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July 27, 2007

BY FAX AND ELECTRONIC MAIL

Terrance Green
Green & Vespy Law Offices
200-190 O'Connor Street
Ottawa, ON
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Dear Mr. Green:

**RE: Thomasson v. Ontario (Ministry of Community and Social Services) et al.
Ontario Superior Court of Justice File No. 07-CV-38779 (Ottawa)**

We acknowledge your Notice of Constitutional Question and Application Record, which were delivered on July 23, 2007. Please direct all future communications to my attention.

Your Notice of Application dated May 22, 2007, which was issued on July 20, 2007, does not state the relief being claimed or the grounds being relied upon and argued. However, from our conversation on July 26, 2007, we understand that these particulars for your Application are contained in your Notice of Constitutional Question of July 11, 2007. During our discussion, you confirmed that the Application is not challenging any legislation, but instead is challenging the "Wages to Employees" part of the "Non-Approved Farm Expenses" direction found in Policy Directive 5.7 (*Farm Income*) by claiming that this part of the directive purportedly infringes the Applicant's rights under sections 7 and 15 of the *Charter* on the basis of his disability (i.e., as set out in paragraph 17 of your Notice of Constitutional Question). Notably, however, the "Wages to Employees" part of Policy Directive 5.7 (i.e., which normally excludes wages as approved farming expenses) contains a special proviso that allows such expenses where payments are made to an individual who is hired due to disability-related needs. This special proviso is not referred to in your Notice of Constitutional Question, and appears to be a material omission in relation to the constitutional issue that you are bringing forward.

In any event, during our conversation this morning, you confirmed that the underlying dispute giving rise to your court Application relates to your client's claim for the wages of temporary harvesters as a farm expense under Policy Directive 5.7, which the Director denied due to a lack of supporting documentation (i.e., as explained in Ministry correspondence dated June 6, 2006, September 5, 2006, and January 5,

2007, which are reproduced as Exhibits F, G and I to the Affidavit of Deborah Mayo sworn July 13, 2007, at Tab 2 of your Application Record). In effect, the expense was denied because the Director did not receive sufficient documentation to support the claim.

You further confirmed that the Applicant has appealed the Director's decision (i.e., to deny the expense claim) to the Social Benefits Tribunal, pursuant to the *Ontario Disability Support Program Act, 1997* and the *Ontario Works Act, 1997*, and that an appeal hearing date was set for July 31, 2007. Recently, however, the Tribunal postponed this hearing due to the unavailability of a Tribunal member for personal reasons, and is currently in the process of re-scheduling the appeal.

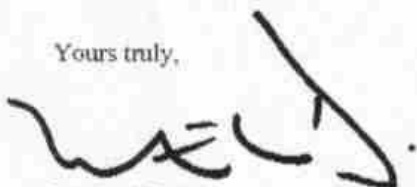
Since the Applicant's appeal before the Social Benefits Tribunal essentially calls for a factual determination of whether or not the Applicant provided the Director with sufficient documentation to support his expense claim, it seems clear that the Tribunal has the authority to fully determine the underlying dispute in this matter. It also appears that this matter may be fully resolved without the need for a constitutional challenge to Policy Directive 5.7, which in our view does not appear to be relevant to the dispute between the Applicant and the Director.

In the circumstances, we believe that the appeal before the Social Benefits Tribunal should be heard first, before any court proceedings, as a determination by the Tribunal may well entirely address all issues and thereby render your Application moot. We add that a party may appeal from a decision of the Tribunal to the Divisional Court on a question of law, pursuant to s.31 of the *Ontario Disability Support Program Act, 1997*, in the event that judicial recourse is required.

We understand that your court Application is currently returnable before the Superior Court of Justice in Ottawa on September 4, 2007. In the circumstances, and given our views in this matter as mentioned above, we propose that your court Application be adjourned *sine die* on consent until the appeal before the Social Benefits Tribunal is heard and decided.

After today, I will be on vacation until August 10, 2007. I would appreciate hearing from you upon my return.

Yours truly,



Michael T. Doi
Counsel