

Court File No. CV-24-00000869-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N :

GULED WARSAME and SHELLI SAREEN on their own behalf and on
behalf of all members of UNITE HERE Local 75

Plaintiffs

and

DAVID SANDERS, ASHLEY HAYES, RAFUNZEL KORNGUT AND ALLAN PACE on his
own behalf and on behalf of all members of THE TORONTO HOSPITALITY EMPLOYEES
UNION – CSN (THEU-CSN)

Defendants

NOTICE OF INTENT TO DEFEND

The Defendants intend to defend this action.

June 4, 2024

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Lawyers for the Plaintiff

UNITE HERE Local 75 et al.

-and- TORONTO HOSPITALITY EMPLOYEES
UNION - CSN et al.
Defendants

Court File No.: CV-2010-00869-0000

Plaintiffs

**ONTARIO
SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT KITCHENER

NOTICE OF INTENT TO DEFEND

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Lawyers for the Defendants

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UNION – CSN (THEU-CSN)

Defendants

AFFIDAVIT OF ALLAN PACE

(Defendants' in-writing motion for a transfer of this action to Toronto)

I, Allan Pace, of the City of Toronto, in the Province of Ontario, AFFIRM:

1. I am a named Defendant in this proceeding, and I am the President of “The Toronto Hospitality Employees Union – CSN” (the “**THEU**”), and as such I have knowledge of the matters herein deposed.

Purpose of Affidavit

2. This affidavit is provided in support of the Defendants' motion to transfer this action from Kitchener to Toronto. I believe that the Plaintiffs are proceeding in Kitchener, rather than Toronto, to obtain quick hearing dates in a jurisdiction outside of the Toronto collective bargaining environment. Together with the other Defendants, I ask that this Court rectify this apparent abuse

of process and order this action be transferred to the region where this action clearly belongs – Toronto.

3. This Affidavit sets out some background to the Defendants’ motion and provides the Court with evidence that there is no meaningful connection between this action and Kitchener. It also provides the Court with the context to why the Defendants believe that this action was brought in Kitchener – namely, to expedite a hearing of an interlocutory injunction that is timed to frustrate the efforts by the THEU to organize Toronto hotels in the middle of the current three month “open period” (a period in which raiding is permitted, such that employees can choose to support a different union to act as their representative for collective bargaining) ending July 31, 2024.

The Plaintiffs’ Action

4. This action arises from allegations made by the Plaintiffs that the THEU is in possession of confidential information in the form of contact lists that the Plaintiffs seek returned or destroyed. The putative confidential information was alleged to have been taken in 2018. However, the Plaintiffs did not take any steps until May 2024 to seek return of this information.

5. The Plaintiffs now seek to force a quick interlocutory injunction against the THEU within the limited period afford to the THEU and several hotel workers of being in a position to challenge the Defendants’ exclusive collective bargaining rights for approximately 27 hotels in Toronto that have open periods ending July 31, 2024.

The THEU

6. The THEU was formed in 2022 with the specific purpose of building a strong, member-driven union for hotel employees in Toronto.

7. The THEU is affiliated with the Confédération des syndicats Nationaux (“CSN”), which is based in Quebec and is one of the largest trade union confederations in Canada, with more than 330,000 members. Each of the CSN’s more than 1,600 member unions is autonomous and has full control over their own legal rights, bargaining priorities, and finances but can look to the CSN for services and support.

My Departure from Local 75

8. I am a former employee of UNITE HERE Local 75 (“**Local 75**”) which brings these proceedings. I was employed with Local 75 from 2006 until mid-January, 2018. At that point I was concerned about the interference of Local 75’s American parent organization (“**Unite International**”) seeking to take control of Local 75 against the wishes of the membership. I was told that Unite International had imposed a trusteeship, and if I did not meet with the trustee, I would be fired. I did not meet with the trustee. Together with several other employees of Local 75, I began working for another union, Unifor on or about January 18, 2018.

9. I did not take any property of Local 75 when I left my employment with it, including specifically, any membership information. To the extent that I had documentation relating to my work for Local 75 already in my possession at home at the time of my departure, I destroyed it at that time without having used it. I am informed by my co-Defendants and believe that none of them took any property from Local 75 with a view to using it later, although they had files on personal devices.

The Breakdown within Local 75

10. There was a mass exodus of Local 75 employees and members in January 2018 when Unite International placed Local 75 into trusteeship. Leading up to that point, there were disputes between two factions of the executives, with its then president, Lis Pimentel (“Pimentel”), and

others on one side, and other executives (supported by Unite International) on the other. The dispute involved contested executive and membership meetings and votes as well as, ultimately, several pieces of litigation both before and following the exodus to Unifor.

11. While Pimentel had commenced litigation to contest a possible trusteeship, Unite International proceeded to impose a trusteeship despite protestations that this was contrary to the constitution, and it effectively took over the operation of Local 75 before a hearing on the merits of the injunction was to be held. To me, this was effectively a coup by Local 75's American parent, right down to Unite International flying in dozens of its American workers to descend on the Local 75 members' meeting of January 9, 2018, to physically disrupt the process and assault and intimidate Pimentel. The Local 75 executives and members that supported Pimentel were left without recourse within Local 75.

Local 75 and Unifor

12. Raiding of Local 75 hotels started as soon as we began with Unifor. Unifor supplied me with printed lists of employees (name, address and phone number) for the hotels which I was to be responsible for seeking to raid. Although I had no role in providing Unifor with member information, I could tell that the hotel lists of employees came from Local 75.

13. At that time, several hotels were winding down an "open period". Unifor targeted several hotels that had been represented by Local 75 and executed a campaign to obtain employee support.

14. During the approximately two-week period following the mass exodus of employees from Local 75 to Unifor, approximately 2,000 of Local 75's 8,000 members signed Unifor membership cards, and ultimately Unifor welcomed in 7 new hotel workplaces. This was an astounding accomplishment which I believe was attributable to Local 75 members' dissatisfaction with Unite International's decision to take control of Local 75, as well as the faith in Pimentel as a leader.

That said, there is no way that kind of support could have been organized from a standstill without knowing who to reach out to and how to contact them.

Local 75 does not Act

15. I do not think it is possible for Local 75 not to have known that Unifor had, and was using, membership information related to Local 75 back in 2018.

16. Unifor undertook a public campaign which was explicitly aimed at raiding Local 75's membership and bargaining units, and was very successful, very quickly. Those raiding activities were not only public, but they were transparent. Unifor opened an office and it became a hive of activity, with dozens of workers and organizers coming and going freely throughout the day. It is my belief that the membership information alleged to be at issue in this action is now available widely within Unifor and likely within the employee ranks as well.

