VANCOUVER
21-Dec-22
COURT OF APPEAL
REGISTRY

Court of Appeal File No. CA48578
Supreme Court File No. S 217586
Vancouver Registry
Heard Before: Mr. Justice Brongers

COURT OF APPEAL

BETWEEN:

ACTION4CANADA, LINDA MORKEN, GARY MORKEN, JANE DOE #1, BRIAN EDGAR, AMY MURANETZ, JANE DOE #2, ILONA ZINK, FEDERICO FUOCO, FIRE PRODUCTIONS LIMITED, F2 PRODUCTIONS INCORPORATED, VALERIE ANN FOLEY, PASTOR RANDY BEATTY, MICHAEL MARTINZ, MAKHAN S. PARHAR, NORTH DELTA REAL HOT YOGA LIMITED, MELISSA ANNE NEUBAUER, JANE DOE #3

APPELLANTS

(PLAINTIFFS)

AND:

HIS MAJESTY THE KING IN RIGHT BRITISH COLUMBIA, PRIME MINISTER JUSTIN TRUDEAU, CHIEF PUBLIC HEALTH OFFICER THERESA TAM, DR. BONNIE HENRY, PREMIER JOHN HORGAN, ADRIAN DIX, MINISTER OF HEALTH, JENNIFER WHITESIDE, MINISTER OF EDUCATION, MABLE ELMORE, PARLIAMENTARY SECRETARY FOR SENIORS' SERVICES AND LONG-TERM CARE, MIKE FARNWORTH, MINISTER OF PUBLIC SAFETY AND SOLICITOR GENERAL, BRITISH COLUMBIA FERRY SERVICES INC. (OPERATING AS BRITISH COLUMBIA FERRIES), OMAR ALGHABRA, MINISTER OF TRANSPORT, VANCOUVER ISLAND HEALTH AUTHORITY, THE ROYAL CANADIAN MOUNTED POLICE (RCMP), AND THE ATTORNEY GENERAL OF CANADA, BRITTNEY SYLVESTER, PETER KWOK, PROVIDENCE HEALTH CARE, CANADIAN BROADCASTING CORPORATION, TRANSLINK (BRITISH COLUMBIA)

RESPONDENTS

(DEFENDANTS)

RESPONDENT'S APPEAL RECORD

Mr. Rocco Galanti
and Mr. Lawrence Wong
Counsel for the Plaintiffs,
Lawrence Wong & Associates
210-2695 Granville St.
Vancouver BC V6H 3H4

Phone: (416) 530-9684
Email: rocco@idirect.com

Mr. Mark A. Witten
Counsel for His Majesty the King in Right of the Province of British Columbia
Ministry of Justice
1301 - 865 Hornby St
Vancouver BC V6Z 2G3
Phone: (604) 660-3093
Email: Mark.Witten@gov.bc.ca

Mr. Timothy J. Wedge
Counsel for Vancouver Island
Health Authority and Providence Health Care
Carfra Lawton LLP
6th Floor - 395 Waterfront Crescent
Victoria BC V8T 5K7
Phone: (250) 381-7188
Email: twedge@carlaw.ca

Mr. Connor Bildfell
Counsel for British Columbia Ferry Services Inc.
McCarthy Tétrault LLP
Suite 2400, 745 Thurlow Street
Vancouver BC V6E 0C5
Phone: (604) 643-5904
Email: cbildfell@mccarthy.ca

Ms. Olivia French
Counsel for the Attorney General of Canada
Department of Justice Canada – Vancouver
900 - 840 Howe Street
Vancouver, BC V6Z 2S9
Phone: (604) 753-7597
Email: olivia.french@justice.gc.ca

Mr. Timothy Delaney
Counsel for Peter Kwok and Translink
Lindsay Kenney LLP
1800, 401 West Georgia Street
Vancouver BC V6B 5A1
Phone: (604) 484-3059
Email: TDelaney@lklaw.ca

INDEX TO THE APPEAL RECORD

DESCRIPTION	DATE FILED	PAGE
PART 1 – DOCUMENTS		
Notice of Application of Vancouver Island Health Authority (VIHA)and Providence Healthcare	17 January 2022	4
Application Response of Peter Kwok and Translink (British Columbia) to VIHA Application	14 April 2022	16
Application Response of the Plaintiff to VIHA Application	Unfiled	19
PART 2 – ORDER		
Nil		
PART 3 – JUDGEMENT		
Nil		
PART 4 – NOTICE OF APPEAL		
Nil		
PART 5 – NOTICE UNDER THE CONSTITUTIONAL QUESTIONS ACT		
Nil		

No. S 217586
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN

ACTION4CANADA, KIMBERLY WOOLMAN, THE ESTATE OF JAQUELINE WOOLMAN, LINDA MORKEN, GARY MORKEN, JANE DOE #1, BRIAN EDGAR, AMY MURANETZ, JANE DOE #2, ILONA ZINK, FEDERICO FUOCO, FIRE PRODUCTIONS LIMITED, F2 PRODUCTIONS INCORPORATED, VALERIE ANN FOLEY, PASTOR RANDY BEATTY, MICHAEL MARTINZ, MAKHAN S. PARHAR, NORTH DELTA REAL HOT YOGA LIMITED, MELISSA ANNE NEUBAUER, JANE DOE #3

