

CANADA

**PROVINCE OF QUÉBEC
DISTRICT OF MONTREAL**

No. : 500-17-135516-253

SUPERIOR COURT
(Civil Division)

ROBBIE DICKSON, domiciled at
Kahnawake, P.O. Box 2242, in the district
of Longueuil, province of Québec, J0L 1B0

and

RAINBOW DISTRIBUTION, with its
principal place of business at 2000
Highway 138, P.O. Box 1749, Kahnawake
Mohawk Territory, in the province of
Québec, J0L 1B0

Plaintiffs

v.

**L'AGENCE DE REVENU DU QUÉBEC
(REVENU QUÉBEC)**, having a place of
business at Complexe Desjardins, C.P.
5000, Succursale Desjardins, in the city
and district of Montréal, province of
Québec, H5B 1A7

and

PROCUREUR GÉNÉRAL DU QUÉBEC,
having a place of business at the Direction
générale des affaires juridiques, at 1,
Notre-Dame Est, 8th floor, in the city and
district of Montreal, province of Québec,
H2Y 1B6

Defendants

**ORIGINATING APPLICATION IN DECLARATORY JUDGMENT, DAMAGES,
STAY OF APPLICATION, AND INTERLOCUTORY INJUNCTION**
(Art. 141 C.C.P.)

IN SUPPORT OF THEIR ORIGINATING APPLICATION, THE PLAINTIFFS RESPECTFULLY STATE THE FOLLOWING:

I. INTRODUCTION

1. The Plaintiffs – Mr. Robbie Dickson, an Indigenous business owner and member of the Mohawks of Kahnawà:ke, as well as his company Rainbow Tobacco – bring this originating application seeking relief and remedies in relation to the Defendants’ campaign of unconstitutional searches and seizures of the Plaintiffs’ property, in clear breach of the Plaintiffs’ Aboriginal and Treaty rights to trade tobacco;
2. This deliberate and unlawful campaign, on the part of both the Sûreté Du Québec and Revenu Québec (hereinafter the “**Defendants**”), has persisted despite their awareness that their conduct was unlawful and likely to harm the Plaintiffs by breaching their well-established and constitutionally protected rights;
3. By this originating application, Robbie Dickson and Rainbow Tobacco (hereinafter the “**Plaintiffs**”) seek:
 - a. Declaratory judgment, in the form of:
 - i. a declaration of constitutional invalidity of ss. 6, 7.9, 13.1, 13.1.1, 13.3, 13.3.1, 13.3.2, 13.16, 14.1, 14.2 and 17.10 of the *Tobacco Tax Act* (C.Q.L.R., c. I-2) (hereinafter the “**TTA**”), as against the Plaintiffs due to the fact these provisions violate the Aboriginal and Treaty rights of the Plaintiffs;
 - ii. a declaration that the Defendants have breached their honourable obligations towards the Aboriginal Plaintiffs, in violation of the Honour of the Crown;
 - b. damages for the harm caused to the Plaintiffs’ business through the interference of the Defendants and resulting breach of constitutional rights, including:
 - i. Economic harm;
 - ii. Reputational harm;
 - iii. Moral damages;
 - iv. Punitive damages;

- c. interlocutory relief, in the form of an Order suspending the enforcement of ss. 6, 7.9, 13.1, 13.1.1, 13.3, 13.3.1, 13.3.2, 13.16, 14.1, 14.2 and 17.10 of the *TTA* as against the Plaintiffs due to the risk of irreparable harm to their constitutionally and Treaty-protected Aboriginal rights;
- d. interlocutory relief, in the form of an Order compelling the Respondents to release all tobacco products and all vehicles seized from Rainbow Tobacco to date, across a series of seizures dating from August 2024 to present, as outlined below;

II. THE PARTIES

- 4. Robbie Dickson (“**Mr. Dickson**”) is a First Nation member of the Mohawks of Kahnawà:ke (“**Kahnawake**”), and the owner and proprietor of the Rainbow Distribution Company (“**Rainbow Distribution**” or “**Rainbow**”), a wholly First Nations-owned sole proprietorship which engages in the manufacture and sale of finished tobacco products within First Nations communities;
- 5. Rainbow Distribution operates out of the Kahnawake Mohawk Territory and has been endorsed by the Mohawk Council of Kahnawake to manufacture and sell finished tobacco products on “Native Reserves/Territories” across Canada, as shown in a copy of an excerpt from the Rainbow website, filed in support of these proceedings as **Exhibit P-1, in bundle**;
- 6. Revenu Québec (“**RQ**”) is the provincial ministry responsible for Québec’s tax laws, including the collection of income and consumption taxes, and is headed by the provincial Minister of Finance and overseen by a Board of Directors;
- 7. RQ is responsible for the implementation of Québec’s regulatory regime for tobacco taxation, and responsible for prosecuting tobacco taxation-related offences under provincial law, working in tandem with various police services;
- 8. The Sûreté du Québec (“**SQ**”), represented by the Quebec Attorney General, is the provincial police service of Québec and is partially responsible for the enforcement of provincial laws within the province of Québec;
- 9. Pursuant to the *TTA*, powers relating to examination, inspection, and seizure have been granted to the SQ outside of the context of constitutionally protected First Nations inter-reserve trade (as discussed below);

III. THE FACTS

a) Robbie Dickson's Mohawk identity and colonially defined "Indian Status"

10. Mr. Robbie Dickson is a member of the Mohawks of Kahnawake, a First Nation community primarily situated within the federally defined reserve of Kahnawake 14, on the south shore of the St. Lawrence River, near the city of Montreal, Québec;
11. Kahnawake is governed by the Mohawk Council of Kahnawake, and is one of the six constituent Nations which make up the Iroquois Nation in North America;
12. The Mohawks are part of the greater Haudenosaunee Confederacy (also known as the Iroquois Confederacy), and are adherents to the Covenant Chain, a series of treaties meant to record military and trade alliances (and, in some cases, neutrality pacts) between the British Crown and the Haudenosaunee Confederacy across the 17th and 18th centuries;
13. As a member of the Mohawk people, Mr. Dickson has a recognized Aboriginal right to engage in the trade of tobacco, as well as a Treaty-protected right to engage in the trade of tobacco, pursuant to the terms of the Covenant Chain;
14. Mr. Dickson also holds "Indian status" within the meaning of the colonial framework of the *Indian Act* (RSC, 1985, c. I-5);

b) Rainbow's business model

15. Rainbow Distribution is a First Nation-owned tobacco company whose products include the Saratoga, Deerfield, and Wolfpack brands of cigarettes;
16. Rainbow engages exclusively in the Nation-to-Nation sale of tobacco products, selling only to other First Nations situated in Québec and in Ontario;
17. The cigarette industry is one of the major employers of Kahnawakeron:on ("**Mohawk peoples**") within the Kahnawake reserve and is a major reason for the improvement of the economy of this First Nation in the last twenty years;
18. Rainbow's business model represents a successful exercise of self-determination of the Mohawk peoples, increasing the wealth of the community, creating employment opportunities, and strengthening ties between the Mohawks and the other First Nations with which the Plaintiffs are engaged in the tobacco trade;

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19. Rainbow is working directly with other First Nations and First Nations-owned businesses to engage in a long-protected Aboriginal and Treaty right to freely pursue their own economic development, as recognized in Indigenous law, Canadian (colonial) law, and in the *United Nations Declaration on the Rights of Indigenous People* (“**UNDRIP**” or the “**Declaration**”) (in particular, Article 3 of the Declaration);

c) The tobacco trade for Mohawk Peoples

20. The trade of tobacco dates from long before colonization, and forms part of the traditional practices of the Mohawk peoples dating back millennia, to the earliest cultivation of the tobacco plant in North America;
21. Tobacco is one of the four sacred medicines, and an essential part of Indigenous cultural and spiritual practices;
22. Since time immemorial, Indigenous peoples have engaged in a robust network of people to people, Nation to Nation, trade in tobacco, with the Mohawk peoples particularly well-known and respected for their tobacco trade and products;

