

**IN THE SUPREME COURT OF CANADA
(ON APPEAL FROM THE COURT OF APPEAL FOR ONTARIO)**

B E T W E E N:

LUCIA DERENZIS

APPLICANT
(Applicant)

- and -

**GORE MUTUAL INSURANCE COMPANY AND
LICENCE APPEAL TRIBUNAL**

RESPONDENTS
(Respondents)

**RESPONSE ON BEHALF OF THE RESPONDENT,
GORE MUTUAL INSURANCE COMPANY**
(Pursuant to Rule 27 of the *Rules of the Supreme Court of Canada*, S.O.R./2002-156, as amended)

CAMPORESE SULLIVAN DI GREGORIO
Commerce Place, Suite 1700
One King Street West
Hamilton, ON L8P 1A4

Arthur Camporese
Tel: (905) 522-7068
Fax: (905) 522-5734
Email: acamporese@csdlawyers.ca
**Counsel for the Respondent, Gore Mutual
Insurance Company**

DENTONS CANADA LLP
99 Bank Street, Suite 1420
Ottawa, ON K1P 1H4

**David R. Elliott/
Corey Villeneuve (Law Clerk)**
Tel.: (613) 783-9699
Fax: (613) 783-9690
Email: corey.villeneuve@dentons.com
**Ottawa Agent to Counsel for the Respondent,
Gore Mutual Insurance Company**

ORIGINAL TO: THE REGISTRAR OF THE SUPREME COURT OF CANADA

COPY TO:

CAMPISI LLP

7050 Weston Road, Suite 101
Woodbridge, ON L4L 8G7

Imtiaz Hosein

Joseph Campisi

Christos Kakalettris

Tel: (416) 203-1115

Fax: (416) 203-7775

Email: imtiaz@campisilaw.ca

Counsel for the Applicant, Lucia Derenzis

SUPREME ADVOCACY LLP

340 Gilmour Street
Suite 100
Ottawa, ON K2P 0R3

Marie-France Major

Tel: 613.695.8855 Ext: 102

Fax: 613.695.8580

Email: mfmajor@supremeadvocacy.ca

**Ottawa Agent to Counsel for the
Applicant, Lucia Derenzis**

AND TO:

**TRIBUNALS ONTARIO, LEGAL
SERVICES UNIT**

Automobile Accident Benefits Service
15 Grosvenor Street, Ground Floor
Toronto, ON M7A 2G8

Morgana Kellythorne

Douglas Lee

Tel: (416) 509-4767

Fax: (416) 314-4270

Email: Morgana.Kellythorne@ontario.ca

**Counsel for the Respondent, Licence Appeal
Tribunal**

TABLE OF CONTENTS

TAB	DOCUMENT	PAGE NOS.
1.	Gore Mutual Insurance Company’s Response Memorandum of Argument	
	PART I – Overview and Statement of Facts.....	1
	A. Overview.....	1
	B. Proceedings before the Licence Appeal Tribunal.....	1
	C. Appeals and Judicial Review Application before the Divisional Court.....	5
	D. Request for Leave to Appeal to the Ontario Court of Appeal.....	5
	PART II – Statements of Questions in Issue.....	5
	PART III – Statement of Argument.....	6
	PART IV – Submissions on Costs.....	9
	PART V – Order Requested.....	9
	PART VI – Table of Authorities and Statutory Provisions.....	11
2.	Documents Relied upon	
	A. Order of the Licence Appeal Tribunal by Adjudicator McGee, dated August 31, 2023 and released September 1, 2023, Licence Appeal Tribunal File No. 18-011978/AABS.....	12
	B. Order of the Licence Appeal Tribunal by Adjudicator McGee, dated September 11, 2023 and released September 20, 2023, Licence Appeal Tribunal File No. 18-011978/AABS.....	14
	C. Order of the Licence Appeal Tribunal by Adjudicator McGee, dated September 18, 2023 and released September 20, 2023, Licence Appeal Tribunal File No. 21-000394/AABS.....	26
	D. Order of the Licence Appeal Tribunal by Adjudicator McGee, dated September 11, 2023 and released September 20, 2023, Licence Appeal Tribunal File No. 18-011978/AABS.....	38
	E. Notice of Motion of the Respondent, Gore Mutual Insurance Company, ONLAT File No. 18-011978/AABS, dated November 3, 2023.....	50
	F. Notice of Motion of the Respondent, Gore Mutual Insurance Company, ONLAT File No. 21-000394/AABS, dated November 3, 2023.....	60
	G. Amended Notice of Motion for Leave to Appeal of the Appellant, Lucia Derenzis, dated July 7, 2025.....	72

