

APR 16 24 KA

Court of Appeal File No. COA-24-CV-0185

M55016

COURT OF APPEAL FOR ONTARIO

IN THE MATTER OF A REFERENCE to the Court of Appeal pursuant to section 8 of the *Courts of Justice Act*, RSO 1990, c. C.34, by Order-in-Council 210/2024 permitting international play in an online provincial lottery scheme

NOTICE OF MOTION

The Attorney General of British Columbia will make a motion to the court on Wednesday, May 1, 2024, at 10:00 a.m., or as soon after that time as the motion can be heard, at 130 Queen Street West, Toronto, pursuant to the Order of The Honourable Justice van Rensburg dated March 1, 2024.

PROPOSED METHOD OF HEARING: The motion is to be heard orally by video conference and has been made returnable on May 1, 2024, by Order of Van Rensburg J.A.

THE MOTION IS FOR leave to supplement the record before the Court with affidavit evidence containing the following:

- (a) A description of British Columbia's lottery scheme via the BC Lottery Corporation (under Part 2 of the *Gaming Control Act*, SBC 2002, c 14) including a description of the individual and social harms associated with gaming and the "responsible gaming" initiatives that have been implemented to mitigate those harms in British Columbia;
- (b) An identification of some of the challenges for British Columbia that have arisen since Ontario's introduction of the iGaming model, including:
 - i. gambling advertising directed at British Columbia's residents, which directs them to international gaming sites, including sites run by internationally based "Operators" licensed by Ontario;
 - ii. the proliferation of gambling advertising by Ontario-licensed Operators, which is viewed by British Columbia's residents;

- iii. British Columbia's residents are often directed to international gaming sites by Ontario-licensed Operators directly from iGaming Ontario's websites;
- iv. Ontario-licensed Operators' international affiliate sites do not exclude British Columbians, including those under the legal gambling age in British Columbia, from gambling on their sites;
- v. Ontario-licensed Operators' international affiliate sites are not regulated by Ontario or British Columbia; and
- vi. Ontario-licensed Operators' international affiliate sites often do not connect British Columbians with the supports offered by British Columbia to its residents, which potentially exacerbates the harms associated with gambling.

(the "Proposed Evidence")

THE GROUNDS FOR THE MOTION ARE:

1. The Proposed Evidence is relevant and material to the reference question that has been posed by the Government of Ontario in these proceedings.
2. The addition of the Proposed Evidence to the record before the Court ought not to result in any delay or additional expense to the Attorney General of Ontario (or any other party). As such, the Proposed Evidence meets the test of proportionality, in that its probative value outweighs any expense and delay that may result from calling it.

JURISDICTION: The Honourable Justice van Rensburg has jurisdiction to hear this motion, which is returnable May 1, 2024, pursuant to the March 1, 2024 Order of the Honourable Justice van Rensburg

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

1. Affidavit #1 of Rebecca Hill dated April 8, 2024.

2. Any additional evidence that the Court may permit.

April 8, 2024



Robert Danay
Attorney General of British Columbia
Legal Services Branch
1301 – 865 Hornby Street
Vancouver, BC V6Z 2G3
Phone: (604) 660-0679
Email: robert.danay@gov.bc.ca

TO: ATTORNEY GENERAL OF ONTARIO
Civil Law Division
720 Bay Street, 4th Floor
Toronto, ON M7A 2S9

TO: Joshua Hunter
Tel: 416-326-3840
Fax: 416-326-4015
Email: joshua.hunter@ontario.ca

Counsel for the Attorney General of Ontario

**IN THE MATTER OF A REFERENCE to the Court of Appeal pursuant to section 8 of the
Courts of Justice Act, RSO 1990, c. C.34, by Order-in-Council 210/2024 respecting
expanding iGaming to include players located outside Ontario**

**Court of Appeal File No.:
COA-24-CV-0185**

COURT OF APPEAL FOR ONTARIO

Proceedings commenced at Toronto

**NOTICE OF MOTION TO ADDUCE
EVIDENCE**

**ATTORNEY GENERAL OF BRITISH
COLUMBIA**

Legal Services Branch
1301-865 Hornby Street
Vancouver, BC V6Z 2G3

Robert Danay

Tel: 604-660-0679

Email: Robert.danay@gov.bc.ca

Counsel for the Attorney General of British
Columbia