17. It is clear to me that whether Local 75 thought we took member information or whether they knew it was the shop stewards and hotel workers who had given the membership information to Unifor (or both), Local 75 had to have known back in 2018 that Unifor had and was using member information, and it chose not to claim it was confidential at that point, or demand its return.

18. For the last 6.5 years, to my knowledge, Local 75 has not treated the membership information as confidential. In January 2018, Local 75 knew that Unifor had and was using the Local 75 employees lists in its raiding activities. To my knowledge, Local 75 did not take any issue with that use at the time, or at any time prior to commencing this action. Until this action was initiated, I was never challenged by Local 75 for using this information, nor am I aware of anybody else at Unifor being challenged. I am not aware of any attempts by Local 75 to recall the information, limit its dissemination or prevent its use.

19. As a result of Local 75's indifference to Unifor's possession and use of member information, I did not consider it confidential and I contributed the information I had acquired and developed after leaving Local 75 to the THEU's outreach efforts.

Timing of this Action and the Interlocutory Injunction Motion

20. Local 75 commenced this action without notice or warning and made a request for an injunction on an urgent basis even though the membership information that Local 75 alleges is confidential information has been out of its hands and in use by others for 6.5 years. I believe this action, and a preliminary injunction, is being brought at this time to try to prevent THEU from making headway with hotel workers during current and shortly upcoming open periods, rather than from any sincere concern about outdated membership information which could have been acted upon, if it was truly confidential information, at any point from January 2018 forward.

21. My belief that this step is being timed to frustrate our efforts is buttressed by the fact that Local 75 can articulate no clear basis for why this action is being brought in Kitchener rather than in Toronto. As set out below, the THEU and the other Defendants have no connection whatsoever to Kitchener. Likewise, the Plaintiffs, the witnesses, and issues raised by Local 75 have no meaningful connection to Kitchener. The only logical explanation for why Kitchener is the chosen venue for this action is because the Plaintiffs want to frustrate the THEU's efforts at unionization during an open period and hope that an expedited hearing, in a court with more readily available dates than Toronto, could denude the THEU of its organizing contact lists and give Local 75 / Unite International an unmerited upper hand in a contested unionization fight.

Kitchener Workplaces are not Involved

22. The THEU is based in Toronto and has no presence outside of Toronto. The same is true for my co-defendants, David Sanders, Ashley Hayes, and Rafunzel Korngut, who I know

personally and who I know are all based in Toronto offices, reside in Toronto, and are completing all efforts at organizing labour for the THEU in Toronto. The THEU and the CSN (which is not a party to this action) have no presence whatsoever in Kitchener.

23. The THEU has not deliberately contacted any employees of hotels located in the Kitchener area. I have reviewed THEU's mailing list and can confirm that it does not have a single Kitchener or Waterloo address listed as a contact.

24. I do not know of a single case first-hand of any person residing in the Kitchener area who is currently employed at a hotel targeted by CSN due to the commuting distance from GTA hotels (at bare minimum, a 90-minute commute from Kitchener proper). While theoretically possible, such persons, if they exist at all, would likely be exceedingly rare. I can advise further that we have contacted no employee with a known address in Guelph or Waterloo as part of THEU's organizing efforts. In fact, the only entry on our address list even remotely in the Kitchener vicinity that I have identified is one contact with a Cambridge, Ontario address.

Office Locations and Places of Residence

25. The THEU's head office is located at 102 Adelaide Street East, Suite 200, Toronto, Ontario. A copy of the THEU's contact information taken directly from its website on June 10, 2024, is provided at **Exhibit "A"**.

26. As stated above, I reside in Toronto. In addition, I have made inquiries and can confirm that each of my co-Defendants resides in the Greater Toronto Area. All of them work at the same 102 Adelaide Street E, Suite 200, Toronto, Ontario office from which I work.

27. Likewise, Local 75's offices are located at 200 Consumers Road, Suite 406, Toronto, Ontario. The Plaintiff, Shelli Sareen, in an affidavit filed in support of the Plaintiffs' injunction

motion identifies that she resides in Toronto. The Plaintiff, Guled Warsame, does not identify in the Statement of Claim where he resides and he did not file an affidavit in support of the Plaintiffs' motion; however, he is listed online as the President of Local 75 and that his office is located at the same 200 Consumers Road, Suite 406, Toronto, Ontario address. A copy of Local 75's contact information taken directly from its website on June 10, 2024 is provided at **Exhibit "B"**.

Plaintiffs' Witnesses

28. The Plaintiffs submitted nine affidavits in their motion record, and every single affiant (Shelli Sareen, Josh Cuasay, Medhin Ghebre, Thomas Wimalendra, Abdalla Idris, Mahen Krishnamoorthy, Melaku Seyoum, Monica McKenzie, and Karen Dublin) is identified as being of the City of Toronto. Copies of the first page of these affidavits are attached as **Exhibit "C"**

Law Firms

29. Counsel for the Defendants operate out of a downtown Toronto office located at 36 Toronto Street, Suite 1120, Toronto, Ontario. Contact information for the Defendants' counsel, taken from their websites on June 10, 2024, is provided at **Exhibit "D"**

30. Counsel for the Plaintiffs operate out of a downtown Toronto office located at 474 Bathurst Street, Suite 300, Toronto, Ontario. A copy of the contact information for the Plaintiffs' counsel, taken from their websites on June 10, 2024, is provided at **Exhibit "E"**

Inconvenience of the Kitchener Court

31. This looks like this will be long and protracted litigation between Local 75 and THEU based on this action and the injunction sought. I am informed by counsel and believe that this will likely require several motions to be heard and, potentially, a lengthy trial.

32. The Kitchener court is highly inconvenient to commute to back and forth for, very likely, every witness and all counsel coming from the Toronto area. The THEU will incur travel costs, both for itself and for its counsel (including counsel's commuting time) traveling to and from Kitchener unnecessarily. So too will counsel for the Plaintiffs, and the Plaintiffs themselves – as well as witnesses (so far, all of whom appear to live in or around the Toronto area).

Lack of any Cogent Explanation for Kitchener Courthouse

33. I cannot discern any legitimate reason whatsoever for why the Plaintiffs have elected to issue their claim in Kitchener rather than Toronto when it is plain that this action belongs squarely within the walls of a Toronto Court.