H. Ontario Court of Appeal Decision, dated October 2, 2025.....	80
I. Notice of Constitutional Question of the Applicant, Lucia Derenzis (Divisional Court), dated September 27, 2023.....	81

PART I – OVERVIEW AND STATEMENT OF FACTS

A. Overview

1. The Applicant seeks leave to appeal the judgment of the Court of Appeal for Ontario (File No. COA-25-OM-0181) dated October 2, 2025, denying leave to appeal the consolidated decision of the Ontario Superior Court of Justice (Divisional Court), dated May 6, 2025 dismissing the appeal and application for judicial review of two decisions of the Licence Appeal Tribunal.

2. The proposed appeal does not raise any question of national or public importance or any important issue of law or mixed fact and law of a nature and significance that warrants a decision of this Court. Nor does it raise any novel or unresolved questions of law. There are no conflicting provincial appellate authorities or jurisdictional conflicts. There is no important issue of law which is unsettled or uncertainty in the law.

B. Proceedings before the Licence Appeal Tribunal

3. The Applicant brought two applications before the Licence Appeal Tribunal (hereinafter “LAT”) to resolve a dispute with her insurer (Gore Mutual Insurance Company, hereinafter “Gore Mutual”) regarding entitlement to certain automobile accident benefits. The LAT dismissed both applications in decisions dated June 27, 2023.¹

4. The Applicant thereafter requested reconsideration of two decisions of the Licence Appeal Tribunal, which were responded to by Gore Mutual.

¹ *L. D. v Gore Mutual Insurance Company*, [2023 CanLII 74649](#) (ON LAT) and *Derenzis v Gore Mutual Insurance Company*, [2023 CanLII 58532](#) (ON LAT).

5. In both reconsideration proceedings, the Applicant's Reply submissions on reconsideration included new affidavit evidence and exhibits of a former Licence Appeal Tribunal Adjudicator Karina Kowal.

6. By Order dated August 31, 2023, Vice-Chair Theresa McGee required the parties to file submissions as to whether the Applicant's Reply materials should be struck from the record. Pending the Tribunal's decision on the issue, the parties were ordered to refrain from further distribution or dissemination of the materials.²

7. By Order dated September 11, 2023, in Tribunal File No. 18-011978/AABS, Vice-Chair Theresa McGee ordered that the following be struck from the record and withheld from the reconsideration adjudicator:

- (a) Paragraphs 6, 7, 8, 9, 10, 11, 12, 16, 17, and 18 of Ms. Karina Kowal's Affidavit dated August 24, 2023 that accompanied the Applicant's reply submissions filed August 25, 2023; and
- (b) Exhibits 3A, 3B, 3C, 3D, 3E, and 3F to Ms. Karina Kowal's August 24, 2023 Affidavit that accompanied the Applicant's reply submissions filed August 25, 2023.³

² Response on behalf of the Respondent, Gore Mutual Insurance Company, Tab 2A: Order of the Licence Appeal Tribunal by Adjudicator McGee, dated August 31, 2023 and released September 1, 2023, Licence Appeal Tribunal File No. 18-011978/AABS.

³ Response on behalf of the Respondent, Gore Mutual Insurance Company, Tab 2B: Order of the Licence Appeal Tribunal by Adjudicator McGee, dated September 11, 2023 and released September 20, 2023, Licence Appeal Tribunal File No. 18-011978/AABS.

