Court File No. CV-19-00631627-0000

ONTARIO
SUPERIOR COURT OF JUSTICE

B E T W E E N:

SOPHIA MATHUR, a minor by her litigation guardian CATHERINE ORLANDO, ZOE KEARY-MATZNER, a minor by her litigation guardian ANNE KEARY, SHAELYN HOFFMAN-MENARD, SHELBY GAGNON, ALEXANDRA NEUFELDT, MADISON DYCK and LINDSAY GRAY

Applicants

and

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO

Respondent

REPLY FACTUM OF THE APPLICANTS
(Application returnable September 12-14, 2022)

September 6, 2022

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PART I - OVERVIEW

1. Ontario's responding factum reflects many core tenets of 'climate denialism 2.0'. Ontario "accepts" that climate change is real; that it poses an existential threat to humanity; and that it is "desirable" (but not *necessary*) to act. Yet, relying heavily on its so-called "experts", Ontario argues that the scale of the necessary response is unrealistic and unachievable or, even more shamefully, not Ontario's responsibility. This is wrong: Ontario's actions contribute to and exacerbate climate change, and the devastating consequences of climate change will harm the lives, health and security of Ontarians. It is no answer to say, as Ontario and its affiants do, that other jurisdictions are also contributing to the problem. A global crisis requires global action.

2. Ontario's central argument is that its conduct ought to either evade review entirely (i.e. on justiciability grounds), or fail at the very initial stages of *Charter* scrutiny (i.e. on s. 7 causation grounds). Quite apart from the factual frailties underlying Ontario's position on both issues, either outcome would be repugnant to the Canadian constitutional order. A proper respect for *Charter* rights requires that Ontario's response – and, indeed, its contribution – to the gravest existential threat in modern history be subject to a careful *Charter* analysis, rather than avoided entirely or short-circuited at the s. 7 causation "port of entry".

3. Instead of focusing on the merits of this *Charter* challenge, however, Ontario has chosen to repeat a series of preliminary arguments that were unsuccessful on the Motion to Strike. Those arguments found little favour with the Motion Judge and are even less persuasive on their second time around — with the benefit of an extensive evidentiary record that corroborates and develops the facts set out in the Notice of Application. This Application is not only justiciable, but cries out for immediate and thorough examination on the merits. That is what is required to assess whether Ontario has, in fact, engaged in a violation of Ontarians' ss. 7 and 15 rights.

PART II – POINTS IN REPLY

A. ONTARIO'S ARGUMENT ON THE SIGNIFICANCE OF ITS EMISSIONS IS BASED ON DISCREDITED EXPERT EVIDENCE

4. The Applicants' numerous experts are widely recognized in their areas of qualification. They hold positions at world-renowned universities, publish in prestigious peer-reviewed journals, and contribute to IPCC reports *related to their evidence in this case*. On the other hand, Ontario's two experts — who are perhaps better known for their partisan connections than their scientific expertise[1] — gave evidence outside of their areas of expertise. Their testimony also displays a lack of objectivity, the use of "climate delay" tactics[2] and the hallmarks of inappropriate advocacy such as cherry-picking data.[3]

5. Dr. van Wijngaarden is the only "expert" Ontario tenders on climate science. His evidence spans a far-reaching range of topics, many on which he has little or no expertise[4] and which directly contradict the global scientific consensus.[5] There are also several examples of Dr. van Wijngaarden cherry-picking or inexplicably using misleading data that favours Ontario.[6]

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[1] **Cross-Examination of Philip Cross on May 30, 2022 ("Cross CX")**, RR Vol 7, Tab 7, at pp 2297-2328; see also Ex 3 to the **Cross CX**, at pp 2413-20; **Cross Examination of Dr. William van Wijngaarden on June 17, 2022 ("van Wijngaarden Cross")**, RR Vol 9, Tab 9 at pp 96-100 discussing Ex 12, and pp 102-6 discussing Ex 15 to the **van Wijngaarden Cross**.

[2] Applicant's Factum [App. Factum], at ¶¶67-8.

[3] *DALI Local 675 Pension Fund (Trustees) v. Barrick Gold Corporation*, 2022 ONSC 1767, at ¶153(d); *Crump v. Fiture*, 2018 ONCA 349, at ¶19.

[4] These topics include: tornadoes (**Affidavit of Dr. William van Wijngaarden,** sworn Feb 25/22 **("van Wijngaargen Affidavit")**, RR Vol 4, Tab 2, at ¶¶48-50), hurricanes (at ¶¶46-7), forest fires (at ¶¶51-2), precipitation (at ¶¶40-4), droughts (at ¶61), vegetative and farming productivity (at ¶11-12), climate sensitivity and water feedback (at ¶¶20-3), Global Climate Models (at ¶¶24-39), and the particular effects of Ontario's emissions to global climate change (at ¶¶54-60), despite having not produced a peer reviewed paper on these, let alone any climate related topic, since 2016 (**van Wijngaarden Cross**, RR Vol 9, Tab 9, at p 2771, at ¶71).

[5] For example, Dr. van Wijngaarden questions the IPCC's conclusion that "it is unequivocal that human influence has warmed the atmosphere, ocean and land" and he doubts the reliability of IPCC endorsed and verified Global Climate Modelling: see App. Factum, at ¶¶43-7.

[6] For examples, see: Dr. van Wijngaarden cherry-picks an out-of-date emissions graph (App. Factum, at ¶¶44-5); his tornado evidence is drawn from "storm chasing" websites: **van Wijngaarden Cross,** RR Vol 9, Tab 9, at ¶¶196-202; **USTornadoes -"About"**, Ex 10 to the **van Wijngaarden Cross** at p 2934; his report cites to precipitation data from North America showing "no change" in precipitation (**van Wijngaarden Affidavit**, RR

6. Despite these foundational concerns, Ontario relies on Dr. van Wijngaarden's evidence of Ontario's contribution to global temperature increase to ground its argument that its GHG emissions have little impact.[7] His opinion relies on isolating Ontario's contribution in terms of °C for *a single year* – an approach that differs starkly from the accepted method of attribution science set out by Dr. Matthews and the IPCC, which assesses a percentage based on historic emissions.[8]

7. Beyond being based on the wrong approach, Dr. van Wijngaarden's calculation is also based on an IPCC climate sensitivity value that he considers to be unreliable.[9] Yet Ontario relies on this IPCC based figure in support of its arguments on Ontario's contribution to global GHG.