UNDRIP – the right to trade tobacco

23. Adopted by the UN General Assembly in 2007, UNDRIP is a United Nations resolution affirming and describing the protected rights of Indigenous peoples worldwide, as shown in a copy of UNDRIP, filed in support of these proceedings as **Exhibit P-2**;
24. The Declaration consists of an extensive preamble recognizing and affirming the unique rights – and the obligation to protect those rights – of Indigenous peoples, followed by forty-six Articles specifying those rights and the duties of states to uphold those rights;
25. Though adopted by the UN General Assembly in 2007, it was not until 2016 that Canada formally endorsed the Declaration;
26. In 2021, the Declaration was enshrined in Canadian law through the passing of the federal *United Nations Declaration on the Rights of Indigenous Peoples Act*, S.C. 2021, c. 14 (“**UNDRIP Act**” or “**UNDA**”);
27. The forty-six articles of UNDRIP cover various rights – and attendant state responsibilities – of Indigenous peoples in a variety of areas, including property, economic, social, and cultural rights;

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28. In the area of economic rights, UNDRIP sets out the rights of Indigenous peoples to freely pursue their economic development, including through Nation-to-Nation trade, the development of traditional industries, and the general development of economic activity within and amongst their peoples;
29. These protections include, but are not limited to, the following guarantees described in the Declaration:
- a. “Art. 3: Indigenous peoples have the right to self-determination. By virtue of that right, they freely determine their political status and **freely pursue their economic, social and cultural development**”;
 - b. “Art. 4: Indigenous peoples, in exercising their right to self-determination, have the **right to autonomy** or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions”;
 - c. “Art. 20:
 - i. Indigenous peoples have the right to maintain and develop **their political, economic and social systems or institutions, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities**;
 - ii. Indigenous peoples **deprived** of their means of subsistence and **development** are **entitled to just and fair redress**”;
 - d. “Art. 21:
 - i. Indigenous peoples **have the right, without discrimination, to the improvement of their economic and social conditions**, including, inter alia, in the areas of education, **employment**, vocational training and retraining, housing, sanitation, health and social security;
 - ii. States **shall** take effective measures and, where appropriate, special measures to **ensure continuing improvement of their economic and social conditions**. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities”;
 - e. “Art. 31:
 - i. Indigenous peoples have the **right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures**, including human and genetic resources, seeds, **medicines**, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and

performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions;

- ii. In conjunction with indigenous peoples, States **shall** take effective measures to recognize and protect the exercise of these rights”;

f. “Art. 36:

- i. Indigenous peoples, in particular those divided by international borders, have the right to maintain and develop contacts, relations and cooperation, including **activities for spiritual, cultural, political, economic and social purposes, with their own members as well as other peoples across borders**;
- ii. States, in consultation and cooperation with indigenous peoples, **shall** take effective measures to facilitate the exercise and ensure the implementation of this right”;

[Our emphasis]

The Montour decision – Canadian tobacco law violates Indigenous rights

- 30. The Mohawk rights to trade tobacco were recently acknowledged in Québec in the decision of *R. v. Montour and White*, 2023 QCCS 4154 (“**Montour**”);
- 31. In the *Montour* decision, which is currently being appealed by the Québec government, the Superior Court held that members of the Mohawks of Kahnawake are entitled to exercise their right to trade tobacco, both as an inherent Aboriginal right, and as a Treaty right recognized pursuant to the Covenant Chain of Friendship;
- 32. The *Montour* decision arose in the context of charges laid against Hunter Montour and Derek White under the federal *Excise Act*, 2001 (SC 2002, c. 22) (“**Excise Act**”), relating to sales of tobacco;
- 33. In 2019, the Court of Québec acquitted the Defendants on charges of defrauding Québec of \$44 million in tobacco taxes, but found both men guilty of violations under the *Excise Act* relating to taxes owed on tobacco products;
- 34. On appeal to the Superior Court, Montour and White successfully obtained a permanent stay of all charges, on the basis of protected Aboriginal and Treaty rights to trade tobacco;

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35. Specifically, Justice Sophie Bourque ruled in *Montour* that Indigenous peoples have an inherent Aboriginal right to “freely pursue economic development” (as acknowledged in *UNDRIP*), and that this right encompasses a specific right to trade tobacco;
 36. The Court further ruled that the Crown had breached its Treaty obligation under the Covenant Chain of Friendship – the series of alliances and treaties between the Haudenosaunee peoples and European settlers in the 17th century – to respect this inherent right;
 37. To that end, the Court declared s. 42 of the *Excise Act* unconstitutional, and ordered that the Crown, in compliance with its Duty to Consult and Accommodate, engage in consultations with the Mohawk peoples on reforming the tobacco regulatory regime in light of the recognized Aboriginal right to trade tobacco;
 38. To Mr. Dickson’s knowledge, no such discussions have commenced between the Crown and any members of the Mohawk Nation, of which he is a member;
 39. On December 7, 2023, Québec filed a notice of appeal seeking to overturn the *Montour* decision at the Québec Court of Appeal. As of the date of this application, the Québec Court of Appeal has yet to hear the case;
 40. Québec has taken no steps to stay the *Montour* decision or otherwise nullify its immediate effect on the tobacco regulatory regime;

Kane decision – Montour remains binding law notwithstanding a pending appeal

41. In the meantime, the Québec Superior Court has since followed the *Montour* decision in the matter of *HMK v. Logan Kane at al*, Québec Superior Court File No. 505-01-183000-237 (Dec. 18, 2024) (“**Kane**”), applying it as a binding precedent to dismiss all charges against a group of Mohawk individuals similarly charged under the federal *Excise Act*;
42. As the court confirmed in *Kane*, the findings in *Montour* recognizing the Treaty-protected right to trade tobacco are binding;
43. This leaves the courts with no other option but to dismiss all such charges against First Nations individuals;

44. Specifically, the Court (the Honourable Daniel Royer, J.S.C.) held:

“[14] In the first place, the Court is not aware of any such rule under which the losing party in a dispute can automatically suspend the effect of a first instance judgment simply by lodging an appeal. Assuming that the Court of Appeal has jurisdiction to do so in respect of a decision which applies *erga omnes*, which the Court strongly doubts, no such application to suspend the effect of the *Montour* judgment has been made.

[...]

[18] A court is required by the principles of judicial comity and horizontal *stare decisis* to follow a binding prior decision of the same court in the province. A decision may not be binding if it is distinguishable on its facts. The *Montour* decision is binding on the treaty rights issue: the applicants are Mohawks of the Haudenosaunee family residing within the communities that constitute the Mohawk Nation; the charges are based on a violation of section 42 of the *Excise Act*; and the treaty at issue in both cases is the Covenant Chain.

[...]

[24] The Court concludes that horizontal *stare decisis* applies to the issue of treaty rights and that none of the exceptions allowing the Court not to follow the *Montour* decision applies.”

