

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N :

**MARC LEROUX AS LITIGATION GUARDIAN
OF BRIANA LEROUX**

Plaintiff

- and -

**HIS MAJESTY THE KING IN RIGHT OF THE
PROVINCE OF ONTARIO**

Defendant

REPLY

1. The plaintiff repeats and relies on the allegations contained in the Amended Statement of Claim.
2. Except as admitted herein, the plaintiff denies each and every allegation contained in the Statement of Defence.
3. The plaintiff admits the allegations contained in paragraphs 7, 8 and 9 of the Statement of Defence.
4. In reply to paragraphs 13 and 14, Developmental Services Ontario offices ("DSOs") are not independent of Ontario to the extent that they participate in the intake, assessment, approval, prioritization and matching of individuals and/or act under policy directives, guidelines or other direction issued by the Minister or Directors under the *Services and Supports to Promote the Social Inclusion of Persons with Developmental Disabilities Act, 2008* ("2008 Disabilities Act"). Ontario interacted with Class Members both directly and through DSOs.

5. Despite any delegation of authority to the DSOs, the Minister and Directors appointed by the Minister under the 2008 *Disabilities Act* remained responsible for the design, administration, and management of the assessment, approval, allocation and prioritization process for Developmental Services and DSO waitlists.

6. In reply to paragraph 23, the Defendant has a duty to specifically plead why core policy immunity applies and to particularize its policy defence. The Defendant has failed to do so.

7. In reply to paragraph 24, the Defendant has a duty to specifically plead why the claim is barred by section 11(4) of the *Crown Liability and Proceedings Act, 2019* and to particularize its defence under that statute. The Defendant has failed to do so.

8. In reply to paragraphs 28, 29, 30, and 31, the Plaintiff pleads a deprivation of the right to life, liberty and security of the person, protected by section 7 of the *Canadian Charter of Rights and Freedoms*. The manner in which the Defendant administered DSO waitlists, and the prioritization and allocation of Developmental Services deprived Class Members of security of the person, including by harming their psychological integrity.

9. This deprivation was arbitrary and violates the principles of fundamental justice, and is not justified under section 1 of the *Charter*.

October 6, 2023

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and

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Court File No.: CV-17-573091-00CP

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Proceeding commenced at TORONTO

REPLY

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