2019*, S.O. 2019, C. 7, Sched. 17.

### **First Nations laws not enforced or prosecuted**

9. For laws to function effectively, there generally must be prosecutors and police or other enforcement officers available. First Nation people are generally without either of these services with respect to their own First Nations laws due to discriminatory federal and provincial underfunding, decisions, and laws. As a result, First Nations people do not enjoy the equal protection and equal benefit of the law, or equal access to justice and the rule of law.
10. Many provincial and federal laws do not apply on reserve, such as those relating to land management, anti-dumping, environmental protection, and tenancies. First Nations can make laws to fill this void, but those laws cannot effectively function without enforcement and prosecution. As a result, reserve residents live in a legal limbo without the benefit of functioning laws in very important subject areas.
11. In many cases, First Nations face unique circumstances, challenges, or opportunities that provincial and federal laws do not appropriately address. This includes, for example, laws to help overcome the impacts of colonialism, such as addiction and disproportionate levels of victimization and vulnerability. Without the ability to enforce and prosecute their own laws on these important topics, First Nations people are denied benefits enjoyed by other Canadians, such as

community safety, and denied opportunities to overcome historical disadvantage and maintain healthy communities.

12. For example, many First Nations have laws banning certain intoxicants or excluding dangerous individuals from the First Nation community. These laws cannot effectively function without officers and prosecutors.
13. With respect to all of these subject areas, First Nations often do not expend the time and resources updating or creating their own laws, knowing that this would be futile because those laws cannot function in light of the enforcement and prosecution gap. The enforcement and prosecution gap has therefore undermined the development and evolution of First Nations laws in many cases.
14. In this pleading, First Nations laws includes laws and by-laws, such as laws passed pursuant to federal legislation recognising and affirming First Nations law-making powers,<sup>1</sup> laws passed pursuant to self-government agreements, laws passed pursuant to the inherent right of self-government, and by-laws passed pursuant to the *Indian Act*, R.S.C., 1985, c. I-5. Both defendants recognise the inherent right of self-government, but the existence and the scope of that right is not at issue in this proceeding and no relief sought herein depends on this.<sup>2</sup> First Nations laws are often passed pursuant to a combination of those law-making powers.

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<sup>1</sup> E.g. *An Act respecting First Nations, Inuit and Métis children, youth and families*, S.C. 2019, c. 24

<sup>2</sup> E.g. *United Nations Declaration on the Rights of Indigenous Peoples Act*, S.C. 2021, c. 14, which incorporates the *United Nations Declaration on the Rights of Indigenous Peoples*, G.A. Res. 61/295, U.N. Doc. A/RES/61/295 (*UNDRIP*); *Statement of Political Relationship*, August 6, 1991; *Political Accord Between First Nations and the Government of Ontario*, August 24, 2015.



15. The prosecution and enforcement gaps cause grave harm to First Nations people, especially those living on reserve, because they prevent First Nations from being able to use their own laws to address their own challenges and opportunities. This leads to, for example, situations where First Nations people cannot keep their children safe from dangerous individuals and illegal drugs; cannot stop illegal dumping on their lands; have no effective recourse if they are locked out of their apartment or if they have a destructive boarder living in their home; and, more broadly, where they are unable to benefit from self-government, including laws tailored to their unique circumstances and cultures.

***Canada's and Ontario's failings***

16. Canada and Ontario collectively provide enforcement and prosecutorial services for non-First Nations Ontarians with respect to the full range of subject areas, but do not do so for First Nations people living in Ontario, particularly those living on reserve.
17. Canada and Ontario cause the enforcement and prosecution gaps with respect to First Nations laws, including through the following means:
  - a. Canada and Ontario only make their Crown prosecutors available for prosecutions of offences under non-First Nations laws. Federal and provincial Crown prosecutors decline to prosecute offences under First Nations laws pursuant to long-standing federal and provincial policies and practices, which are discriminatory on their face and in effect.

- b. Canada and Ontario do not provide permanent or sufficient funding for First Nations to hire their own prosecutors to prosecute their own laws.
- c. Canada asserts that its own laws are a barrier to federal Crowns prosecuting offences under First Nations laws, including s. 3 of the *Director of Public Prosecutions Act* and the definition of Attorney General in s. 2 of the *Criminal Code*.
- d. Ontario's *Community Safety and Policing Act, 2019* explicitly excludes the enforcement of First Nations by-laws from the mandatory police functions defined under that act and is ambiguous with respect to the enforcement of other First Nations laws.
- e. Police services that are administered and governed by First Nations are not guaranteed funding for the enforcement of First Nations by-laws even if they come under the funding mechanisms under the *Community Safety and Policing Act, 2019* in the future because funding is only guaranteed for mandatory police functions under that act. This is exacerbated by the overall underfunding of these police services by Canada and Ontario.
- f. The Ontario Provincial Police have routinely declined to enforce First Nations laws.
- g. Canada and Ontario do not provide the funding necessary for First Nations in Ontario to hire their own enforcement officers.
- h. Canada and Ontario do not permit prosecutions of offences under First Nations laws to proceed under the expedited enforcement processes under the