[References omitted]

45. On January 17, 2025, Québec filed a notice of appeal seeking to overturn the *Kane* decision at the Québec Court of Appeal;
46. On May 28, 2025, the Court of Appeal granted a motion to stay proceedings in the *Kane* matter pending a final judgment in the *Montour* case, as shown in a copy of the decision from the Honourable Justice Bich, J.A., filed in support of these proceedings as **Exhibit P-3**;
47. Notwithstanding the pending appeal in *Montour* and stay of proceedings in *Kane*, both remain binding law in Québec affirming the protected Aboriginal and Treaty rights to trade tobacco of the Mohawk peoples;
48. Plaintiffs acknowledge that the present case involves provincial legislation, while *Montour/Kane* involved a federal statute;
49. Nevertheless, the Plaintiffs maintain that the central findings recognizing these protected rights are binding and applicable to the present case;

The Iroquois Trade Protocol (April 24, 2025)

50. On April 24, 2025, the members of the Iroquois Caucus, including the Mohawks of Kahnawake, signed a *Nation to Nation Trade and Commerce Protocol Agreement* (hereinafter the “**Trade Protocol**”), serving as an expression of their collective self-determination and outlining their commitment to maintain existing trade and economic practices dating back since time immemorial, as shown in a copy of the *Trade Protocol*, filed in support of these proceedings as **Exhibit P-4**;
51. Among other principles, the *Trade Protocol* emphasizes a shared intent to respect “the inherent values, principles, and views of our elders in the conduct of trade and commerce” (Preamble), with a mandate “to identify trade opportunities, assets, and resources, to create the atmosphere to facilitate an open trade process” (Art. 3.1);
52. Additionally, the *Trade Protocol* commits its membership to work together to explore mechanisms for the “exercise of their Aboriginal and Treaty rights to commerce and trade with other First Nations” (Art. 8(a));

d) The provincial control over tobacco

The Tobacco Tax Act (TTA)

53. The *TTA*, is a provincial law that governs the taxation, control, and regulation of tobacco products in Québec. It is administered by RQ, and works alongside the *Excise Act*, which can be considered its federal counterpart;
54. Its main purpose is to ensure that all tobacco sold or consumed in Québec is properly taxed and traceable;
55. While much of the *TTA* only applies to tobacco sold in Québec, the Defendants’ recent conduct suggests that, in their view, some of the *TTA* provisions apply to any tobacco physically present on the Québec territory, even if that tobacco is being transported to and sold in other provinces;
56. The *TTA* includes severe administrative and penal sanctions, including seizures of tobacco shipments, fines ranging from hundreds to tens of thousands of dollars and presumption clauses, for example a presumption of tax evasion;
57. Additionally, Division V.1 of the *TTA* provides that the government of Québec may establish an “agreement with a Mohawk community”;
58. To the Plaintiffs’ knowledge, no such agreement has ever been concluded between the Defendants and the Mohawks of Kahnawake;

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59. Furthermore, the Plaintiffs are not aware of any automatic exemption under the *TTA* for Kahnawake individuals or companies, even for inter-Nation trade or sales occurring only on reserve lands;

The enforcement of the TTA

60. There are many ways that the *TTA* is enforced in Québec, some in an administrative manner, and others with the help of law enforcement;
61. For example, Section 6 of the *TTA* provides that a “transport permit” is required for any transport of tobacco in Québec;
62. To obtain this permit, a carrier needs to file a form prepared by RQ and submit it to the Minister of Finance, who will decide if such permit is granted or not;
63. Additionally, Division III.1 of the *TTA*, called “EXAMINATION, INSPECTION AND SEIZURE”, allows any member of the SQ or a municipal police force to stop a vehicle for inspection where there is reasonable grounds to believe that it contains tobacco, and to seize it with a judge’s authorization according to the *Tax Administration Act*, RLRQ, c. A-6.002;
64. In the present case, both of these enforcement strategies have been used by the Defendants to disrupt or interfere with the Plaintiffs’ protected Aboriginal and Treaty rights to trade tobacco, as discussed below;

e) The seizures by the SQ

Rainbow Seizure of August 22, 2024 (“Seizure 1”)

65. On August 22, 2024, the SQ effected a stop and seizure on a delivery van carrying a Rainbow shipment of tobacco products from the Kahnawake reserve to the reserve of Listuguj in Eastern Québec;
66. The truck was released a few days later, but not the seized products;

Rainbow Seizure of January 8, 2025 (“Seizure 2”)

67. On January 8, 2025, the SQ, assisted by the Service de Police de la Ville de Montréal (“SPVM”), effected a stop and seizure on a delivery van carrying a Rainbow shipment of tobacco products from the Kahnawake reserve to the reserve of Chippewas of Georgina Island First Nation in Ontario;

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68. The shipment contained \$68,000 in finished tobacco products, as detailed in a pair of invoices for \$54,400 and \$13,900, filed in support of these proceedings as **Exhibit P-5, in bundle**;
69. An SQ officer, acting on behalf of Revenu Québec indicated that the truck was being seized on the basis of an alleged violation of Québec tobacco taxation laws;
70. The officer took copies of the two invoices, as well as the keys for the truck, and impounded the truck;
71. At this point, the vehicle was chained to a tow truck, which the SQ had brought with them, and towed away;

Rainbow Seizure of April 3, 2025 (“Seizure 3”)

72. On April 3, 2025, the SQ effected a stop and seizure on a delivery van carrying a Rainbow shipment of tobacco products from the Kahnawake reserve to three (3) different First Nation reserves all located in Ontario;
73. At the time of the seizure, the delivery truck was travelling westbound along Highway 20 within Québec and was approaching the border with Ontario;
74. The shipment contained \$88,300 in finished tobacco products, as detailed in the three (3) invoices for \$20,000, \$61,300 and \$7,000, filed in support of these proceedings as **Exhibit P-6, in bundle**;
75. At the time of the stop, an SQ officer identified himself as a member of the Tobacco “Special Unit” at the SQ, before reviewing the driver’s photo identification;
76. The SQ officer informed the driver that he himself was not under arrest, but that the truck and its contents were being seized over alleged tobacco-related violations;
77. The driver was asked to follow the SQ to a nearby highway exit, an instruction that the driver complied with;
78. At this point, the vehicle was chained to a tow truck, apparently brought by the SQ, and towed away along with the contents of the truck, namely the tobacco products, the invoices, as well as personal items of the driver;
79. These personal items included, among others, a bag containing clothing, headphones, some gym gear, and a vape pen which were eventually returned to the driver a few weeks following the stop;

Rainbow Seizure of April 21, 2025 (“Seizure 4”)

80. On April 21, 2025, the SQ effected a stop and seizure on a delivery van carrying a Rainbow shipment of tobacco products from the Kahnawake reserve to the Tyendinaga Mohawk Territory reserve, in Ontario;
81. The stop occurred just before Exit 26, in Les Cèdres, Québec, and the shipment contained \$90,000 in finished tobacco products, as shown in a copy of the invoice, filed in support of these proceedings as **Exhibit P-7**;
82. In addition to the tobacco products seized as indicated above, there were also documents seized including one rental agreement for Enterprise and one invoice for cigarettes;
83. There was no paperwork provided at the time of the seizure, but the driver was asked questions about his employment with Rainbow Distribution;

Rainbow Seizure of May 13, 2025 (“Seizure 5”)

84. Following the pattern of seizures, Rainbow purchased two new delivery vehicles in April of 2025, as shown in a copy of the contracts for the purchase of the vans, filed in support of these proceedings as **Exhibit P-8, in bundle**;
85. On May 13, 2025, the SQ effected a stop and seizure on one of the recently purchased, Rainbow-owned delivery van, which at the time was transporting a Rainbow shipment of tobacco products from the Kahnawake reserve to the reserve of Tyendinaga Mohawk Territory in Ontario;
86. The Rainbow delivery vehicle was heading towards Tyendinaga on Highway 20 within Québec, when it was stopped by SQ officers;
87. The interception took place in the Coteau-du-Lac area, in the judicial district of Beauharnois;
88. At the time, the shipment contained \$37,025.00 in finished tobacco products, as detailed in invoices for \$17,000.00, \$16,000.00, and \$4,025.00, filed in support of these proceedings as **Exhibit P-9, in bundle**;
89. As stated in those invoices, all tobacco products were intended for sale within First Nations communities;
90. The driver was also carrying an envelope with other invoices for previous deliveries to a client on the same reserve;

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91. The SQ officers took copies of the invoices described, as well as the keys for the truck and impounded the vehicle;

Rainbow Seizure of August 7, 2025 (“Seizure 6”)

