

**IN THE SUPREME COURT OF CANADA**

**(On Application for Leave to Appeal from the Court of Appeal for the Province of Ontario)**

**IN THE MATTER OF** an Application by Ruth Schaeffer, Evelyn Minty and Diane Pinder for a declaratory judgment that, among other things, police officers who are involved in incidents attracting the attention of the Special Investigations Unit are not entitled to obtain legal assistance in the preparation of their notes regarding the incident;

**AND IN THE MATTER OF** an Application for Leave to Appeal from the judgment of the Court of Appeal for the Province of Ontario dated November 15, 2011;

**B E T W E E N :**

**POLICE CONSTABLE KRIS WOOD, ACTING SERGEANT MARK  
PULLBROOK, POLICE CONSTABLE GRAHAM SEGUIN**

*Applicants*

-and-

**RUTH SCHAEFFER, EVELYN MINTY AND DIANE PINDER**

*Respondents*

-and-

**IAN SCOTT, DIRECTOR OF THE SPECIAL INVESTIGATIONS UNIT**

*Respondent*

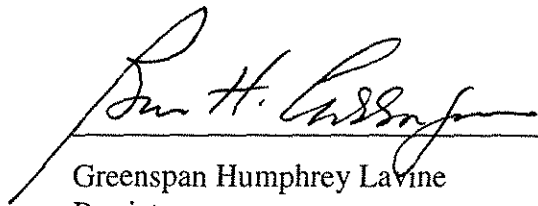
**NOTICE OF APPLICATION FOR LEAVE TO APPEAL**

**TAKE NOTICE** that the Applicant hereby applies for leave to appeal to this Honourable Court, pursuant to section 40 of the *Supreme Court Act*, R.S.C. 1985, c. S-26 from the judgment of the Court of Appeal for Ontario made on November 15, 2011 and for an order granting leave to appeal to this Honourable Court or such further or other order that this Court may deem appropriate;

**AND FURTHER TAKE NOTICE** that this application for leave is made on the following grounds:

1. That the Court of Appeal for Ontario erred by circumscribing the scope and extent of a police officer's right to counsel by adopting an unprecedented interpretation of the requirement that notes be prepared "in accordance with his or her duty" as prohibiting meaningful legal advice in connection with the preparation of their notes.
2. That the Court of Appeal erred by virtually eliminating the presumptive common law right to consult with counsel despite the absence of any express or necessarily implied legislative restriction on the right to counsel.
3. That the Court of Appeal erred in crafting an unworkable protocol which renders virtually any discussion by an officer with counsel an ethical and practical minefield and which fails to recognize an officer's right to procedural fairness, having regard to potential exposure to criminal or disciplinary prosecution.
4. Such further and other grounds as counsel may advise and this Honourable Court may permit.

**DATED** at Toronto, Ontario, this 13<sup>th</sup> day of January, 2012.



Greenspan Humphrey Lavigne  
Barristers  
15 Bedford Road  
Toronto, Ontario  
M5R 2J7

Tel: (416) 868-1755  
Fax: (416) 868-1990

Counsel for the Applicant

TO: The Registrar of This Honourable Court

AND TO: Julian Falconer  
Falconer Charney LLP  
8 Prince Arthur Avenue  
Toronto, ON M5R 1A9  
Tel: (416) 964-3408  
Fax: (416) 929-8179

Counsel for Ruth Schaeffer, Evelyn Minty and Diane Pinder

AND TO: Marlys Edwardh  
Sack Goldblatt Mitchell LLP  
20 Dundas Street West, Suite 1100  
Toronto, ON M5G 2G8  
Tel: (416)979-4380  
Fax: (416)979-4430

Counsel for Ian Scott, Director of the Special Investigations Unit

AND TO: Christopher Diana  
Ministry of Community Safety & Correctional Service  
Legal Services  
77 Grenville Street – 8<sup>th</sup> Floor  
Toronto, ON M5S 1B3  
Tel.: (416)314-3513  
Fax: (416)314-3518

Counsel to Julian Fantino, Commissioner of the Ontario Provincial Police, and  
to Ministry of Community Safety & Correctional Service

**NOTICE TO THE RESPONDENT:** A respondent may serve and file a memorandum in response to this application for leave to appeal within 30 days after service of the application. If no response is filed within that time, the Registrar will submit this application for leave to appeal to the Court for consideration pursuant to section 43 of the *Supreme Court Act*.