8. Dr. van Wijngaarden's suggestion that the impact of Ontario's GHG cannot be measured by "today's technology" further highlights the irrationality of his opinions. He argues that a 0.1°C increase cannot be observed on "a mercury thermometer" and said it would be "silly" to present temperatures to multiple decimal points of accuracy.[10] Yet his report relies on numerous temperature records from NASA, the UK Met Office and other sources that do precisely this.[11]

9. Ontario also relies on Mr. Cross to argue that its emissions are *scientifically* insignificant.[12] Mr. Cross is not a scientist[13]: he lacks any expertise whatsoever to opine on this subject, let alone

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Vol 4, Tab 2, at ¶8(e)), but fails to mention that sources he cites in this report found precipitation increased across most of Canada, including Ontario, from 1950-98: **van Wijngaarden Cross,** RR Vol 9, Tab 9, at ¶¶156-64; **Hopkinson and van Wijngaarden: Surface Temperature and Humidity Trends in Canada for 1953-2005,** Ex 9 to the **van Wijngaarden Cross**, at p 2920.

[7] Resp. Factum, at ¶¶43-4, 76.

[8] **(Reply) Report of Dr. Damon H Matthews ("Matthews Reply Report")**, Ex "B" to the Reply Affidavit of Dr. Damon H Matthews, affirmed April 14, 2022, Reply AR, Tab 1B, at pp 21-4, citing to **IPCC AR6 WGI**, 2nd Supp AR Vol 1, Tab 1A, at pp 28 and 42.

[9] **van Wijngaarden Affidavit**, RR, Vol 4, Tab 2, pp 1253, 1256 at ¶¶22, 30 and p 1284-5 at ¶¶58-9. Dr. van Wijngaarden also calculates this figure based on his own numbers, but Ontario does not rely on that calculation.

[10] Resp. Factum at ¶44; **van Wijngaarden Cross,** RR Vol 9, Tab 9, at p 2788, at ¶109.

[11] **van Wijngaarden Affidavit**, RR, Vol 4, Tab 2, at p 1265, Fig 9. See also **van Wijngaarden Cross**, RR Vol 9, Tabs 9C, E-H, Ex 3, 5-8 at pp 2899-902, 2904-33.

[12] Resp. Factum, at ¶¶9, 30-9.

[13] **Cross Affidavit,** RR Vol 1, Tab 1, at ¶¶1-4; **Curriculum Vitae**, Ex 1 to the Cross Affidavit, RR Vol 1, Tab 1A at pp 35-6. See also App. Factum, at ¶66.

contradict the IPCC-backed global consensus that all emissions matter[14] and that all jurisdictions must reduce emissions.[15] Moreover, his opinions show a clear bias for fossil fuels and against measures to reduce GHG.[16] He calls environmental objections to fossil fuels "trivial", support for the transition to renewables "trendy", and global concerns about climate change "hypothetical".[17] He did not even agree that climate change is an urgent threat,[18] contrary to the Supreme Court's findings.[19] His opinions, and affiliation with the fossil fuel industry and politicians unreservedly aligned with it,[20] are part of an effort to obstruct climate action and undermine his objectivity and credibility as an expert in this matter.

B. ONTARIO HAS MISAPPREHENDED THE FACTUAL RECORD

i. Errors Regarding "Sufficiency of the Factual Record"

10. Ontario asserts that the evidentiary record is insufficient to ground the relief claimed because the Applicants did not quantify the amount of harm directly attributable to Ontario's conduct.[21] As discussed below, this is not required to establish a sufficient causal connection for the purposes of this Application. But Ontario's position is also factually inaccurate.

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[14] **IPCC AR6 WGI,** 2nd Supp AR Vol 1, Tab 1A at p 42; **Report of Dr. H. Damon Matthews ("Matthews Report")**, Ex "B" to the Affidavit of Dr. H. Damon Matthews, sworn Feb 12/21, AR Vol 3, Tab 10B, at p 5651.

[15] **(Reply) Report of Dr. Sara Hastings-Simon ("Hastings-Simon Reply Report")**, Ex "B" to the Reply Affidavit of Dr. Sara Hastings-Simon, sworn April 13/22, Reply AR, Tab 5B, at p 213-4; *Paris Agreement*, being an Annex to the *Report of the Conference of the parties on its twenty-first session, held in parties from 30 November to 13 December —15--Addendum Part two: Action taken by the Conference of the parties at its twenty-first session*, 12 December 2015, UN Doc FCCC/CP/2015/10/Add.1, 55 ILM 740 (entered into force 4 November 2016) **("Paris Agreement")**, Preamble; **Global warming of 1.5°C ("IPCC SR 1.5")**, Ex "E" of the Affidavit of Dr. Robert McLeman, sworn February 5, 2021, AR Vol 4, Tab 24E, at p 8815.

[16] **Cross CX**, RR Vol 7, Tab 7 at pp 2297-2301, 2329-31, 2339-42; see also **Hey, woke folk: Coastal GasLink will help get China off coal,** Ex 3 to the **Cross CX**, at pp 2413-20; and **In Praise of Fossil Fuels** Ex 5 to the **Cross CX**, at pp 2422-5. See also App. Factum, at ¶66.

[17] **In Praise of Fossil Fuels**, RR Vol 7, Tab 7E, Ex 5 to the **Cross CX**, at p 2424; **A lump of hydrocarbon you really want in your stocking**, RR Vol 7, Tab 7F, Ex 6 to the **Cross CX**, at p 2434.

[18] **Hastings-Simon Reply Report**, Ex "B" to the Hastings-Simon Reply Affidavit, Reply AR, Tab 5B, at pp 214-16; **Cross Transcript**, RR Vol 7, Tab 7, at pp 2375-77; App. Factum, at ¶67.

[19] *References re Greenhouse Gas Pollution Pricing Act*, 2021 SCC 11, at ¶¶2, 167, 171; see also *Reference re Greenhouse Gas Pollution Pricing Act*, 2019 ONCA 544, at ¶104.

[20] See **Cross CX**, RR Vol 7, Tab 7, at pp 2268-71, 2297-2353; see also Ex 3-7 to the **Cross CX** at pp 2413-47.

[21] Resp. Factum, at ¶¶10, 40-3.

