

Court File number: T-2683-24

Under the Simplified Procedure

FEDERAL COURT OF CANADA
Statement of Claim

FILED	FEDERAL COURT COUR FÉDÉRALE	DÉPOSÉ
	OCT 15 2024	
	KIMI CHEONG	
	TORONTO, ON	

BETWEEN:

HANNA SOCHNYEVA and DMYTRO SOCHNYEV

Plaintiffs

-and-

HIS MAJESTY THE KING IN RIGHT OF ONTARIO

Defendant

- and -

LAWYERS' PROFESSIONAL INDEMNITY COMPANY

Defendant

Statement of Claim

Hanna Sochnyeva
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Plaintiffs

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Defendant

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TO THE DEFENDANTS:

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 a solicitor acting for you are required to prepare a statement of defence in Form 171B prescribed by the Federal Courts Rules, serve it on the plaintiff's solicitor or, if the plaintiff does not have a solicitor, serve it on the plaintiff, and file it, with proof of service, at a local office of this Court

WITHIN 30 DAYS after the day on which this statement of claim is served on you, if you are served in Canada or the United States; or

WITHIN 60 DAYS after the day on which this statement of claim is served on you, if you are served outside Canada and the United States.

TEN ADDITIONAL DAYS are provided for the filing and service of the statement of defence if you or a solicitor acting for you serves and files a notice of intention to respond in Form 204.1 prescribed by the Federal Courts Rules.

Copies of the Federal Courts Rules, information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO DEFEND THIS PROCEEDING, judgment may be given against you in your absence and without further notice to you.

(Date) OCT 15 2024

Issued by:

SHERRI ALLY
REGISTRY OFFICER
AGENT DU GREFFE

(Registry Officer)
Address of local office:
Federal Court of Canada
180 Queen St. W,
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TO:

HIS MAJESTY THE KING
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AND TO:

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AND TO:

TO: The Attorney General of Canada Ontario Regional Office, Department of Justice
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Vancouver and Yukon: VAN_reception@fct-cf.ca
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Claim:

1. The Plaintiff claims:

- (a) An order for monetary damages in the amount of \$100,000.
- (b) Any applicable interest on the claimed amount, pursuant to the Federal Courts Act.
- (c) Costs of the proceeding.
- (d) Such further and other relief as the court deems just.

2. Parties:

- (a) The plaintiff, **HANNA SOCHNYEVA**, resides at Leskova 3A/12, Kiev, Ukraine, 01011.
- (b) The plaintiff, **DMYTRO SOCHNYEV**, resides at 1 Fortieth Street, Toronto, ON M8W3M8.
- (c) The defendant, **HIS MAJESTY THE KING IN RIGHT OF ONTARIO**, represents the Crown and is located at Crown Law Office – Civil McMurtry-Scott Building 8th Floor 720 Bay Street, Toronto, Ontario M7A 2S9.
- (d) The defendant, **LAWYERS' PROFESSIONAL INDEMNITY COMPANY (LawPro)**, is a corporation that provides insurance and is located at CF Toronto Eaton Centre 250 Yonge St #3101, Toronto, ON M5B 2L7.

1. A constitutional question is being raised in the Claim. The plaintiffs approached the Federal Court, raising significant concerns about procedural injustices and violations of Charter rights within the Ontario provincial court system, which have persisted for many years. The plaintiffs have consistently been deprived of the opportunity to adequately defend against the actions brought forth, leading to a severe infringement of their

fundamental rights as guaranteed by the Canadian Charter of Rights and Freedoms. Specifically, it has compromised their right to a fair and impartial trial. The exertion of dominant control over the legal proceedings by LawPro has not only encroached upon the plaintiffs' right to a proper defense but has also unnecessarily protracted the case, compounding the injustice experienced. The procedural misstep, which compromises the safeguards designed to maintain the legal process's balance, is further exacerbated by Lawyers' Professional Indemnity Company (LawPro)'s implementation of a directive—“***Call LawPro, which allows LawPro counsel every opportunity to reinstate proceedings***”. This unfairly benefits LawPro, leading to the striking of the plaintiffs' defense, and continues case management in violation of Rule 48.14(5), Rule 77.05(1), Rule 77.02(1)(g) *Rules of Civil Procedure*, and the Consolidated Practice Direction for Civil Actions, Applications, Motions, and Procedural Matters in the Toronto Region Section 51, “**by way of motion.**” This approach blatantly disregards the plaintiffs' fundamental right to a stay of proceedings upon delivering a Notice of Appeal under Rule 62. Moreover, under Rule 76.02(1), the Mandatory Simplified Procedure for Real Property is exempted from case management assignment under Rule 77.02(1)(g). This directive blatantly skews the balance of legal power in favor of LawPro, giving their counsel disproportionate leverage. It has facilitated repeated opportunities for LawPro to revive proceedings in a manner that unfairly prejudices the plaintiffs. This recurrent pattern of using procedural mechanisms to the plaintiffs' disadvantage underscores the need for judicial intervention to rectify these inequities and restore fairness to the legal process. The defendants, LawPro and the Crown, have indefinitely continued the action.

