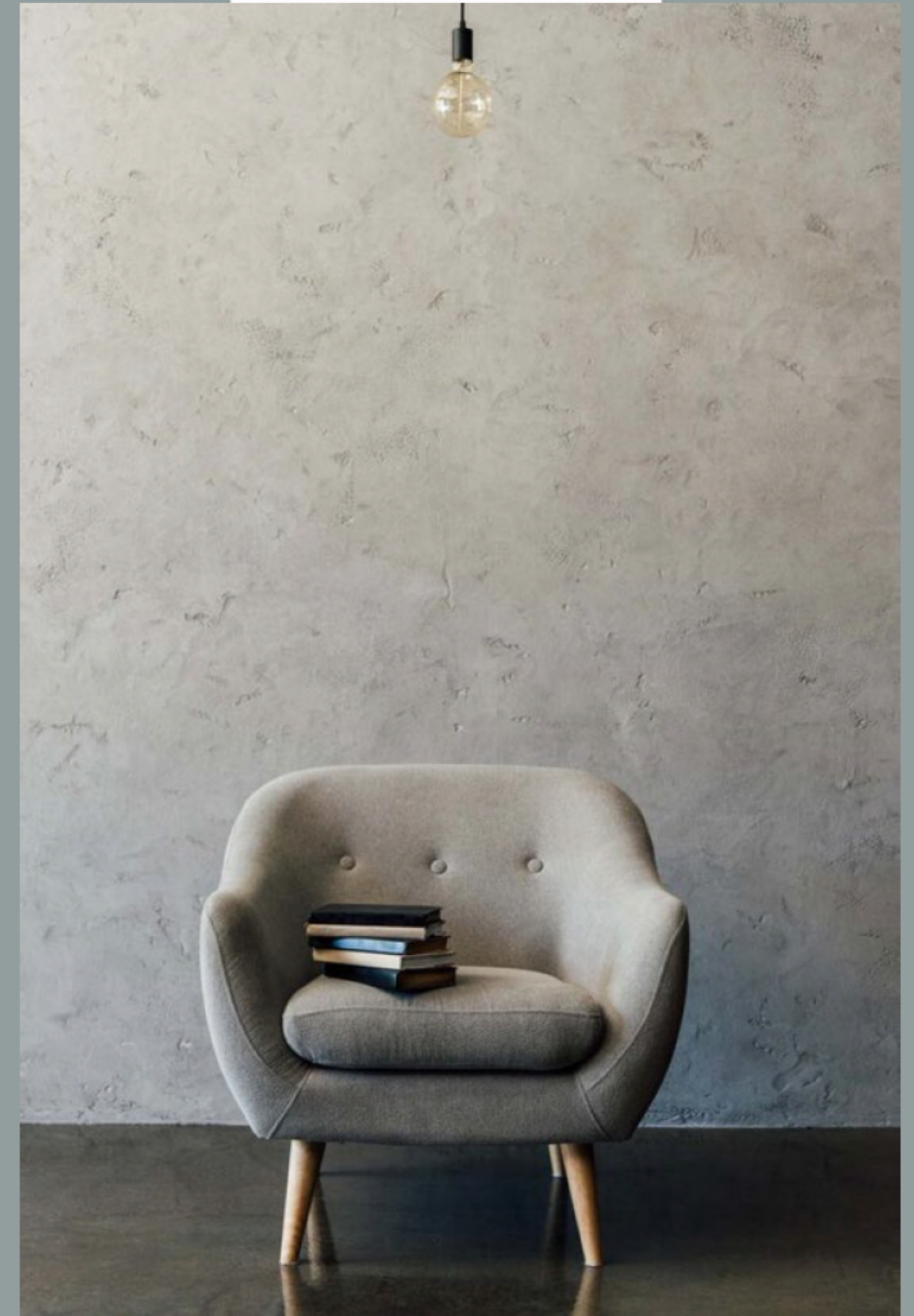


# SML

November 27, 2025

## Top Ten Cases You Need to Know About

Anastasia-Maria Hountalas and  
Ahmad Mozaffari



# Before we begin...

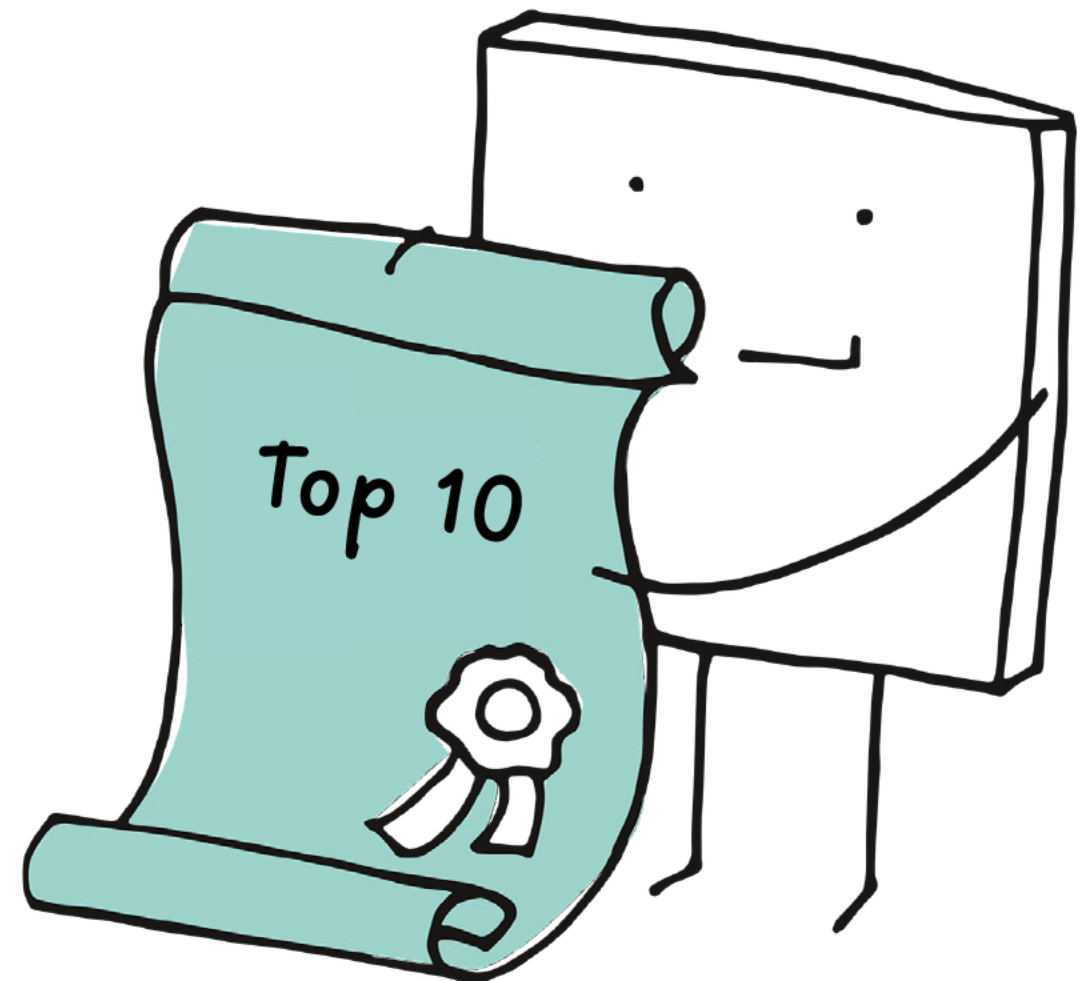
- If listening by phone:
  - Phone access : (438) 809-7799, PIN: 84103868834 #
- Still having trouble hearing? Email Anna Ghakhar at [aghakhar@sml-law.com](mailto:aghakhar@sml-law.com)
- Feel free to send questions to us during the session using the CHAT feature, or EMAIL us afterwards:
  - [amozaffari@sml-law.com](mailto:amozaffari@sml-law.com)
  - [ahountalas@sml-law.com](mailto:ahountalas@sml-law.com)

# Land Acknowledgment

- We acknowledge that the land our office is on is the traditional territory of many nations including the Mississaugas of the Credit, the Anishnabeg and the Chippewa, and is now home to many diverse First Nations, Inuit and Métis peoples. We also acknowledge that Toronto is covered by Treaty 13 with the Mississaugas of the Credit.
- We encourage you to acknowledge the land where you are located and to reflect on ways in which you can support the process of reconciliation.

