

**SCHEDULE “A”**

**LIST OF AUTHORITIES**

1. *Toronto Hospitality Employees Union – CSN (THEU-CSN) v Fairmont Royal York*, [2024 CanLII 11753 \(ON LRB\)](#)
2. *Lawrence v. International Brotherhood of Electrical Workers*, [2017 ONCA 321 \(CanLII\)](#) aff'd [2018 SCC 11 \(CanLII\)](#), [2018] 1 SCR 267.
3. *Baca v Tatarinov*, [2017 ONSC 2935 \(CanLII\)](#).
4. *Dong v. J. Lockwood Leasing*, [2023 ONSC 5228 \(CanLII\)](#)
5. *Clark Door of Canada Ltd. v. Inline Fiberglass Ltd.*, 1996 CarswellOnt 193, [1996] O.J. No. 238
6. *Atlantic Lottery Corp. Inc. v. Babstock*, [2020 SCC 19 \(CanLII\)](#)
7. *Berry v. Pulley*, [2002 SCC 40 \(CanLII\)](#), [2002] 2 SCR 493
8. *R.T. Investment Counsel Inc. v. Werry*, [1999 CanLII 5886 \(BC SC\)](#)
9. *Anderson, Smyth & Kelly Customs Brokers Ltd. v. World Wide Customs Brokers Ltd.*, [1996 ABCA 169](#)
10. *Enbridge Gas Distribution Inc. v. Marinaccio*, [2012 ONCA 650 \(CanLII\)](#)
11. *Lac Minerals Ltd. v. International Corona Resources Ltd.*, [\[1989\] 2 S.C.R. 574](#)
12. *Saltman Engineering Co. v. Campbell Engineering Coy.* (1948), 65 R.P.C. 203, [1963] 3 All E.R. 413n (C.A.)
13. *Donaldson Travel Inc. v. Murphy et al.*, [2016 ONSC 740](#)
14. *Pharand Ski Corp. v. Alberta*, [1991 CanLII 5869 \(AB QB\)](#)

15. *Ansell Rubber Co. v. Allied Rubber Industries Pty. Ltd.*, [1967] V.R. 37
16. *Deta Nominees Pty. Ltd. v. Viscount Plastics Products Pty. Ltd.*, [\[1979\] V.R. 167](#)
17. *Sabre Inc. v. International Air Transport Association*, [2011 ONCA 747](#),
18. *Rodaro v. Royal Bank*, [2002 CanLII 41834 \(ON CA\)](#),
19. *Catalyst Capital Group Inc. v. Moyse*, [2016 ONSC 5271](#)
20. *International Union, United Automobile, Aerospace and Agricultural Implement Workers of America v. Tri-Canada Inc.*, [1981 CanLII 1010 \(ON LRB\)](#)
21. *Century 21 Canada Limited Partnership v. Rogers Communications Inc.*, [2011 BCSC 1196 \(CanLII\)](#)
22. *Kew v. Konarski*, [2020 ONSC 4677 \(CanLII\)](#)
23. *Sui v. Chitiz*, [2022 ONSC 2989 \(CanLII\)](#)
24. *Grand Financial Management Inc. v. Solemio Transportation Inc.*, [2016 ONCA 175 \(CanLII\)](#)
25. *RJR-MacDonald Inc. v. Canada (Attorney General)*, [\[1994\] 1 S.C.R. 311](#)
26. *Oliveira v. Oliveira*, CV-20-652528 (unreported)
27. *Oliveira v. Oliveira*, [2023 ONCA 520 \(CanLII\)](#)
28. *Rae v. Ecolab Co.*, [2023 ONSC 5995 \(CanLII\)](#)
29. *Hotspeex v. Edwards*, [2011 ONSC 3837](#)
30. *Yan v. Chen*, [2014 ONSC 267 \(CanLII\)](#)