2. **Rule 4 of the Federal Courts Rules SOR/98-106** empowers the Court to refer to the practice of the superior court most closely related to the subject matter of the proceeding. Rule 4, also known as the gap rule, states: "*On motion, the Court may provide for any procedural matter not provided for in these Rules or in an Act of Parliament by analogy to these Rules or by reference to the practice of the superior court of the province to which the subject-matter of the proceeding most closely relates*".

Material Facts:

3. The plaintiffs were precluded from proceeding with the Notice of Constitutional Question under Section 109 of the *Courts of Justice Act* (CJA) and a motion to stay the proceedings under Rule 62 of the *Rules of Civil Procedure* (Rules). LawPro caused significant delays, including 43 months of inaction, compounded by an additional 18 months of discovery violations, resulting in a total of 61 months of delay. During this period, the plaintiffs were repeatedly denied the opportunity to schedule any motions in the Superior Court. LawPro also failed to release key documents proving creditor status, as requested under Rule 30 on April 17, 2022.

4 Overlooked **Mandatory Simplified Procedure**: Rule 76.02(1) mandates the use of the Simplified Procedure for cases involving Real Property; however, this requirement was disregarded, leading to unnecessary complications and escalating legal costs. By failing to comply with this rule, the litigation was unnecessarily prolonged, and the efficiency that Simplified Procedure is intended to promote was lost. This oversight directly contributed to the delay and complexity of the proceedings, which could have

been mitigated through adherence to the proper procedural approach. Such oversight not only undermines the expeditious resolution of disputes but also ignores the explicit exclusion of Simplified Procedure cases from the case management rules of Rule 77.02(1), highlighting a deliberate deviation from established legal frameworks intended to streamline litigation.

5. The decision of Justice Matheson on August 26, 2024, in the Divisional Court, reviewed the final order of Associate Justice Jolley from December 4, 2023. Associate Justice Jolley's order struck the defenses without granting leave to submit further statements of defense, which led to a noting in default and the issuance of Writs of Seizure and Sale against property owned by Dmytro Sochnyev. This action, along with a Certificate of Execution, violated Rule 60.07(2), which explicitly requires a motion for renewal to be filed well within the expiry of the original six-year term. Justice Matheson remanded the matter for rehearing before Associate Justice Jolley under the same conditions but failed to consider crucial issues such as: evidence of delay, the undue prolongation of the action beyond five years, the refusal of motions regarding jurisdiction over Real Property, the combining of appeals from the Superior Court relating to improper case management assignments, harm, infringement of rights, and arguments concerning statute-barred orders.

6. Irreparable Harm Due to Procedural Abuse and Misuse of Judicial Resources:

Continuing the proceedings would cause irreparable harm, as it reflects repeated procedural abuse and misuse of judicial resources by LawPro. LawPro's actions show a

blatant disregard for legal fairness, bypassing procedural rules and undermining equality before the law. Specifically, LawPro scheduled a hearing for October 22, 2024, to strike the defenses once again or to enforce a timetable, despite Rule 48.14(5), which requires a motion for a status hearing. Furthermore, on September 30, 2024, LawPro scheduled this motion in violation of the plaintiff's automatic right to a stay under Rule 62. This hearing is scheduled before the case management appeal, which is set for **December 16, 2024**, and before the CPC hearing on October 8, 2024, effectively preventing the plaintiff from scheduling a motion for a stay and **Notice of Constitutional Question**. Additionally, LawPro failed to respond to the plaintiff's Rule 30 request for document inspection dated April 17, 2022. This premature and improper scheduling violates fundamental procedural fairness and should not proceed while an appeal concerning the case management assignment remains unresolved. LawPro's repeated interference and manipulation of the timing and sequence of proceedings constitute a violation of **Rule 77.05**, **Rule 48.14(5)**, **Rule 37.02(2)(a)**, and **Section 51** of the **Consolidated Practice Direction** in the Toronto Region, which requires proper motions for opposed requests.