PLAINTIFFS

AND

HER MAJESTY THE QUEEN IN RIGHT BRITISH COLUMBIA, PRIME MINISTER JUSTIN TRUDEAU, CHIEF PUBLIC HEALTH OFFICER THERESA TAM, DR. BONNIE HENRY, PREMIER JOHN HORGAN, ADRIAN DIX, MINISTER OF HEALTH, JENNIFER WHITESIDE, MINISTER OF EDUCATION, MABLE ELMORE, PARLIAMENTARY SECRETARY FOR SENIORS' SERVICES AND LONG-TERM CARE, MIKE FARNWORTH, MINISTER OF PUBLIC SAFETY AND SOLICITOR GENERAL, BRITISH COLUMBIA FERRY SERVICES INC. (OPERATING AS BRITISH COLUMBIA FERRIES), OMAR ALGHABRA, MINISTER OF TRANSPORT, VANCOUVER ISLAND HEALTH AUTHORITY, THE ROYAL CANADIAN MOUNTED POLICE (RCMP), AND THE ATTORNEY GENERAL OF CANADA, BRITTNEY SYLVESTER, PETER KWOK, PROVIDENCE HEALTH CARE, CANADIAN BROADCASTING CORPORATION, TRANSLINK (BRITISH COLUMBIA)

DEFENDANTS

NOTICE OF APPLICATION

Names of applicants: The Defendants, Vancouver Island Health Authority and Providence Health Care (the “Applicants”)

To: Plaintiffs

And to: Their Counsel

And to: Her Majesty the Queen in Right British Columbia, Dr. Bonnie Henry, Premier John Horgan, Minister of Health, Jennifer Whiteside, Minister of Education, Mike Farnworth, Minister of Public Safety and Solicitor General

And to: Their counsel

TAKE NOTICE that an application will be made by the applicants to the presiding judge or master of the courthouse at 800 Smithe Street, Vancouver, British Columbia, **by Microsoft Teams**, on 3/Feb/2022 at 10:00 am for the orders set out in Part 1 below.

Part 1: ORDERS SOUGHT

1. An order striking the whole of the Plaintiffs' notice of civil claim filed in this matter on August 17, 2021, without leave to amend; and,
2. Costs

Part 2: FACTUAL BASIS

1. On August 17, 2021, the Plaintiffs filed a 391-page notice of civil claim (the "Claim") that attempts to challenge the scientific and legal basis for the entirety of British Columbia and Canada's response to the COVID-19 pandemic. Part 1 of the Claim contains over 1,300 paragraphs and sub-paragraphs.
2. The Plaintiffs have named numerous defendants: Her Majesty the Queen in Right of the Province, the Attorney General of Canada, Prime Minister Justin Trudeau, Chief Public Health Officer Theresa Tam, Dr. Bonnie Henry, Premier John Horgan, Adrian Dix, Minister of Health, Jennifer Whiteside, Minister of Education, Mable Elmore, Parliamentary Secretary for Seniors' Services and Long Term Care, Mike Farnworth, Minister of Public Safety and Solicitor General, British Columbia Ferry Services Inc. (operating as British Columbia Ferries), Omar Alghabra, Minister of Transport, Vancouver Island Health Authority, the Royal Canadian Mounted Police (RCMP), and the Attorney General of Canada, Brittney Sylvester, Peter Kwok, Providence Health Care, Canadian Broadcasting Corporation, and TransLink (British Columbia).
3. The Claim is a prolix and convoluted document that is replete with groundless accusations against public bodies and public officials, inflammatory language, and conspiracy theories.
4. The Claim characterises the COVID-19 pandemic as a "false pandemic" that was "designed and implemented for improper and ulterior purposes, at the behest of the WHO, controlled and directed by Billionaire, Corporate, and Organizational Global Oligarchs" such as Bill Gates in order to "install a New World (Economic) Order" (Part 1, paras. 155, 283). Bill Gates is not a party to this proceeding.
5. The Applicants filed their response to civil claim on October 14, 2021 in which they deny the entirety of the Claim and assert that it ought to be struck.

Part 3: LEGAL BASIS

6. The Plaintiffs' Claim is deficient in form and substance. It is a scandalous, frivolous, and vexatious pleading that fails to meet the basic requirements for pleadings and is an abuse of

the Court's process. The Claim should be struck in accordance with Rule 9-5(1) of the Supreme Court Civil Rules, without leave to amend.

Pleadings Generally

7. *Supreme Court Civil Rule* (the "*Rules*") 3-1 provides, in part:

> **Contents of notice of civil claim**
> (2) A notice of civil claim must do the following:
> (a) set out a concise statement of the material facts giving rise to the claim;
> (b) set out the relief sought by the Plaintiff against each named defendant;
> (c) set out a concise summary of the legal basis for the relief sought;
> …
> (g) otherwise comply with Rule 3-7. [emphasis added]

8. Rule 3-7 provides, in part:

> **Pleading must not contain evidence**
> (1) A pleading must not contain the evidence by which the facts alleged in it are to be proved.
> …
> **Pleading conclusions of law**
> (9) Conclusions of law must not be pleaded unless the material facts supporting them are pleaded.
> …
> **General damages must not be pleaded**
> (14) If general damages are claimed, the amount of the general damages claimed must not be stated in any pleading. …

9. The function of pleadings is to clearly define the issues of fact and law to be determined by the court. The plaintiff must state, for each cause of action, the material facts. Material facts are those facts necessary for the purpose of formulating the cause of action. The defendant then sees the case to be met and may respond to the plaintiff's allegations in such a way that the court will understand from the pleadings what issues of fact and law it will be called upon to decide.

> *Homalco Indian Band v. British Columbia*, [1998] B.C.J. No. 2703 (S.C.), para. 5

10. As the Court of Appeal recently held in *Mercantile Office Systems Private Ltd. v. Worldwide Warranty Life Services Inc*., 2021 BCCA 362, para 44:

> None of a notice of claim, a response to civil claim, and a counterclaim is a story. Each pleading contemplates and requires a reasonably disciplined exercise that is governed, in many instances in mandatory terms, by the Rules and the relevant authorities. Each requires the drafting party to "concisely" set out the "material facts" that give rise to the claim or that relate to the matters raised by the claim. None of these pleadings are permitted to contain evidence or argument.