# Top Ten Cases

- CPSO v Parajian
- CMTO v Arango
- Charkhandeh v CDSA
- Larry and Kari Myers v Tarion Warranty Corporation
- AB v LSO
- BCCNM v Hamm
- Welkoff v Ontario
- CPSO v Guiang
- BizTech v Accreditation Canada
- Afolabi v LSO





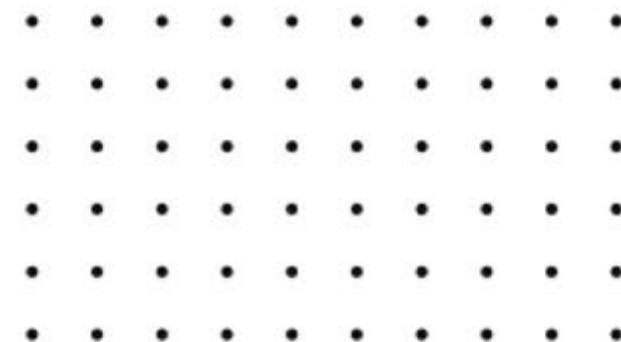
# **CPSO v Parajian**

## **2025 ONPSDT 15**

# CPSO v Parajian

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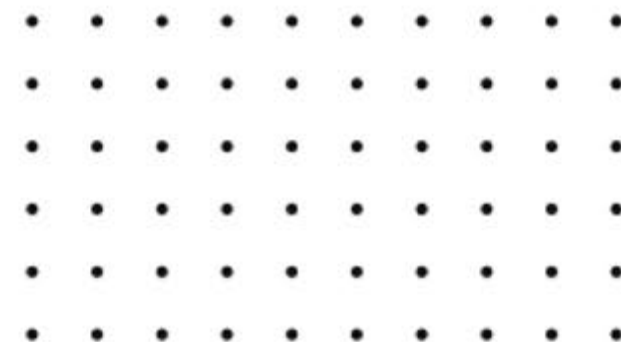
- Facts: Discipline matter related to criminal convictions for harassment of underaged girls. Registrant admitted facts and professional misconduct. Parties provided joint submission for reprimand and revocation.
- Issue: Was the fact that the physician had no prior history a mitigating or neutral factor on penalty?



# CPSO v Parajian

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- ICRC-level decisions are:
  - irrelevant to penalty where no further action was taken
  - but can signify that a registrant was “on notice” of an issue
- Previous discipline are findings can increase the appropriate sanction
- Absence of a discipline history is a neutral (not mitigating) factor





# **CMTO v Arango**

## **2025 ONMTDT 23**



# CMTO v Arango

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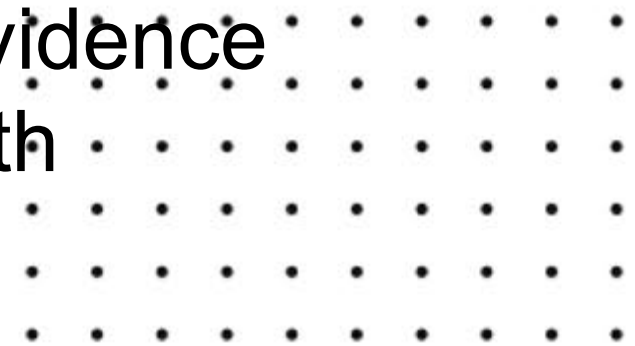
- Facts: Registrant admitted to sexual abuse of two clients. Parties proposed a Joint Submission on Penalty and Costs which included a requirement that the Registrant reimburse the College for funding for therapy and counselling, and post security.
- Issue: Is a College required to show specific evidence that a client would seek therapy funding before a panel orders a Registrant to post security?