7. LawPro's delays, including 1,140 days of inaction, caused significant prejudice. Despite numerous requests, LawPro failed to provide documents requested under Rule 30. Additionally, LawPro doubled the pre-claim costs by filing a motion without notice, two years after the case had already been dismissed. These actions led to increased legal costs and procedural abuse, including deceptive actions such as improperly

obtaining a default judgment and issuing Writs of Seizure and Sale of the Property, as well as a Certificate of Execution, all without proper notification.

8. Procedural Irregularities and Delays: The plaintiffs have faced severe obstruction due to ongoing procedural irregularities, starting with a Certificate of Pending Litigation issued on May 31, 2018, exacerbated by Allison Speigel's failure to respond. Justice Myers' endorsement on November 4, 2020, highlighted the "stalled action". By July 13, 2021, 1,140 days of inaction had occurred, according to the Public View Terminal. LawPro's intentional delays led to evidence erosion and escalating legal costs, including doubling pre-claim costs through a motion without notice. LawPro brought this motion two years after the case had already been dismissed and was allowed to proceed by the court, despite the evidence of undelivered service. This was done to pursue a fraudulent transfer claim, as the initial \$7,000 in costs was insufficient for LawPro's claim.

9. LawPro continued to inflate costs after filing the claim by garnishing Hanna Sochnyeva's non-existent Canadian bank account, further complicating Dmytro Sochnyev's mortgage renewal and adding to his financial hardship, especially as he is of retirement age and unable to afford the significantly increased mortgage payments. LawPro obtained a default judgment and noted the defendant in default, using a case conference ruling to strike the defense without leave for further defense submissions. Additionally, LawPro withheld Zoom details for a hearing, which led to the deceptive issuance of Writs of Seizure and Sale against Dmytro's property and a Certificate of

Execution. These actions violated Rule 60.07(2), which mandates court approval for enforcement orders older than six years. During the August 21, 2024, hearing, Justice Matheson questioned respondent counsel Matthew Bradley about whether Dmytro Sochnyev, as the property owner, could be sued given he was not liable for Hanna Sochnyeva's costs. Bradley responded "**No**" when asked the direct question, "**Yes or No.**"

10. Exacerbation of Costs and Misleading Actions: The defendant has continued to exacerbate costs by taking premature and irregular procedural steps. Their failure to comply with Rule 2.1, combined with their misleading actions, undermines the integrity of the legal process.

11. Citing, Court of Appeal for Ontario in **Bank of Montreal v. Iskenderov, 2023 ONCA 528 [53], [74].**

Statute-Barred Orders: For each costs order from June 4, 2014, to October 30, 2017, the two-year limitation period. The following orders are statute-barred and could not be claimed on May 31, 2018, when the action commenced, as the two-year limitation period had expired:

Order of June 4, 2014: expired on June 4, 2016
Order of September 18, 2014: expired on September 18, 2016
Order of December 18, 2015: expired on December 18, 2017
Order of February 11, 2016: expired on February 11, 2018
Order of May 24, 2016: expired on May 24, 2018

12. On December 18, 2015, Justice Dow dismissed the claim against the lawyer, awarding \$1,500 in costs against Hanna Sochnyeva. However, on October 30, 2017,

LawPro was granted a substantial cost order of \$13,682.14—double the previously issued costs—over a year after the property transfer from Dmytro Sochnyev to Hanna. This misrepresentation of the timeline misled the court by falsely alleging that the motion to dismiss occurred five days after the property transfer, when it was actually over a year later. This deliberate distortion adversely impacted court proceedings and imposed undue financial strain on the plaintiffs.