11. The Applicants *have* quantified the warming and climate damages attributable to Ontario's GHG, and how much damage would be avoided by a more stringent target for GHG reductions. Dr. Matthews calculates that Ontario's GHG caused at least 0.6% of global warming, which means Ontario is responsible for at least 0.6% of the associated increase in extreme weather — both in Ontario and globally.[22] And if all jurisdictions took Ontario's approach in terms of the fairness of target-setting (which reflects the collective action problem recognized by the Supreme Court)[23] Ontario's Target is aligned with global warming of 3-5°C.[24] The ample expert evidence shows the harm that level of warming would cause Ontarians.[25]

ii. Ontario's Misplaced Reliance on the Federal Plan

12. Ontario incorrectly asserts that Dr. Hastings-Simon "confirmed that federal measures position Canada to achieve the 40% target by 2030".[26]

13. In fact, she did no such thing. Rather, Dr. Hastings-Simon merely confirmed what the text stated in an isolated section of the 240-page federal Emissions Reduction Plan ("**ERP**") that she was taken to during cross-examination. That section states that the ERP's measures position Canada to achieve the lower bound of its target (40%), but that greater ambition from provinces and others could help achieve the upper (45%).[27] But the ERP goes on to confirm that its measures *include provincial measures and rely on provinces doing their part,* recognizing the obvious reality

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[22] **Matthews Reply Report,** Reply AR, Tab 1B at p 23.
[23] *References re Greenhouse Gas Pollution Pricing Act*, 2021 SCC 11, at ¶24, 190. See also **Hastings-Simon Reply Report**, Reply AR, Tab 5B, at p 213.
[24] **Matthews Report**, AR Vol 3, Tab 10B, at p 5664.
[25] App. Factum, at ¶¶70-115.
[26] Resp. Factum, at ¶25.
[27] **Transcript of Dr. Hastings-Simon Cross-Examination on May 26, 2022 ("Hastings-Simon Cross")**, RR Vol 6, Tab 5, at pp 1862-4, referring to **ERP**, Ex 4 to the **Hastings-Simon Cross**, at p 2012.

that "[p]rovincial… efforts to reduce emissions are fundamental to meeting Canada's [target]" and "provinces control the policy levers for many key emissions sources."[28]

14. In other words, the ERP affirms the reality that Canada cannot reasonably expect to achieve its target without Ontario doing its share. The province accounts for 22% of all GHG in Canada[29] and Ontario has adduced no concrete evidence that its failure to reduce GHG could be made up for by steeper reductions in other provinces or territories. Even if such a result were scientifically plausible, it would likely be politically unachievable for other jurisdictions to bear the burden for Canada's most populous province and second largest provincial emitter[30] failing to do its share.

15. By downplaying its own Target in favour of Canada's, Ontario ignores its own importance to achieving Canada's ERP and target, particularly given the national significance of its contribution to overall Canadian GHG.[31] Ontario's role is not diminished by the federal carbon price, since provinces retain key policy levers when it comes to emissions.[32]

iii. Dr. Matthews' Approach to Ontario's Fair Share Reflects Accepted Principles

16. Ontario rejects Dr. Matthews' calculation of Ontario's fair share of the remaining global carbon budget. Contrary to Ontario's assertion, Dr. Matthews' evidence on Ontario's fair share of the carbon budget are not just the "opinions of a climate scientist".[33] He applied the carbon budget

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[28] **ERP**, Ex 4 to the **Hastings-Simon Cross**, RR Vol 6, Tab 5, at pp 2012, 2015-6, 2051-4. This is echoed at p 2142: "All provinces and sectors contribute to achieving the emissions reductions underlying the Emissions Reduction Plan." See also App. Factum, at ¶61.

[29] **(Reply) Report of David Sawyer ("Sawyer Reply Report")**, Ex "B" to the Reply Affidavit of David Sawyer, affirmed Apr 14/22, Reply AR, Tab 6B, at p 3153.

[30] **Sawyer Reply Report**, Reply AR, Tab 6B, at p 3153.

[31] App. Factum, at ¶61; **ERP**, Ex 4 to the **Hastings-Simon Cross**, RR Vol 6, Tab 5, at pp 2012, 2015-6, 2142; **Sawyer Reply Report**, Reply AR, Tab 6B, at p 3153.

[32] Resp. Factum, at ¶¶11-2, 26-8; **ERP**, Ex 4 to the **Hastings-Simon Cross**, RR Vol 6, Tab 5, at pp 2012, 2015.

[33] Resp. Factum, at ¶13.

calculated by the IPCC and the principles set out in the UNFCCC.[34] In any event, Dr. Matthews uses the only fair allocation that leaves Ontario any carbon budget at all.[35] (As explained in Dr. Matthews' report, given Canada's and Ontario's historical responsibility for climate change, there are compelling arguments that taking into account proper fairness principles, Ontario should not have any more carbon budget at all.)[36]

17. In the alternative, even if this Court were to reject Dr. Matthews' evidence (which takes into account fairness principles) and rely solely on the IPCC's prescription that global emissions must be reduced by 45% below 2010 levels by 2030[37] (which does not take into account such fairness principles),[38] Ontario's Target would still miss the mark by a significant margin.[39]

iv. The "Paris Standard" Represents Scientific Consensus

18. Remarkably, Ontario criticizes the Applicants' reliance on the Paris Standard and IPCC prescriptions and reports,[40] which are recognized as being the leading state of climate science based on the consensus of the world's leading scientists.[41] This may be because Ontario misunderstands the "Paris Standard." It is irrelevant that Ontario is not a signatory of the Paris

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[34] **Matthews Report** AR Vol 3, Tab 10B, at pp 5652-6; *United Nations Framework Convention on Climate Change*, 9 May 1992, 1771 UNTS 107, art 3, 31 ILM 849 (entered into force 21 March 1994). These principles are also echoed in the *Paris Agreement,* at Preamble, art. 2(2), and the *Glasgow Climate Pact*, UNFCCC, UN Doc FCCC/PA/CMA/2021/L.16, s 21 (entered into force 13 Nov 2021) [*Glasgow Climate Pact*], at art. 4.

[35] **Matthews Report**, AR Vol 3, Tab 10B, at pp 5657-60.

[36] **Matthews Report**, AR Vol 3, Tab 10B, at p 5656-7.

[37] **IPCC SR 1.5,** AR Vol 4, Tab 24E, at p 8668. This prescription was endorsed by governments worldwide in the *Glasgow Climate Pact*, at art. 22.

[38] **Matthews Report**, AR Vol 3, Tab 10B, at pp 5654, 5657.

[39] Complying with the IPCC prescription means that Ontario must reduce GHG emissions to 52% below its 2005 levels by 2030: **Matthews Report**, AR Vol 3, Tab 10B, at p 5657; *Reference re Greenhouse Gas Pollution Pricing Act*, 2019 ONCA 544, at ¶16; See Table 2 of **van Wijngaarden Affidavit,** RR, Vol 4, Tab 2, at p 1282. Ontario's 2010 emissions were 178Mt and its 2005 emissions were 206Mt. A 45% cut to Ontario's 2010 emissions is equivalent to 97.9Mt in annual emissions or 52% below its 2005 emission levels.

[40] Resp. Factum, at ¶¶13, 52.

[41] App. Factum, at ¶¶ 34-5.