31. *Sakab Saudi Holding Company v. Al Jabri*, [2021 ONSC 3909 \(CanLII\)](#)
32. *Carecor Health Services Ltd. v. Health Trans Services Inc.*, [2006 CanLII 21049 \(S.C.J.\)](#)
33. *TAPS Media Inc. v. Canadian Craft Brewers Association et al*, [2022 ONSC 960 \(CanLII\)](#)
34. *Canadian Civil Liberties Association v Toronto Police Service*, [2010 ONSC 3525](#)
35. *ISkin Inc. v. Sa*, [2005 CanLII 19766 \(ON SC\)](#)

**Secondary Sources**

36. Bruce Feldthusen & Louise Bélanger-Hardy, *Halsbury's Laws of Canada - Torts* (2020 Reissue) (online)

SCHEDULE "B"

TEXT OF STATUTES, REGULATIONS & BY – LAWS

1. [Courts of Justice Act, R.S.O. 1990, c. C.43](#)

**INTERLOCUTORY ORDERS**

***Injunctions and receivers***

**101** (1) In the Superior Court of Justice, an interlocutory injunction or mandatory order may be granted or a receiver or receiver and manager may be appointed by an interlocutory order, where it appears to a judge of the court to be just or convenient to do so. R.S.O. 1990, c. C.43, s. 101 (1); 1994, c. 12, s. 40; 1996, c. 25, s. 9 (17).

***Terms***

(2) An order under subsection (1) may include such terms as are considered just. R.S.O. 1990, c. C.43, s. 101 (2).

***Interim order for recovery of personal property***

**104** (1) In an action in which the recovery of possession of personal property is claimed and it is alleged that the property,

- (a) was unlawfully taken from the possession of the plaintiff; or
- (b) is unlawfully detained by the defendant,

the court, on motion, may make an interim order for recovery of possession of the property.

2. [Rules of Civil Procedure, R.R.O. 1990, Reg. 194](#)

***Proceeding against Representative Defendant***

**12.07** Where numerous persons have the same interest, one or more of them may defend a proceeding on behalf or for the benefit of all, or may be authorized by the court to do so. O. Reg. 465/93, s. 2 (3).

***Proceeding by Unincorporated Association or Trade Union***

**12.08** Where numerous persons are members of an unincorporated association or trade union and a proceeding under the Act would be an unduly expensive or inconvenient means for determining their claims, one or more of them may be authorized by the court to bring a proceeding on behalf of or for the benefit of all. O. Reg. 288/99, s. 9; O. Reg. 496/20, s. 5

**RULE 40: INTERLOCUTORY INJUNCTION OR MANDATORY ORDER*****How Obtained***

**40.01** An interlocutory injunction or mandatory order under section 101 or 102 of the *Courts of Justice Act* may be obtained on motion to a judge by a party to a pending or intended proceeding. R.R.O. 1990, Reg. 194, r. 40.01.

***Where Motion Made without Notice*****Maximum Duration**

**40.02** (1) An interlocutory injunction or mandatory order may be granted on motion without notice for a period not exceeding ten days. R.R.O. 1990, Reg. 194, r. 40.02 (1).

**Extension**

(2) Where an interlocutory injunction or mandatory order is granted on a motion without notice, a motion to extend the injunction or mandatory order may be made only on notice to every party affected by the order, unless the judge is satisfied that because a party has been evading service or because there are other exceptional circumstances, the injunction or mandatory order ought to be extended without notice to the party. R.R.O. 1990, Reg. 194, r. 40.02 (2).

(3) An extension may be granted on a motion without notice for a further period not exceeding ten days. R.R.O. 1990, Reg. 194, r. 40.02 (3).

**Labour Injunctions Excepted**

(4) Subrules (1) to (3) do not apply to a motion for an injunction in a labour dispute under section 102 of the *Courts of Justice Act*. R.R.O. 1990, Reg. 194, r. 40.02 (4).

***Undertaking***

**40.03** On a motion for an interlocutory injunction or mandatory order, the moving party shall, unless the court orders otherwise, undertake to abide by any order concerning damages that the court may make if it ultimately appears that the granting of the order has caused damage to the responding party for which the moving party ought to compensate the responding party. R.R.O. 1990, Reg. 194, r. 40.03.

