

COURT OF APPEAL FOR ONTARIO

BEFORE: HUSCROFT J.A.

COURT FILE NO.: M56647
(COA-25-CV-0737 & COA-25-CV-0612)

HEARD: IN WRITING



TITLE OF PROCEEDING: CHI KHAI DIEP,
BY HIS LITIGATION GUARDIAN MARANDA
DIEP ET AL. V. MACS'S CONVENIENCE
STORES INC. ET AL.

DISPOSITION OF COURT HEARING:

DATE RELEASED: JANUARY 30, 2026

The Ontario Trial Lawyers Association (“OTLA”) moves for leave to intervene as a friend of the court in an appeal from the order of Lack J., dated June 26, 2025, determining a question of law before trial pursuant to r. 21.01(1)(a) of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194. The appeal concerns the interpretation of s. 267.8 of the *Insurance Act*, R.S.O. 1990, c. I.8.

OTLA proposes to make two arguments on appeal:

- (1) the private insurance exception and the consumer protection purposes of insurance legislation are relevant to the interpretation of s. 267.8 of the *Insurance Act*; and
- (2) decisions of the Licence Appeal Tribunal do not bind the Superior Court.

The motion is brought under r. 13.02 of the *Rules of Civil Procedure*. The test for leave to intervene is well-established. The court considers:

- (1) the nature of the case;
- (2) the issues which arise; and
- (3) the likelihood that the proposed intervener will usefully contribute to the resolution of the appeal without prejudicing the parties.

(Peel (Regional Municipality) v. Great Atlantic & Pacific Co. of Canada Ltd. (1990), 74 O.R. (3d) 164 (C.A.), at p. 167)

In private disputes, the standard for obtaining leave is more onerous and stringently applied: *Jones v. Tsigie* (2011), 106 O.R. (3d) 721 (C.A.), at para. 23.

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The key consideration on this motion is whether OTLA will contribute to the resolution of the appeal without prejudicing the parties. I am not satisfied that it will. OTLA submits that “it will not offer a repetition of the positions advanced by the parties to this appeal.” But both OTLA’s proposed arguments are also raised in the factums of the respondents. Moreover, the proposed arguments concern straightforward matters on which the court does not need the assistance of an intervener.

The motion for leave to intervene is dismissed. There is no order as to costs.

A handwritten signature in black ink, reading "Grant Humphreys J.A." in a cursive style.