34. I am attaching to this Affidavit as **Exhibit “F”** an email my counsel received from counsel for the Plaintiffs on June 3, 2024 after Plaintiffs' counsel was advised of our concern that this matter does not belong in Kitchener. In that email, counsel for the Plaintiffs advised that the Plaintiffs will not consent to the transfer – and the reasons for refusing to do so, to me, appear to be non-responsive to the fundamental question my counsel asked: *why are we in Kitchener for this action?*

35. Plaintiffs' counsel's response was that some properties that Local 75 owns are situated in Kitchener (none of which are involved in this litigation), that there are 6-7 Local 75 member properties around Pearson Airport and that some Local 75 employees who may give evidence at trial work in Airport area (which is within the Toronto jurisdiction but, counsel advises, is a comparable commute to Kitchener as to downtown Toronto – even though there is rapid transportation from Pearson Airport directly to downtown Toronto via the Union-Pearson express), and most oddly, CSN, which is not a party to this proceeding and which does not exercise direct control over THEU (unlike Local 75 and Unite International) will need to have executives attend

from Montreal for a trial and to do so will need to fly into Pearson Airport (apparently, as opposed to the more convenient Billy Bishop Island Airport).

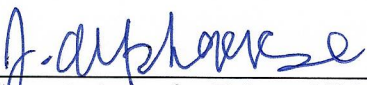
36. Without any real connection to Kitchener, my assumption is that the action was commenced there because the expectation was that the Toronto Court would not hear the injunction motion as quickly as the Kitchener Court, which would denude the motion of some of its strategic value.

37. I am informed by counsel and believe that there is a process available in Toronto for having injunctions heard, where there is true urgency, on an expedited basis. I have attached as **Exhibit "G"** a copy of the Toronto Superior Court of Justice Civil Scheduling Unit Requisition to Attend Civil Practice Court. I have also provided at **Exhibit "H"** relevant excerpts from the Consolidated Practice Direction for Civil Actions, Applications, Motions and Procedural Matters in the Toronto Region which sets out the proper process for obtaining an urgent motion date.

Purpose of Affidavit

38. I swear this affidavit in support of the motion to change jurisdiction, and for no other or improper purpose.

AFFIRMED by Allan Pace at the City of Toronto, in the Province of Ontario, before me on June 11, 2024.



 Commissioner for Taking Affidavits
 (or as may be)

JEANINE ALPHONSE

Jeanine Alphonse, a Commissioner, etc,
 Province of Ontario, for Waddell Phillips Professional
 Corporation, Barristers and Solicitors.
 Expires September 29, 2025



ALLAN PACE

This is **Exhibit "A"** as referred to in the Affidavit of Allan Pace affirmed before me on June 11, 2024.



Commissioner for Taking Affidavits (or as may be)

JEANINE ALPHONSE

Jeanine Alphonse, a Commissioner, etc,
Province of Ontario, for Waddell Phillips Professional
Corporation, Barristers and Solicitors.
Expires September 29, 2025

ABOUT THEU-CSN

The Toronto Hospitality Employees Union was born out of the need to create a strong union for the hospitality workers of the Greater Toronto Area (GTA).

Working with the CSN and its high standards gained in Quebec, we realized that the time had come to develop our own autonomous union based right here in Toronto. We wanted to work with the CSN, while remaining focused on our specific needs, hopes and dreams, and being led by the hospitality workers in Toronto.

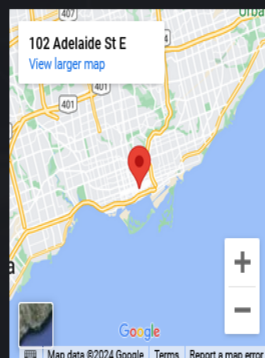
[Sign Your Card](#)

CONTACT US

Address: 102 Adelaide St. E. Suite 200, Toronto, ON M5C 1K9

Email: info@theucsn.ca

Phone: (416) 360-7040



GET IN TOUCH:

Name


Email

Message

[Submit](#)



This is **Exhibit "B"** as referred to in the Affidavit of Allan Pace affirmed before me on June 11, 2024

A handwritten signature in blue ink, appearing to read "J. Alphonse", is written over a horizontal line.

Commissioner for Taking Affidavits (or as may be)

JEANINE ALPHONSE

Jeanine Alphonse, a Commissioner, etc,
Province of Ontario, for Waddell Phillips Professional
Corporation, Barristers and Solicitors.
Expires September 29, 2025



The Union for Hospitality Workers
in the Greater Toronto Area

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Toll Free Hotline: 1 877-354-1616

Name

First

Last

Email

Message

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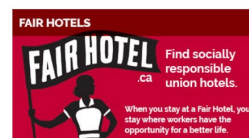


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UNITE HERE Local 75



Local 75 is an affiliate of [UNITE HERE](#),
the North American hospitality
workers' union.

This is **Exhibit "C"** as referred to in the Affidavit of Allan Pace affirmed before me on June 11, 2024.



Commissioner for Taking Affidavits (or as may be)

JEANINE ALPHONSE

Jeanine Alphonse, a Commissioner, etc,
Province of Ontario, for Waddell Phillips Professional
Corporation, Barristers and Solicitors,
Expires September 29, 2025

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Plaintiffs

and

**DAVID SANDERS, ASHLEY HAYES, RAFUNZEL KORNGUT AND ALLAN PACE
on his own behalf and on behalf of all members of THE TORONTO HOSPITALITY
EMPLOYEES UNION – CSN (THEU-CSN)**

Defendants

**AFFIDAVIT OF SHELLI SAREEN
(SWORN MAY 28, 2024)**

I, Shelli Sareen, of the City of Toronto, in the Province of Ontario, AFFIRM:

1. I am an officer of UNITE HERE Local 75 ("Local 75"), holding the elected position of Secretary-Treasurer. I have been in this position since April 24, 2019.
2. As Secretary-Treasurer, I am the second-highest ranking official in Local 75's leadership structure. My colleague, Guled Warsame, is the highest ranking official at Local 75. Mr. Warsame holds the role of President. Mr. Warsame is also the Canadian Director of the UNITE HERE International Union (the "IU"), which is the parent trade union that Local 75 is a part of.
3. Local 75 is an unincorporated association governed by its bylaws and the IU's constitution. A copy of the IU's constitution is enclosed as **Exhibit "1"**.