***Factums Required***

**40.04** (1) On a motion under rule 40.01, each party shall serve on every other party to the motion a factum consisting of a concise argument stating the facts and law relied on by the party. O. Reg. 14/04, s. 23.

(2) The moving party's factum shall be served and filed with proof of service in the court office where the motion is to be heard at least seven days before the hearing. O. Reg. 394/09, s. 18.

(3) The responding party's factum shall be served and filed with proof of service in the court office where the motion is to be heard at least four days before the hearing. O. Reg. 394/09, s. 18.

**RULE 44: INTERIM RECOVERY OF PERSONAL PROPERTY*****Motion for Interim Order***

**44.01** (1) An interim order under section 104 of the *Courts of Justice Act* for recovery of possession of personal property may be obtained on motion by the plaintiff, supported by an affidavit setting out,

- (a) a description of the property sufficient to make it readily identifiable;
- (b) the value of the property;
- (c) that the plaintiff is the owner or lawfully entitled to possession of the property;
- (d) that the property was unlawfully taken from the possession of the plaintiff or is unlawfully detained by the defendant; and
- (e) the facts and circumstances giving rise to the unlawful taking or detention. R.R.O. 1990, Reg. 194, r. 44.01 (1).

(2) The notice of motion shall be served on the defendant unless the court is satisfied that there is reason to believe that the defendant may improperly attempt to prevent recovery of possession of the property or that, for any other sufficient reason, the order should be made without notice. R.R.O. 1990, Reg. 194, r. 44.01 (2).

***Order to Contain Description and Value of Property***

**44.02** An interim order for recovery of possession of personal property shall contain a description of the property sufficient to make it readily identifiable and shall state the value of the property. R.R.O. 1990, Reg. 194, r. 44.02.

***Disposition of Motion*****Where Made on Notice**

**44.03** (1) On a motion for an interim order for recovery of possession of personal property made on notice to the defendant, the court may,

- (a) order the plaintiff to pay into court as security twice the value of the property as stated in the order, or such other amount as the court directs, or to give the appropriate sheriff security in such form and amount as the court approves, and direct the sheriff to take the property from the defendant and give it to the plaintiff;
- (b) order the defendant to pay into court as security twice the value of the property as stated in the order, or such other amount as the court directs, or to give the plaintiff security in such form and amount as the court approves, and direct that the property remain in the possession of the defendant; or
- (c) make such other order as is just. R.R.O. 1990, Reg. 194, r. 44.03 (1).

**Where Made Without Notice**

(2) On a motion for an interim order for the recovery of possession of personal property made without notice to the defendant, the court may,

- (a) order the plaintiff to pay into court as security twice the value of the property as stated in the order, or such other amount as the court directs, or to give the appropriate sheriff security in such form and amount as the court approves, and direct the sheriff to take and detain the property for a period of ten days after service of the interim order on the defendant before giving it to the plaintiff; or
- (b) make such other order as is just. R.R.O. 1990, Reg. 194, r. 44.03 (2).

### ***Condition and Form of Security***

**44.04** (1) Where an interim order for the recovery of possession of personal property requires either party to give security, the condition of the security shall be that the party providing the security will return the property to the opposite party without delay when ordered to do so, and pay any damages and costs the opposite party has sustained by reason of the interim order. R.R.O. 1990, Reg. 194, r. 44.04 (1).

(2) Where the security is by bond, the bond shall be in Form 44A and shall remain in force until the security is released under rule 44.06. R.R.O. 1990, Reg. 194, r. 44.04 (2).

(3) Where the bond is to be given by a person other than an insurer licensed under the *Insurance Act* to write surety and fidelity insurance, the person giving the bond shall first be approved by the court. R.R.O. 1990, Reg. 194, r. 44.04 (3); O. Reg. 570/98, s. 2.

### ***Setting Aside Order***

**44.05** The court on motion may set aside or vary an interim order for the recovery of possession of personal property or stay enforcement of the order. R.R.O. 1990, Reg. 194, r. 44.05.

### ***Release of Security***

**44.06** Any security furnished pursuant to an order made under rule 44.03 may be released on the filing of the written consent of the parties or by order of the court. R.R.O. 1990, Reg. 194, r. 44.06.

