

**ONTARIO
SUPERIOR COURT OF JUSTICE
(DIVISIONAL COURT)**

BETWEEN:

CHRIS PATRIE

Appellant

-and-

CITY OF ELLIOT LAKE
(INTEGRITY COMMISSIONER)

Respondent

**SUPPLEMENTARY NOTICE OF APPEAL
(Notice of Motion for Leave to Appeal from
the Costs Order of Justice Rasaiah dated February 24, 2023)**

THE APPELLANT, CHRIS PATRIE, will make a Motion to the Divisional Court, upon the return of the Appeal in this proceeding, at the Courthouse, at 155 Elm Street, Sudbury, ON P3C 1T9.

PROPOSED METHOD OF HEARING: The motion is to be heard (*choose appropriate option*)

- In writing under subrule 37.12.1 (1) because it is (*insert one of on consent, unopposed or made without notice*);
- In writing as an opposed motion under subrule 37.12.1 (4);
- In person;
- By telephone conference;
- By video conference.

THE MOTION IS FOR:

1. an Order that leave be granted to appeal the costs Order of the Honourable Justice Rasaiah dated February 24, 2023;
2. an Order that the costs Order be set aside;
3. in the alternative, an Order be granted to reduce the costs award of the Honourable Justice Rasaiah; and
4. such further and other relief as this Court deems appropriate.

THE GROUNDS FOR THE MOTION ARE:

1. the Appellant, Chris Patrie, has appealed the decision of the Honourable Justice Rasaiah to the Divisional Court which appeal is scheduled to be heard in Sudbury during the week of April 10, 2023;
2. the grounds for the appeal as set out in the Appellant's Notice of Appeal and Amended Notice of Appeal raise significant and serious issues of errors of law and errors of mixed fact and law which are relevant to the costs award in this proceeding;
3. the Honourable Justice Rasaiah issued a costs decision on February 24, 2023 in which she awarded the Applicant, Respondent, costs fixed in the amount of \$89,143.77 inclusive of disbursements and HST;

4. Justice Rasaiah erred in determining that notwithstanding the provisions of Section 223.4.1(18) of the *Municipal Act*, this section does not preclude the Commissioner from receiving a costs award to offset its legal fees. This was an error in law;
5. the Honourable Justice Rasaiah erred in her determination that “The respondent ostensibly forced new counsel to be retained in Toronto.” This was an error of fact and an error of mixed fact and law;
6. the costs award is excessive and/or disproportionate and well beyond what an unsuccessful party could reasonably expect to pay in a proceeding of this kind;
7. there is no jurisprudence in respect to the law relating to awards of costs in respect to the intersection of 223.4.1(18) of the *Municipal Act* and findings of a conflict of interest under the *Municipal Conflict of Interest Act*;
8. There is good reason to doubt the correctness of the Order in question and the proposed appeal involves matters of general importance and public interest;
9. Rules 62.02(4)(a) and (b) of the *Rules of Civil Procedure*;
10. Section 131 and 133 of the *Courts of Justice Act*;
11. Such further and other grounds as counsel may advise and this Honourable Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

1. The Notice of Appeal and Amended Notice of Appeal of the Appellant, Chris Patrie;
2. The Appeal Book and Compendium and Exhibit Book of the Appellant, Chris Patrie;
3. The costs decision of Justice Rasaiah dated February 24, 2023;
4. Such further and other material as counsel may advise and this Honourable Court may permit.

March 8, 2023

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PATRIE

and

CITY OF ELLIOT LAKE (INTEGRITY COMMISSIONER)

Appellant

Respondent

Divisional Court File No. DC-23-00002189-000

ONTARIO
**SUPERIOR COURT OF JUSTICE
(DIVISIONAL COURT)**

Proceeding commenced at Sudbury

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