8. By Order dated September 18, 2023, in Tribunal File No. 21000394/AABS, Vice-Chair Theresa McGee ordered that the following be struck from the record and withheld from the reconsideration adjudicator:

- (a) Paragraphs 6, 7, 8, 9, 10, 11, 12, 16, 17, and 18 of Ms. Karina Kowal's Affidavit dated August 24, 2023 that accompanied the Applicant's reply submissions filed August 29, 2023; and
- (b) Exhibits 7A, 7B, 7C, 7D, 7E, and 7F to Ms. Karina Kowal's August 24, 2023 Affidavit that accompanied the Applicant's reply submissions filed August 29, 2023.⁴

9. It was also ordered that all parties, representatives, and witnesses/affiants immediately and permanently delete from their data storage systems or otherwise destroy any and all copies of the above-noted materials.⁵

10. On November 6, 2023, Gore Mutual brought a motion for determination by the Adjudicator seized of the Request for Reconsideration in Tribunal File No. 18-011978/AABS to strike, amongst other things, paragraphs 11 to 16 of the Applicant's Reply submissions, including the Affidavit of Karina Kowal sworn August 24, 2023 and exhibits thereto on the basis that it was improper Reply.⁶

⁴ Response on behalf of the Respondent, Gore Mutual Insurance Company, Tab 2C: Order of the Licence Appeal Tribunal by Adjudicator McGee, dated September 18, 2023 and released September 20, 2023, Licence Appeal Tribunal File No. 21-000394/AABS.

⁵ *Supra* note 3 and Response on behalf of the Respondent, Gore Mutual Insurance Company, Tab 2D: Order of the Licence Appeal Tribunal by Adjudicator McGee, dated September 11, 2023 and released September 20, 2023, Licence Appeal Tribunal File No. 18-011978/AABS.

⁶ Response on behalf of the Respondent, Gore Mutual Insurance Company, Tab 2E: Notice of Motion of the Respondent, Gore Mutual Insurance Company, ONLAT File No. 18-011978/AABS, dated November 3, 2023.

11. On November 6, 2023, Gore Mutual also brought a motion for determination by the Adjudicator seized of the Request for Reconsideration in Tribunal File No. 21-000394/AABS to strike, amongst other things, paragraphs 11 to 16 of the Applicant's Reply submissions, including the Affidavit of Karina Kowal sworn August 24, 2023 and exhibits thereto as well as the supplementary Affidavit of Karina Kowal sworn August 29, 2023 and exhibits thereto on the basis that it was improper Reply.⁷

12. By Reconsideration Decision of Vice-Chair E. Louise Logan released on January 16, 2024, the Applicant's Request for Reconsideration in Tribunal File No. 18-011978/AABS was denied. In the said Reconsideration Decision, paragraphs 11 to 16 of the Applicant's Reply submissions, the Affidavit of Karina Kowal sworn August 24, 2023 and exhibits thereto were struck on the basis of improper reply.⁸

13. By Reconsideration Decision of Vice-Chair E. Louise Logan released on January 16, 2024, the Applicant's Request for Reconsideration in Tribunal File No. 21-000394/AABS was denied. In the said Reconsideration Decision, paragraphs 13 to 19 of the Applicant's Reply submissions, the Affidavit of Karina Kowal dated August 24, 2023 and exhibits thereto as well as the supplementary Affidavit of Karina Kowal sworn August 29, 2023 were struck on the basis of improper Reply.⁹

⁷ Response on behalf of the Respondent, Gore Mutual Insurance Company, Tab 2F: Notice of Motion of the Respondent, Gore Mutual Insurance Company, ONLAT File No. 21-000394/AABS, dated November 3, 2023.

⁸ *Derenzis v Gore Mutual Insurance Company*, [2024 CanLII 2662](#) (ON LAT).

⁹ *Derenzis v Gore Mutual Insurance Company*, [2024 CanLII 2670](#) (ON LAT).

C. Appeals and Judicial Review Application before the Divisional Court

14. The Applicant brought an appeal as well as application for judicial review before the Divisional Court of the Tribunal's September 11 and 18, 2023 Orders.¹⁰ In its Reasons for Decision dated May 6, 2025, the Divisional Court held that the Tribunal did not make any reversible errors and dismissed both the appeal and the application for judicial review.¹¹

D. Request for Leave to Appeal to the Ontario Court of Appeal

15. The Applicant thereafter sought leave of the Court of Appeal for Ontario¹², which denied leave to appeal on October 2, 2025.¹³

16. The Applicant now seeks leave to appeal to this Court.

PART II – STATEMENT OF QUESTIONS IN ISSUE

17. This Respondent submits that this is not a rare case in which leave to appeal should be granted from a provincial court's decision not to grant leave to appeal.

