

COURT OF APPEAL FOR ONTARIO

BETWEEN:

**SOLICITOR GENERAL OF ONTARIO SYLVIA JONES, ONTARIO PROVINCIAL POLICE
COMMISSIONER THOMAS CARRIQUE, ONTARIO PROVINCIAL POLICE CHIEF
SUPERINTENDENT JOHN CAIN, ONTARIO PROVINCIAL POLICE INSPECTOR PHILIP
CARTER and HER MAJESTY THE QUEEN IN THE RIGHT OF ONTARIO**

Appellants

and

POORKID INVESTMENTS INC., THE COACH PYRAMIDS INC., and BRIAN HAGGITH

Respondents

NOTICE OF APPEAL

THE APPELLANT, HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, APPEALS to the Court of Appeal for Ontario from the judgment of the Honourable Justice Broad of the Superior Court of Justice dated February 10, 2022, made at Cayuga, Ontario.

THE APPELLANT ASKS that the judgment be set aside and a judgment be granted as follows:

- (1) That the appeal be allowed and the application be dismissed with costs;
- (2) Such further and other relief as counsel may advise and this Court deems just.

THE GROUNDS OF APPEAL are as follows:

1. The honourable application judge:
 - a. erred in holding that s. 17 of the *Crown Liability and Proceedings Act*, S.O, 2019 c.17 [“*CLPA*”] is inconsistent with s. 96 of the *Constitution Act, 1867* and therefore of no force and effect pursuant to s. 52(1) of the *Constitution Act, 1982*;
 - b. erred in holding that s. 96 of the *Constitution Act, 1867* applies to a change to the substantive or procedural law of Crown liability;
 - c. erred by holding that s. 17 of the *CLPA* impedes access to superior courts;
 - d. erred by interpreting the unwritten constitutional principle of the rule of law to include a right to have a tort claim against the Crown determined on its merits and a right of a plaintiff in a tort claim against the Crown to present material evidence;
 - e. erred in using the unwritten constitutional principle of the rule of law as a basis to invalidate s. 17 of the *CLPA*;
 - f. erred in his interpretation of, and reliance on, s. 138 of the *Securities Act*, which (contrary to the findings of the application judge) does not require a defendant to produce affidavits setting out the facts they intend to rely upon, make documentary production or submit to oral examinations;

- g. erred in holding that s. 17 of the *CLPA* deprives a claimant of realistic and effective means of presenting sufficient evidence to satisfy the court that there is a reasonable possibility that his or her claim will succeed;
- h. erred by taking judicial notice of facts that were central to the application and were not readily determinable or verifiable by reference to sources whose accuracy cannot reasonably be questioned; and
- i. erred in lifting the stay of the proceeding in file CV-21-00000003-00CP at Cayuga.

THE BASIS OF THE APPELLATE COURT’S JURISDICTION IS:

1. Sections 6(1)(b) of the *Courts of Justice Act*, R.S.O. 1990, c. C.43;
2. The appeal is from a final order of a judge of the Superior Court of Justice and no appeal lies to the Divisional Court;
3. Leave to appeal is not required for this appeal.

March 9, 2022

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**HER MAJESTY THE QUEEN IN THE RIGHT OF
ONTARIO et al.**

-and-

**POORKID INVESTMENTS INC., THE COACH
PYRAMIDS INC., and BRIAN HAGGITH**

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