13. A Certificate of Pending Litigation was issued against Dmytro Sochnyev's property in June 2018 without notice, despite his lack of involvement in prior court actions. The property, initially transferred from Dmytro to Hanna in 2014, was returned to him on October 25, 2016. This legal entanglement stemmed from Hanna's separate claim against a Legal Aid-provided lawyer, complicating her situation and preventing her from receiving a Nursing diploma from Seneca College. Despite her move to Ukraine for better opportunities, the property complications hindered progress, with LawPro continuously **relitigating previously resolved issues from 2012—constituting an abuse of process and issue estoppel.**

14. On May 31, 2018, LawPro filed a Statement of Claim against the plaintiffs for the alleged fraudulent transfer of property. According to the Certification signed by Allison Speigel on May 29, 2018, the nature of the procedure was classified as an ordinary action for Real Property, including leases but excluding mortgages and charges. However, the action was later misclassified as a Consolidation of Liquidated Debts, and

further reclassified as a Collection Action. This deviates from the original Certification and manipulates the judicial process to LawPro's advantage.

15. Prolonged Inactivity and Discovery Violations: The case experienced significant periods of inactivity, from **May 31, 2018, to July 21, 2021**, and from **May 2, 2022, to October 19, 2022**, amounting to a cumulative **43 months—or 3 years and 6 months**. In addition, there was an **18-month** violation of **Rule 29.1.03(2)(a)**, which mandates that discovery should be completed within 60 days post-pleadings. This totals 61 months of delay, for which LawPro has provided no explanation. These delays stand in clear contradiction to Rule 48.14(5).

16. This deliberate stalling deprived the plaintiffs of the opportunity to raise crucial issues in court. It is essential that the court evaluates the impact of this undue delay on all parties, especially regarding whether the plaintiffs suffered from non-compensable prejudice. The court has previously noted in **Wellwood v. Ontario Provincial Police, 2010 ONCA 386**, that "*the party who commences a proceeding bears primary responsibility for its progress.*" **LawPro's** conduct mirrors the kind of prolonged inaction highlighted in **Wellwood**, placing the primary responsibility for the delay squarely on **LawPro**.

17. The issuance of the Certificate of Pending Litigation during this period of inactivity further compounded the issue by impeding Dmytro Sochnyev's ability to secure a mortgage, which remains his sole financial responsibility given his continuous

ownership of the property. This delay and its consequences highlight broader concerns about ensuring fairness and efficiency in the legal process, as illustrated by the **Supreme Court of Canada in R. v. Jordan, 2016 SCC 27**. The framework established in **Jordan** emphasizes that delays **beyond 30 months in superior court cases** are presumed to be **unreasonable and violate the right to be tried within a reasonable time, as guaranteed by Section 11(b) of the Canadian Charter of Rights and Freedoms**.

18. The plaintiffs submitted the Requisition for the motion under Rules 21, 24, and 25, which Justice Myers considered on November 4, 2020, indicating that the action "was *stalled*" and necessitating a case conference. The endorsement from Justice Myers contained an incorrect court file number and title for the proceeding, despite the plaintiffs having submitted the correct title. This error prevented the plaintiffs from scheduling the case conference. The correct court file number, CV-19-620913, was issued only in July 2021.

19. On July 13, 2021, following 1140 days of defendant's inaction—equating to 37.5 months or approximately 3.12 years, the plaintiffs had the final opportunity to view the Public View Terminal. After this point, the progress of the action became restricted from public access.

20. On October 5, 2021, during a case conference via phone before Justice Chalmers, which was personally scheduled by him according to his endorsement dated June 25,

2021, the plaintiff was restricted from scheduling motions under Rules 21, 24, and 25. Instead, the defendant's discovery plan was approved after 3 years and 3 months (40 months) of inaction since the commencement of the proceedings. This approval breached the 60-day requirement outlined in Rule 29.1.03(2)(a). Additionally, LawPro was not required to release documents supporting their creditor status. Legal Aid provided Hanna Sochnyeva with lawyers, including Brusentsova; no retainer agreement was ever signed or existed.

21. The plaintiffs filed the Affidavit of Documents, sworn on April 25, 2022. This submission was impacted by two cancer surgeries and the onset of the war in Ukraine. Despite this, LawPro failed to release the requested documents and did not respond to the plaintiff's April 17, 2022, request for document inspection pursuant to Rule 30.

22. On April 12, 2022, the plaintiffs submitted a request to appeal Justice Chalmer's decision to the Divisional Court, but they were restricted from proceeding with the motion materials. Since then, the appeal has remained pending, with the case under case management in the Divisional Court (court file number 218/22).

23. On June 10, 2022, despite having filed their motion, the defendant disregarded their own motion to strike the plaintiff's defenses, thereby introducing a delay of five months. This delay stretched from May 2, 2022, to October 19, 2022.