Agreement. The Paris Standard reflects the international scientific and political consensus on the global temperature required to avoid climate disaster.[42]

C. THE TARGET IS NOT ASPIRATIONAL AND IS REVIEWABLE IN ANY CASE

19. Ontario's position that the Target is not reviewable or justiciable because it is aspirational and does not "regulate the actions of anyone" is both factually and legally flawed.[43]

20. The notion that the Target has no impact on Ontario's overall GHG is flatly contradicted by the language of the Plan itself, by Ontario's own submissions before multiple levels of court as to the impact of the Plan, and by reference made to the Plan in other Ontario documents, such as Statements of Environmental Values ("**SEV**").[44] Ontario's argument that the Target has not yet been incorporated into SEV[45] is both misleading and disingenuous: Ontario has already prepared a draft SEV incorporating the Target into Ministry decision-making, and there is no suggestion that the finalized version will differ in any material way from the prepared drafts.[46]

21. More fundamentally, Ontario's argument that the Target is purely aspirational and without any kind of real force or impact when it comes to regulating provincial GHG, fails to address the language of the Plan or Ontario's own characterization of the Plan in past court cases.[47] The Plan sets out how government decision-making will achieve the Target by, for example, making "climate change a cross-government priority", and by identifying sector-by-sector GHG reductions. In Ontario's own words: "Ontario's plan is working and the province is on track to

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[42] App. Factum, at ¶¶37-8.
[43] Resp. Factum, at ¶¶4, 28.
[44] App. Factum, at ¶24.
[45] Resp. Factum, at ¶22.
[46] Ministry of the Environment, Conservation and Parks, "Draft Statement of Environmental Values" (2020), online (pdf): Ontario, https://prod-environmental-registry.s3.amazonaws.com/2020-12/Draft%20SEV.pdf; Ministry of the Environment, Conservation and Parks, "Statement of Environmental Values for the Ministry of the Environment, Conservation and Parks", online: Ontario, eroontario.ca/notice.ca.
[47] App. Factum, at ¶24. In addition, Ontario has confirmed that it has already "taken steps to implement" the Plan: see Ontario's Factum (at ¶15) in the *Reference Re Greenhouse Gas Pollution Pricing Act*, 2021 SCC 11.

achieve [the Target]".[48] Ontario's own words show that Target is not just part of some brochure: it is a linchpin for decision-making when it comes to allowable GHG.

22. Ontario's position also fails to accord with common sense. As the Motion Judge put it: "At the very least, the Target and the Plan can be considered quasi-legislation or 'soft law' that guide internal policy making within the government. While the Target and the Plan may not directly control the emission of GHGs in Ontario, they do reflect the Province's intentions, which would presumably guide policy-making decisions."[49]

23. Nor can Ontario's position be reconciled with the very context and process surrounding the Target's institution. As the Motion Judge recognized, the Target and the Plan "are authorized and required by statute, promulgated under ss.3(1) and 4(1) of the *Cancellation Act*, and required the approval of the Lieutenant Governor in Council"— all of which "strongly suggest that the Target and the Plan would therefore have the force of law."[50]

24. In any event, even if the Target and the Plan are not strictly "binding", the Motion Judge correctly concluded that they are properly subject to review by the courts as "quasi-legislation" or "soft law" that exert a "hortatory, rather than mandatory, effect on legal decision-making".[51]

D. ONTARIO'S POSITION ON JUSTICIABILITY DEPENDS ON CASES THAT ARE FUNDAMENTALLY DISTINGUISHABLE

25. Ontario's justiciability arguments are based on cases that are clearly distinguishable.[52] As in its unsuccessful Motion to Strike, Ontario has relied on cases where the claimants had failed to identify either a specific emissions target, a legislative provision, or a government action.

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[48] **Sawyer Reply Report**, Reply AR, Tab 6B, at p 3157.
[49] *Mathur v. Ontario*, 2020 ONSC 6918, at ¶65.
[50] *Mathur v. Ontario*, 2020 ONSC 6918, at ¶70.
[51] *Mathur v. Ontario*, 2020 ONSC 6918, at ¶¶63-71.
[52] Resp. Factum, at ¶¶46-66.

26. In *La Rose*, for example, the plaintiffs challenged an "unquantifiable number of actions and inactions" by the federal government.[53] In *Misdzi Yikh*, the challenge featured "broad and diffuse claims" against unspecified laws or actions.[54] Neither focused on specific actions, like the Target and Plan. The Motion Judge recognized this and had no problem distinguishing *La Rose*.[55]

27. Similarly, in *Environnement Jeunesse*, the plaintiffs challenged the validity of the state's actions in the "abstract".[56] The Quebec Court of Appeal distinguished its ruling from a case that targets a specific law, like this Application, stating that a constitutional challenge of a "particular law enacting measures to address GHG emissions" would be justiciable.[57] The Court also emphasized that its findings on justiciability were context-specific and not a bar on any future climate case that may arise in a different context.[58] The present Application is fundamentally different than *Environmental Jeunesse* — in terms of what is challenged, the very nature of the proceeding (*Environmental Jeunesse* was a class action certification proceeding decided on the basis of a brief pleading and limited evidentiary record[59]) and the remedial relief sought.[60]

28. Ontario's reliance on cases like *Vanscoy* and *Friends of the Earth* is equally misplaced. In *Vanscoy*, Day J. considered whether, as a matter of statutory interpretation, the legislation at issue

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[53] *La Rose v. Canada*, 2020 FC 1008, at ¶40.
[54] *Misdzi Yikh v Canada*, 2020 FC 1059, at ¶¶54-5.
[55] *Mathur v. Ontario*, 2020 ONSC 6918, at ¶139.
[56] *Environnement Jeunesse c Procureur général du Canada,* 2021 QCCA 1871, at ¶¶25, 27 and 35 [unofficial English Translation], leave to appeal to the SCC dismissed: 2022 CanLII 67615 (SCC).
[57] *Ibid.* at ¶26.
[58] *Ibid.* at ¶40.
[59] *Ibid.* at ¶¶23, 43. See also *Environnement Jeunesse c. Procureur général du Canada*, Demande pour autorisation d'exercer une action collective et pour être désignée représentante (Novembre 26, 2018) [Unofficial English Translation], Motion for authorization to institute a class action and obtain the status of representative, (November 26, 2018) [*ENJEU* Motion for Authorization].
[60] The petitioners sought very broad remedies, including a cessation of all "violations" causing the alleged breaches (both actions *and* inactions), $100 to every Quebec resident under the age of 35, and a direction to fund climate measures: *Environnement Jeunesse c. Procureur général du Canada*, 2021 QCCA 1871 at ¶23 [unofficial English Translation], leave to appeal to the SCC dismissed: 2022 CanLII 67615 (SCC).