92. On August 7, 2025, the SQ effected a stop and seizure on the second Rainbow-owned delivery van (P-8), which at the time was transporting a Rainbow shipment of tobacco products from the Kahnawake reserve to reserves of Tyendinaga Mohawk Territory and Chippewas of Georgina Island, both First Nations located in Ontario;
93. At the time, the Rainbow delivery vehicle was approximately twenty-five kilometres from the Ontario border, driving along Highway 40;
94. The SQ officer that pulled the truck over did not identify himself, and stated that the driver was not under arrest;
95. At the time, the shipment contained \$111,500.00 in finished tobacco products, as detailed in invoices for \$74,000.00 and \$37,500.00, filed in support of these proceedings as **Exhibit P-10, in bundle**;
96. The SQ officers took copies of the invoices, as well as the keys to the truck, and the keys which open the padlock securing the rear storage area of the van – SQ officers then impounded the vehicle;
97. As a result of this most recent seizure, Rainbow no longer has a delivery vehicle that allows it to trade and meet customer demand;

f) The penal files following the seizures

The charges in Seizure #1

98. On September 30, 2024, the SQ served on the driver from the August 2024 seizure a *Notice of Destruction of Tobacco Packages* by RQ (“**Notice of Destruction**”), seeking the destruction of the seized tobacco products, as shown in a copy of documents served, filed in support of these proceedings as **Exhibit P-11, in bundle**;
99. On March 21, 2025, the SQ served on the driver a notice of various statutory fines under the *TTA*, indicating that he had 30 days following the date the notice was served upon him to file a plea with respect to these various fines, as shown in a copy of the charges, filed in support of these proceedings as **Exhibit P-12, in bundle**;

100. The fines encompass the following:

- a. \$147,899.00 for the possession tobacco intended for sale in Québec and the package of which was not identified in accordance with section 13.1 of the *Tobacco Tax Act* (CQLR, c. 1-2), thereby committing an offense under section 14.2(b) of the said *Act*;
- b. \$27,600.00 for using for the sale, delivery, transportation, or storage of tobacco in Québec, a case not identified in accordance with section 17.10 of the *Tobacco Tax Act* (CQLR, c. 1-2), thereby committing an offense under section 14.2 e) of the said *Act* and making himself liable to the penalty indicated therein; and
- c. \$9,000.00 for contravening section 7.9 of the *Tobacco Tax Act* (CQLR, c. 1-2) by failing to prepare a manifest or waybill for the transportation in Québec of raw tobacco or packages of tobacco intended for sale and by failing to keep it in the vehicle used to transport that tobacco, thereby committing an offense under section 14.2(a) of the said *Act*;

as detailed in P-12;

101. On April 9, 2025, the driver filed a not guilty plea with respect to the above-described fines, as shown in **Exhibit P-12**;

The notice of destruction in Seizure #2

102. On January 14, 2025, the SQ served a *Notice of Destruction* along with a *Notice Regarding the Executive of a Search Warrant or Search Telewarrant* and *Seizure Report* in respect of the Rainbow Seizure of January 8, 2025, as shown in a copy of the documents served at the time, filed in support of these proceedings as **Exhibit P-13, in bundle**;

103. The Notice of Destruction indicated that the tobacco would be destroyed pursuant to the *TTA* unless paperwork was filed within thirty days of the Notice of Destruction;

104. On February 7, 2025, an *Application to Contest a Prior Notice of Destruction of Tobacco Packages Seized* by the RQ ("**Application to Contest Destruction**") was filed;

105. At a Court appearance on May 1, 2025, Honourable Justice of the Peace Geneviève Claude Parayre, of the Court of Québec, ordered the release of the seized vehicle and tobacco, subject to the requirement that an eligible carrier

retrieve the tobacco, as shown in a copy of the minutes from the hearing, filed in support of these proceedings as **Exhibit P-14**;

106. Based on the position of the Defendants, the Plaintiffs subsequently filed a request “under protest” to obtain a Transport Permit, as shown in a copy of the request dated August 12, 2025, filed in support of these proceedings as **Exhibit P-15**;
107. Since the filing of the Transport Permit request, no timeline has been provided for when the RQ might issue its decision about whether to grant the Transport Permit;
108. Further, to the date of filing this originating application, it has not been possible to reclaim the seized vehicle and tobacco, as Rainbow has not yet been able to obtain the Transport Permit that it requested without admission;

The notice of destruction in Seizure #3

109. On April 30, 2025, the SQ served a *Notice of Destruction* in respect of the Rainbow Seizure of April 3, 2025, as shown in a copy of documents served, filed in support of these proceedings as **Exhibit P-16, in bundle**;
110. On May 30, 2025, an *Application to Contest Destruction* was filed;

The notice of destruction in Seizure #4

111. On May 21, 2025, the SQ served a *Notice of Destruction* with respect to the Rainbow Seizure of April 21, 2025, as shown in a copy of documents served, filed in support of these proceedings as **Exhibit P-17, in bundle**;
112. On June 19, 2025, an *Application to Contest Destruction* was filed;

The notice of destruction in Seizure #5

113. On June 12, 2025, a *Notice of Destruction* was served by the SQ in respect of the Rainbow Seizure of May 13, 2025, as shown in a copy of documents served, filed in support of these proceedings as **Exhibit P-18, in bundle**;
114. On July 10, 2025, an *Application to Contest Destruction* was filed;

The notice of destruction to date in Seizure #6

115. On August 19, 2025, a *Notice of Destruction* was served by the SQ with respect to the Rainbow seizure of August 7, 2025, as shown in a copy of documents served, filed in support of these proceedings as **Exhibit P-19, in bundle**;

IV. SUBMISSIONS

a) THE DECLARATORY JUDGMENT

116. In *Newfoundland and Labrador (Attorney General) v. Uashaunnuat (Innu of Uashat and of Mani-Utenam)*, 2020 SCC 4 ("**Mani-Utenam**"), the Supreme Court (citing the Québec Court of Appeal) reiterated the four criteria for issuing declaratory relief as follows:

- (1) a genuine problem exists;
- (2) the party seeking the declaration has an existing legal interest in resolving the problem;
- (3) the source of the problem is identified as a written instrument or legislation; and
- (4) the party's objective is to have a right, power or obligation determined in order to resolve the problem;

117. Plaintiffs submit that the four criteria are met, as detailed below;

A genuine problem exists

118. In the present matter, Plaintiffs seek a declaratory judgment regarding the constitutional validity or applicability of Québec tax provisions and the actions taken by police forces relying upon those provisions to justify seizures which have directly infringed (and continue to infringe) the rights of the Plaintiffs, interfering with their commercial operations and preventing them from exercising their Aboriginal and Treaty rights to trade tobacco;

119. This is thus not an abstract, theoretical, or hypothetical issue;

120. Rather, it arises from a concrete legal situation that affects the Plaintiffs' rights and livelihood, including rights protected under section 35 of the *Constitution Act, 1982, Schedule B to the Canada Act 1982 (UK)*, 1982, c. 11 (the "**Constitution Act**");

121. The legal complications faced by the Plaintiffs thus constitutes a genuine problem within the meaning of article 142 C.C.P.;

The Plaintiffs have an existing legal interest in resolving the problem

122. The Plaintiffs have a direct, concrete, and existing legal interest in resolving the problem;

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123. Mr. Dickson is a Mohawk individual from the community of Kahnawake who is actively engaged, via his Indigenous business, Rainbow, in the trade, transportation, and sale of tobacco products to other Indigenous communities across Canada;
124. As acknowledged in *Montour* and *Kane*, tobacco trading and related activities are conducted in accordance with Plaintiffs' inherent and treaty rights as protected under section 35 of the *Constitution Act*;
125. Despite this constitutional protection, the Plaintiffs are subjected to the threat – and, as outlined above, the ongoing existence – of unconstitutional enforcement actions by the Defendants, including seizures, fines, prosecution, and the disruption of the Plaintiffs' commercial activities;
126. These infringements – and the real and persistent threat of further infringement – are based on the application of the Québec *TTA* governing the taxation, transportation, and marking of tobacco products on a provincial basis;
127. The Plaintiffs maintain that key aspects of the *TTA*, including a substantial amount of its sections, infringe upon their constitutionally protected Aboriginal and Treaty rights, and that this infringement is not justified;
128. Without the Court's intervention, the Plaintiffs remain in a state of legal exposure to the enforcement of the *TTA*, which interferes with the tobacco trade practices that are essential to the economic, cultural, and political identity of the Mohawk Nation – in ways that are both compensable by damages (the accumulating toll on the Plaintiffs' business) and non-compensable by damages (the ongoing breach of fundamental, constitutionally protected Rights, in breach of the Honour of the Crown);