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on his own behalf and on behalf of all members of THE TORONTO HOSPITALITY
EMPLOYEES UNION – CSN (THEU-CSN)**

Defendants

**AFFIDAVIT OF JOSH CUASAY
(SWORN MAY 27, 2024)**

I, Josh Cuasay, of the City of Toronto, in the Province of Ontario, AFFIRM:

1. I have worked as a full-time Organizer for UNITE HERE Local 75 (“Local 75”) since September 2019. I am aware that the Toronto Hospitality Employees Union - CSN (“THEU CSN”) is attempting to recruit members of UNITE HERE Local 75. As such, have knowledge of the matters contained in this Affidavit.

2. Prior to my employment with Local 75, I worked as a Room Attendant for the employer “Events at One King West” at the One King West Hotel and Residence in Downtown Toronto. Local 75 has held bargaining rights for Events at One King West since approximately 2008. I was an employee of Events at One King West from approximately 2005 until 2019 when I became a full-time employee of Local 75. From approximately 2013 to 2019, I was on a union leave of

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on his own behalf and on behalf of all members of THE TORONTO HOSPITALITY
EMPLOYEES UNION – CSN (THEU-CSN)**

Defendants

**AFFIDAVIT OF MEDHIN GEBRE
(SWORN MAY 28, 2024)**

I, Medhin Ghebre, of the City of Toronto, in the Province of Ontario, AFFRIM:

1. I work as a Housekeeper at the Chelsea Hotel in Toronto. In connection with my employment, I am a member of UNITE HERE Local 75. I am aware that the Toronto Hospitality Employees Union - CSN (“THEU CSN”) is attempting to recruit members of UNITE HERE Local 75. As such, I have knowledge of the matters contained in this Affidavit.
2. I have been a Housekeeper at the Chelsea Hotel in Toronto for approximately thirty-three (33) years. Throughout my employment at the Chelsea Hotel, I have been a member of UNITE HERE Local 75 and its predecessors.

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on his own behalf and on behalf of all members of THE TORONTO HOSPITALITY
EMPLOYEES UNION – CSN (THEU-CSN)**

Defendants

**AFFIDAVIT OF THOMAS WIMALENDRA
(SWORN MAY 27, 2024)**

I, Thomas Wimalendra, of the City of Toronto, in the Province of Ontario, MAKE OATH
AND SAY:

1. I work as a Houseperson at the King Edward Hotel in Toronto. In connection with my employment, I am a member of UNITE HERE Local 75. I am aware that the Toronto Hospitality Employees Union - CSN (“THEU CSN”) is attempting to recruit members of UNITE HERE Local 75. As such, have knowledge of the matters contained in this Affidavit.

2. I have been a Houseperson at the King Edward Hotel in Toronto for approximately thirty (30) years. Throughout my employment at the King Edward Hotel, I have been a member of UNITE HERE Local 75 and its predecessors.

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on his own behalf and on behalf of all members of THE TORONTO HOSPITALITY
EMPLOYEES UNION – CSN (THEU-CSN)**

Defendants

**AFFIDAVIT OF ABDALLA IDRIS
(SWORN MAY 28, 2024)**

I, Abdalla Idris, of the City of Toronto, in the Province of Ontario, AFFIRM:

1. I work as a Union Organizer for UNITE HERE Local 75 (“Local 75”).
2. As a result of my involvement with Local 75, I speak, text, or otherwise communicate frequently with Local 75 members employed at the Sheraton Toronto Centre. As a result, I have knowledge of the matters deposed to here by me.
3. Over the past several weeks, I have spoken to Local 75 members who have told me that they have received communications at home and/or on their cell phone by text, or both, from what appears to be the “THEU – CSN”. These same members told me that these communications contain content designed to persuade the reader to join the THEU – CSN. These same members

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on his own behalf and on behalf of all members of THE TORONTO HOSPITALITY
EMPLOYEES UNION – CSN (THEU-CSN)**

Defendants

**AFFIDAVIT OF MAHEN KRISHNAMOORTHY
(SWORN MAY 28, 2024)**

I, Mahen Krishnamoorwthy, of the City of Toronto, in the Province of Ontario, AFFIRM:

1. I work as a Union Organizer for UNITE HERE Local 75 (“Local 75”).
2. As a result of my involvement with Local 75, I speak, text, or otherwise communicate frequently with Local 75 members employed at the Chelsea Hotel. As a result, I have knowledge of the matters deposed to here by me.
3. Over the past several weeks, I have spoken to Local 75 members who have told me that they have received communications at home and/or on their cell phone by text, or both, from what appears to be the “THEU – CSN”. These same members told me that these communications contain content designed to persuade the reader to join the THEU – CSN. These same members

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BETWEEN:

**GULED WARSAME and SHELLI SAREEN on their own behalf and on
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Plaintiffs

and

**DAVID SANDERS, ASHLEY HAYES, RAFUNZEL KORNGUT AND ALLAN PACE
on his own behalf and on behalf of all members of THE TORONTO HOSPITALITY
EMPLOYEES UNION – CSN (THEU-CSN)**

Defendants

**AFFIDAVIT OF MELAKU SEYOUM
(SWORN MAY 28, 2024)**

I, Melaku Seyoum, of the City of Toronto, in the Province of Ontario, AFFIRM:

1. I work as a Union Organizer for UNITE HERE Local 75 (“Local 75”).
2. As a result of my involvement with Local 75, I speak, text, or otherwise communicate frequently with Local 75 members employed at the King Edward Hotel. As a result, I have knowledge of the matters deposed to here by me.
3. Over the past several weeks, I have spoken to Local 75 members who have told me that they have received communications at home and/or on their cell phone by text from what appears to be the “THEU – CSN”. These same members told me that these communications contain content designed to persuade the reader to join the THEU – CSN. These same members have told

Court File No. CV-24-00000869-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

**GULED WARSAME and SHELLI SAREEN on their own behalf and on
behalf of all members of UNITE HERE Local 75**

Plaintiffs

and

**DAVID SANDERS, ASHLEY HAYES, RAFUNZEL KORNGUT AND ALLAN PACE
on his own behalf and on behalf of all members of THE TORONTO HOSPITALITY
EMPLOYEES UNION – CSN (THEU-CSN)**

Defendants

**AFFIDAVIT OF MONICA MCKENZIE
(SWORN MAY 28, 2024)**

I, Monica McKenzie, of the City of Toronto, in the Province of Ontario, AFFIRM:

1. I have worked as a Union Organizer for UNITE HERE Local 75 (“Local 75”).
2. As a result of my involvement with Local 75, I speak, text, or otherwise communicate frequently with Local 75 members employed at the Hilton Airport Hotel. As a result, I have knowledge of the matters deposed to here by me.
3. Over the past several weeks, I have spoken to Local 75 members who have told me that they have received communications at home and/or their cell phone by text, or both, from what appears to be the “THEU – CSN”. These same members told me that these communications contain content designed to persuade the reader to join the THEU – CSN. These same members

Court File No. CV-24-00000869-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

**GULED WARSAME and SHELLI SAREEN on their own behalf and on
behalf of all members of UNITE HERE Local 75**

Plaintiffs

and

**DAVID SANDERS, ASHLEY HAYES, RAFUNZEL KORNGUT AND ALLAN PACE
on his own behalf and on behalf of all members of THE TORONTO HOSPITALITY
EMPLOYEES UNION – CSN (THEU-CSN)**

Defendants

**AFFIDAVIT OF KAREN DUBLIN
(SWORN MAY 28, 2024)**

I, Karen Dublin, of the City of Toronto, in the Province of Ontario, AFFIRM:

1. I work as a Union Organizer for UNITE HERE Local 75 (“Local 75”) at four hotels set out below.

2. As a result of my involvement with Local 75, I speak, text, or otherwise communicate frequently with Local 75 members employed at the Hotels I service, which are the DoubleTree Downtown, the Novotel Downtown, the Marriott City Centre, and One King West in Toronto. As a result, I have knowledge of the matters deposed to here by me.

3. Over the past several weeks, I have spoken to Local 75 members who have told me that they have received communications at home and/or on their cell phone by text, or both, from what appears to be the “THEU – CSN”. These same members told me that these communications

This is **Exhibit "D"** as referred to in the Affidavit of Allan Pace affirmed before me on June 11, 2024.



Commissioner for Taking Affidavits (or as may be)

JEANINE ALPHONSE

Jeanine Alphonse, a Commissioner, etc,
Province of Ontario, for Waddell Phillips Professional
Corporation, Barristers and Solicitors.
Expires September 29, 2025



CONTACT US —

TORONTO OFFICE

Contact Us

Phone: 647-261-4486
Fax: 416-477-1657
Email: reception@waddellphillips.ca

Visit Us

36 Toronto St., Suite 1120
Toronto, ON M5C 2C5
[See Google map](#)

CALGARY OFFICE

Contact Us

Phone: 403-617-9868
Fax: 403-775-4457
Email: reception@waddellphillips.ca

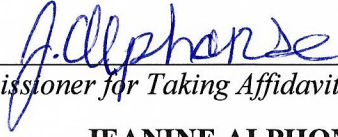
Visit Us

630 - 6th Avenue SW, Suite 425
Calgary, AB T2P 0S8
[See Google map](#)

Contact a Lawyer

Select a Lawyer to look up.

This is **Exhibit "E"** as referred to in the Affidavit of Allan Pace affirmed before me on June 11, 2024.



Commissioner for Taking Affidavits (or as may be)

JEANINE ALPHONSE

Jeanine Alphonse, a Commissioner, etc,
Province of Ontario, for Waddell Phillips Professional
Corporation, Barristers and Solicitors,
Expires September 29, 2025



CONTACT US

474 Bathurst Street, Suite 300
Toronto, Ontario M5T 2S6

P. **416.964.1115**
F. 416.964.5895
E. contactus@cavalluzzo.com

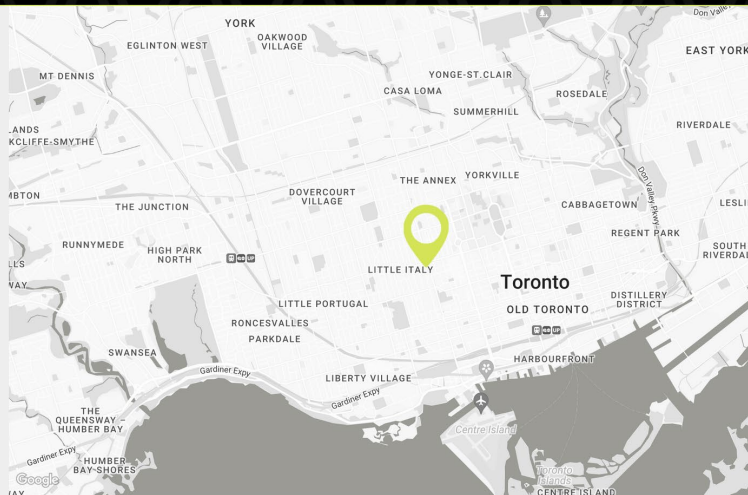
HOW TO REACH US

From East Toronto -

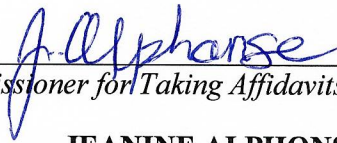
- ▶ Take Gardiner Expressway W
- ▶ Take Spadina Avenue exit
- ▶ Merge onto Spadina Avenue
- ▶ Turn left onto Dundas St W
- ▶ Turn right onto Bathurst St

From Mississauga +

Public Transit +



This is **Exhibit "F"** as referred to in the Affidavit of Allan Pace affirmed before me on June 11, 2024



Commissioner for Taking Affidavits (or as may be)

JEANINE ALPHONSE

Jeanine Alphonse, a Commissioner, etc,
Province of Ontario, for Waddell Phillips Professional
Corporation, Barristers and Solicitors.
Expires September 29, 2025

From: [Stephen Moreau](#)
Sent: June 3, 2024 5:17 PM
To: Laura Young
Cc: [Cole Eisen](#); [Otto Phillips](#); [John Phillips](#)
Subject: RE: * URGENT* Injunction Motion - To Book June 6, 2024 - Guled Warsame et al. v. David Sanders et al. - CV-24-00000869-0000

Laura, Otto, John,

I just finished another call and can now answer your question. This answer cannot possibly be complete: that is, were the issue you raise to become the subject of any motion, you could expect a more substantial set of evidence to deal with the issue. I therefore reserve the right to rely on further facts and evidence should your client bring a motion. This is really meant to give you some detail in answer to your question.

First, the Plaintiffs will not consent to any motion to transfer the Action to another jurisdiction. At the outset, the Plaintiffs choose the jurisdiction, as you know.