federal *Contraventions Act*, S.C. 1992, c. 47 or the *Provincial Offences Act*, R.S.O. 1990, c. P.33. Only offences under non-First Nations laws can be prosecuted under these processes.

- i. Canada and Ontario do not provide the funding that would be necessary for First Nations in Ontario to develop and implement their own enforcement mechanisms, ticketing mechanisms, or court systems as alternatives to the cumbersome and inadequate process of enforcing First Nations laws in the Ontario Court of Justice and Ontario Superior Court of Justice.
  - j. Canada and Ontario do not provide the funding that would be necessary for First Nations in Ontario that have not yet prepared or updated their own laws (due to the futility of that exercise in light of the lack of policing and prosecution) to prepare or update their own laws.
  - k. Canada and Ontario have declined repeated requests and recommendations to remedy the above failings.
18. The impacts on First Nations people living on reserve are the greatest. The defendants are also responsible for those impacts as they created the reserve system. Canada was the main actor, but Ontario also played a role. In the furtherance of colonialism, the defendants removed First Nations people from their territories and created reserves, often in remote or undesirable locations. Canada assumed control over reserves and the defendants blocked or interfered with attempts by First Nations people to control their own lives through their own traditional legal systems.

19. The defendants continue to prohibit, prevent, and/or hinder First Nations from implementing their laws in ways that would not require police, prosecutors, and the provincial or federal court systems. This includes traditional methods of securing compliance with the law. Some methods of securing compliance are illegal under the defendant's laws, such as methods that involve force or taking actions that require a court order. The defendants thus simultaneously prevent First Nations from securing compliance with their laws in their own ways while also failing to provide the resources necessary to secure compliance using the colonial justice system, including police, prosecutors, and the federal and provincial court systems.

### **Section 15 of the *Charter***

20. The defendants' laws, policies, and actions create distinctions based on enumerated and analogous grounds, both expressly and through adverse effects.
21. The express distinctions and adverse impacts are most obvious for First Nations people living on reserve as this is where First Nations laws are most important due to the inapplicability of certain provincial and federal laws on reserve, the need for laws that address First Nations' unique cultures and circumstances, and the expanded role of self-government on reserves.
22. However, there are also express distinctions and adverse effects for First Nations people living off reserve, including through their far greater propensity to live on or near First Nations from time to time; their cultural, social, and financial links

with their First Nation; their ability to participate in self-government; and through First Nations laws that apply off-reserve.

23. A comparator analysis is not required. However, there are multiple valid comparisons on which to base a s. 15 claim. For example, First Nations people disproportionately suffer from the enforcement and prosecution gaps in comparison to non-First Nations people in Ontario. First Nation people living on reserve also suffer disproportionately when compared to Ontarians living elsewhere in the province.
24. Take, for example, a First Nations person living on a reserve and a non-Indigenous person living in a nearby town. If they both want to rent out their home, only the non-Indigenous person can access the efficient processes under the *Residential Tenancies Act, 2006*, S.O. 2006, c. 17, as well as the enforcement and prosecution services that support it. The First Nations person living on reserve does not have access to those and they cannot rely on First Nations laws to create an efficient process because the lack of enforcement and prosecution undermines those laws where they exist, and causes many First Nations to decline to pass said laws due to the futility of doing so. For the First Nations person living on reserve, it can be extremely challenging or effectively impossible to legally evict a violent or non-paying tenant, resulting in economic loss and risk of physical violence.
25. Similarly, a non-Indigenous person living in the nearby town can report illegal dumping on their property to the relevant authorities and can rely on enforcement and prosecution. The First Nations person living on reserve has no such recourse.