The source of the problem is identified as a written legislation

129. The problem arises from the application of the *TTA*, a statute enacted by the Québec National Assembly;
130. The *TTA* was first enacted in 1964 and has since undergone several amendments. The most recent in 1999;
131. Rainbow is currently targeted by enforcement measures under the *TTA* for transporting and selling tobacco products between inter-provincial Indigenous communities without a transport permit and/or stamps;

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132. The Plaintiffs maintain that the way the *TTA* was written and passed into law infringes on their constitutionally protected Indigenous and treaty rights under section 35 of the *Constitution Act*, 1982;
133. More specifically, the Plaintiffs argue that the following *TTA* sections directly interfere with the constitutional rights of the Mohawk Nation and with those of the Plaintiffs:
- a) DIVISION II – CERTIFICATES AND PERMITS: Sections 6, 7.9;
 - b) DIVISION III – TAXATION: Sections 13.1, 13.1.1;
 - c) DIVISION III.1 – EXAMINATION, INSPECTION AND SEIZURE: Sections 13.3, 13.3.1, 13.3.2;
 - d) DIVISION IV – PENALTIES AND PENAL PROVISIONS: Sections 13.16, 14.1, 14.2; and
 - e) DIVISION VI – SPECIAL PROVISIONS: Section 17.10.
134. As such, the issue at the heart of this proceeding is the constitutionality and applicability of the *TTA* (or at least an important part of its provisions) to the Plaintiffs' tobacco trade between indigenous communities;
- Plaintiffs' objective is to have a right determined in order to resolve the problem***
135. The Plaintiffs seek a declaratory judgment to determine whether the *TTA* can regulate or interfere with their commercial activities;
136. Specifically, they ask the Court to confirm that their right to trade and transport tobacco with other Indigenous communities, including communities located outside of Québec, which is constitutionally protected and confirmed in *Montour* and *Kane* cases, cannot be infringed on by the *TTA* – recognizing that, while the *Montour/Kane* cases dealt with the constitutionality of federal legislation, those findings are equally applicable to the comparable provincial statute relied upon by the Defendants here;
137. They further seek a declaration that, by virtue of their rights, they are not subject to certain provisions of the *TTA*, including those requiring transport permits, tax stamps, and related penalties;

-
138. A clear ruling on this issue is necessary to resolve the ongoing legal confusion and serious effects faced by Plaintiffs in the exercise of their economic and cultural practices regarding the trade of tobacco;
 139. This determination will guide the conduct of both the Plaintiffs and provincial authorities moving forward and avoid any confusing or contradictory interpretation of the applicable law;
 140. This declaration is necessary in order to ensure the ongoing protection of constitutionally enshrined rights, and to put an end to an ongoing breach of these fundamental rights which cannot simply be compensated for by damages;

b) DAMAGES

141. In addition to the declaratory relief sought, the Plaintiffs seek damages for the harm caused to their business through the interfering actions of the Defendants;
142. The multiple unlawful seizures of tobacco products and delivery vehicles have resulted in the cancellation or report of multiple commercial deliveries, directly causing significant financial losses;
143. These seized products and affected business opportunities have materially disrupted the Plaintiffs' operations and interfered with their ability to fulfill contracts and maintain client relationships;
144. These damages include the value of the seized goods and the broader economic consequences of the disruption;
145. The Plaintiffs have also suffered substantial reputational damage;
146. The repeated interventions, seizures, and actions taken against their operations have created a false perception of illegality and wrongdoing in the minds of suppliers, customers, and the public, including within the reserve;
147. They also create an impression that the Plaintiffs cannot honour their contracts and commitments, which harms their business;
148. Because of the pattern of seizures since August 2024, the Plaintiffs have lost a significant amount of business, including the loss of customers who have since turned to other suppliers after their deliveries from Rainbow were interrupted, as well as the loss of potential business now that purchasers are reluctant to engage in business dealings with the Plaintiffs;

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149. Furthermore, the idea that Plaintiffs are being targeted by police authorities identifying themselves as an “anti-contraband” unit carries the idea that Plaintiffs could be related to organized crime, which the Plaintiffs strongly deny;
 150. All of this reputational harm has long-term consequences on the viability and credibility of the Plaintiffs’ business activities;
 151. The conduct of the Defendants, which included repeated stops, surveillance, and refusal to release the seized goods, constitutes harassment and has caused emotional distress, anxiety, and a sense of insecurity to both Mr. Dickson himself, but also his employees, in particular his drivers;
 152. These intrusions, without proper legal foundation or justification and contrary to constitutional principles and the honour of the Crown rule, violate their dignity and psychological well-being and justify the awarding of moral damages;
 153. The Plaintiffs further claim punitive damages, given that the violations of their fundamental rights, including the rights to freedom from unlawful search and seizure and Aboriginal and Treaty rights of the Plaintiffs to engage in the tobacco trade (as recognized in both *Montour* and *Kane*), were committed in a manner that is intentional, abusive, and in disregard of their constitutional and statutory protections;
 154. These damages are necessary to denounce and deter such conduct by public authorities;
 155. Finally, the Plaintiffs have suffered harm from the procedural abuses inflicted upon them, including the initiation and maintenance of legal proceedings in bad faith and the use of legal mechanisms in a manner that is excessive and oppressive;
 156. These actions warrant compensation for the prejudice caused and recognition of the improper use of judicial procedures;
 157. As of today, and considering that the situation is still evolving, in addition to harm not compensable by damages, the Plaintiffs believe they are entitled to the following damages:
 - i. \$2,000,000 in economic losses resulting directly from the seizures;
 - ii. \$3,000,000 in lost business opportunities;
 - iii. \$50,000 in reputational damages;

- iv. \$50,000 in moral damages;
 - v. \$3,000,000 in punitive damages;
- the whole to be perfected;

c) STAY OF APPLICATION (SUSPENSION OF ENFORCEMENT OF TTA)

158. Turning now to the question of interim remedies, the Plaintiffs respectfully request an Order suspending the applicability and enforcement of ss. 6, 7.9, 13.1, 13.1.1, 13.3, 13.3.1, 13.3.2, 13.16, 14.1, 14.2 and 17.10 of the *Tobacco Tax Act* (C.Q.L.R., c. I-2), as against the Plaintiffs, pending a final determination on the merits of this action;
159. The Plaintiffs respectfully submit this is necessary in order to avoid the serious irreparable harm which would occur if the Defendants continued to enforce these provisions against the Plaintiffs, notwithstanding the clear precedents, as detailed below;

Serious question (and appearance of right)

160. The first branch of the test requires the Court to determine whether there is a serious issue to be tried;
161. In the present case, the Plaintiffs intend to raise constitutional arguments grounded in section 35 of the *Constitution Act*, 1982, relating to the protection of Aboriginal and Treaty rights to trade tobacco;
162. The matter engages fundamental questions about the recognition and implementation of Indigenous rights in Québec, and the scope of provincial authority over constitutionally protected Indigenous economic practices;
163. In the circumstances, the Plaintiffs' claim is also predicated on the recent, binding, Court rulings in *Montour* and *Kane*, which together recognize the longstanding Aboriginal and Treaty rights of the Mohawk peoples to trade tobacco;
164. Taken together, these precedents represent relevant, weighty decisions establishing that there is a serious issue at stake here;
165. As such, Plaintiffs submit that their claim is neither novel nor speculative, but instead supported by existing jurisprudence that affirms the nature and scope of the rights invoked;