Application to Strike

11. Rule 9-5(1) provides:

> **Scandalous, frivolous or vexatious matters**

(1) At any stage of a proceeding, the court may order to be struck out or amended the whole or any part of a pleading, petition or other document on the ground that

(a) it discloses no reasonable claim or defence, as the case may be,

(b) it is unnecessary, scandalous, frivolous or vexatious,

…

(d) it is otherwise an abuse of the process of the court ...

12. A pleading may be struck under Rule 9-5(1) if it is plain and obvious that the pleading contravenes any of Rule 9-5(l)(a) through (d).

Knight V. Imperial Tobacco Canada Ltd, 2011 SCC 42 at para. 17

13. Evidence is inadmissible on an application under Rule 9-5(l)(a) but may be considered on an application under the remaining paragraphs of Rule 9-5(1). The Applicants rely on subparagraphs 9-5(l)(a)(b) and (d).

Rule - 9-5(l)(a)-The Notice of Civil Claim Discloses No Reasonable Claim

14. The Claim is premised upon non-justiciable questions and relies heavily upon international treaties, Criminal Code provisions, and unknown causes of action that are incapable of disclosing a reasonable cause of action for the purposes of Rule 9-5(1)(a).

15. For example, the Plaintiffs petition the Court for declarations pertaining to questions of science, public health, and conspiracy theories that are not justiciable, including:

a. "A Declaration that the science, and preponderance of the scientific world community, is of the consensus that: a) masks are completely ineffective in avoiding or preventing transmission of an airborne, respiratory virus such as SARSCoV-2 which leads to COVID-19" (Part 2, para. 312(1));

b. "A Declaration that the declared rationales and motives, and execution of COVID Measures, by the WHO, are not related to a bona fide, nor an actual "pandemic", and declaration of a bona fide pandemic, but for other political and socio-economic reasons, motives, and measures at the behest of global Billionaire, Corporate and Organizational Oligarchs" (Part 2, para. 302);

c. "A Declaration that administrating medical treatment without informed consent constitutes experimental medical treatment" (Part 2, para. 321);

d. "A Declaration that the unjustified, irrational, and arbitrary decisions of which businesses would remain open, and which would close, as being "essential", or not, was designed and implemented to favor mega-corporations and to de facto put most small businesses and activities out of business" (Part 2, para. 307); and

e. "A Declaration that the measures of masking, social distancing, PCR testing, and lockdowns of schools in British Columbia, by the Respondents, are: a) not scientifically, or medically, based; b) based on a false, and fraudulent, use of the PCR test, using a threshold cycle of 43-45 cycles in that once used above the 35 threshold cycles, of all the positives it registers, 96.5%, are "false positives", resulting in an accuracy rate, as a mere screening test, of 3.5% accuracy" (Part 2, para. 311).

16. The Plaintiffs allege numerous violations (and non-violations) of the Criminal Code that are not properly raised in a civil action (*Simon v. Canada*, 2015 BCSC 924, para. 45); including:

    a. "Crime[s] against humanity under the Criminal Code of Canada" (Part 1, para. 299; Part 3, para. 333);

    b. "Medical experimentation" that constitute "Criminal act[s] ... pursuant to the War Crime and Crimes against Humanity Act" (Part 2, para. 292(a));

    c. "Criminal extortion" (Part 1, para. 261);

    d. "The 'extra' suicides and drug over-doses undisputedly tied to Covid-measures constitutes criminal negligence causing death" (Part 1, para. 264);

    e. "Criminal vaccine experiments causing horrific damage to innocent children in India, Pakistan, Africa and other developing countries" (Part 1, para. 21 l(a));

    f. A Declaration that failure and/ or refusal to comply with Provincial Covid Measures does not constitute a "common nuisance" contrary to s.180 of the Criminal Code or constitute "obstruct peace officer" contrary to s. 129 of the Criminal Code (Part 2, para. 323(f)).

17. The Plaintiffs allege numerous violations of international legal instruments, unwritten constitutional principles, and causes of action unknown to law that are not actionable in Canadian courts (*Li v. British Columbia*, 2021 BCCA 256, paras. 107-109; *Toronto v. Ontario*, 2021 SCC 34, para. 5), including the following:

    a. "Vaccine mandates violate 'The Universal Declaration of Bioethics and Human Rights', the Nuremberg Code, professional codes of ethics, and all provincial health Acts." (Part 1, para. 260);

    b. "Administering medical treatment without informed consent constitutes experimental medical treatment contrary to the Nuremberg Code and Helsinki Declaration of 1960" (Part 1, para. 299; Part 3, para. 333);

    c. "Vesting an indefinite emergency power in [various defendants] constitutes constitutional violation of 'dispensing with Parliament, under the pretense of Royal Prerogative', contrary to the English Bill of Rights (1689) as read into our unwritten constitutional rights through the Pre-Amble of the Constitution Act, 1867" (Part 2, para. 295; Part 3, para. 336);

    d. "The declared state of emergency, and measures implemented thereunder contravene" … "the same parallel unwritten constitutional rights, enshrined through the Pre-Amble of the Constitution Act, 1867" (Part 1, para. 283(c)(iv);

    e. "[T]hat (solitary confinement) isolation/quarantine of asymptomatic children" violates the "Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the "Torture Convention") and the Convention on the Rights of the Child" (Part 2, para. 311 (e); and

    f. "The COVID Measures taken by both Trudeau, Horgan, Farnworth, Dix, Whiteside, and Henry, and their respective governments, … constitute a constitutional

violation of the abdication of the duty to govern" (Part 2, para. 296; Part 3, para. 326).