26. Furthermore, the First Nations person living on reserve is far more likely than their non-Indigenous counterpart living in town to live in a community suffering from the impacts of colonialism, including disproportionate socio-economic disadvantages, addiction, victimization, and vulnerability. Without enforcement and prosecution of First Nations laws, the First Nation person cannot rely on laws that would address their needs and ameliorate the pre-existing disadvantage they face. This includes laws to remove dangerous individuals from the community; laws providing additional enforcement tools to combat illegal drugs and regulate intoxicants; laws to mandate alternative approaches to community safety and restorative justice; and, more generally, laws that ameliorate the impacts of colonialism with methods based in each First Nation's unique culture, society, and circumstances.
27. Substantive equality requires enforcement and prosecution of First Nations laws even for those First Nations laws that are unique and find no equivalent in the non-Indigenous context. Substantive equality requires that First Nations people receive equitable services that are culturally appropriate and meet realistic needs, including needs that stem from historical disadvantage and the lack of on-reserve and/or surrounding services. This also necessary to enable equitable access to justice and to the benefits of justice, such as community safety and individual wellbeing.
28. The express distinctions and adverse effects discussed above are discriminatory. A lack of access to justice and the rule of law in important subject areas

perpetuates the preexisting disadvantages of First Nations people, including the impacts of colonialism.

29. Infringements of s. 15 do not require that the impugned distinctions be based on prejudice or stereotyping. However, the discrimination in this case stems from offensive prejudices and stereotyping. For instance, Canada and Ontario have refrained from taking more steps to provide for the enforcement and prosecution of offences under First Nations laws motivated by the following prejudices and stereotypes:
- a. The stereotype that First Nations people and their governments are incompetent and therefore cannot be trusted to prepare laws that are legally or constitutionally valid. This prejudice exhibits itself in a number of ways, including decisions not to support the enforcement and prosecution of First Nations laws based on concerns that those laws are disproportionately non-compliant with the *Charter*. This also exhibits itself in proposals to restrict any limited support that may be provided such that federal or provincial officials can pick and choose which First Nations laws will be enforced and prosecuted.
  - b. The stereotype that First Nations people and their governments do not know what is best for their own interests, and that federal or provincial officials know better. This prejudice exhibits itself in a number of ways, including decisions not to grant requests for support for enforcement and prosecution due in part to concerns about the welfare of the First Nations making the

request, such as concerns about the wisdom of certain First Nations laws. For example, officials have declined to support enforcement or prosecution in part because they disagree with the effectiveness of laws banning intoxicants or with a traditional practice of excluding dangerous wrongdoers from a community. Similarly, officials have declined support in part because they believe the enforcement of First Nations' own laws will exacerbate the overrepresentation of First Nations people in the criminal justice system, despite First Nations stating that this is not the case and that their own laws can more appropriately and proactively address the root causes of overrepresentation in the criminal justice system.

- c. The prejudiced view that First Nations are less worthy or deserving of benefits such as access to justice, the rule of law, and community safety. This view exhibits itself in decisions to withhold services or benefits from First Nations people that are provided to non-Indigenous Ontarians. For example, Canada and Ontario have justified decisions to withhold prosecutorial services from First Nations due to the scarcity of prosecutorial resources, instead of addressing that scarcity by equitably distributing those services among prosecutions of First Nations laws and non-First Nations laws.
- d. The stereotype that First Nations people are always asking for handouts. This stereotype exhibits itself in decisions to ignore or decline repeated requests for support, often for financial reasons, despite demonstrated need.



***Joint and several liability***

30. The federal and provincial governments are both discriminating against First Nations people as described herein. Both defendants are integral to the provision of access to justice, rule of law, enforcement, and prosecutions to non-Indigenous Ontarians. Both have the jurisdiction to remedy the enforcement and prosecution gaps for First Nations people, including the jurisdiction to provide the necessary funding to do so. They are jointly and severally responsible and liable for the discrimination and for the steps required to eliminate the discrimination.
31. Federal government officials have attempted to deflect responsibility to the provincial government, and *vice versa*. This finger pointing results in the defendants withholding funding and support for First Nations people. Fiscal disputes between the defendants are no excuse for failing to equitably fund and support services for First Nations people.
32. Officials that oversee policing have attempted to deflect responsibility to those overseeing prosecutions, and *vice versa*. This finger pointing impedes progress and harms First Nations people. Fully functioning laws require both enforcement and prosecution.

***The DRPA is discriminatory***

33. In response to requests for federal Crown prosecutors to be made available to prosecute offences under First Nations laws on request, federal officials have used purported obstacles in federal laws as one of the justifications for declining such requests. In particular, federal officials have asserted that s. 3 of the *Director of*

*Public Prosecutions Act* and the definition of Attorney General in s. 2 of the *Criminal Code* are obstacles. As obstacles to equitable access to benefits such as justice, the rule of law, and community safety, these provisions are contrary to s. 15 of the *Charter* and of no force or effect under s. 52 of the *Constitution Act, 1982*.