created legally enforceable rights.[61] That case says nothing about whether the Target or "quasi-legislation" that guide government policy are reviewable for *Charter* compliance. Likewise, *Friends of the Earth* was not a constitutional challenge, but an administrative law case that looked at "whether Parliament intended that the statutory duties imposed upon the Minister…be subjected to judicial scrutiny".[62] The Court highlighted the fact that its analysis took place "outside of the constitutional context", suggesting a different result would follow for a constitutional challenge.[63]

29. Finally**,** this Application does not lack a "judicially manageable standard". In *Tanudjaja*, the claimants did not identify a specific state action that they were challenging, but rather relied on an array of "social conditions created by the overall approach of the federal and provincial governments".[64] The standard was also "infused with subjective considerations" of terms like "adequate" and "insufficient" housing policy. Accordingly, the Court found that any remedy would be "so devoid of content as to be effectively meaningless."[65] Here, however, the Applicants have identified specific, objective, mathematical and science-based standards that, in the words of the Motion Judge, are "based on a globally-recognized body of scientific research and prescriptive standards that make them… judicially manageable."[66]

30. Unlike *Tanudjaja,* this Court can assess and rely on a judicially manageable standard based on Dr. Matthews' carbon budget evidence — or, alternatively, the IPCC's 45% global emissions reduction prescription — and use it to evaluate and examine a single instance of government action made pursuant to a specific legislative regime: Ontario's 2030 Target and Plan.

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[61] *Vanscoy v. Ontario,* [1999] OJ No 1661 (Sup Ct) at ¶23.
[62] *Friends of the Earth v. Canada (Governor in Council),* 2008 FC 1183, at ¶31.
[63] *Friends of the Earth v. Canada (Governor in Council),* 2008 FC 1183, at ¶40.
[64] *Tanudjaja v. Canada (Attorney General),* 2014 ONCA 852, at ¶¶10 and 34.
[65] *Tanudjaja v. Canada (Attorney General),* 2014 ONCA 852, at ¶34.
[66] *Mathur v. Ontario*, 2020 ONSC 6918, at ¶123.

E. ONTARIO'S ARGUMENTS ABOUT "FACTUAL FOUNDATION" ARE INCONSISTENT WITH THE LAW OF CAUSATION IN *CHARTER* CLAIMS

31. Ontario's argument that the Application lacks an adequate "factual foundation" is not only at odds with the record in this case (as set out in Part II.B, above), but is also inconsistent with the Supreme Court of Canada's flexible and case-specific approach to establishing a "sufficient causal connection" in the s. 7 context.[67] It is both factually and legally unsupportable.

32. In *Bedford*, the Supreme Court expressly rejected the more onerous "but for" standard that Ontario seeks to revive on this application when it argues that its GHG are relatively small as compared to other jurisdictions.[68] Other Supreme Court decisions have similarly rejected the "but for" test in s. 7 cases involving third party conduct.[69]

33. Most of the cases that Ontario cites in its causation discussion are not s. 7 cases at all, had *no* or limited factual record, and pre-date *Bedford*.[70] By contrast, as set out more fully in the Applicants' Factum,[71] the ample evidence in this Application demonstrates that Ontario's actions have and will cause more GHG and that those GHG will contribute to and cause violations of s. 7 rights. This meets the flexible *Bedford* causation standard; that is to say, Ontario's conduct forms a sufficient causal connection to the s. 7 violations.[72]

34. To be clear, this context-specific test for causation does not require that Ontario is the sole or even a predominant source of global GHG. The fact that other jurisdictions also emit GHG does

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[67] *Canada (Attorney General) v. Bedford*, 2013 SCC 72, at ¶76.
[68] *Canada (Attorney General) v. Bedford*, 2013 SCC 72, at ¶76. In *Bedford*, the Court found that the third parties' actions and immediate source of the harms, the violence of pimps and johns, did not diminish the state's role in making sex workers more vulnerable: see ¶89.
[69] *Canada v Khadr*, 2010 SCC 3, at ¶19-21; *Kazemi Estate v Iran*, 2014 SCC 62, at ¶131-3. In *Khadr*, Canada's role in interviewing the plaintiff for statements to use in proceedings violated s. 7 rights despite the primary source of the deprivation being the US's detention and interrogation of the plaintiff.
[70] Resp. Factum, at ¶¶67-71. The claimants in those cases presented either *no* factual record concerning *Charter*-infringing effects to the court, or a lacking factual record based only on subjective opinions and bare assertions.
[71] App. Factum, at ¶¶24-32; 146-50.
[72] *Canada (Attorney General) v. Bedford*, 2013 SCC 72, at ¶78.

not diminish Ontario's role in causing and contributing to the harms under the applicable legal test. Provided Ontario contributes to and exacerbates global GHG in a manner inconsistent with its proportionate share, it is contributing to dangerous climate change. Repealing the previous legislated 2030 target and setting a Target that allows for significantly higher GHG easily meets this standard. As discussed above (in Part II.B), the Target has a real impact on controlling Ontario's levels of GHG. Indeed, the undisputed evidence is that the Target will allow 200 MT more GHG between 2018 and 2030, as compared to the previous target.[73]

35. Ontario's approach to causation, and its repeated efforts to cast its emissions as "*de minimis*" as compared to those of other jurisdictions, are built upon a flawed premise that fails to recognize that climate change is a collective action problem. It reflects a position that the Supreme Court, and courts around the world, have already considered and rejected.[74]

36. Finally, Ontario's approach to s. 7 causation would effectively immunize governments' role in causing climate change from *Charter* scrutiny. Ontario's position that the Target and the Plan do not have any binding effect would require that claimants instead challenge each and every single individual government decision that contributes to climate change — every road and building constructed, mining project approved, industrial license granted, energy project authorized, etc. Quite apart from such an approach being unprincipled, inefficient and unworkable, Ontario's *de minimis* argument would ensure that it would fail, since the impact of each of these individual decisions would be minor as compared to GHG from other global sources.

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[73] **Matthews Report**, AR Vol 3, Tab 10B, at p 5663.

[74] *Reference re Greenhouse Gas Pollution Pricing Act*, 2021 SCC 11, at ¶¶187-189; App. Factum, at ¶153 and footnotes 284-5.

37. Such a result illustrates the absurdity of Ontario's causation position: it cannot be that the *Charter* is inapplicable, or that the constitutional analysis is short-circuited at the "port of entry" in the s. 7 analysis,[75] when examining Ontario's conduct in furthering "an existential threat" of "the highest order" to rights in the 21st century, the gravity of which Ontario does not contest.[76]

F. THE APPLICATION IS NOT BASED ON SPECULATIVE ASSUMPTIONS

38. Ontario asserts that the Application rests on a "chain of speculative assumptions" about the future.[77] In other words, because impacts such as raging forest fires, increased major flooding, a surge in heat-related deaths, and the significant proliferation of infectious diseases have not fully materialized *yet*, the Application is "speculative." Using this flawed logic, any constitutional challenge to legislation based on future harms would inevitably fail since the situation could theoretically change before the harms fully materialize.