Second, and to more directly answer your question (and in no particular order):

1. There are two affected properties situated in Kitchener directly. The members of Local 75 who are employed in Kitchener and live in or around Kitchener are impacted if any successful raid takes place anywhere. Ms. Sareen's affidavit explains this point in her affidavit in detail.
2. There are 6-7 Local 75 member properties (I would need more time to offer an accurate picture) situated in or around Pearson Airport. The members who work there and who can give evidence at trial live within commuting distance of their employers. Such persons would be able to drive to the Kitchener courthouse in about the same time as it would take (if not less) to drive to 390 University Avenue or other such buildings.
3. Several of Local 75's organizers, some of whom have already given affidavits, live in around the area referenced at point #2.
4. The Defendant at its heart is a union with what I will call a "head office" in Montreal. Any of its witnesses will perforce need to fly in to the GTA to give evidence at trial. If they fly with a unionized employer, which is a fair assumption on my part, then nearly a substantial majority of the flights they will take will land at Pearson Airport. Pearson to Kitchener should take less time for these witnesses than Pearson to downtown Toronto. Or, at its highest, the travel time will be comparable.

I trust that this answers your question.

Stephen

Stephen J. Moreau
Cavalluzzo LLP

From: Laura Young <laura.young@lylaw.ca>
Sent: Monday, June 3, 2024 3:21 PM
To: Stephen Moreau <SMoreau@cavalluzzo.com>
Cc: Cole Eisen <ceisen@cavalluzzo.com>; Otto Phillips <otto@waddellphillips.ca>; John Phillips

<john@waddellphillips.ca>

Subject: RE: * URGENT* Injunction Motion - To Book June 6, 2024 - Guled Warsame et al. v. David Sanders et al. - CV-24-00000869-0000

Hi Stephen - John and Otto are co-counsel. You will have a notice of intent shortly.

Sincerely,

Laura Young
Employment & Litigation Counsel

Tel 416.366.4298
laura.young@lylaw.ca

36 Toronto St., Suite 1120
Toronto, ON M5C 2C5
Fax 416.850.5134

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From: Stephen Moreau <SMoreau@cavalluzzo.com>

Sent: Monday, June 3, 2024 3:19 PM

To: Laura Young <laura.young@lylaw.ca>

Cc: Cole Eisen <ceisen@cavalluzzo.com>

Subject: RE: * URGENT* Injunction Motion - To Book June 6, 2024 - Guled Warsame et al. v. David Sanders et al. - CV-24-00000869-0000

Before I respond, you have copied two other lawyers unexpectedly. I want to be sure I am replying to the right people.

Stephen

Stephen J. Moreau
Cavalluzzo LLP

From: Laura Young <laura.young@lylaw.ca>

Sent: Monday, June 3, 2024 3:18 PM

To: Stephen Moreau <SMoreau@cavalluzzo.com>

Cc: Cole Eisen <ceisen@cavalluzzo.com>; Otto Phillips <otto@waddellphillips.ca>; John Phillips <john@waddellphillips.ca>

Subject: RE: * URGENT* Injunction Motion - To Book June 6, 2024 - Guled Warsame et al. v. David Sanders et al. - CV-24-00000869-0000

Hi Stephen – Upon review, it appears that this matter has no real relationship with the Kitchener jurisdiction and ought to proceed in Toronto. Will you consent to move this matter accordingly?

Sincerely,

Laura Young
Employment & Litigation Counsel

Tel 416.366.4298
laura.young@lylaw.ca

36 Toronto St., Suite 1120
Toronto, ON M5C 2C5
Fax 416.850.5134

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From: Stephen Moreau <SMoreau@cavalluzzo.com>

Sent: Wednesday, May 29, 2024 10:55 AM

To: Laura Young <laura.young@lylaw.ca>

Cc: Cole Eisen <ceisen@cavalluzzo.com>

Subject: FW: * URGENT* Injunction Motion - To Book June 6, 2024 - Guled Warsame et al. v. David Sanders et al. - CV-24-00000869-0000

Laura,
The hearing date is now June 18, 2024. Attached is the amended Endorsement to that effect.
Stephen

Stephen J. Moreau
Cavalluzzo LLP

From: JUS-G-MAG-CSD-Kitchener Superior Court (JUS) <Kitchener.Superior.Court@ontario.ca>
Sent: Wednesday, May 29, 2024 10:48 AM
To: Stephen Moreau <SMoreau@cavalluzzo.com>; Lindsay Heidker <lheidker@cavalluzzo.com>
Cc: Cox, Melissa (JUD) <Melissa.Cox@ontario.ca>; Cole Eisen <ceisen@cavalluzzo.com>; Kitchener Civil-SCC-Enforcement <KitchenerCivil-SCC-Enforcement@ontario.ca>
Subject: RE: * URGENT* Injunction Motion - To Book June 6, 2024 - Guled Warsame et al. v. David Sanders et al. - CV-24-00000869-0000

Amended endorsement attached scheduling for June 18th at 10 a.m.

Thanks.

From: Stephen Moreau <SMoreau@cavalluzzo.com>
Sent: Wednesday, May 29, 2024 10:31 AM
To: JUS-G-MAG-CSD-Kitchener Superior Court (JUS) <Kitchener.Superior.Court@ontario.ca>; Lindsay Heidker <lheidker@cavalluzzo.com>
Cc: Cox, Melissa (JUD) <Melissa.Cox@ontario.ca>; Cole Eisen <ceisen@cavalluzzo.com>; Kitchener Civil-SCC-Enforcement <KitchenerCivil-SCC-Enforcement@ontario.ca>
Subject: RE: * URGENT* Injunction Motion - To Book June 6, 2024 - Guled Warsame et al. v. David Sanders et al. - CV-24-00000869-0000

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Acknowledging receipt of the Endorsement which we will make every effort to communicate to the parties opposite.

I am sorry to crave the court's indulgence, but write to request whether the hearing can be scheduled for June 18 or 19 instead of for June 17? It will be challenging, if not impossible, to find counsel to attend on June 17.

Respectfully submitted.

Stephen J. Moreau
Cavalluzzo LLP

From: JUS-G-MAG-CSD-Kitchener Superior Court (JUS) <Kitchener.Superior.Court@ontario.ca>
Sent: Wednesday, May 29, 2024 9:44 AM
To: Lindsay Heidker <lheidker@cavalluzzo.com>
Cc: Cox, Melissa (JUD) <Melissa.Cox@ontario.ca>; Stephen Moreau <SMoreau@cavalluzzo.com>; Cole Eisen <ceisen@cavalluzzo.com>; Kitchener Civil-SCC-Enforcement <KitchenerCivil-SCC-Enforcement@ontario.ca>

Subject: RE: * URGENT* Injunction Motion - To Book June 6, 2024 - Guled Warsame et al. v. David Sanders et al. - CV-24-00000869-0000

Good Morning,

Please see the attached triage endorsement from Justice Smith dated May 29, 2024. Once materials are filed through the online portal the filing office will open a CaseLines link.