24. Denial of Motion Scheduling and Discovery Issues: On October 19, 2022, the plaintiffs sought to schedule a summary judgment motion during the CPC hearing before Justice Dow. However, this request was denied, and instead, a case conference was scheduled to prolong the discovery plan on October 26, 2022. Justice Dow has consistently been involved in decisions that have obstructed the plaintiffs from scheduling motions, including the appeal of the final order striking the plaintiffs' defenses, the motion for a stay, and the Notice of Constitutional Question. The court's systemic prevention of the plaintiffs from exercising their right to defend their case has continuously infringed their procedural rights.

25. On October 26, 2022, the prolonged (updated) discovery plan was issued in contravention of Rule 29.1.04, and LawPro was again not required to release crucial documents supporting their status as a creditor. Moreover, Justice Stinson's order for mandatory mediation by February 28, 2023, was ignored by LawPro. Instead of complying with the mediation order, LawPro proceeded with an invalidated Request for Consent, blatantly disregarding the Consolidated Practice Direction in the Toronto Region 51, which mandates filing a motion for opposed requests.

26. Loss of Court Documents: On February 7, 2023, Associate Justice Brott assigned Associate Justice Jolley to manage the case at the end of the five-year period. Subsequently, on February 13, 2023, the plaintiffs diligently filed their appeal documents, crucial to the progression of the case. However, these documents inexplicably went missing from the court's records, prompting the plaintiffs to re-file

duplicate copies. This significant loss of critical court filings not only compromised the plaintiffs' ability to move forward with their appeal but also exposed notable inconsistencies in the court's document-handling procedures. The plaintiffs were required to submit the motion's materials, changing the appellant to the defendant and respondent to the plaintiff. Such a lapse severely undermines the integrity of the legal process and raises serious concerns about procedural fairness.

27. Tactical Delays: Despite Rule 1.04(1), which emphasizes proportionality under Rule 1.1, the defendant's strategic delays have resulted in the property remaining in limbo for six and a half years. Five years into the proceedings, the defendant abandoned the action and failed to proceed with a status motion under Rule 48.14(5), thereby bypassing established procedures.

28. Delays and Consequences: The case management assignment is resulting in continuously escalating costs against the plaintiff, currently amounting to \$6,500. On December 4, 2023, the defense was struck, the appellant was noted in default, and a Certificate of Execution, along with Writs of Seizure and Sale, were issued against Dmytro Sochnyev's property in violation of Rule 60.07(2). LawPro has been permitted to proceed with actions while disregarding the rules and practice directions. LawPro's handling of the case has led to complex appeals, unjustly prolonging the litigation for over six and a half years, since its commencement on May 31, 2018.

29. Continuation of Case Management during Pending Appeal: The continuation of the case management while the appeal of the case management assignment is pending raises significant procedural concerns, as the outcome of the appeal could fundamentally affect the legitimacy of the assignment. Given the improper handling of the assignment, it could directly and substantially impact the fairness and final outcome of the entire proceeding. Additionally, Justice Dow's direction on the Requisition form dated January 7, 2023, led to default proceedings and deprived the plaintiffs of the automatic stay to which they were entitled. This unnecessarily complicated the legal process, allowing LawPro to launch irregular procedural attacks. The constant failure to recognize a stay of proceedings during the appeal of the final order of Associate Justice Jolley, which struck the defences, is alleged to violate procedural safeguards designed to maintain the status quo during the appellate process. Furthermore, LawPro prevented the plaintiffs from consolidating appeals and properly addressing jurisdictional issues over Real Property under Sections 19(2), 19(3), and 31 of the Courts of Justice Act.

30. Appeal of the Final Order and Oversimplification of Procedural Errors: On August 21, 2024, Justice Matheson's reliance on the Nahanee principle in dismissing the appeal that struck the plaintiffs' defenses oversimplified the central issue. Instead of assessing the fundamental procedural flaws—such as whether the proceedings should have continued in light of the pending appeals—Matheson focused only on the potential impact of the outcome. This approach disregards the Toronto regional rules and procedural fairness principles. Furthermore, the precedent introduced by LawPro at the

end of the hearing contradicted Rule 61.12, which governs proper responses to issues raised in factums. This created significant procedural confusion.

