



COURT FILE NO. _____

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

Kanyen'ke:haka Nation

Applicant

and

ONTARIO PROVINCIAL POLICE, PROVINCIAL JOINT FORCES CANNABIS
ENFORCEMENT TEAM (PJFCET) and TYENDINAGA POLICE SERVICE

Respondents

APPLICATION UNDER Rules 14.05(2), 40.01 and 40.02 of the *Rules of Civil Procedure* and Sections 101 and 102 of the *Courts of Justice Act*

NOTICE OF MOTION FOR INTERLOCUTORY INJUNCTIVE RELIEF

TO THE RESPONDENTS

A LEGAL PROCEEDING HAS BEEN COMMENCED by the applicant. The claim made by the applicant appears on the following pages.

THIS APPLICATION will come on for a hearing on the first available date before a Justice of the Superior Court of Justice in Belleville at 15 Bridge Street West, Belleville, Ontario.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or an Ontario lawyer acting for you must forthwith prepare a notice of appearance in Form 38A prescribed by the Rules of Civil Procedure, serve it on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant,

and file it, with proof of service, in this court office, and you or your lawyer must appear at the hearing.

IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE APPLICATION, you or your lawyer must, in addition to serving your notice of appearance, serve a copy of the evidence on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in the court office where the application is to be heard as soon as possible, but at least four days before the hearing.

IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO OPPOSE THIS APPLICATION BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

Date: September 25, 2025

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Issued by:

Address of
court office

Local registrar
15 Bridge Street West
Belleville, ON K8P3H3

MOTION

1. The Applicant makes a Motion for:

- a. An interlocutory injunction restraining the Ontario Provincial Police (OPP), their servants, agents, or representatives, from seizing, removing, interfering with, or otherwise exercising control over property which is under the control of the Tyendinaga Reservation pending a determination of this proceeding or any further Order of the Court;
- b. A declaration that any indigenous person on the Tyendinaga Reservation has rights to possession and enjoyment of their property on their reserve lands which are protected pursuant to s.35 of the *Charter* and s.89 of the *Indian Act* and principles of constitutional law recognizing the protection of Aboriginal treaty rights;
- c. An Order in the form of an interlocutory injunction restraining the Respondents from arresting, stopping, prohibiting, or frustrating the livelihoods or agricultural endeavours of the indigenous peoples on the Tyendinaga reservation *ie* from engaging in lawful activities, on its lawful territory;
- d. An Order validating and abridging the time for service and filing the Notice of Application and the Application Record, or for substituted service or dispensing with service, if required;
- e. Its costs of this Application; and
- f. Such further and other relief that this Honourable Court may deem just.

2. The grounds for this Motion are:

- a. The Applicant, Kanyen'ke:haka Nation, a First Nations Organization pursuant to UNDRIP, is a collective authorized by the Kanyen'ke:haka Nation and is governed by the Kanyenere:kowa, which is the Nation's constitution which governs the entirety of Tyendinaga territory;

- b. On September 22 to 25, 2025 the Ontario Provincial Police (OPP) executed search warrants and utilized farm equipment to destroy plants and agricultural materials on a number of first nations farms;
- c. The Kanyen'ke:haka Nation authorized and continues to authorize agricultural activities on Tyendinaga territory;
- d. The Kanyen'ke:haka Nation does not agree to the incursion of OPP on its territory and requests that they leave peacefully forthwith;
- e. The Applicant relies on the *Charter of Rights and Freedoms*, as well as the Kanyenere:kowa to support its claim that its agricultural activity is in compliance with the law;
- f. As such, the recent police involvement on the reservation is based on incorrect information, has been issued at the last minute, and has disrupted a harvest event that has been scheduled at this time for hundreds of years;
- g. The police interactions have targeted "status Indians" within the meaning of the Indian Act, RSC 1985, c.I-5;
- h. Section 89(1) of the Indian Act provides that the personal property of an Indian or band situated on a reserve is not subject to charge, pledge, seizure;
- i. The OPP have threatened and/or attempted to seize the property of a number of status Indians as defined in the Indian Act, contrary to section 89 of the Indian Act and section 35 of the *Charter*;
- j. These seizures have caused irreparable harm to Band Members, their families, and the community, including the loss of constitutionally protected rights, cultural integrity, and livelihoods;
- k. The balance of convenience strongly favours preserving the status quo and restraining state action until the matter can be determined at trial;
- l. Section 7 of the *Charter*;
- m. Rules 14.05(2) and 40 of the *Rules of Civil Procedure*;
- n. Rule 16.04(1) if required;
- o. Sections 101 and 102 of the *Courts of Justice Act*;

- p. Extensive caselaw dealing with statutory interpretation, indigenous rights, and the law on interlocutory injunctive relief; and
 - q. Such further and other grounds as counsel may advise and this Court may permit.
3. The following documentary evidence will be used at the hearing of the application:
- a. Application Record of the Applicant including but not limited to the affidavits of a number of witnesses as well as numerous expert reports and the exhibits thereto;
 - b. The clear and explicit language of the Indian Act;
 - c. The Kanyenere:kowa;
 - d. Factum and Book of Authorities of the Applicant;
 - e. Such further and other materials as counsel may advise and this Honourable Court permit.

September 25, 2025

To: PJFCET
777 Memorial Ave
Orillia, ON

And To: **Tyendinaga Mohawk Territory Police**
6 Meadow Drive
Shannonville, ON K0K3A0

And To: Ontario Provincial Police
3 Dixon Drive,
Trenton, ON K8V6E6

KANYEN’KE:HAKA NATION

-and-

**ONTARIO PROVINCIAL POLICE, PROVINCIAL JOINT FORCES
CANNABIS ENFORCEMENT TEAM (PJFCET) and TYENDINAGA
POLICE SERVICE**

Applicant

Respondents

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Belleville

Notice of Motion