18. To the extent that the Claim attempts to plead causes of action that are known to law, such as breaches of Charter rights or the separation of powers, the Claim fails to set out material facts which, if true, support these claims.

19. The general rule that facts pleaded should be accepted as true for the purposes of a strike application does not apply in a "case like this where the notice of civil claim is replete with assumptions, speculation, and in some instances, outrageous allegations. The law is clear that allegations based on assumption and speculation need not be taken as true."

Willow v. Chong, 2013 BCSC 1083, para. 19
See, also, Simon v. Canada, 2015 BCSC 924 ["*Simon*"], para. 54

20. The Plaintiffs have failed to plead the concise statement of material facts that is necessary to support any complete cause of action. The Charter claims are inextricably bound up in a prolix, argumentative, and wildly speculative narrative of grand conspiracy that is incapable of supporting a viable cause of action. It is impossible to separate the material from the immaterial, the fabric of one potential cause of action or claim from another, or conjecture and conspiracy from asserted facts.

Fowler v. Canada (Attorney General), 2012 BCSC 367, para. 54
Simon, supra, paras 54-59

21. It is plain and obvious that the Claim, as pleaded, fails to disclose a reasonable cause of action.

9-5(l)(b) The Notice of Civil Claim is Scandalous, Frivolous and Vexatious

Scandalous and Embarrassing

22. A pleading is scandalous if it does not state the real issue in an intelligible form and would require the parties to undertake useless expense to litigate matters irrelevant to the claim.

Gill v. Canada, 2013 BCSC 1703 ["*Gill*"], para. 9

23. A claim is also scandalous or embarrassing if it is prolix, includes irrelevant facts, argument or evidence, such that it is nearly impossible for the defendant to reply to the pleading and know the case to meet. Pleadings that are so prolix and confusing that it is difficult, if not impossible, to understand the case to be met, should be struck.

Gill, supra para. 9
Strata Plan LMS3259 v. Sze Hang Holding Inc., 2009 BCSC 473, at para. 36
Kuhn v. American Credit Indemnity Co., [1992] B.C.J. No. 953 (S.C.)

24. The Claim is a scandalous pleading because it is prolix, confusing, and nearly impossible to respond to:

    a. The 391 page Claim attempts to plead dozens of causes of action and Charter breaches and seeks over 200 declarations. It is, as a result, nearly impossible to know the case to be met.

    b. The Claim contains extensive passages of completely irrelevant information, including:

i. A COVID-19 timeline beginning in 2000 with Bill Gates stepping down as Microsoft CEO (Part 1, para 44) and including such other events as Bill Gates pledging $10 billion in funding in 2010 for the World Health Organization and announcing the "Decade of Vaccines" (Part 1, para. 50);

ii. A lengthy narrative describing an alleged "global political agenda behind [the] unwarranted measures" (Part 1, paras. 207-300);

iii. A detailed 81 page narrative about the individual Plaintiffs dealings with government employees, health care professionals, and police officers (Part 1, pages 1-81).

c. The Claim relies extensively on the Criminal Code of Canada (Part 1, paras. 1 l(b)(h), 115, 141(h), 207(1), 299; Part 2 para. 291, Part 3 paras. 322(k)(iv), 323(f), 333, 361 (f)(k)(iv));

d. The Claim contains lengthy and convoluted legal arguments (i.e., Part 1 page 108 para. 141; Part 2, paras. 286, 324, 358);

e. The Claim raises allegations against individuals and entities who are not named as parties such as Bill Gates (Part 1, paras. 216-222), Facebook, Amazon, Google, Yahoo (Part 1, paras. 174,216), Doug Ford (Part 1, para. 152(c)), and others.

25. The Claim is also a scandalous pleading because it fails to meet the basic requirements for pleadings under the *Rules*.

a. The Claim contains over 1600 paragraphs and subparagraphs. It fails to set out a concise statement of the material facts, relief sought, and legal basis in violation of Rules 3-1(1)-(3);

b. The Claim pleads evidence in contravention of Rule 3-7(1), including dozens of lengthy quotations from various COVID-19 commentators and activists and hundreds of footnotes to miscellaneous websites, articles, policy documents, and articles;

c. The Claim pleads conclusions of law, unsupported by facts, in contravention of Rule 3-7(9);

d. The Claim appears to plead amounts of damages in contravention of Rule 3-7(14).

Frivolous

26. A pleading is frivolous if it is without substance, is groundless, fanciful, 'trifles with the court' or wastes time".

Borsato v. Basra, [2000] B.C.J. No. 84, 43 C.P.C. (4th) 96, at para 24

27. The Claim is a frivolous pleading because it promotes fanciful conspiracy theories about the origins of the COVID-19 pandemic, the efficacy of COVID-19 measures, and the motivations of the Provincial and Health Authority Defendants. These allegations include, by way of example only:

a. "The Plaintiffs state, and the fact is, that the illegal actions, and decrees issued by The Defendants and other public officials were done, in abuse and excess of their offices, knowingly to propagate a groundless and falsely-declared 'pandemic" ...

designed and implemented for improper and ulterior purposes, at the behest of the WHO, controlled and directed by Billionaire, Corporate, and Organizational Global Oligarchs." (Part 1, para. 155);

b. "The Plaintiffs state, and the fact is, that the non-medical aims and objectives to declare the "pandemic", for something it is not beyond one of many annual seasonal viral respiratory illnesses, was to, inter alia, effect the following non-medical agendas, by using the COVID- 19 [sic] as a cover and a pretext: (a) To effect a massive bank and stock market bail-out needed because the banking system was poised to again collapse since the last collapse of 2008 in that the World debt had gone from $147 Trillion dollars in 2008 to $321 Trillion dollars in January, 2020" (Part 1, para 208(a));

c. "The fact is that the pandemic pretense is there to establish a "new normal", of a New (Economic) World Order, with a concurrent neutering of the Democratic and Judicial institutions and an increase and dominance of the police state; (c) A massive and concentrated push for mandatory vaccines of every human on the planet earth with concurrent electronic surveillance by means of proposed: (i) Vaccine "chips", bracelets", and "immunity passports"; (ii) Contract- tracing via cell-phones; (iii) Surveillance with the increased 50 capacity; (d) The elimination of cash- currency and the installation of strictly digital currency to better-effect surveillance." (Part 1, para. 208(b)-(d)); and

d. "The Plaintiffs state that, and fact is, this global vaccination scheme which is being propelled and pushed by the Defendants, is with the concurrent aim of total and absolute surveillance of the Plaintiffs and all citizens." (Part 1, para. 308)