31. Justice Matheson also echoed Justice Chalmers' decision from April 4, 2024, a ruling made in the plaintiff's absence. The plaintiff promptly filed a Notice for Leave to Appeal on this matter, challenging Chalmers' decision. According to Rule 37.02(2)(b), only a judge has the jurisdiction to amend, vary, or set aside an order, making Associate Justice Jolley's involvement overreaching. Jolley's attempt to amend such an order exceeds her jurisdiction. This case is currently pending in the Divisional Court under file number: DC-24-00000233-00ML, but material submission has been restricted, systematically infringing the plaintiff's right to appeal. This mirrors a previous appeal against Justice Chalmers' order dated October 5, 2021 (file 218/22), which has been stuck in case management since April 12, 2022, with continued restrictions on material submission. These procedural delays continue to block the plaintiffs' ability to submit necessary materials, including motions addressing the discovery plan and the scheduling of motions under Rules 21, 24, and 25. Furthermore, this delay prevents LawPro from releasing crucial documents that prove their creditor status and support the foundation of their Statement of Claim.

32. Prevention of Proceeding with the Motion for Combining Appeals and Jurisdiction Under Sections 19(2), 19(3), and 31 of the Courts of Justice Act in Divisional Court Proceedings (Court File: 721/23):

On February 26, 2024, Justice Centa effectively put the proceedings on hold indefinitely by adjourning the motion for default judgment until the Divisional Court issues a decision on the appeal of Associate Justice Jolley's final order. This decision exemplifies the double standards consistently applied against the plaintiffs, **as every hearing seems to prioritize LawPro's demands, with courts appearing ready to approve their orders without due scrutiny, all while constantly escalating the costs.** LawPro has used this extended delay to perpetually stall the proceedings, while the court consistently refuses to accommodate motions that address jurisdiction and the combining of appeals on the critical issue of case management at the Superior Court. This pattern of judicial bias has systematically thwarted the plaintiffs' attempts to address significant legal issues.

33. Impact on Justice and Judicial Economy: The refusal to address key motions directly undermines the principles of justice, efficiency, and judicial economy. By obstructing the plaintiffs' ability to challenge the case management assignment—which was issued in breach of Rule 48.14, Rule 77, and the Consolidated Practice Direction for Civil Actions, Applications, Motions, and Procedural Matters in the Toronto Region 51—the court is effectively stalling the fair resolution of this case. This has resulted in severe delays that hinder the plaintiffs' ability to adequately pursue justice, preventing key appeals from being addressed in a timely and meaningful manner. LawPro continued to pursue their costs, further inflating the plaintiff's financial burdens.

34. Denial of Motion Record Submission in the Court of Appeal Proceedings

(Court File: COA-23-OM-0158): The plaintiffs encountered significant procedural challenges in the Court of Appeal. On July 17, 2023, they submitted materials to the court seeking confirmation of their format before official filing. At this stage, the materials were still under revision and were not meant to be disclosed. However, on July 18, 2023, the plaintiffs received an email indicating that an updated factum had been sent to LawPro, which compromised the confidentiality of the materials and restricted their ability to make necessary revisions.

Additionally, the plaintiffs were **directed by the Registrar to remove portions of their motion records**, otherwise the materials would not be officially filed.

This adjustment caused technical issues, including non-functional hyperlinks within the documents. Despite these obstacles, the plaintiffs were prevented from submitting their draft motion records and associated draft factums for review by a judge. Consequently, the matter has been left in procedural limbo **since July 18, 2023, further delaying the plaintiffs' ability to move forward with their appeal**. Despite the fact that a motion before the judge was pending, LawPro submitted a misleading responding factum, falsely asserting that the plaintiffs had filed their appeal of the case management assignment with the Divisional Court, instead of the Superior Court, and **misleadingly claimed that leave to appeal was required**. This misrepresentation distorted the procedural posture of the case and introduced unnecessary confusion into the judicial process. The plaintiffs submitted their reply materials to the responding factum within the required 10-day period. However, after 36 days, as per the applicable rules, the appeal remained unresolved.

35. **Legal basis:** Violation of Automatic Stay Provisions: Under Rule 62, the appellant asserts that upon filing a Notice of Appeal, an automatic stay should have taken effect, precluding any further action until the appeal is resolved. The failure to recognize this stay is alleged to violate the procedural safeguards designed to maintain the status quo during the appellate process. LawPro has failed to respect the automatic stay provision triggered by the delivery of a Notice of Appeal to the Superior Court of Justice.