# CMTO v Arango

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- *CMTO v. Al-Jundi* : the law requires some evidence to suggest that the Client will seek funding before a panel can make an order for security.
- *Sliwin v. CPSO, 2017 ONSC 1947; Lee v CPSO, 2019 ONSC 4294*
- *Arango*: presumption that clients sexually abused by a registered health professional may need counselling or therapy. The harm of sexual abuse is well documented. Its eradication is a purpose of the sexual abuse provisions of the Code. That therapy or counselling assists survivors in dealing with the trauma of sexual abuse is a notorious and accepted fact.
- Presumption can be rebutted if there is specific evidence that patient will not use the therapy (consistent with *Sliwin*)



# **Charkhandeh v CDSA**

**2025 ABCA 258**

# Charkhandeh v CDSA

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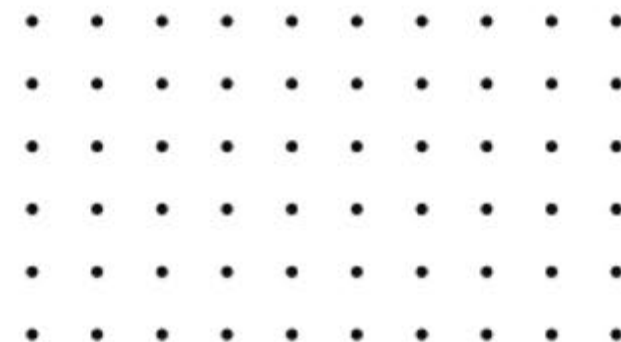
- Facts: Court appointed a special panel to consider three recurring issues in discipline hearings. Will focus on costs issue. Discipline panel ordered dentist to pay \$350,425.00 in costs, equal to 75% of regulator's costs.
- Issue: When should a registrant be required to pay costs for a discipline hearing?



# Charkhandeh v CDSA

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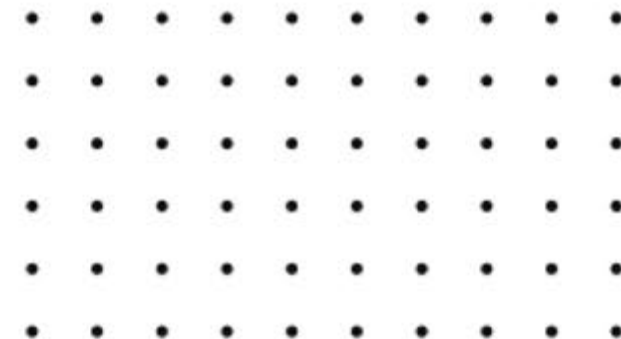
- New approach to costs in Alberta:
  - Costs should not be presumptively ordered in cases where finding is made
  - Consider whether either party inappropriately added to expense of hearing
  - Costs should only be awarded where reasonable to transfer expense from regulator to registrant
  - Costs must be reasonable
  - Costs cannot be unduly onerous
  - Seriousness of conduct is irrelevant



# Charkhandeh v CDSA

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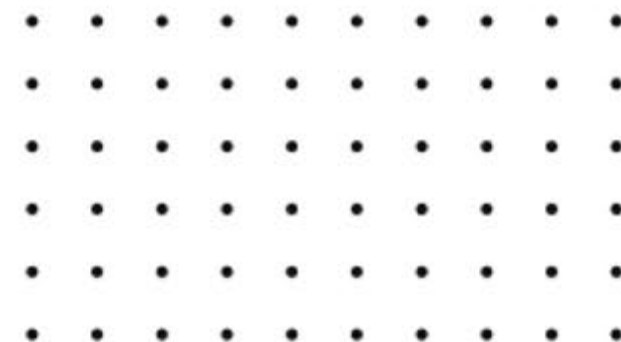
- Alberta approach is not gaining traction in Ontario
- CPSO v Kilian, 2025 ONPSDT 28
  - Registrant submitted that Charkhandeh approach should be adopted in Ontario
  - Tribunal imposed usual tariff-based approach