39. Ontario's position cannot succeed for several reasons.

40. **First**, given that Ontario controls the Target and the resulting level of GHG in the province,[78] this Court ought not to accord any weight to vague assertions that either the Target or Ontario's GHG may change. There is no date set for revisiting the Target and no evidence that it will (or even may) be revisited. Accordingly, it is *Ontario*'s position that is speculative.[79] Ontario also ignores the harm from GHG being released since 2018 pursuant to the Target that will remain in the atmosphere for hundreds of years and will be essentially irreversible on human timescales.[80]

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[75] *Canada (Attorney General) v. Bedford*, 2013 SCC 72, at ¶48.
[76] *Reference re Greenhouse Gas Pollution Pricing Act*, 2021 SCC 11, at ¶¶167, 171; Resp. Factum, at ¶¶8, 69. See also **Under 2 MOU**, Ex "FFF" to the Jan 15th Ireland Affidavit, AR Vol 2, Tab 9FFF, at p 5357, where Ontario previously recognized that climate change is "one of the most urgent issues facing humanity today".
[77] Resp. Factum, at ¶77.
[78] App. Factum, at ¶¶26-33 setting out Ontario's authority over GHG.
[79] *See Little Sisters Book and Art Emporium v. Canada (Minister of Justice)*, 2000 SCC 69, at ¶257 (per Iacobucci J., dissenting in part).
[80] **Matthews Report**, AR Vol 3, Tab 10B, at p 5651.

41. **Second**, Ontario's argument that its GHG may be affected or offset by other jurisdictions' policies misses the point. This Application is about GHG emissions within Ontario, over which Ontario exerts control. That other jurisdictions may reduce their GHG does not absolve Ontario from responsibility for its own. As discussed above, the ERP relies heavily on provincial action, recognizing that provinces like Ontario retain key policy levers to reduce GHG.[81]

42. **Third**, Ontario argues that the catastrophic effects of climate change cannot be avoided or mitigated *at all* by *any* GHG target. This nihilistic claim is undermined by the Plan itself, in which Ontario recognizes that the Target and the Plan *will* slow down climate change.[82] Further, and more importantly, ample expert evidence in these proceedings show that Ontario is contributing to climate change and its impacts *right now*[83] and that even more devastating future harms *will occur* if measures are not taken to significantly curb GHG.[84]

43. **Finally**, Ontario questions whether the future impacts of climate change on Ontarians can be predicted with any reasonable accuracy[85] despite the extensive evidentiary record on this topic. Ontario chose not to cross-examine the vast majority of the experts who gave evidence on the future harms that will befall Ontarians under various global warming scenarios. That evidence is largely uncontradicted in these proceedings; in fact, Ontario does not contest the risks of climate change to human health and wellbeing.[86] The projections of highly regarded scientists, using methods accepted in their field, more than meets the s. 7 causation standard.

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[81] **ERP**, Ex 4 to the Hastings-Simon Cross, RR Vol 6, Tab 5, at pp 2012, 2015-16, 2142.
[82] See **Plan**, AR Vol 2, Tab 9Y, at pp 3429-30. It also says Ontario has "played an important role in fighting climate change and mitigating the threats to our prosperity and way of life"; that by reducing emissions Ontario will "slow down climate change"; and that Ontario's actions "are important in the global fight to reduce emissions".
[83] **Matthew Reply Report**, Reply AR, Tab 1B, at p 23; **Matthews Repor**t, AR Vol 3, Tab 10B, at pp 5563-4.
[84] App. Factum, at ¶¶70-115.
[85] Resp. Factum, at ¶83.
[86] Resp. Factum, at ¶69.

44. Ontario's reliance on *Operation Dismantle* [87] is also misplaced. Unlike that case, this Application is based on authoritative scientific and expert evidence establishing the future harms associated with the Target due to the measurable effect of its GHG and its alignment with dangerous levels of warming.[88] The Motion Judge recognized these key distinctions.[89]

45. Finally, Ontario argues that this case is not yet "ripe" for adjudication.[90] The Motion Judge determined that this Application was capable of proof,[91] which undermines Ontario's position on this issue. Moreover, a logical corollary to finding a claim suffers from a ripeness defect is the conclusion that a more suitable time for adjudication will arise in the future.[92] Tellingly, Ontario does not say when that more appropriate time might be — because such a time does not exist. The IPCC's unequivocal position is that the world must aggressively pursue GHG reductions before 2030 to prevent more than 1.5°C of warming and catastrophic climate impacts.[93] The time to avert climate disaster is now. Leaving this case to some unspecified future date to "ripen" will only guarantee that the constitutional violations being alleged are incapable of a meaningful remedy.

G. ONTARIO'S CHARACTERIZATION OF THE TARGET'S OBJECTIVE IS IMPERMISSIBLY VAGUE AND ABSTRACT

46. Ontario argues that the Target is not arbitrary because it is rationally connected to the goal of "balancing a healthy economy with a healthy environment".[94]

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[87] Resp. Factum, at ¶¶79-83.

[88] **Matthews Reply Report,** Reply AR, Tab 1B, at p 15; **Matthews Report**, AR Vol 3, Tab 10B, at p 5664; **Hastings-Simon Report**, AR Vol 3, Tab 22B, at pp 6782. This has been recognized by courts around the world: see for instance *The State of the Netherlands (Ministry of Economic Affairs and Climate Policy) v Stichting Urgenda*, 19/00135 (Hoge Raad), at ¶5.7.8 [unofficial English Translation] ("each reduction of greenhouse gas emissions has a positive effect on combating dangerous climate change, as every reduction means that more room remains in the carbon budget … no reduction is negligible.").

[89] *Mathur v. Ontario*, 2020 ONSC 6918 at ¶95-97.

[90] Resp. Factum, at ¶78.

[91] *Mathur v. Ontario*, 2020 ONSC 6918 at ¶97.

[92] Lorne Sossin, *Boundaries of Judicial Review: The Law of Justiciability in Canada*, 2nd ed (Toronto: Thomson Reuters, 2012) at p 32, Respondents' Book of Unreported Authorities, Tab 2 at p 12.

[93] *Reference re Greenhouse Gas Pollution Pricing Act*, 2019 ONCA 544 at ¶16.

[94] Resp. Factum, at ¶97.

