

Copy

2020 01H No. *odo7*

**IN THE COURT OF APPEAL OF NEWFOUNDLAND AND LABRADOR**

**BETWEEN:**

**KIMBERLEY TAYLOR**

**FIRST APPELLANT**

**AND:**

**CANADIAN CIVIL LIBERTIES ASSOCIATION**

**SECOND APPELLANT**

**AND:**

**HER MAJESTY IN RIGHT OF  
NEWFOUNDLAND AND LABRADOR**

**FIRST RESPONDENT**

**AND**

**JANICE FITZGERALD, CHIEF MEDICAL  
OFFICER OF HEALTH**

**SECOND RESPONDENT**

**NOTICE OF APPEAL**

This is notice that the Appellants appeal the order of the Supreme Court of Newfoundland and Labrador.

(1) Information regarding the order under appeal:

- (a) The order was made by Justice Donald H. Burrage
- (b) The matter was heard at St. John's, Newfoundland and Labrador
- (c) Lower court file no.: 2020 01G 2342
- (d) Neutral citation of a written decision: 2020 NLSC 125
- (e) Date the Order was filed or made: September 17, 2020

(2) Subject matter of the appeal:

This is an appeal from the order of Justice Burrage which upheld the constitutionality of s. 28(1)(h) of the *Public Health Protection and Promotion Act* (the *PHPPA*) and the Special Measures Order (Amendment No. 11) issued by the Chief Medical Officer of Health on 29 April 2020 (the "impugned measures"). The order also held the challenge to the constitutionality of s. 28.1 of s. 50(1) of the *PHPPA* was non-justiciable on the record before the court, and that the Second Respondent did not have standing to bring that portion of the claim.

Filed *@ 20/2020*

The Appellants challenged the impugned provisions on federalism grounds, and on the basis that they violated sections 6 and 7 of the *Canadian Charter of Rights and Freedoms* and were not a reasonable limit pursuant to section 1.

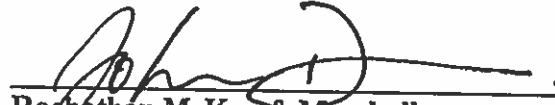
Justice Burrage found a violation of section 6 of the *Charter* but held that it was justified pursuant to section 1. The section 7 claim was dismissed, as was the claim that s. 28(1)(h) of the *PHPPA* was beyond the jurisdiction of the provincial government.

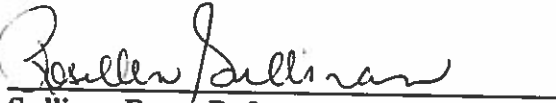
(3) The Appellant requests that the Order of Burrage J. be set aside and that this Court declare the impugned provisions to be of no force or effect.

(4) The Court and parties are advised:

(d) The constitutionality or legality of the following provision of an Act, regulation or rule will be challenged in the appeal: section 28(1) and section 50 of the *PHPPA*, and the Special Measures Order (Amendment No. 11) issued by the Chief Medical Officer of Health on 29 April 2020.

**DATED** at the City of St. John's, Newfoundland and Labrador, this 19th day of October, 2020.

  
\_\_\_\_\_  
**Rochéthan McKay & Marshall**  
Solicitors for the First Appellant  
whose address for service is:  
5<sup>th</sup> Floor, Paramount Building  
34 Harvey Road  
St. John's, NL A1C 2G1  
**Attention: John Drover**

**AND:**   
\_\_\_\_\_  
**Sullivan Breen Defence**  
Solicitors for the Second Applicant  
Canadian Civil Liberties Association  
whose address for service is:  
Suite 300, Haymarket Square  
223-233 Duckworth Street  
St. John's, NL A1C 1G8  
**Per: Rosellen Sullivan**

**TO: THE FIRST AND SECOND RESPONDENTS**  
**c/o NL Dept. of Justice**  
**Justin S. C. Mellor**  
**PO Box 8700**  
**4th Floor, East Block**  
**Confederation Building**  
**St. John's, NL A1B 4J6**



Receipt Number: R202001H00148

*Court of Appeal of Newfoundland and Labrador*

Receipt Date: Oct-20-2020                      Amount Received: \$60.00

Payment Type: Cheque                              Cheque Number: 183661

Received From: Roebothan, McKay & Marshall

Notes:

On Behalf Of	Classification	Event Type	Case		Amount
Taylor et al v Her Majesty in Right of NL et al	Case Related	Notice of Appeal (COA)	202001H0067	(1)	\$60.00
				<b>Total:</b>	<b>\$60.00</b>

Debbie Shortt

**COURT OF APPEAL OF NEWFOUNDLAND AND LABRADOR**

*This receipt is your only proof of payment, please retain.*