Thank you.

From: Lindsay Heidker <lheidker@cavalluzzo.com>
Sent: Tuesday, May 28, 2024 7:55 PM
To: JUS-G-MAG-CSD-Kitchener Superior Court (JUS) <Kitchener.Superior.Court@ontario.ca>
Cc: Cox, Melissa (JUD) <Melissa.Cox@ontario.ca>; Stephen Moreau <SMoreau@cavalluzzo.com>; Cole Eisen <ceisen@cavalluzzo.com>
Subject: * URGENT* Injunction Motion - To Book June 6, 2024 - Guled Warsame et al. v. David Sanders et al. - CV-24-00000869-0000
Importance: High

CAUTION -- EXTERNAL E-MAIL - Do not click links or open attachments unless you recognize the sender.

Good Evening,

We act for UNITE HERE Local 75 in the matter set out in the subject line, which is an Action commenced by Statement of Claim.

In compliance with the Practice Directions, we have been instructed to reach out to this email address to arrange the scheduling of an urgent Injunction Motion , returnable on **June 6, 2024**. This motion will be filed in accordance with, *inter alia*, Rules 40 and 44 of the *Rules of Civil Procedure*. We will seek to file the Motion Record by no later than May 30, 2024.

Additionally, as per the Practice Directions, I have attached the Notice of Motion detailing the relief sought. Please note that the relief requested includes the return of allegedly stolen property that is now being misused by the Defendants. The Claim is also attached in case it is needed or of use.

Due to the time-sensitive nature of this issue, I kindly request that the Plaintiffs' request an urgent Injunction Motion on the specified date be expedited. Should the Court prefer a brief meeting with Counsel at Motions Court this Thursday, May 30th to address our scheduling concerns, Mr. Moreau, copied on this correspondence, is available to participate.

Sincerely,

Lindsay J. Heidker
Law Clerk
Cavalluzzo LLP
Barristers & Solicitors
474 Bathurst Street, Suite 300
Toronto, ON M5T 2S6
T 416.668.6319
E lheidker@cavalluzzo.com

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This is **Exhibit "G"** as referred to in the Affidavit of Allan Pace affirmed before me on June 11, 2024



Commissioner for Taking Affidavits (or as may be)

JEANINE ALPHONSE

Jeanine Alphonse, a Commissioner, etc,
Province of Ontario, for Waddell Phillips Professional
Corporation, Barristers and Solicitors.
Expires September 29, 2025

**SUPERIOR COURT OF JUSTICE
CIVIL SCHEDULING UNIT
REQUISITION TO ATTEND CIVIL PRACTICE COURT**

330 University Avenue, 8th Floor
Toronto ON M5G 1R7
Email: civilpracticecourt@ontario.ca

- Requisition to Attend Civil Practice Court before a Judge to Schedule (select one of the following):
- Urgent Hearing Long Motion or Application Summary Judgment Motion Request for Case Management Constitutional Question Appeal from the Consent and Capacity Board

*** To book a date through Civil Practice Court, please return this completed form in **Microsoft Word** format by email to: civilpracticecourt@ontario.ca.

Court File Number:

Full Title of Proceeding (List all Parties in the Title of Proceeding):

Moving Party Is:

- Plaintiff/Applicant/Appellant
- Defendant/Respondent
- Other

1. Estimated time for oral argument by all parties:	
2. Nature of the action or application (e.g., personal injury, specific tort, contract or other case type identified on Form 14F):	
3. Rule(s) or statutory provisions under which the motion / application is brought:	
4. May the motion be heard by an associate judge or must it be heard by a judge?	
5. Whether a particular judge or associate judge is seized of all motions in the proceeding or of the particular motion?	
6. If the proceeding is governed by the Simplified Procedure Rule (Rule 76), does the motion concern undertakings given or refusals made on examination for discovery?	
7. Is the motion seeking summary judgment?	
8. Is the application or motion urgent?	
9. Is any party self-represented?	
10. Is this proceeding under case management?	
11. Does the motion or application require a bilingual Judge or Associate Judge?	

Name of Party and Lawyer Scheduling the Motion:

Name and Firm (please type or print clearly)

YYYY-MM-DD

Date

Telephone Number and Email Address

Court File No:

Name of Party and Lawyer Responding:

Name and Firm (please type or print clearly)

Telephone Number and Email Address

Name of Party and Lawyer Responding:

Name and Firm (please type or print clearly)

Telephone Number and Email Address

Name of Party and Lawyer Responding:

Name and Firm (please type or print clearly)

Telephone Number and Email Address

Name of Party and Lawyer Responding:

Name and Firm (please type or print clearly)

Telephone Number and Email Address

Name of Party and Lawyer Responding:

Name and Firm (please type or print clearly)

Telephone Number and Email Address

ONTARIO SUPERIOR COURT OF JUSTICE (TORONTO REGION)

CIVIL PRACTICE COURT ENDORSEMENT Court File No.:

[Empty rectangular box for court file number]

Presiding Judge:

CPC#: _____

DATE: YYYY-MM-DD _____

Counsel attending (if different than listed above):

Plaintiff:

Defendant:

Other:

ENDORSEMENT

[delete if inapplicable] The schedule set out on the next page is ordered.

DATE: YYYY-MM-DD

Judge's Signature

X _____

SCHEDULE

TIMETABLE

- MOVING PARTY'S MOTION RECORD, APPLICATION RECORD, OR APPEAL BOOK TO BE DELIVERED¹ BY:
- RESPONDING PARTY RECORD TO BE DELIVERED BY:
- REPLY RECORD, IF ANY, TO BE DELIVERED BY:
- CROSS-EXAMINATIONS TO BE COMPLETED BY:
- UNDERTAKINGS TO BE ANSWERED BY:
- MOTION FOR REFUSALS BY:
- CASE CONFERENCE TO BE CONDUCTED BY:
- MOVING PARTY OR APPLICANT'S FACTUM TO BE DELIVERED BY:
- RESPONDING PARTY FACTUM TO BE DELIVERED BY:
- APPROVED HEARING DATE:
- ANY ADDITIONAL TIMETABLE ITEMS:

THE PARTIES SHALL COMPLY WITH ALL PRACTICE DIRECTIONS ISSUED FOR THE TORONTO REGION APPLICABLE TO THIS MOTION OR APPLICATION, INCLUDING THE REQUIREMENTS FOR FILING DOCUMENTS AND UPLOADING THEM TO CASELINES AS SUMMARIZED IN THE TABLE BELOW.