***The CSPA is discriminatory***

34. Ontario's *Community Safety and Policing Act, 2019* explicitly excludes the enforcement of First Nations by-laws from the mandatory police functions set out therein. As such, First Nations people living on reserve have no guarantee of police enforcement in the important subject areas covered by First Nations laws (see e.g. paragraphs 10 to 14 above).
35. This is an express distinction on the basis of enumerated and analogous grounds and also has adverse detrimental effects on First Nations people arising from the lack of enforcement of First Nations laws. In addition, it will adversely impact the funding of police services for First Nations people, because First Nations police services covered by the *Community Safety and Policing Act, 2019* are only guaranteed funding for mandatory police functions.
36. Although the *Community Safety and Policing Act, 2019* also excludes the enforcement of municipal by-laws from the definition of mandatory police functions, that does not justify the exclusion of First Nations by-laws, including for the following reasons:

- a. There are resources to enforce and prosecute municipal by-laws across the province. That is not the case for First Nations by-laws, which adversely impacts First Nations people.
- b. Alternative enforcement mechanisms are available for municipal by-laws under the *Provincial Offences Act*, R.S.O. 1990, c. P.33, such as ticketing, which can be executed by by-law enforcement officers that are not police officers. These mechanisms are not available for First Nations by-laws, which can generally only be enforced by laying charges via an information at the Ontario Court of Justice, which is more complex and is typically done by police officers.
- c. Individuals living in municipalities have the protection of the full range of provincial laws, whereas individuals living in First Nations require the protection of First Nation laws in subject areas where provincial laws do not apply.
- d. Individuals living in municipalities typically benefit from a suite of laws created with their context in mind, whereas individuals living in First Nations often require First Nations laws in order to address the unique circumstances, challenges, and opportunities that exist in their community.
- e. Many First Nations by-laws address important community safety issues and would need enforcement by police officers. For example, First Nations may make by-laws regarding “the observance of law and order” under the *Indian Act*. Municipalities do not have this power.

- f. First Nations have different and often broader by-law powers than municipalities.
  - g. Unlike municipalities, First Nations generally do not have the funding or economies of scale to fund their own by-law enforcement.
  - h. First Nation by-laws are a tool for self-determination and self-government. Municipal by-laws do not have the same kind of fundamental importance.
37. When the *Community Safety and Policing Act, 2019* came into force in April of 2024, it was the first time that an Ontario statute explicitly excluded the enforcement of First Nation by-laws from mandatory police functions.
38. For over five years, First Nations have been asking Ontario to make the enforcement of First Nations laws a mandatory police function through amendments to the act or through wording in the regulations that will be passed before the act comes into force. Ontario has declined to do so. Its decisions have been based on the offensive prejudices and stereotypes described in paragraph 29 above. For example, decisions have been based on stereotyped beliefs about First Nations laws being invalid and unconstitutional.
39. Ontario has raised other reasons for not making the enforcement of First Nations by-laws a mandatory police function, but these are red herrings. For example, officials have raised concerns about police independence and discretion. However, police would still retain independence and discretion if the exclusion of First Nations by-law enforcement from the mandatory police functions is

removed. First Nations by-laws would simply be treated like many other laws that are enforced as mandatory police functions.

***The CA and POA are discriminatory***

40. The federal *Contraventions Act* and Ontario's *Provincial Offences Act* provide expedited processes for enforcement and prosecution. As drafted, those laws are not available for the enforcement of offences under First Nations laws. As a result, First Nations laws must generally be prosecuted in the Ontario Court of Justice, which can be a cumbersome and expensive process.
41. The exclusion of First Nations laws is an additional obstacle to the enforcement and prosecution of those laws, which disproportionately harms First Nations people. For instance, it is more expensive and time consuming to enforce and prosecute First Nations laws than it should be. In addition, individuals accused of offences under First Nations laws face a more complex process to defend themselves and can be subject to an arrest warrant if they fail to appear.

**Human rights violations**

42. The impugned laws, actions, decisions, and policies also constitute discrimination contrary to the Ontario *Human Rights Code* and the *Canadian Human Rights Act*, R.S.C., 1985, c. H-6 for the same grounds described herein with respect to discrimination contrary to s. 15 of the *Charter*.