**Larry and Kari Myers v Tarion  
Warranty Corporation  
2025 CanLII 86528 (ON LAT)**

# Larry and Kari Myers v Tarion Warranty Corporation

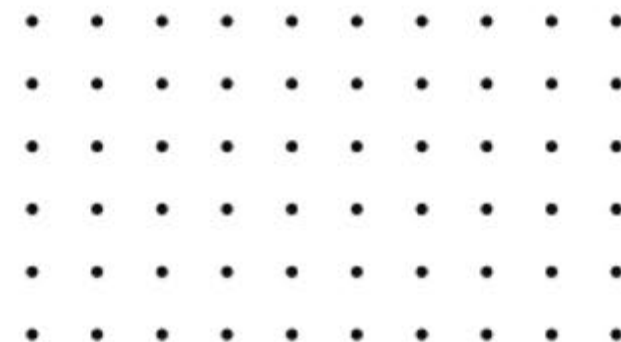
- Facts: Myers' bought a home in Kingsville. Dispute arose between the Myers' and the builder, Tarion. Matter proceeded to LAT
- Issue: Use of Artificial Intelligence in submissions to LAT. Specifically, allegation that Myers' relied on AI hallucinations of case law, made up cases that do not appear to exist, used AI to make unrelated arguments to cases, and misquoted cases.
- Request that Tribunal disregard Myers' legal propositions





# Larry and Kari Myers v Tarion Warranty Corporation

- Tribunal: When a party relies on case law that does not exist, then I find that the party is attempting to mislead the Tribunal, even if it is not intending on doing so.
- Myers, J: A court decision that is based on fake laws would be an outrageous miscarriage of justice to the parties and would reflect very poorly on the court and the civil justice system...



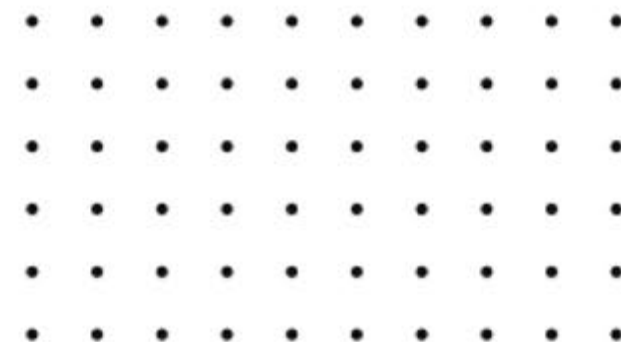


**AB v LSO**  
**2025 ONLSTH 85**

# AB v LSO

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- Facts: AB convicted of first-degree murder in 2005, when she was 15.
- AB completed an undergraduate degree in 2013 and a law degree in 2017.
- Applied for licensing in 2016.
- Applicants must satisfy “good character requirement”.
- LSO conducted investigation in 2017 which concluded in the fall of 2020.
- Notice of referral for hearing filed in November, 2020



# AB v LSO

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- The good character requirement is a preventative measure that attempts to protect the public and the reputation of the legal profession from lawyers who lack integrity
- Good character investigations serve an important function in furthering the Law Society's mandate of regulating the professions in the public's interest.
- While there was inordinate delay, which caused significant prejudice to AB, Panel did not order a stay.
- LSO investigation was not an abuse of process





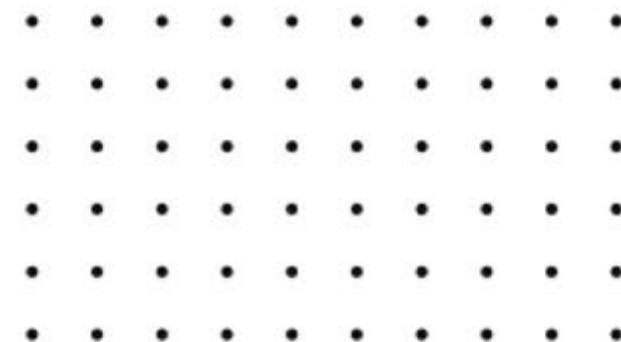
# **BCCNM v Hamm**

## **2025 BCCNM 1**

# BCCNM v Hamm

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- Facts: Registrant made statements across various platforms relating to the transgendered community.
- Statements were viewed as discriminatory and derogatory.
- Issue: Is this professional misconduct?
- Registrant identified herself as a nurse in certain comments. Off-Duty statements found to constitute unprofessional conduct.
- Finding does not unjustifiably infringe on Registrant's Charter rights.
- Decision under appeal.