### ***Duty of Sheriff***

**44.07** (1) Before proceeding to enforce an interim order for the recovery of possession of personal property, the sheriff shall ascertain that any security required by the order has been given. R.R.O. 1990, Reg. 194, r. 44.07 (1).

(2) The sheriff shall serve the order on the defendant when the property or any part of it is recovered or as soon thereafter as is possible. R.R.O. 1990, Reg. 194, r. 44.07 (2).

(3) Where the sheriff is unable to comply with the order, or it is dangerous to do so, the sheriff may move for directions from the court. R.R.O. 1990, Reg. 194, r. 44.07 (3).

(4) The sheriff shall, without delay after attempting to enforce the order and in any event within ten days after service of the order, report to the plaintiff on what property has been recovered and, where the sheriff has failed to recover possession of all or part of the property, on what property has not been recovered and the reason for his or her failure to recover it. R.R.O. 1990, Reg. 194, r. 44.07 (4).

***Where Defendant Prevents Recovery***

**44.08** Where the sheriff reports that the defendant has prevented the recovery of all or part of the property, the court may make an order,

- (a) directing the sheriff to take any other personal property of the defendant, to the value of the property that the sheriff was prevented from recovering, and give it to the plaintiff; and
- (b) directing the plaintiff to hold the substituted property until the defendant surrenders to the plaintiff the property that the sheriff was prevented from recovering. R.R.O. 1990, Reg. 194, r. 44.08.

3. [\*\*\*Labour Relations Act, 1995, S.O. 1995, c. 1, Sched. A\*\*\*](#)

***Application for certification***

**7** (1) Where no trade union has been certified as bargaining agent of the employees of an employer in a unit that a trade union claims to be appropriate for collective bargaining and the employees in the unit are not bound by a collective agreement, a trade union may apply at any time to the Board for certification as bargaining agent of the employees in the unit. 1995, c. 1, Sched. A, s. 7 (1).

***Same***

(2) Where a trade union has been certified as bargaining agent of the employees of an employer in a bargaining unit and has not entered into a collective agreement with the employer and no declaration has been made by the Board that the trade union no longer represents the employees in the bargaining unit, another trade union may apply to the Board for certification as bargaining agent of any of the employees in the bargaining unit determined in the certificate only after the expiration of one year from the date of the certificate. 1995, c. 1, Sched. A, s. 7 (2).

***Same***

(3) Where an employer and a trade union agree that the employer recognizes the trade union as the exclusive bargaining agent of the employees in a defined bargaining unit and the agreement is in writing signed by the parties and the parties have not entered into a collective agreement and the Board has not made a declaration under section 66, another trade union may apply to the Board for certification as bargaining agent of any of the employees in the bargaining unit defined in the recognition agreement only after the expiration of one year from the date that the recognition agreement was entered into. 1995, c. 1, Sched. A, s. 7 (3).

***Same***

(4) Where a collective agreement is for a term of not more than three years, a trade union may apply to the Board for certification as bargaining agent of any of the employees in the bargaining unit defined in the agreement only after the commencement of the last three months of its operation. 1995, c. 1, Sched. A, s. 7 (4); 2000, c. 38, s. 2 (1).



***Same***

(5) Where a collective agreement is for a term of more than three years, a trade union may apply to the Board for certification as bargaining agent of any of the employees in the bargaining unit defined in the agreement only after the commencement of the 34th month of its operation and before the commencement of the 37th month of its operation and during the three-month period immediately preceding the end of each year that the agreement continues to operate thereafter or after the commencement of the last three months of its operation, as the case may be. 2000, c. 38, s. 2 (2).

***Same***

(6) Where a collective agreement referred to in subsection (4) or (5) provides that it will continue to operate for a further term or successive terms if either party fails to give to the other notice of termination or of its desire to bargain with a view to the renewal, with or without modifications, of the agreement or to the making of a new agreement, a trade union may apply to the Board for certification as bargaining agent of any of the employees in the bargaining unit defined in the agreement during the further term or successive terms only during the last three months of each year that it so continues to operate, or after the commencement of the last three months of its operation, as the case may be. 1995, c. 1, Sched. A, s. 7 (6); 2000, c. 38, s. 2 (3).