-
166. At the same time, the Plaintiffs submit that the pattern of seizures against them, notwithstanding those prior rulings and the Defendants' knowledge of the protected rights at stake, strongly favours the stay of application on the basis that a demonstrable breach of the Honour of the Crown is occurring in this instance;
167. The fact that Defendants have evidently embarked upon a campaign deliberately targeting the Plaintiffs, despite the Defendants' knowledge of the Plaintiffs' protected Aboriginal and Treaty rights to engage in this trade, and the harm which would result (and has in fact resulted) from the Defendants' actions, further reinforces the seriousness of this question;
168. As the Court observed in *Montour*, months before the first seizure in this case:

“The Court concludes that the Crown has infringed its obligation under the Covenant Chain. The regulation of the tobacco trade was a well-known subject of disagreement between the Mohawks of Kahnawà:ke and the Crown, yet there was no attempt by the Crown to discuss the matter prior to the adoption of the *Excise Act, 2001*, even though other interested parties, including representatives of the tobacco industry, were consulted.¹

The Court concludes that the Applicants have proven that their Aboriginal right to freely pursue economic development has been infringed *prima facie*. They have also demonstrated a *prima facie* infringement of their constitutional right to discuss live issues under the Covenant Chain. The Court will now turn to the question of justification.²

The Court, therefore, must conclude that the infringement of the Covenant Chain is not justified.”³

169. In other words, the issues raised in this claim have already been adjudicated in two prior judgments as serious, and in both cases resulted in relief which is comparable to that which is requested here;
170. To be clear, the Plaintiffs acknowledge certain differences with the present case, including the fact that those matters were criminal matters where the rights were raised in defence, but they respectfully submit that the underlying, serious, issues can reasonably be viewed as the same;

¹ *Montour*, at para 1519.

² *Montour*, at para 1522.

³ *Montour*, at para 1650.

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171. Here, as in the *Montour/Kane* decisions, the Indigenous claimants have asserted a constitutionally protected right, and it will be up for the Court to determine in due time whether that right has been breached;
172. Granting interim protection in this context is important to avoid allowing potentially unconstitutional enforcement actions to proceed unchecked for what may be months or even years before a final ruling;

Serious or irreparable harm

173. On the second branch of the test, the court must consider whether there is a risk of harm which cannot be repaired by any relief or damages ordered following a later hearing on the merits;
174. In this case, Rainbow is subjected to continued enforcement of the *TTA*, including the repeated seizure of tobacco products and delivery vehicles by the SQ, the imposition of substantial administrative and penal fines, the threat of criminal prosecution, and the ongoing surveillance and targeting of the Plaintiffs' commercial operations;
175. At the same time, the pattern of seizures has also targeted Rainbow vehicles, to the point that Rainbow has now had to purchase three new vehicles – two of which have already been seized by the Defendants – within the space of less than six month;
176. Rainbow has strong reasons to believe that each new vehicle it purchases or rents is at a high risk of being seized in future if the Defendants are permitted to persist in their pattern of seizures;
177. The resulting harm to the Plaintiffs includes serious disruption to operations, potential termination of business relationships, and reputational damage that may not be recoverable, even in the event of a favourable ruling;
178. If enforcement actions persist, Rainbow may be forced to suspend or shut down its operations entirely, which would result in permanent market loss and direct economic hardship to its employees, and a clear breach of protected Aboriginal and Treaty rights, which the Defendants, pursuant to the Honour of the Crown, have a duty to respect and abide by;
179. The Plaintiffs maintain that this kind of business interruption and potential closure, particularly in the context of constitutionally protected economic activity, constitutes irreparable harm that can only be avoided if this Honourable Court grants this request to suspend enforcement of the relevant provisions of the legislation;

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180. Moreover, even if certain financial losses were technically compensable with damages, the cumulative impact of state-led enforcement on an Indigenous-owned company may render any eventual damages inadequate, uncertain, or unenforceable;
181. As stated previously, Plaintiffs claim both damages and a Declaration of Constitutional invalidity, given the incompatibility between the statutory provisions and the Plaintiffs' protected Aboriginal and Treaty rights;
182. Even with respect to the claim for damages, the Plaintiffs submit that a stay of application is still necessary in this case to prevent harm that is non-compensable, ongoing, and causes structural or irreversible consequences, such that waiting for a final judgment would render the remedy ineffective;
183. As noted, in addition to the immense damage to Rainbow, its employees and its commercial network, the severe breach to the Crown's honourable duties within the scope of the Honour of the Crown, for example, cannot be remedied by mere compensation;
184. The Plaintiffs are simply attempting to exercise their longstanding rights to trade tobacco, as their peoples have practiced since time immemorial;
185. The Defendants' behaviour, which breaches those rights, represents in the Plaintiffs' view, a level of conduct that will lead to serious, irreparable harm to said rights;
186. The Plaintiffs are aware that the SQ currently characterizes Rainbow's operations as contraband, which may affect the Court's perception of the legitimacy of the alleged harm;
187. However, the Plaintiffs maintain that their operations are constitutionally protected and lawful within the framework of Aboriginal and treaty rights, and that the harm suffered results from a misguided application of the law;
188. In these circumstances, a stay of application for a portion of the *TTA*, including its enforcement measures and penalties, is necessary to prevent a situation in which the Plaintiffs' legal victory would be rendered hollow or meaningless due to irreversible damage;

Balance of convenience

189. On this branch of the test, the Court must consider whether the balance of convenience lies with the Moving Party or the Respondent;

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190. In the circumstances, the balance of convenience weighs strongly in favour of the Plaintiffs, who risk serious irreparable damage to their protected rights to trade tobacco as First Nations;
191. This harm includes an ongoing, compounding breach of constitutionally enshrined rights in breach of the Honour of the Crown, alongside the interruption of regular commercial operations, the loss of contractual relationships and commercial network, long-term reputational damage, and threat of economic collapse;
192. Conversely, a temporary suspension of the *TTA*'s application to the Plaintiffs would cause no comparable prejudice to Revenu Québec – RQ does not currently receive revenue from the Plaintiffs' operations in any event, and its interest lies primarily in interrupting the Plaintiffs' business activities through seizures and fines;
193. Whether the Plaintiffs are allowed to continue operating or not, RQ would not stand to gain or lose any more tangible tax income, and the Defendants' interest in penalizing the Plaintiffs cannot, on balance, be allowed to supersede the Plaintiffs' interest in preventing further breach of their constitutionally protected rights;
194. RQ would thus be in the same financial position regardless of the outcome of the Plaintiffs' request for stay of application of the *TTA*;
195. This asymmetry of consequences supports the conclusion that it is more prudent to suspend the application of the *TTA* to the Plaintiffs while awaiting a final decision on the merits;
196. In addition, the interim relief is sought in a constitutional context that requires heightened sensitivity to the rights of Indigenous peoples and the obligations of the Crown;
197. As previously addressed, Mr. Dickson is a member of the Mohawks of Kahnawake, a Haudenosaunee Nation asserting a traditional practice of tobacco trade between Indigenous communities, which was already found to be protected under section 35 of the *Constitution Act, 1982*;
198. In that context, the Honour of the Crown requires that not only governments, but also courts, approach disputes involving Indigenous peoples with respect, restraint, and a commitment to repairing historical harms;
199. In that light, it is established that courts should exercise restraint and ensure that Aboriginal and Treaty rights are not unjustly suppressed or infringed upon before a full adjudication of the matter;