Rule 9-5(l)(a) and (d) - The Claim is Vexatious and an Abuse of Process

28. Little distinction exists between a vexatious action and one that is an abuse of process as the two concepts have strikingly similar features.

Dixon v. Stork Craft Mamifacturing Inc., 2013 BCSC 1117

29. Abuse of process is not limited to cases where a claim or an issue has already been decided in other litigation, but is a flexible doctrine applied by the court to values fundamental to the court system. In *Toronto (City) v. Canadian Union of Public Employees, Local 79 (CUPE)*, [2003] 3 S.C.R. 77, the court stated at para. 37:

> Canadian courts have applied the doctrine of abuse of process to preclude relitigation in circumstances where the strict requirements of issue estoppel (typically the privity/mutuality requirements) are not met, but where allowing the litigation to proceed would nonetheless violate such principles as judicial economy, consistency, finality and the integrity of the administration of justice.

30. Vexatious actions include those brought for an improper purpose, including the harassment and oppression of other parties by multifarious proceedings brought for purposes other than the assertion of legitimate rights. Where it is obvious that an action cannot succeed, or if the action would lead to no possible good, or if no reasonable person can reasonably expect to obtain relief, the action is vexatious.

Lang Michener Lash Johnston v. Fabian, [1987] O.J. No. 355 [“*Lang Michener*”], at para. 19

31. There are a multitude of bases upon which to conclude that the Claim is an abuse of process. These include the Plaintiffs' attempt to use the judicial process to adjudicate conspiracy theories and seek declarations on non-justiciable questions of medical science and public health policy.

32. More concerning, the Claim bears the hallmarks of a vexatious and abusive claim that is intended to harass and oppress the parties (and non-parties):

    a. The Claim advances against the Defendant Provincial Health Officer, without factual foundation, spurious allegations of "crimes against humanity" in relation to the implementation of COVID-19 measures and international public health work in the early 2000s (Part 1, para. 293);

    b. The Claim advances irrelevant allegations about alleged conflicts of interests or hypocritical conduct relating to the private lives of both parties and non-parties (Part 1 para 8(k), 44, 154(c)-(f), 155, 207(b), 298);

    c. The Plaintiffs make broad, sweeping criminal allegations against a large number of named and unnamed government employees and officials (Part 1, para 11, 141 (h), 15l(d), 261 (pg. 234) 264 (pg. 235) 300(d));

    d. The Claim uses inflammatory and inappropriate language to describe alleged actions of Defendants and public officials such as "egregious crimes against humanity", (Part 1 para. 290) "fraudulent" (Part 1 para. 251), or "Stalinist censorship" (Part 1 para. 280 (pg. 308), or to suggest that politicians or officials have "no clue" (Part 1 para. 154), are "wholly unqualified" (Part 1 para. 154) or are "outright lying" (Part 1 para. 279 (pg. 240))

33. The Applicants submit the Claim has been brought for an improper purpose. The Plaintiffs and their counsel must know, or ought to know, that a 391 page Claim seeking over 200 declarations concerning alleged criminal conduct and the efficacy of public health measures "cannot succeed ... [and] would lead to no possible good": *Lang Michener, supra*.

34. The Claim is intended, at least in part, to intimidate and harass health authorities, public officials and politicians, including the Provincial Health Officer, by advancing spurious, public allegations of criminal conduct, conflicts of interest, and ulterior motives. This intention is further corroborated by the Plaintiff Action4Canada's simultaneous campaign to encourage individuals to serve government officials and politicians with "Notices of Liability" for their actions in responding to the COVID-19 pandemic (Affidavit #1 of Rebecca Hill, Ex. G, I).

35. The Claim is also intended, at least in part, to consolidate, publicize, and amplify COVID-19 conspiracy theories and misinformation. The Claim is a book-length tirade against the entirety of British Columbia's response to the pandemic, with dozens of quotes from, and hundreds of footnotes to, anti-mask, anti-lockdown, and anti-vaccine resources. Both Action4Canada and its counsel have promoted the Claim online and on social media (Affidavit #1 of Rebecca Hill, Ex. D, K).

36. These are improper purposes to file and prosecute a civil action. There can be no question that the Claim is an abuse of process. Permitting this litigation to proceed would violate the principles of judicial economy and the integrity of the administration of justice.

37. Providing the Plaintiffs with an opportunity to redraft their pleadings would only further this abuse of the Court's process.

Part 4: MATERIAL TO BE RELIED ON

1. The pleadings filed in this action;

2. Affidavit #1 of Rebecca Hill made 10 January 2022

The applicants estimates that the application will take 1 day collectively with the application of the Province of British Columbia.

☒ This matter is within the jurisdiction of a master.

☐ This matter is not within the jurisdiction of a master.

TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION: If you wish to respond to this notice of application, you must, within 5 business days after service of this notice of application or, if this application is brought under Rule 9-7, within 8 business days after service of this notice of application,

(a) file an application response in Form 33,
(b) file the original of every affidavit, and of every other document, that
(i) you intend to refer to at the hearing of this application, and
(ii) has not already been filed in the proceeding, and
(c) serve on the applicant 2 copies of the following, and on every other party of record one copy of the following:
(i) a copy of the filed application response;
(ii) a copy of each of the filed affidavits and other documents that you intend to refer to at the hearing of this application and that has not already been served on that person;
(iii) if this application is brought under Rule 9-7, any notice that you are required to give under Rule 9-7 (9).

Date: 17/Jan/2022

Signature of Timothy J. Wedge
☐ applicant ☑ lawyer for applicants, Vancouver Island Health Authority and Providence Health Care

Attn: Timothy J. Wedge
Carfra Lawton LLP
6th Floor – 395 Waterfront Crescent
Victoria BC V8T 5K7
Phone: 250-995-4264
Email: twedge@carlaw.ca

To be completed by the court only:

Order made:

☐ in the terms requested in paragraphs ..... of Part 1 of this notice of application

☐ with the following variations and additional items:

.....

.....

.....

Dated:
.....

Signature of ☐ Judge ☐ Master

Appendix

THIS APPLICATION INVOLVES THE FOLLOWING:

☐ discovery: comply with demand for documents

☐ discovery: production of additional documents

☐ other matters concerning document discovery

☐ extend oral discovery

☐ other matter concerning oral discovery

☐ amend pleadings

☐ add/change parties

☐ summary judgment

☐ summary trial

☐ service

☐ mediation

☐ adjournments

☐ proceedings at trial

☐ case plan orders: amend

☐ case plan orders: other

☐ experts

VANCOUVER
APR 14 2022
REGISTRY

No. S217586
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

ACTION4CANADA, KIMBERLY WOOLMAN, THE ESTATE OF JAQUELINE WOOLMAN, LINDA MORKEN, GARY MORKEN, JANE DOE #1, BRIAN EDGAR, AMY MURANETZ, JANE DOE #2, ILLONA ZINK, FREDERICO FUOCO, FIRE PRODUCTIONS LIMITED, F2 PRODUCTIONS INCORPORATED, VALERIE ANN FOLEY, PASTOR RANDY BEATTY, MICHAEL MARTINZ, MAKHAN S. PARHAR, NORTH DELTA REAL HOT YOGA LIMITED, MELISSA ANNE NEUBAUER, JANE DOE #3

PLAINTIFFS

AND:

HER MAJESTY THE QUEEN IN RIGHT BRITISH COLUMBIA, PRIME MINISTER JUSTIN TRUDEAU, CHIEF PUBLIC HEALTH OFFICER THERESA TAM, DR. BONNIE HENRY, PREMIER JOHN HORGAN, ADRIAN DIX, MINISTER OF HEALTH, JENNIFER WHITESIDE, MINISTER OF EDUCATION, MABLE ELMORE, PARLIAMENTARY SECRETARY FOR SENIORS' SERVICES AND LONG-TERM CARE, MIKE FARNWORTH, MINISTER OF PUBLIC SAFETY AND SOLICITOR GENERAL, BRITISH COLUMBIA FERRY SERVICES INC. (OPERATING AS BRITISH COLUMBIA FERRIES), OMAR ALGHABRA, MINISTER OF TRANSPORT, VANCOUVER ISLAND HEALTH AUTHORITY, THE ROYAL CANADIAN MOUNTED POLICE (RCMP), and the ATTORNEY GENERAL OF CANADA, BRITTNEY SYLVESTER, PETER KWOK, PROVIDENCE HEALTH CARE, CANADIAN BROADCASTING CORPORATION, TRANSLINK (BRITISH COLUMBIA)

DEFENDANTS

APPLICATION RESPONSE

Application Response of: Peter Kwok and TransLink (British Columbia) (sic) (collectively, "the TransLink Defendants")

THIS IS A RESPONSE TO the Notice of Application of Vancouver Island Health Authority and Providence Health Care, filed the 17th day of January, 2022.

PART 1: ORDERS CONSENTED TO

1. The TransLink Defendants consent to the orders sought in paragraphs 1-2 of Part 1 of the Notice of Application.

PART 2: ORDERS OPPOSED

1. The TransLink Defendants oppose NONE of the orders sought in Part 1 of the Notice of Application.

PART 3: ORDERS ON WHICH NO POSITION IS TAKEN

1. The TransLink Defendants take no position on NONE of the orders sought Part 1 of the Notice of Application.

PART 4: FACTUAL BASIS

1. N/A.

PART 5: LEGAL BASIS

1. N/A.

PART 6: MATERIAL TO BE RELIED ON

1. The pleadings filed herein; and,
2. Such further and other materials as counsel may advise.

The TransLink Defendants estimate that the application will take one day.

The TransLink Defendants have filed a document in this proceeding that contains their address for service.

Dated: April 14, 2022

per

Timothy J. Delaney

Counsel for the defendants Peter Kwok and TransLink (British Columbia) (sic)

No. VLC-S-S217586
Vancouver Registry

In the Supreme Court of British Columbia

BETWEEN:

Action4Canada, Kimberly **Woolman**, The Estate of Jaqueline **Woolman**, Linda **Morken**, Gary **Morken**, Jane **Doe #1**, Brian **Edgar**, Amy **Muranetz**, Jane **Doe #2**, Ilona **Zink**, Federico **Fuoco**, **Fire Productions Limited**, **F2 Productions Incorporated**, Valerie Ann **Foley**, Pastor Randy **Beatty**, Michael **Martinz**, Makhan S. **Parhar, North Delta Real Hot Yoga Limited,** Melissa Anne **Neubauer,** Jane **Doe #3**