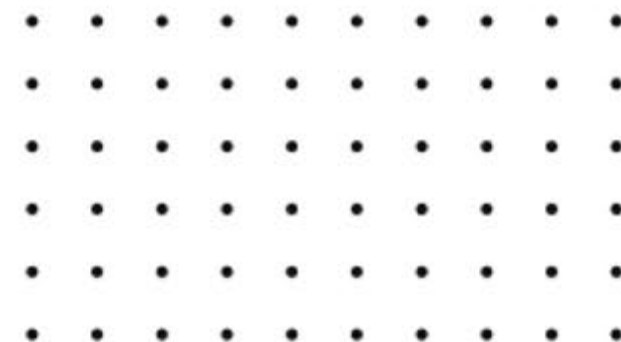
# **Welkoff v Ontario (HPARB)**

**2025 ONSC 4515**

# Welkoff v Ontario

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- Facts: Applicant-complainant made complaint about physician. ICRC resolved complaint with remedial agreement for self-study and reflective report. HPARB confirmed decision. Applicant-complainant sought judicial review.
- Issue: Was the remedial agreement crafted to avoid public disclosure of the outcome on the register?

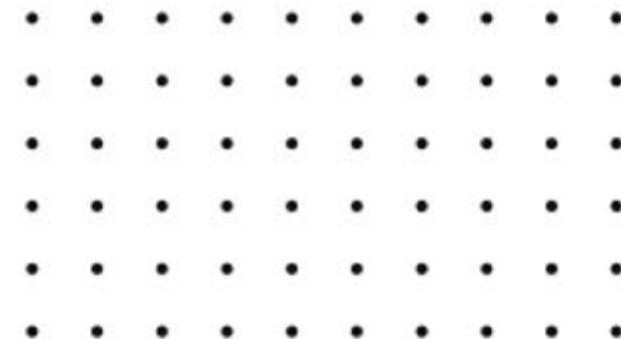




# Welkoff v Ontario

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- Court found:
  - remediation requiring study and report in the areas of concern was reasonable disposition
  - but concerned that remedial agreement was crafted to avoid public disclosure despite serious findings and prior written caution
  - If disposition is chosen to avoid public scrutiny, that can inform reasonableness of outcome
- Dispositions should not undermine transparency provisions in Code or avoid public scrutiny





# **CPSO v Guiang**

## **2024 ONPSDT 21**

# CPSO v Guiang

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- *Apology Act* case
- Facts: Registrant faced allegations of sexual abuse of three patients
- Patient made a secret recording of the Registrant where the Registrant apologizes multiple times
- Registrant sought to exclude entire conversation on basis that it was inadmissible under the *Apology Act*
- Panel ultimately admitted the apology, but with certain redactions where it was clear the Registrant was saying Sorry



# CPSO v Guiang

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- DR. GUIANG: I'm really sorry. Sorry. There's no -- I just want you to know there's no -- it wasn't any power trip, or anything like that, certainly. And, and, and I also want you to know that, um, yeah, I think if there's any way that I can potentially earn your trust, I, you know, I certainly -- a— as I've known you for a while, I, I want to be able to do that if I can. I don't want you to -- I don't need an answer right now. It's more, like, I just want you to know that, and, you know, that's certainly something that, you know, that's very regretful for me. And I, you know, I appreciate you be -- you didn't say anything because of [Individual X]'s -- you, you love [Individual X], . . . . . and I, I can see that. I know that.