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200. The Plaintiffs submit that is far less harmful to allow a constitutionally protected practice to continue pending judgment than to prohibit it prematurely and risk further undermining Indigenous economic, cultural, and political self-determination;
201. Granting this interim relief would reflect a principled commitment to reconciliation, rather than allowing damaging enforcement actions to proceed unchecked;

d) INTERLOCUTORY ORDER FOR RELEASE OF TOBACCO AND VEHICLES

202. Finally, the Plaintiffs respectfully request an Interlocutory Order compelling the Defendants to release all of the tobacco seized from the Plaintiffs since August 22, 2024, as well as all vehicles seized at the time of the seizures dating back to August 22, 2024;
203. As noted, the Plaintiffs already have the benefit of a single Court order to this effect – on May 1, 2025, a Justice of the Peace from the Court of Québec ordered the release of tobacco products and a vehicle which had been seized together on January 8, 2025;
204. However, the release was conditional on the requirement that an eligible carrier pursuant to section 6 of the *TTA* be the one to pick up the seized goods;
205. To date, the Plaintiffs have not obtained such a permit under the *TTA*, and have been unable to obtain assurances from the Defendants that, if such a permit is acquired, this would be sufficient to ensure the return of all seized tobacco products and vehicles from all other seizures;
206. The Plaintiffs respectfully submit this is necessary in order to avoid the tobacco expiring before its return to the Plaintiffs;
207. The Plaintiffs further submit that the seizure of multiple Rainbow vehicles has created a substantial bar to its ability to continue business pending the outcome of this matter;
208. It is clear that the pattern of forcing the Plaintiffs to continually purchase new vehicles after each seizure is unsustainable;

V. CONCLUSION

209. By way of this originating application, the Plaintiffs respectfully submit that the enforcement of the impugned provisions of the *TTA* against them is

unconstitutional, unjustifiable, and in direct violation of their protected Aboriginal and Treaty rights;

210. The Plaintiffs further contend that the Defendants, in pursuing enforcement in this manner, have breached their obligations under the Honour of the Crown and have caused significant harm to the Plaintiffs' businesses and communities;
211. Accordingly, the Plaintiffs seek declaratory relief to the effect that the identified sections of the *TTA* are of no force or effect against them, and that the Defendants' conduct constitutes a breach of the Defendants' constitutional obligations;
212. The Plaintiffs also claim damages for the serious economic, reputational, moral and punitive harms they have suffered as a result of this unlawful interference;
213. Given the risk of further harm, which is not compensable by damages, the Plaintiffs additionally seek interlocutory relief suspending the enforcement of the impugned provisions against them, and compelling the Defendants to release all tobacco products and vehicles that have been seized from Rainbow Tobacco since August 2024 unconditionally;
214. The Plaintiffs thus turn to this Honourable Court to affirm their constitutional protections, to provide redress for the harms already suffered, and to prevent the continuation of unlawful state action pending the full adjudication of their rights;
215. This Originating Application is well-founded in fact and in law.

WHEREFORE, THE PLAINTIFFS PRAY THIS HONOURABLE COURT:

FOR THE INTERLOCUTORY INJUNCTION AND STAY OF APPLICATION:

GRANTS the request for stay of application during the proceedings of sections 6, 7.9, 13.1, 13.1.1, 13.3, 13.3.1, 13.3.2, 13.16, 14.1, 14.2 and 17.10 of the *Tobacco Tax Act*, C.Q.L.R., c. I-2;

PRONOUNCES the suspension of application of sections 6, 7.9, 13.1, 13.1.1, 13.3, 13.3.1, 13.3.2, 13.16, 14.1, 14.2 and 17.10 of the *Tobacco Tax Act*, C.Q.L.R., c. I-2, until judgment is rendered on the merits of the application for a declaratory judgment;

Alternatively, **EXEMPTS**, until judgment is rendered on the merits of the application for a declaratory judgment, the Plaintiffs from the application of sections 6, 7.9, 13.1, 13.1.1, 13.3, 13.3.1, 13.3.2, 13.16, 14.1, 14.2 and 17.10 of the *Tobacco Tax Act*, C.Q.L.R., c. I-2;

ANNUL the seizures that occurred on August 22, 2024, January 8, 2025, April 3, 2025, April 21, 2025, May 13, 2025, August 7, 2025; and any other subsequent seizures which may be affected against Rainbow under the *TTA* subsequent to the filing of this Originating Application;

ORDERS the Defendants to immediately and unconditionally release all seized goods from Rainbow Distribution, including tobacco products and all vehicles, in connection with the seizures carried out since August 2024;

FOR THE APPLICATION FOR A DECLARATORY JUDGMENT:

GRANTS the present Originating Application;

DECLARES sections 6, 7.9, 13.1, 13.1.1, 13.3, 13.3.1, 13.3.2, 13.16, 14.1, 14.2 and 17.10 of the *Tobacco Tax Act*, C.Q.L.R., c. I-2, constitutionally inapplicable and inoperative under section 52 of the *Constitution Act, 1982*, in respect of the Plaintiffs, as it violates their Aboriginal and Treaty rights as guaranteed by sec. 35(1) of the *Constitution Act, 1982*;

FOR THE CLAIM FOR DAMAGES:

CONDEMNS Defendants to pay to Plaintiffs the sum of \$8,100,000, *to be perfected*, with the additional indemnity provided at Article 1619 C.C.Q. and interest at the legal rate from the judgment to be rendered;

THE WHOLE with costs.

[Signatures on the next page]

Toronto, September 16, 2025



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(Special Authorizations of the Barreau
du Québec, issued June 3, 2025)

Montreal, September 16, 2025

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SUMMONS
(articles 145 and following C.C.P.)

Filing of a judicial application

Take notice that the plaintiff has filed this originating application in the office of the Superior Court of Québec in the judicial district of Montreal.

Exhibits supporting the application

In support of the originating application, the plaintiff intends to use the following exhibits:

| | |
|---------------------|------------------------------------------------------------------------------------------------------|
| EXHIBIT P-1 | Copy of an excerpt from the Rainbow website, <i>in bundle</i> |
| EXHIBIT P-2 | Copy of UNDRIP, dated September 13, 2007 |
| EXHIBIT P-3 | Decision by the Court of Appeal on May 28, 2025 in <i>Kane</i> |
| EXHIBIT P-4 | Copy of the <i>Nation-to-Nation Trade and Commerce Protocol Agreement</i> , dated April 24, 2025 |
| EXHIBIT P-5 | Copy of the invoices for \$54,400 and \$13,900, <i>in bundle</i> |
| EXHIBIT P-6 | Copy of the invoices for \$20,000, \$61,300 and \$7,000, <i>in bundle</i> |
| EXHIBIT P-7 | Copy of the invoice for \$90,000 |
| EXHIBIT P-8 | Copy of the contracts for the purchase of two vehicles, <i>in bundle</i> |
| EXHIBIT P-9 | Copy of the invoices for \$17,000.00, \$16,000.00, and \$4,025.00, <i>in bundle</i> |
| EXHIBIT P-10 | Copy of the invoices for \$74,000.00 and \$37,500.00, <i>in bundle</i> |
| EXHIBIT P-11 | Copy of the <i>Notice of Destruction</i> for Seizure #1 |
| EXHIBIT P-12 | Copy of the charges related to Seizure #1, dated March 21, 2025 |
| EXHIBIT P-13 | Copy of the documents served for Seizure #2 on January 14, 2025, <i>in bundle</i> |
| EXHIBIT P-14 | Copy of the minutes from the May 1 st hearing, file n° 500-26-149172-256 (Seizure #2) |
| EXHIBIT P-15 | Copy of the request “under protest” to obtain a Transport Permit, dated August 12, 2025 |
| EXHIBIT P-16 | Copy of the <i>Notice of Destruction</i> for Seizure #3 and other served documents, <i>in bundle</i> |

| | |
|---------------------|------------------------------------------------------------------------------------------------------|
| EXHIBIT P-17 | Copy of the <i>Notice of Destruction</i> for Seizure #4 and other served documents, <i>in bundle</i> |
| EXHIBIT P-18 | Copy of the <i>Notice of Destruction</i> for Seizure #5 and other served documents, <i>in bundle</i> |
| EXHIBIT P-19 | Copy of the <i>Notice of Destruction</i> for Seizure #6 and other served documents, <i>in bundle</i> |

These exhibits are available upon request.