## Reprisal

43. Ontario has engaged in actions and threats against the Chiefs of Ontario and First Nations people in Ontario that constituted retaliation for claiming rights under the Ontario *Human Rights Code*.
44. On Friday, December 8, 2023, Ontario Regional Chief Glen Hare wrote to the Solicitor General and the Attorney General indicating that the Chiefs of Ontario would be bringing this action, including a claim under the *Human Rights Code*. He also expressed a desire to work collaboratively together and avoid litigation if possible.
45. On Monday, December 11, 2023, the Minister of Indigenous Affairs called Ontario Regional Chief Glen Hare. The Minister spoke in an angry tone and made threats of retribution against the Chiefs of Ontario and the work it does in support of First Nations people in Ontario. For example, the Minister advised Ontario Regional Chief Hare that everything taking place between Ontario and the Chiefs of the Ontario will stop, now that the Chiefs of Ontario is suing the government.
46. The Minister also used the threats of retribution in an attempt to put an end to the efforts by the Chiefs of Ontario to enforce rights under the *Human Rights Code*. For example, the Minister advised Ontario Regional Chief Hare that the Ontario Government cannot work on anything with the Chiefs of Ontario until the notice of the lawsuit is rescinded or removed. Ontario has not followed through with the threat to end all work.

47. There has also been retaliation from other Ministers and their staff. For example, prior to the letter, the Solicitor General and the Attorney General would accept meetings from the Ontario Regional Chief and other First Nations Leadership on this issue. After the letter, both the Solicitor General and the Attorney General stopped accepting such meetings. In addition, staff in the offices of the Solicitor General and the Attorney General have not responded to communications from staff at the Chiefs of Ontario since the letter of December 8, 2023.

### **Harm**

48. The lack of resources for enforcing First Nations laws and prosecuting offences under those laws result in harm to First Nations people, including the following:
- a. Intoxicant laws: impeded ability to combat addiction and reduce the number of youth and other individuals who develop an addiction, leading to increased risk of illness, pain, and death;
  - b. Trespass laws: impeded ability to exclude dangerous individuals from a community, leading to increased risk of avoidable criminality, such as drug dealing, rape, assault, and murder;
  - c. Search laws: impeded ability to authorize searches for illegal drugs as a tool to protect youth and others from the serious harms of illegal drugs;
  - d. Animal control laws: impeded ability to ensure individuals are prevented from keeping dangerous animals, leading to increased risk of injury, fear, and loss of wellbeing;

- e. Tenancy laws: impeded ability to regulate tenants and landlords, leading to increased risk of wrongful evictions, financial losses for landlords, and unsafe living situations;
  - f. Anti-dumping laws: impeded ability to prevent the dumping of waste and harmful substances, leading to increased risk of property damage, monetary losses, and adverse health consequences;
  - g. Resource laws: impeded ability to control natural resources, leading to the potential depletion or destruction of natural resources and the consequences therefrom, including increased risk of loss of livelihoods, natural amenities, and enjoyment; and
  - h. Building and zoning laws: impeded ability to regulate building and zoning, leading to increased risk of individuals being harmed from unsafe structures and unplanned communities.
49. These are a small number of many examples.
50. At a more general level, this inequality diminishes the ability of First Nations people to collectively govern themselves in a way that will improve their lives and communities.

### **Other details**

51. The plaintiff pleads and relies on relevant legislation, including *Community Safety and Policing Act, 2019*, S.O. 2019, c. 1, Sched. 1 O. Reg. 392/23, *Crown Liability and Proceedings Act, 2019*, S.O. 2019, C. 7, Sched. 17, *Constitution Act, 1867*, *Constitution Act, 1982*, *Contraventions Act*, S.C. 1992, c. 47, *Criminal Code*,



R.S.C., 1985, c. C-46, *Crown Liability and Proceedings Act*, R.S.C., 1985, c. C-50, *Canadian Human Rights Act*, R.S.C., 1985, c. H-6, *Director of Public Prosecutions Act*, S.C. 2006, c. 9, s. 121, *Human Rights Code*, R.S.O. 1990, Chapter H.19, *Provincial Offences Act*, R.S.O. 1990, c. P.33, *Residential Tenancies Act, 2006*, S.O. 2006, c. 17, and other legislation as counsel may advise. The plaintiff pleads all causes of action arising from the material facts pled herein.

52. Notwithstanding any of the above, this action does not include a claim for damages within the meaning of s. 18 (1) *Crown Liability and Proceedings Act, 2019*, S.O. 2019, C. 7.
53. The word “including” in this claim means “including, but not limited to,”
54. Headings are used in this document for readability. Material facts underpinning an issue may be found anywhere in this document, whether or not the fact is expressly linked to the issue.
55. The plaintiff proposes that this action be tried at Toronto, Ontario.

Date: , 2024

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**CHIEFS OF ONTARIO**

Plaintiff

v. **ATTORNEY GENERAL OF CANADA et al.**

Defendants

Court File No.

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**SUPERIOR COURT OF JUSTICE**  
Proceeding Commenced at Toronto

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**STATEMENT OF CLAIM**

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