¹⁰ *Derenzis v. Gore Mutual Insurance Company*, [2024 ONSC 1226](#) (CanLII) (Div. Ct.).

¹¹ *Derenzis v. Gore Mutual Insurance Company*, [2025 ONSC 2732](#) (Div. Ct.).

¹² Response on behalf of the Respondent, Gore Mutual Insurance Company, Tab 2G: Amended Notice of Motion for Leave to Appeal of the Appellant, Lucia Derenzis, dated July 7, 2025.

¹³ Response on behalf of the Respondent, Gore Mutual Insurance Company, Tab 2H: Ontario Court of Appeal Decision, dated October 2, 2025.

18. This Respondent submits that no questions of law, national or public importance or of such a nature or significance exist as to warrant a decision by this Honourable Court that might otherwise be put beyond the possibility of review.

PART III – STATEMENT OF ARGUMENT

19. This Respondent submits that an application to hear an appeal from a provincial court's refusal to grant leave should be reserved to very rare cases where there is a risk that a question of constitutional or national importance might otherwise be put beyond the possibility of review.¹⁴

20. This is not such a very rare case as the significance of the proposed appeal is limited to the parties with the result that the Applicant has not met the stringent test for leave to appeal.

21. The dispute herein is largely fact specific to the parties. Furthermore, the Applicant does not challenge the underlying merits of her accident benefits claim in this application.

22. This Respondent adopts the submissions of the LAT with respect to the issues of deliberative secrecy, solicitor-client privilege and the LAT's ability to make Ancillary Orders.

¹⁴ *Macdonald v. City of Montreal*, [1986] 1 S.C.R. 460 at paras. 132, 139-144.

23. The following factors militate against finding that the proposed appeal raises an issue or question of national or public importance.

24. The Applicant's Notice of Constitutional Question ("NCQ") for the Divisional Court Hearing invoked solely s. 96 of the *Constitution Act, 1867* to assert that the LAT lacked legislative authority to issue the Ancillary Orders directed to the parties, their counsel and witnesses/affiants.¹⁵

25. The Applicant did not raise s. 2 of the Charter or the open courts principle at the Tribunal Hearings, in her NCQ, in her Notices of Appeal, nor in her Notice of Application for Judicial Review in the Divisional Court.

26. The Respondents have not been afforded the opportunity to address the s. 2 issue/open courts principle now raised by the Applicant.

27. The Applicant should not be permitted to raise the s. 2 open courts principle issue for the first time at this juncture as it causes prejudice to the Respondents who have been deprived of the opportunity to respond, and deprives the appellate court of a sufficient record and analysis of the lower court or tribunal.

28. This Respondent submits that this Honourable Court should follow the general rule not to permit a party to raise an issue, including constitutional argument, for the first time on appeal. This is not an exceptional case warranting this Honourable Court exercising its discretion to hear/decide a new constitutional issue raised for the first time on appeal.¹⁶

¹⁵ Response of the Respondent, Gore Mutual Insurance Company, Tab 2I: Notice of Constitutional Question of the Applicant, Lucia Derenzis (Divisional Court), dated September 27, 2023.

¹⁶ *Guindon v. Canada*, [2015 SCC 41](#) at paras. [22-23](#).

29. Neither the argument of institutional bias, nor the supporting Affidavits of Karina Kowal and related exhibits, were properly before the Tribunals in the first instance.

30. The Affidavits of Karina Kowal and supporting evidence were raised for the first time in Reply Submissions on reconsideration and should therefore not form the basis of any further litigation.

31. The LAT determined that the Applicant did not raise the issue of institutional bias in her initial Reconsideration submissions, that it was not raised in response to any responding submission of Gore Mutual, and that there was no evidence supporting her submission that she could not have made the arguments earlier.