¹ Rule 1.01: "deliver" means serve and file with proof of service, and "delivery" has a corresponding meaning.

REQUIRED STEPS CHECKLIST

STEP	HOW	CHECK IF DONE
File documents and pay all fees	<p>File your documents and pay fees using the Civil Submissions Online portal https://www.ontario.ca/page/file-civil-claim-online. If your matter is urgent or you are filing documents for a court date or deadline that is fewer than 5 business days away, email your documents to the court office at : Civil Urgent Matters-SCJ-Toronto <CivilUrgentMatters-SCJ-Toronto@ontario.ca></p> <p>Documents submitted to the court in electronic format must be named in accordance with the Superior Court's Standard Document Naming Protocol, which can be found in section C.8 of the <i>Consolidated Notice to the Profession, Litigants, Accused Persons, Public and the Media</i> at: https://www.ontariocourts.ca/scj/notices-and-orders-covid-19/consolidated-notice/#8 <u>Standard document naming protocol</u>.</p> <p>See new Rule 4.05.2.</p> <p>Ensure your email address is on all documents filed.</p>	<input type="checkbox"/>
30 DAYS BEFORE HEARING		
Email Motions Coordinator 30 days prior to the motion or application hearing date about the status of the motion or application including names, telephone numbers, and email addresses of all counsel and/or self-represented parties. After this is done, the parties will receive an email from CaseLines saying it is ready to use.	Send email to: LongMotionsStatus.Judge@ontario.ca .	<input type="checkbox"/>
AT LEAST ONE WEEK BEFORE HEARING		
<p>Upload materials to CaseLines including all Motion Records, Factums, and the requested Draft Order or Judgment.</p> <p>Upload your factum and draft Order or Judgment in WORD format.</p>	<p>See new Rule 4.05.3.</p> <p>Ensure you email address is on all documents filed.</p> <p>For more information about CaseLines, including answers to frequently asked questions, refer to <i>Supplementary Notice to the Profession and Litigants in Civil and Family Matters – Including Electronic Filings and Document Sharing (CaseLines Pilot)</i> September 2, 2020; updated December 17, 2020 found at https://www.ontariocourts.ca/scj/notices-and-orders-covid-19/supplementary-notice-september-2-2020/.</p>	<input type="checkbox"/>

Court File No:

Confer with opposing counsel and email Motion Confirmation form to Motions Coordinator.	For motions, see: Rule 37.10.1 and Form 37B. For applications, see: Rule 38.09.1(1) and Form 38B. Send email to: LongMotionsStatus.Judge@ontario.ca .	<input type="checkbox"/>
SHORTLY BEFORE HEARING		
Upload Compendiums. For all oral motions and applications upload a Compendium to CaseLines at any time before the hearing which contain the excerpted portions of the cases and evidence which the parties intend to rely upon. Counsel and self-represented parties should familiarize themselves with the CaseLines-generated page numbering on uploaded documents for ease in directing the judge to specific pages.	See email from CaseLines.	<input type="checkbox"/>
Upload any amended requested Draft Order or Judgment into CaseLines.	See uploading instructions in the Frequently Asked Questions About CaseLines at: https://www.ontariocourts.ca/scj/notices-and-orders-covid-19/supplementary-notice-september-2-2020/faq-caselines/ .	<input type="checkbox"/>
Exchange costs outlines not exceeding 3 pages in length.	See Rule 57.01(6) and Form 57B.	<input type="checkbox"/>
AFTER THE HEARING		
Upload the costs outlines to CaseLines <u>if there have been no Rule 49 Offers to Settle</u> . If there have been Rule 49 Offers to Settle, then costs outlines should be dealt with in the manner directed by the Motions or Applications Judge.		<input type="checkbox"/>

This is **Exhibit "H"** as referred to in the Affidavit of Allan Pace affirmed before me on June 11, 2024



Commissioner for Taking Affidavits (or as may be)

JEANINE ALPHONSE

Jeanine Alphonse, a Commissioner, etc,
Province of Ontario, for Waddell Phillips Professional
Corporation, Barristers and Solicitors.
Expires September 29, 2025

B. Rules Applicable to All Motions & Applications

3. There are four different streams for scheduling motions and applications, depending on how they are heard, their duration and the judicial officer who is to hear the motion or application:
- a. **Short Applications & Short Motions before Judge or Associate Judge:** Applications and motions before a Judge or Associate Judge that require two hours or less for all parties to argue are considered short applications and short motions. These motions are to be booked through the Civil Scheduling Unit, per the direction below.
 - b. **Long Applications, Long Motions, Summary Judgment Motions and Urgent Matters before a Judge:** Applications and motions before a Judge that require more than two hours for all parties to argue are considered long applications and long motions. These applications and motions are booked first by attending Civil Practice Court. To schedule an appearance at Civil Practice Court, parties are expected to make every effort to consent to a date for their appearance with the court. All Civil Practice Court appearances must be scheduled through Calendly at: <https://calendly.com/toronto-region>. Only one party is required to complete the Calendly scheduling process. Upon selecting the preferred date and following Calendly's prompts, the requestor will receive an email confirming the date and outlining next steps to secure their appearance at Civil Practice Court. It is the responsibility of the requestor to forward all emails related to the appearance to other parties in the action so that all parties are aware of the date of their appearance at Civil Practice Court. If parties are unable to consent to a date for their appearance at Civil Practice Court despite best efforts, the requesting party must indicate that the date is not on consent when completing the Calendly questions and advise all other parties that they have selected a date through Calendly. To obtain a date a completed [Requisition to Attend Civil Practice Court form](#) is required for the scheduling of all Civil Practice Court appearances. The completed requisition can be emailed to Civilpracticecourt@ontario.ca.
 - c. **Motions before an Associate Judge.** Different procedures exist for scheduling long motions, short motions and *ex parte* motions before an associate judge. Different procedures are also outlined below for booking long motions before an associate judge in case-managed actions and in construction lien actions or within a reference.
 - d. **Motions before Judges or Associate Judges in Writing.** Counsel are strongly encouraged to bring in-writing motions when appropriate, to reduce unnecessary court appearances that drain limited judicial resources and which unnecessarily add to cost.