Plaintiffs

-and-

Her Majesty the Queen in right British Columbia, Prime Minister **Justin Trudeau,** Chief Public Health Officer **Theresa Tam**, Dr. Bonnie **Henry**, Premier John **Horgan**, Adrian **Dix**, Minister of Health, Jennifer **Whiteside**, Minister of Education, Mable **Elmore**, Parliamentary Secretary for Seniors' Services and Long-Term Care, Mike **Farnworth**, Minister of Public Safety and Solicitor General
British Columbia Ferry Services Inc. (operating as British Columbia Ferries), Omar **Alghabra**, Minister of Transport, **Vancouver Island Health Authority**, **The Royal Canadian Mounted Police** (RCMP), and the **Attorney General of Canada,** Brittney **Sylvester,** Peter **Kwok, Providence Health Care, Canadian Broadcasting Corporation, TransLink (British Columbia)**

Defendants

AMENDED APPLICATION RESPONSE

Application Response of: The Plaintiffs (Respondents)

THIS IS A RESPONSE TO THE Notice(s) of Application of:

(a) Her Majesty the Queen in Right of British Columbia, Dr. Bonnie Henry, Premier John Horgan, Adrian Dix, Minister of Health, Jennifer Whiteside, Minister of Education; and

Defendants"); which application was filed April 28th, 2022, and received by the Plaintiffs (Respondents) April 29th, 2022;

(b) The Attorney General of Canada, Prime Minister Justin Trudeau, the Royal Canadian Mounted Police (RCMP), Chief Public Health Officer Dr. Theresa Tam, and Omar Alghabra Minister of Transport ("The Federal Defendants" or "Canada");

(c) Peter Kwok and Translink;

(d) Vancouver Island Health Authority and Providence Health Care.

All of which Applications, and Application Responses, are scheduled to be heard together, to the presiding judge or master, at the courthouse at 800 Smithe Street, Vancouver, B.C., on May 31, 2022, at 9:45am.

TAKE NOTICE THAT the Application Response will be made by the Plaintiffs(Respondents) by Microsoft Teams.

PART 1: ORDERS CONSENTED TO

The Respondent Plaintiffs do not consent to any order sought by the Applicant Defendants.

PART 2: ORDERS OPPOSED

The Respondent Plaintiffs oppose the motion to strike in whole and in part.

PART 3- ORDERS ON WHICH NO POSITION IS TAKEN

N/A

PART 4: FACTUAL BASIS:

The factual basis is as plead and set out in the Notice of Liability (Claim) filed by the Plaintiffs.

PART 5- LEGAL BASIS

1. It is submitted, as reflected by the Plaintiff's Notice of Liability, filed August 17th, 2021, that:

(a) all material facts necessary to support the causes of action have been properly plead and set out;

(b) that all the causes of action have been fully and properly plead; and

(c) there is no basis, in law to strike they Notice of Liability (Claim) in whole or in part.

- **Motion to Strike – General Principles**

2. It is submitted, by the Supreme Court of Canada, and the Appellate Courts, that:

(a) the facts pleaded by the Plaintiff must be taken as proven and fact:

- ***A.G. Canada v. Inuit Tapirasat of Canada [1980] 2 S.C.R. 735***
- ***Nelles v. Ontario (1989) 60 DLR (4th) 609 (SCC)***
- ***Operation Dismantle Inc. v. The Queen [1985] 1 S.C.R. 441***
- ***Hunt v. Carey Canada Inc [1990] 2 S.C.R. 959***
- ***Dumont v. A.G. Canada [1990] 1 S.C.R. 279***
- ***Trendsetter Ltd. v. Ottawa Financial Corp. (1989) 32 O.A.C. 327 (C.A.)***
- ***Nash v. Ontario (1995) 27 O.R. (3d) 1 (Ont. C. A.)***
- ***Canada v. Arsenault 2009 FCA 242***
- ***R. v. Imperial Tobacco Canada Ltd., 2011 SCC 42, [2011] 3 S.C.R. 45***

(b) it has been further held, that on a motion to strike, the test is a rather high one, namely that,

> "A Court should strike a pleading under Rule 126 **only in plain and obvious cases where the pleading is bad beyond argument.**
>
> **Furthermore, I am of the view that the rules of civil procedure should not act as obstacles to a just and expeditious resolution of a case.** Rule1.04(1) of the Rules of Civil Procedure in Ontario, O. Reg 560/84, confirms this principle in stating that "these rules shall be liberally construed to secure the just, most expeditious and least expensive determination of every civil proceeding on its merits."
>
> **- *Nelles, supra,* p. 627**

and rephrased, re-iterated by the Supreme Court of Canada, in ***Dumont***, wherein the Court stated that,

> "***It cannot be said that the outcome of the case is 'plain and obvious' or 'beyond doubt'.***
>
> Issues as to the proper interpretation of relevant provisions…and the effect…upon them would appear to be better determined at trial where a proper factual base can be laid."
>
> **- *Dumont, supra.* p. 280**

and further, that:

> "It is not for this Court on a motion to strike to reach a decision as to the Plaintiff's chance of success."
>
> **- *Hunt, supra (SCC)***

and further that:

> **The fact that a pleading reveals "an arguable, difficult or important point of law" cannot justify striking out part of the statement of claim. Indeed, I would go so far as to suggest that where a statement of claim reveals a difficult and important point of law, it may well be critical that the action be allowed to proceed. Only in this way can we be sure that the common law in general, and the law of torts in particular, will continue to evolve to meet the legal challenges that arise in our modern industrial society.**
>
> …

