February 27, 2020

VIA COURIER

The Honourable Doug Downey
Ministry of the Attorney General
11th Floor, 720 Bay Street
Toronto, ON M7A 2S9

Cc: Amanda Iarusso (via email)

Re: Response to Proposed Amendments to *Class Proceedings Act* in Bill 161, the *Smarter and Stronger Justice Act, 2019*

Dear Minister Downey,

These comments are submitted on behalf of KPMG LLP, Deloitte LLP, Ernst & Young LLP, PricewaterhouseCoopers LLP, BDO Canada LLP and MNP LLP (together the "Big Six Accounting Firms") in response to the proposed amendments to the *Class Proceedings Act* ("*CPA*") in Bill 161, the *Smarter and Stronger Justice Act, 2019.*

The Big Six Accounting Firms perform the vast majority of public company audits in Canada and perform audits in every sector of the Ontario economy, including business services, consumer and retail, energy and natural resources, financial services, industrial markets, infrastructure, real estate and technology.

While we are disappointed that Bill 161 does not include a preliminary merits-based test to help screen out opportunistic claims, we nonetheless commend the Ontario Government for taking meaningful steps to modernize the *CPA.* The incremental reforms that will be implemented pursuant to Bill 161 are sensible and balanced. We believe they will improve efficiency and reduce unnecessary burdens on litigants and the judicial system while promoting access to justice.

Improved mechanisms for screening out or refining ill-conceived proceedings at an early stage, such as the enhanced threshold test for certification and provisions encouraging precertification motions, will reduce the delays and wasted expense and effort that ill founded or improvident class actions cause for litigants. These mechanisms are complemented by provisions that will allow meritorious cases to move forward more expeditiously towards trial such as simplified appeal routes, improved processes for resolving carriage disputes and better tools to allow judges to coordinate actions brought in multiple jurisdictions.

We believe that it is important to consider the suggested reforms as a package as opposed to focusing only on one or two of the proposed amendments to the *CPA*. Overall, the amendments will not strip Ontarians of legal rights or access to justice as some critics have suggested but, rather, will direct legal resources towards the most deserving cases. Further, the “superiority” amendment to the preferable procedure test will encourage businesses to develop more robust alternative dispute resolution mechanisms, which in turn should allow Ontarians quicker access to compensation while potentially avoiding costly and protracted court proceedings entirely.

Concerns that Ontario’s class proceedings regime will be out of step with those of other provinces are unfounded. We are pleased to see that Ontario is taking a leadership role in implementing thoughtful and necessary reforms. It is reasonable to expect that other Provinces will follow its lead.

The Big Six Accounting Firms welcome the opportunity to appear before the Committee to further discuss their support for Bill 161.

Thank you for your consideration of this letter.

Yours very truly,

DELOITTE LLP

By: ______________________

Kenneth Fredeen, General Counsel

PRICEWATERHOUSECOOPERS LLP

By: ______________________

Deirdre MacLeod, General Counsel

KPMG LLP

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