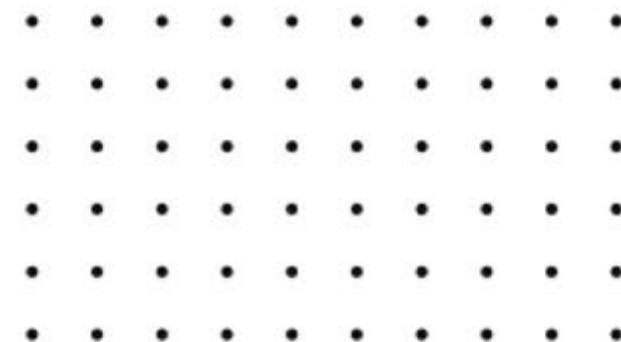
# **BizTech v Accreditation Canada**

**2025 ONSC 2689**

# BizTech v Accreditation Canada

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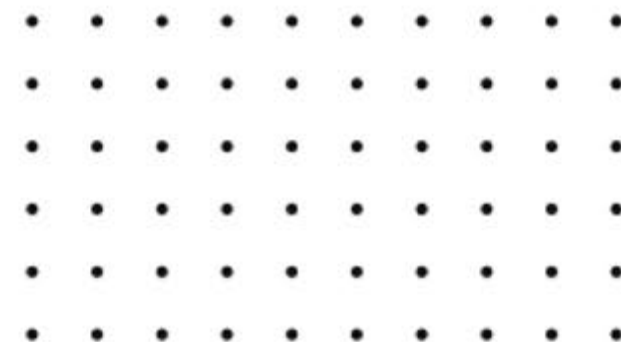
- Facts: CMRITO approved programs accredited by Accreditation Canada. Accreditation Canada declined to accredit BizTech's diagnostic medical sonography program.
- Issues: Is Accreditation Canada a private entity that is not subject to JR?



# BizTech v Accreditation Canada

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- Accreditation Canada was subject to JR because:
  - exercised statutory authority as delegate of CMRITO
  - decisions in determining whether program would adequately protect public was of “sufficiently public character”
- Delegating important public interest decisions to third parties may subject them to JR





# **Afolabi v LSO**

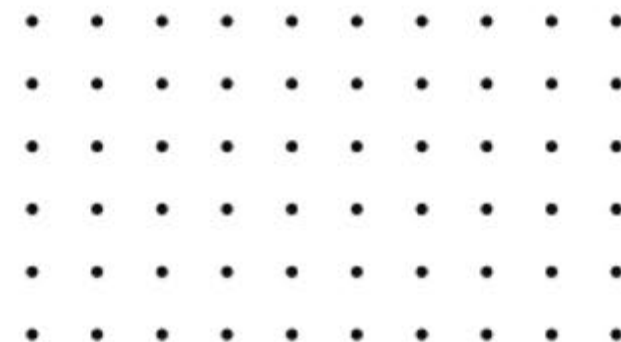
## **2025 ONCA 257**



# Afolabi v LSO

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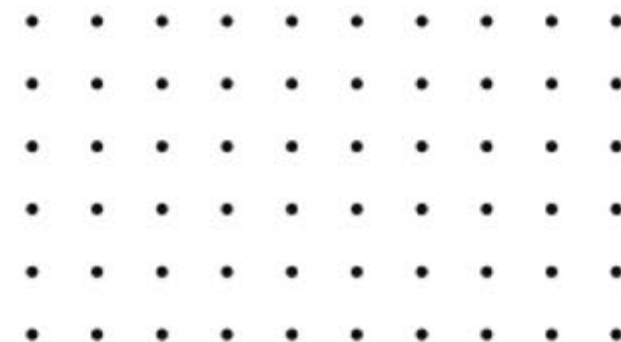
- Facts: LSO's licensing exams were compromised. LSO identified impacted applicants and provided opportunity to make written submissions. Voided exam results and registration in licensing process. Applicants sought JR. Divisional Court only upheld decision to void results. LSO appealed.
- Issues: What is the appropriate response to compromised exams? Was a written process sufficient?



# Afolabi v LSO

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- LSO could void exam results and nullify application through written process
  - Legislative scheme suggested that hearings were not required to make licensure decisions
  - Provision to deem requirements not met if applicant provided false information
  - Not analogous to a disciplinary finding or good character determination
  - No expectation that hearing would be offered



# SML

## THANK YOU

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