32. The Applicant did not seek leave to appeal to the Ontario Court of Appeal, and does not seek leave from this Honourable Court, from the Divisional Court's determination that there was no procedural unfairness in the LAT having struck as improper Reply the portions of her Reply Reconsideration submissions alleging institutional bias.

33. The Divisional Court found that the LAT was correct in law, and did not breach procedural fairness, by striking the Applicant's Reply submissions that improperly raised new issues not addressed in its initial submissions.¹⁷

¹⁷ *Supra* note 11, at [para. 69](#).

34. As the Applicant did not and does not challenge the decision to strike her Reply submissions and evidence in respect of a reasonable apprehension of bias, the decision to strike it on the basis that it formed part of improper Reply must stand.

35. To allow the Applicant to proceed to this Honourable Court concerning issues and materials that were procedurally and evidentially deficient from the outset is a violation of procedural fairness and would result in an abuse of process.

36. Furthermore, granting leave to appeal on any of the issues would be an unreasonable use of this Honourable Court's resources as it would have no practical effect on the Applicant's claim for accident benefits as the Applicant does not dispute the underlying merits of her benefit claims in the Application.¹⁸

37. Gore Mutual therefore submits that the Applicant's Application for Leave to Appeal ought to be denied.

PART IV – SUBMISSIONS ON COSTS

38. The Respondent respectfully requests that costs be awarded in accordance with the Tariff under the *Rules of the Supreme Court of Canada*.

PART V – ORDER REQUESTED

33. The Respondent respectfully requests that the application for leave to appeal be dismissed, with costs.

¹⁸ Application for Leave to Appeal of the Applicant, Lucia Derenzis (Supreme Court of Canada), dated December 1, 2025: Memorandum of Argument, at para. 14.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 13th day of January, 2026.



**CAMPORESE SULLIVAN DI
GREGORIO**

Commerce Place, Suite 1700
One King Street West
Hamilton, ON L8P 1A4

Arthur Camporese

Tel: (905) 522-7068

Fax: (905) 522-5734

Email: acamporese@csdlawyers.ca

**Counsel for the Respondent, Gore
Mutual Insurance Company**

DENTONS CANADA LLP

99 Bank Street, Suite 1420

Ottawa, ON K1P 1H4

David R. Elliott/

Corey Villeneuve (Law Clerk)

Tel.: (613) 783-9699

Fax: (613) 783-9690

Email: corey.villeneuve@dentons.com

**Ottawa Agent to Counsel for the
Respondent, Gore Mutual Insurance
Company**

PART VI – TABLE OF AUTHORITIES AND STATUTORY PROVISIONS

Cases Authorities	Referred to in Memorandum of Argument at Para(s):
<i>Derenzis v Gore Mutual Insurance Company</i> , 2023 CanLII 58532 (ON LAT)	3
<i>Derenzis v Gore Mutual Insurance Company</i> , 2024 CanLII 2662 (ON LAT)	12
<i>Derenzis v Gore Mutual Insurance Company</i> , 2024 CanLII 2670 (ON LAT)	13
<i>Derenzis v. Gore Mutual Insurance Company</i> , 2024 ONSC 1226 (CanLII) (Div. Ct.)	14
<i>Derenzis v. Gore Mutual Insurance Company</i> , 2025 ONSC 2732 (Div. Ct.)	14
<i>Guindon v. Canada</i> , 2015 SCC 41	28
<i>L. D. v Gore Mutual Insurance Company</i> , 2023 CanLII 74649 (ON LAT)	3
<i>Macdonald v. City of Montreal</i> , [1986] 1 S.C.R. 460	19-20
Statutory Provisions	
Canadian Charter of Rights and Freedoms, Part I of the Constitution Act, 1982, being Schedule B to the Canada Act 1982 (UK), 1982, c. 11, s. 2 Charte canadienne des droits et libertés, Partie I de la Loi constitutionnelle de 1982, Annexe B de la Loi de 1982 sur le Canada (RU), 1982, c 11, art. 2	25-27
Constitution Act, 1867 (UK), 30 & 31 Vict., c. 3, s. 96 Loi constitutionnelle de 1867 (R.-U.), 30 & 31 Vict., c. 3, art. 96	24