Procedure on Appeals under Rule 62.01

There is an automatic right to appeal to a single judge of the Superior Court from an interlocutory order of a master and from a certificate of assessment of costs. Some statutes also provide an automatic right to appeal to a single judge of the Superior Court. All such appeals must be commenced and heard according to the procedures set out in rule 62.01. Rule 62.01 provides that the appeal must be commenced within seven days of the order by serving a notice of appeal.

Under Rule 63.01, the automatic stay provision becomes effective immediately upon the delivery of a Notice of Appeal to a judge under Rule 62.01(4). As interpreted in 2022 CanLII Docs 1051.

How to Obtain the Automatic Stay

The automatic stay in Rule 63.01 comes into effect when a party delivers a Notice of Appeal. Delivering a Notice of Appeal is the first step in starting an appeal. For information on Notices of Appeal, see Rule 61.04 (2022 CanLII Docs 1050) for appeals to an appellate court and Rule 62.01(4) (2022 CanLII Docs 1051) for certain appeals to a judge of the Superior Court or Divisional Court.

This means that there is no automatic stay before a Notice of Appeal is delivered. Once the appellant delivers a Notice of Appeal, the stay goes into effect immediately; the appellant does not need to do anything else to implement it.

18.

36. **Self-representation and Procedural Fairness:** The plaintiffs face compounded disadvantages due to their **self-representation**. This lack of professional legal counsel makes it difficult to navigate the complexities of the legal system. Procedural discrepancies are at the heart of the issue, causing the plaintiffs to struggle with essential courtroom formalities, such as filing documents which **are constantly not**

accepted for filling. The plaintiffs are left vulnerable to potential **institutional exploitation**, as in this case, where **LawPro** benefits from procedural gaps, creating a **conflict of interest** and compromising the fairness of their legal treatment.

37. **Infringement of Charter Rights:** The cumulative effect of procedural irregularities, delays, and misrepresentations represents a significant threat to the plaintiffs' **Charter rights**, particularly the right to a fair trial. These issues invoke **Section 7 of the Canadian Charter of Rights and Freedoms**, which guarantees the right to life, liberty, and security of the person, and the right not to be deprived of these rights except in accordance with the principles of **fundamental justice**. Procedural errors, such as delayed case management and inconsistencies towards the end of the proceedings, have infringed upon the plaintiffs' right to fair legal proceedings. This extended delay and lack of procedural clarity risk violating **fundamental justice** principles.

38. The plaintiffs are suffering from continuous government-inflicted harm, causing significant stress and negatively impacting their mental well-being. The prolonged delays and uncertainty have been especially detrimental given their retirement age, severely affecting their psychological integrity and overall security. As such, they invoke Section 7 of the Charter of Rights and Freedoms, which guarantees the right to security of the person. In **Blencoe v. British Columbia (Human Rights Commission), 2000 SCC 44**, the Supreme Court of Canada held that serious psychological harm caused by government actions may invoke Section 7 protections if it significantly impacts the individual's security, including their mental health and psychological integrity.

This Statement of Claim will be further supported by the following materials:

1. Notice of Constitutional Question;
2. Affidavits, including documentary exhibits.

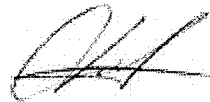
The plaintiff proposes that this action be tried at address of local office:

Federal Court of Canada
180 Queen St. W,
Toronto, ON
M5V1Z4

October 10, 2024



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<p>HANNA SOCHNYEVA and DMYTRO SOCHNYEV - and - plaintiffs</p>	<p>HIS MAJESTY THE KING IN RIGHT OF ONTARIO and LAWYERS' PROFESSIONAL INDEMNITY COMPANY defendants</p>	<p>Court No.</p> <p>FEDERAL COURT OF CANADA Proceeding in Toronto</p> <p>Statement of Claim</p> <p>Hanna Sochnyeva</p> <p>Leskova 3A/12, Kyiv Ukraine, 01011 magazinegolovnaya@gmail.com</p> <p>Dmytro Sochnyev</p> <p>1 Fortieth Street, Toronto, ON M8W 3M8 dimcan50@gmail.com</p> <p>Plaintiffs</p>
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I HEREBY CERTIFY that the above document is a true copy of
the original issued out of / filed in the Court on the _____

day of OCT 15 2024 A.D. 20 _____

Dated this _____ day of OCT 15 2024 20 _____

KC