47. This stated objective is impermissibly broad and vague. It should not be accepted by this Court. The Supreme Court has prohibited characterizing an objective in these terms, recognizing that it distorts the necessary analysis since "almost any challenged provision will likely be rationally connected to a very broadly stated purpose."[95] Thus, asserted purposes like "doing justice", "preserving life" or "balancing fighting crime with compassion" are not permissible. The asserted purpose in this case falls within this same category.

48. Moreover, a law's purpose must focus on the impugned provision and not the legislation as a whole,[96] and must be stated at the appropriate level of generality. The "animating social value" of the legislation is not the purpose of the specifically impugned provision for purposes of a s. 7 arbitrariness analysis. Again, Ontario's characterization runs afoul of these principles.

49. Even if this Court accepts Ontario's impermissibly vague framing of the objective in this case, Ontario's Plan and Target are arbitrary in that they are unnecessary to achieve, and inconsistent with, any economic interest. The Court's inquiry must be based on the evidence — not just on theory.[97] The more severe the threat to s. 7 rights, the clearer the connection between impugned law and the objective must be.[98]

50. The evidence of Dr. Hastings-Simon and Mr. Sawyer is clear and uncontested: the Plan is vastly less economically efficient than the plan it replaced and the excess GHG it will cause will have significant negative economic impacts on Ontario and beyond. The evidence states:

- Ontario's increased carbon emissions will cause $10–42 billion in global economic costs due to the associated damages.[99]

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[95] *R. v. Moriarity*, 2015 SCC 55 at ¶28.
[96] *R. v. Moriarity*, 2015 SCC 55 at ¶28.; *R. v. Safarzadeh-Markhali*, 2016 SCC 14 at ¶27.
[97] *Chaoulli v. Quebec (Attorney General)*, 2005 SCC 35, at ¶150.
[98] *Chaoulli v. Quebec (Attorney General)*, 2005 SCC 35, at ¶131.
[99] **Hastings-Simon Report,** AR Vol 3, Tab 22B, at pp 6782, 6787-9.

- Scrapping the previous target cost Ontario lost investment from the clean tech industry, decreased investor confidence and the economic co-benefits of reducing emissions.[100]

- There is a consensus, endorsed by the IPCC, that the costs of addressing climate change are much smaller than continuing to emit dangerous levels of emissions.[101]

- The means to reduce emissions chosen in the Plan are so economically inefficient that emissions could have been reduced 160% more by choosing more efficient means.[102]

- Climate change is negatively impacting Ontario's economy and the impacts will worsen with more warming. The Plan states "all sectors of the economy are feeling the impacts of climate change and paying more and more for the costs associated with those impacts."[103]

51. Ontario does not explain how the Plan or Target furthers any particular economic interest or has any positive economic impact on Ontario. Mr. Cross only makes general assertions based on his own uncorroborated theories. The record shows that Ontario rescinded a more ambitious target and a plan that were economically efficient and replaced them with a Target that will allow more costly GHG and an accompanying Plan that reduces emissions less efficiently.

H. SOCIETAL PRESERVATION IS A PRINCIPLE OF FUNDAMENTAL JUSTICE

52. Ontario's arguments for why this Court should reject "societal preservation" as a principle of fundamental justice reflect a misunderstanding of the principle itself. It is not just a "prohibition against harm". It concerns egregious government conduct resulting in harm, suffering or death of a significant number of its own citizens. As its name suggests, the principle is meant to address

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[100] **Hastings-Simon Report,** AR Vol 3, Tab 22B, at pp 6787, 6790-2. Co-benefits arise from the reduction of GHGs. For example, replacing coal-fired generation with lower emission alternatives also reduces air pollution.

[101] **Hastings-Simon Report**, AR Vol 3, Tab 22B, at pp 6781-84, 6786, 6792; **Hastings-Simon Reply Report**, Reply AR, Tab 5B, at pp 218-19.

[102] **Report of David Sawyer ("Sawyer Report")**, Ex "B" to the Affidavit of David Sawyer sworn February 10, 2021, AR Vol 3, Tab 23, at pp 6887, 6889-93, and 6896-97.

[103] **Plan**, AR Vol 2, Tab 9Y, at p 3428; see also **Plan**, AR Vol 2, Tab 9Y, at pp 3418, 3430, 3432; **Why we need to address climate change**, Ex "GG" to the Jan 15th Ireland Affidavit, AR Vol 2, Tab 9GG, at p 4552; **Feeling the Heat: Greenhouse Gas Progress Report 2015**, Ex "HH" to the Jan 15th Ireland Affidavit, AR Vol 2, Tab 9HH, at pp 4562-64; **Looking for Leadership: The Costs of Climate Inaction…**, Ex "UU" to the Jan 15th Ireland Affidavit, AR Vol 2, Tab 9UU, at p 4790; **Climate change and nature-based tourism…**, Ex "BBB" to the Jan 15th Ireland Affidavit, AR Vol 2, Tab 9BBB, at p 5262; **Under 2 MOU**, Ex "FFF" to the Jan 15th Ireland Affidavit, AR Vol 2, Tab 9FFF, at p 5357.

circumstances where the harm is on a scale that threatens the preservation of society. State decisions to send members of a volunteer army to war, allow individuals to drive cars or purchase liquor, or respond to public health crises fall nowhere near this threshold.

53. Ontario also argues that the harms considered at the first stage of the s. 7 test cannot inform the principles of fundamental justice analysis. There is no support for this proposition. The test for a "deprivation" at the first stage of s. 7 is different from (and, in many ways, less stringent than) the test for engaging the societal preservation principle at the second stage of s. 7. There is nothing legally or logically incoherent about such an approach; indeed, a similar one is taken in cases involving conduct that "shock[s] the conscience", where the same conduct engaging a s. 7 interest also violates fundamental justice even if not arbitrary or grossly disproportionate.[104]

54. Finally, it should be noted that recognizing the societal preservation principle would not unreasonably restrain government conduct; s. 1 would still provide the means to justify state conduct in exceptional circumstances like war.[105]

I. ONTARIO'S FAILURE TO ADDRESS THE *OAKES* TEST

55. Section 7 violations are almost never justifiable under s. 1 of the *Charter*,[106] and neither the s. 7 violations nor the s. 15 violations in this case can be justified.

56. Ontario has conceded that climate change risks the health and well-being of Ontarians and does not disagree that climate change will cause widespread and catastrophic harms.[107] Its failure to even *attempt* to satisfy its burden under s. 1 and justify the violations of s. 7 or 15 is tantamount

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[104] *United States v. Burns*, 2001 SCC 7 at ¶69.
[105] *Reference re Motor Vehicle Act (British Columbia)*, [1985] 2 SCR 486 at ¶85.
[106] Only one s. 7 infringement has been justified under s. 1 to date: *R. v. Michaud*, 2015 ONCA 585, leave to appeal to the SCC dismissed: 2016 CanLII 24866 (SCC).
[107] Resp. Factum, at ¶¶7 and 69.

to an admission that these harms are so significant that they cannot outweigh any potential benefits at the proportionality stage of the *Oakes* test.