***Restriction***

(7) The right of a trade union to apply for certification under this section is subject to subsections 10 (3) and 11.1 (4), section 67, subsections 128.1 (10), (15), (21), (22) and (23) and subsection 160 (3). 2005, c. 15, s. 1.

***Withdrawal of application***

(8) An application for certification may be withdrawn by the applicant upon such conditions as the Board may determine. 1995, c. 1, Sched. A, s. 7 (8).

***Bar to reapplying***

(9) Subject to subsection (9.1), if the trade union withdraws the application before a representation vote is taken, the Board may refuse to consider another application for certification by the trade union as the bargaining agent of the employees in the proposed bargaining unit until one year or such shorter period as the Board considers appropriate has elapsed after the application is withdrawn. 1995, c. 1, Sched. A, s. 7 (9); 2000, c. 38, s. 2 (4).

***Mandatory bar***

(9.1) If the trade union withdraws the application before a representation vote is taken, and that trade union had withdrawn a previous application under this section not more than six months earlier, the Board shall not consider another application for certification by any trade union as the bargaining agent of any employee that was in the bargaining unit proposed in the original application until one year has elapsed after the second application was withdrawn. 2000, c. 38, s. 2 (5).

***Exception***

(9.2) Subsection (9.1) does not apply if the trade union that withdrew the application is a trade union that the Board is prohibited from certifying under section 15. 2000, c. 38, s. 2 (5).

***Same***

(9.3) Despite subsection (9.1), the Board may consider an application for certification by a trade union as the bargaining agent for employees in a bargaining unit that includes an employee who was in the bargaining unit proposed in the original application if,

- (a) the position of the employee at the time the original application was made was different from his or her position at the time the new application was made; and
- (b) the employee would not have been in the bargaining unit proposed in the new application had he or she still been occupying the original position when the new application was made. 2000, c. 38, s. 2 (5).

***Same***

(10) If the trade union withdraws the application after the representation vote is taken, the Board shall not consider another application for certification by any trade union as the bargaining agent of any employee that was in the bargaining unit proposed in the original application until one year after the original application is withdrawn. 2000, c. 38, s. 2 (6).

***Same***

(10.1) Despite subsection (10), the Board may consider an application for certification by a trade union as the bargaining agent for employees in a bargaining unit that includes an employee who was in the bargaining unit proposed in the original application if,

- (a) the position of the employee at the time the original application was made was different from his or her position at the time the new application was made; and
- (b) the employee would not have been in the bargaining unit proposed in the new application had he or she still been occupying the original position when the new application was made. 2000, c. 38, s. 2 (6).

***Exception***

(10.2) Subsection (10) does not apply if the trade union that withdrew the application is a trade union that the Board is prohibited from certifying under section 15. 2000, c. 38, s. 2 (6).

***Notice to employer***

(11) The trade union shall deliver a copy of the application for certification to the employer by such time as is required under the rules made by the Board and, if there is no rule, not later than the day on which the application is filed with the Board. 1995, c. 1, Sched. A, s. 7 (11).

***Proposed bargaining unit***

(12) The application for certification shall include a written description of the proposed bargaining unit including an estimate of the number of individuals in the unit. 1995, c. 1, Sched. A, s. 7 (12).

***Evidence***

(13) The application for certification shall be accompanied by a list of the names of the union members in the proposed bargaining unit and evidence of their status as union members, but the trade union shall not give this information to the employer. 1995, c. 1, Sched. A, s. 7 (13).

***Same***

(14) If the employer disagrees with the description of the proposed bargaining unit, the employer may give the Board a written description of the bargaining unit that the employer proposes and shall do so within two days (excluding Saturdays, Sundays and holidays) after the day on which the employer receives the application for certification. 1995, c. 1, Sched. A, s. 7. 1995, c. 1, Sched. A, s. 7 (14).