Defendant's answer

You must answer the application in writing, personally or through a lawyer, at the **Montréal courthouse**, situated at 1, Notre-Dame Street East, Montréal, Québec, within 15 days of service of the application or, if you have no domicile, residence or establishment in Québec, within 30 days. The answer must be notified to the plaintiff's lawyer or, if the plaintiff is not represented, to the plaintiff.

Failure to answer

If you fail to answer within the time limit of 15 or 30 days, as applicable, a default judgment may be rendered against you without further notice and you may, according to the circumstances, be required to pay the legal costs.

Content of answer

In your answer, you must state your intention to :

- negotiate a settlement;
- propose mediation to resolve the dispute;
- defend the application and, in the cases required by the *Code of Civil Procedure*, cooperate with the plaintiff in preparing the case protocol that is to govern the conduct of the proceeding. The protocol must be filed with the court office in the district specified above within 45 days after service of this summons. However, in family matters or if you have no domicile, residence or establishment in Québec, it must be filed within 3 months after service; or
- propose a settlement conference.

The answer to the summons must include your contact information and, if you are represented by a lawyer, the lawyer's name and contact information.

Where to file the judicial application

Unless otherwise provided, the judicial application is heard in the judicial district where your domicile is located, or failing that, where your residence or the domicile you elected or agreed to with plaintiff is located. If it was not filed in the district where it can be heard and you want it to be transferred there, you may file an application to that effect with the Court.

However, if the application pertains to an employment, consumer or insurance contract or to the exercise of a hypothecary right on the immovable serving as your main residence, it is heard in the district where the employee's, consumer's or insured's domicile or residence is located, whether that person is the plaintiff or the defendant, in the district where the immovable is located or, in the case of property insurance, in the district where the loss occurred. If it was not filed in the district where it can be heard and you want it to be transferred there, you may file an application to that effect with the special clerk of that district and no contrary agreement may be urged against you.

Transfer of the application to the Small Claims Division

If you qualify to act as a plaintiff under the rules governing the recovery of small claims, you may contact the clerk of the Court to request that the application be processed according to those rules. If you make this request, the plaintiff's legal costs will not exceed those prescribed for the recovery of small claims.

Convening a case management conference

Within 20 days after the case protocol mentioned above is filed, the Court may call you to a case management conference to ensure the orderly progress of the proceeding. Failing that, the protocol is presumed to be accepted.

Application accompanied by a notice of presentation

Applications filed in the course of a proceeding and applications under Book III or V of the *Code of Civil Procedure* - excluding applications pertaining to family matters under article 409 and applications pertaining to securities under article 480 - as well as certain applications under Book VI of the *Code of Civil Procedure*, including applications for judicial review, must be accompanied by a notice of presentation, not by a summons. In such circumstances, the establishment of a case protocol is not required.

Toronto, September 16, 2025



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Montreal, September 16, 2025

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AVIS DE PRÉSENTATION CIVILE (SALLE 2.16)

1. PRÉSENTATION DE LA DEMANDE

PRENEZ AVIS que les demandes en STAY OF APPLICATION et en INTERLOCUTORY INJUNCTION de la **ORIGINATING APPLICATION IN DECLARATORY JUDGMENT, DAMAGES, STAY OF APPLICATION, AND INTERLOCUTORY INJUNCTION**, seront présentées en division de pratique de la Chambre civile de la Cour supérieure, le 8 octobre 2025, à 9 heures, en salle 2.16 du palais de justice de Montréal, situé au 1 Rue Notre-Dame Est, Montréal, ou aussitôt que le conseil pourra être entendu.

2. COMMENT PARTICIPER À L'APPEL DU RÔLE DE PRATIQUE

a) **en personne** en salle 2.16 ;

b) **par l'outil Teams** : en cliquant sur le lien permanent de connexion de la salle 2.16 disponible sur le site de la Cour supérieure du Québec¹

Vous devrez alors inscrire votre nom et cliquez sur « Rejoindre maintenant ». Afin de faciliter le déroulement et l'identification des participants, nous vous invitons à inscrire votre nom de la façon suivante :

Les avocats : Me Prénom, Nom (le nom de la partie représentée)

Les parties non représentées par avocat : Prénom, Nom (précisez : demandeur, défendeur ou autre)

Pour les personnes qui assistent à une audience publique : la mention peut se limiter à inscrire public.

c) **par téléphone** :

Canada (Numéro gratuit) : (833) 450-1741

Canada, Québec (Numéro payant) : +1 581-319-2194 ID de conférence :

673 796 079 #

d) **par vidéoconférence** : teams@teams.justice.gouv.qc.ca ID de la conférence VTC : 1197347661

3. DÉFAUT DE PARTICIPER À L'APPEL DU RÔLE DE PRATIQUE

PRENEZ AVIS qu'à défaut par vous de participer à l'appel du rôle, un jugement par défaut pourrait être rendu contre vous, sans autre avis ni délai.

¹ Les Liens TEAMS pour rejoindre les salles du Palais de justice de Montréal en matière commerciale, civile et familiale sont publiés sous la rubrique Audiences virtuelles disponible sur le site Internet de la Cour supérieure à l'adresse suivante : https://coursuperieureduquebec.ca/fileadmin/cour-superieure/Audiences_virtuelles_Montreal/Montreal_Codes_Teams_CS_Chambres_commerciale_civile_et_de_la_famille.pdf.

4. OBLIGATIONS

4.1 La collaboration

PRENEZ AVIS que vous avez l'obligation de coopérer avec l'autre partie, notamment en vous informant mutuellement, en tout temps, des faits et des éléments susceptibles de favoriser un débat loyal et en vous assurant de préserver les éléments de preuve pertinents (*Code de procédure civile*, art. 20).

4.2 Mode de prévention et de règlement des différends

PRENEZ AVIS que vous devez, avant de vous adresser au Tribunal, considérer le recours aux modes privés de prévention et de règlement de votre différend qui sont, entre autres, la négociation, la médiation ou l'arbitrage, pour lesquels les parties font appel à l'assistance d'un tiers (*Code de procédure civile*, art. 2).

VEUILLEZ AGIR EN CONSÉQUENCE.

Montreal, September 16, 2025

Savonitto & Ass. inc.

SAVONITTO & ASS. INC.

Mtre Charles-Étienne Durand

Mtre Catherine Boisvenue

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cboisvenue@savonitto.com

Notification: notification@savonitto.com

N° :

**SUPERIOR COURT (Civil division)
Province of Québec
District of MONTRÉAL**

ROBBIE DICKSON, domiciled at Kahnawake, P.O. Box 2242, in the district of Longueuil, province of Quebec, J0L 1B0

-and-

RAINBOW DISTRIBUTION, with its principal place of business at 2000 Highway 138, P.O. Box 1749, Kahnawake Mohawk Territory, in the province of Quebec, J0L 1B0

Plaintiffs

v.

L'AGENCE DE REVENU DU QUÉBEC (REVENUE QUÉBEC), having a place of business at Complexe Desjardins, C.P. 5000, Succursale Desjardins, in the city and district of Montreal, province of Quebec, H5B 1A7

-and-

PROCUREUR GÉNÉRAL DU QUÉBEC, having a place of business at the Direction générale des affaires juridiques, at 1, Notre-Dame Est, 8th floor, in the city and district of Montreal, province of Quebec, H2Y 1B6

Defendants

**ORIGINATING APPLICATIONB IN
DECLARATORY JUDGMENT, DAMAGES, STAY
OF APPLICATION, AND INTERLOCUTORY
INJUNCTION
(Art. 141 C.C.P.)**

ORIGINAL

Savonitto

Me Charles-Étienne Durand

Me Catherine Boisvenue

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Notre dossier : 99004-1-Payfacto Payments inc.

Notification : notification@savonitto.com

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