57. This is unsurprising. This Application deals with an issue that the Supreme Court has recognized as a "grave threat to humanity's future" and an "existential threat to human life in Canada and around the world".[108] Climate change will cause catastrophic impacts on an unprecedented and global scale[109] as we approach planetary tipping points that will make the harms of climate change "very hard, if not impossible, to stop."[110] There are no benefits of the impugned laws that could possibly justify these deleterious effects.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 6th day of September, 2022.

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ECOJUSTICE
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[108] *Reference re Greenhouse Gas Pollution Pricing Act*, 2021 SCC 11 at ¶¶2, 167 and 171. See also **Under 2 MOU**, Ex "FFF" to the Jan 15th Ireland Affidavit, AR Vol 2, Tab 9FFF, at p 5357.

[109] **Report of Dr. Robert McLeman ("McLeman Report")**, Ex "B" to the Affidavit of Dr. Robert McLeman, AR Vol 4, Tab 24B, at pp 6985-6.

[110] Lenton Report, AR Vol 3, Tab 24B, at pp 6928, 6945. See also IPCC's **Climate Change 2022: Impacts, Adaptation and Vulnerability Summary for Policymakers**, Appendix 2 to the Affidavit of Dr. Robert McLeman, affirmed April 6, 2022, Reply AR, Tab 3B, Appendix 2, at pp 142, 152 (expressing "high confidence" that increasing global temperatures has and will lead to "irreversible impacts").

SCHEDULE "A" – LIST OF AUTHORITIES

CASE LAW	
1.	*DALI Local 675 Pension Fund (Trustees) v. Barrick Gold Corporation*, 2022 ONSC 1767
2.	*Crump v. Fiture,* 2018 ONCA 349
3.	*References re Greenhouse Gas Pollution Pricing Act,* 2021 SCC 11
4.	*Reference re Greenhouse Gas Pollution Pricing Act,* 2019 ONCA 544
5.	*Mathur v. Ontario,* 2020 ONSC 6918
6.	*La Rose v. Canada,* 2020 FC 1008
7.	*Misdzi Yikh v Canada,* 2020 FC 1059
8.	*Vanscoy v. Ontario,* [1999] O.J. No. .C
9.	*Friends of the Earth v. Canada (Governor in Council),* 2008 FC 1183
10.	*Tanudjaja v. Canada (Attorney General),* 2014 ONCA 852
11.	*Canada (Attorney General) v. Bedford,* 2013 SCC 72
12.	*Canada v Khadr,* 2010 SCC 3
13.	*Kazemi Estate v Iran,* 2014 SCC 62
14.	*Little Sisters Book and Art Emporium v. Canada (Minister of Justice),* 2000 SCC 69
15.	*R. v. Moriarity,* 2015 SCC 55
16.	*R. v. Safarzadeh-Markhali,* 2016 SCC 14
17.	*Chaoulli v. Quebec (Attorney General),* 2005 SCC 35
18.	*United States v. Burns,* 2001 SCC 7
19.	*Reference re Motor Vehicle Act (British Columbia),* [1985] 2 SCR 486
20.	*R. v. Michaud,* 2015 ONCA 585
INTERNATIONAL JURISPRUDENCE	
21.	*The State of the Netherlands (Ministry of Economic Affairs and Climate Policy) v Stichting Urgenda,* 19/00135 (Hoge Raad)
INTERNATIONAL AGREEMENTS	
22.	*Paris Agreement, being an Annex to the Report of the Conference of the parties on its twenty-first session, held in parties from 30 November to 13 December —15-- Addendum Part two: Action taken by the Conference of the parties at its twenty-first session,* 12 December 2015, UN Doc FCCC/CP/2015/10/Add.1, 55 ILM 740 (entered into force 4 November 2016)

23.	*United Nations Framework Convention on Climate Change, 9 May 1992,* 1771 UNTS 107, art 2, 31 ILM 849 (entered into force 21 March 1994).
24.	*Glasgow Climate Pact,* UNFCCC, UN Doc FCCC/PA/CMA/2021/L.16, s 21 (entered into force 13 November 2021)

SCHEDULE "B" – TEXT OF STATUTES, REGULATIONS & BY - LAWS

The Constitution Act, 1982

52 (1) The Constitution of Canada is the supreme law of Canada, and any law that is inconsistent with the provisions of the Constitution is, to the extent of the inconsistency, of no force or effect.

Canadian Charter of Rights and Freedoms

7. Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice

15 (1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

24 (1) Anyone whose rights or freedoms, as guaranteed by this Charter, have been infringed or denied may apply to a court of competent jurisdiction to obtain such remedy as the court considers appropriate and just in the circumstances.

Cap and Trade Cancellation Act, 2018, S.O. 2018, c. 13

3 (1) The Government shall establish targets for the reduction of greenhouse gas emissions in Ontario and may revise the targets from time to time.

…

4 (1) The Minister, with the approval of the Lieutenant Governor in Council, shall prepare a climate change plan and may revise the plan from time to time.

…

16 The *Climate Change Mitigation and Low-carbon Economy Act, 2016* is repealed.

Climate Change Mitigation and Low-carbon Economy Act, 2016, S.O. 2016, c. 7

6 (1) The following targets are established for reducing the amount of greenhouse gas emissions from the amount of emissions in Ontario calculated for 1990:

1. A reduction of 15 per cent by the end of 2020.

2. A reduction of 37 per cent by the end of 2030.

3. A reduction of 80 per cent by the end of 2050.

(2) The Lieutenant Governor in Council may, by regulation, increase the targets specified in subsection (1).

(3) The Lieutenant Governor in Council may, by regulation, establish interim targets for the reduction of greenhouse gas emissions.

(4) When increasing the targets specified in subsection (1) or establishing interim targets for the reduction of greenhouse gas emissions, the Lieutenant Governor in Council shall have regard to any temperature goals recognized by the Conference of the Parties established under Article 7 of the United Nations Framework Convention on Climate Change.

Environmental Bill of Rights, 1993, S.O. 1993, c. 28

11 The minister shall take every reasonable step to ensure that the ministry statement of environmental values is considered whenever decisions that might significantly affect the environment are made in the ministry.

SOPHIA MATHUR, et al.	and	HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO	Court File No. CV-19-00631627-0000
Applicants		Respondent	

ONTARIO
SUPERIOR COURT OF JUSTICE
Proceeding commenced at TORONTO

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