> This brings me to the second difficulty I have with the defendants' submission. **It seems to me totally inappropriate on a motion to strike out a statement of claim to get into the question whether the Plaintiff's allegations concerning other nominate torts will be successful. This a matter that should be considered at trial where evidence with respect to the other torts can be led and where a fully informed decision about the applicability of the tort of conspiracy can be made in light of that evidence and the submissions of counsel.** If the Plaintiff is successful with respect to the other nominate torts, then the trial judge can consider the defendants' arguments about the unavailability of the tort of conspiracy. If the Plaintiff is unsuccessful with respect to the other nominate torts, then the trial judge can consider whether he might still succeed in conspiracy. Regardless of the outcome, it seems to me inappropriate at this stage in the proceedings to reach a conclusion about the validity of the defendants' claims about merger. I believe that this matter is also properly left for the consideration of the trial judge.
>
> - ***Hunt, supra at p. 14***

and further that:

> [21] Valuable as it is, the Motion to Strike **is a tool that must be used with care.** The Law is not static and unchanging. Actions that yesterday were deemed hopeless may tomorrow succeed. Before *Donoghue v. Stevenson*, [1932] A.C. 562 (H.L.) introduced a general duty of care to one's neighbour premised on foreseeability, few would have predicted that, absent a contractual relationship, a bottling company could be held liable for physical injury and emotional trauma resulting from a snail in a bottle of ginger beer. Before *Hedly Byrne & Co. v. Heller & Partners*, Ltd., [1963] 2 All E.R. 575 (H.L.), a tort action for negligent misstatement would have been regarded as incapable of success. The history of our law reveals that often new developments in the law first surface on motions to strike or similar preliminary motions, like that one at issue in *Donoghue v. Stevenson.* therefore, on a Motion to Strike, it is not determinative that the law has not yet recognized the particular claim. **The Court must rather ask whether, assuming the facts pleaded are true, there is a reasonable prospect that the claim will succeed. The approach must be generous and err on the side of permitting a novel but arguable claim to proceed to trial.**
>
> - ***R. v. Imperial Tobacco Canada Ltd., supra at para 21.***

and that "the court should make an order only in ***plain and obvious cases*** which it is satisfied to be beyond doubt";

- ***Trendsetter Ltd, supra,*** **(Ont. C.A.).**

(c) (i) and that a statement of claim should not be struck just because it is "novel";

- ***R. v. Imperial Tobacco Canada Ltd., supra.***
- ***Nash v. Ontario (1995) 27 O.R. (3d) (C.A.)***
- ***Hanson v. Bank of Nova Scotia (1994) 19 O.R .(3d) 142 (C.A.)***
- ***Adams-Smith v. Christian Horizons (1997)14 C.P.C.(4th)78 (Ont. Gen. Div.)***
- ***Miller (Litigation Guardian of) v. Wiwchairyk (1997) 34 O.R. (3d) 640 (Ont.Gen.Div)***

(ii) that "matters law not ***fully settled*** by the jurisprudence should not be disposed of at this stage of the proceedings";

- ***R.D. Belanger & Associates Ltd. v. Stadium Corp. of Ontario Ltd.*** (1991) 5 O.R. (3d) 778 (C.A.)

(iii) and that to strike, the Defendant must produce a "decided case ***directly on point*** from the same jurisdiction demonstrating that the very same issue has been ***squarely dealt with and rejected***";

- ***Dalex Co. v. Schawartz Levitsky Feldman*** (1994) 19 O.R. (3d) 463 (Gen. Div).

(d) and that, in fact, the Court ought to be generous in the drafting of pleadings and not strike but allow amendment before striking.

- ***Grant v. Cormier – Grant, et. al*** (2001) 56 O.R. (3d) 215 (Ont. C.A.)
- ***TD Bank v. Delloitte Hoskins & Sells*** (1991) 5 O.R. (3d) 417 (Gen. Div.)

- **Declaratory Relief Sought**

3. It is submitted that the Declaratory relief is plead with respect to the material facts and available to the Plaintiffs.

4. The Plaintiffs submit that Declaratory relief goes to the crux of the constitutional right to judicial review, which right the Supreme Court of Canada has re-affirmed in ***Dunsmuir:***

> **28** By virtue of the rule of law principle, all exercises of public authority must find their source in law. All decision-making powers have legal limits, derived from the enabling statute itself, the common or civil law or the Constitution. Judicial review is the means by which the courts supervise those who exercise statutory powers, to ensure that they do not overstep their legal authority. The function of judicial review is therefore to ensure the legality, the reasonableness and the fairness of the administrative process and its outcomes.
>
> ...
>
> **31** The legislative branch of government cannot remove the judiciary's power to review actions and decisions of administrative bodies for compliance with the constitutional capacities of the government. Even a privative clause, which provides a strong indication of legislative intent, cannot be determinative in this respect (*Executors of the Woodward Estate v. Minister of Finance*, [1973] S.C.R. 120, at p. 127 [page213]). The inherent power of superior courts to review administrative action and ensure that it does not exceed its jurisdiction stems from the judicature provisions in ss. 96 to 101 of the *Constitution Act, 1867*: *Crevier*. As noted by Beetz J. in *U.E.S., Local 298 v. Bibeault*, [1988] 2 S.C.R. 1048, at p. 1090, "[t]he role of the superior courts in maintaining the rule of law is so important that it is given constitutional protection". ***In short, judicial review is constitutionally guaranteed in Canada,*** particularly with regard to the definition and enforcement of jurisdictional limits..,.

5. This Court, in ***Singh v. Canada (Citizenship and Immigration), 2010 FC 757,*** re-affirmed the ample and broad right to seek declaratory relief, in quoting the Supreme Court of Canada in ***Solosky***:

> Declaratory relief is a remedy neither constrained by form nor bounded by substantive content, which avails persons sharing a legal relationship, in respect of which a "real issue" concerning the relative interests of each has been raised and falls to be determined.
>
> ***- Canada v. Solosky, [1980] 1 S.C.R. 821, @ p. 830***

6. More recently, the Supreme Court of Canada, in the ***Manitoba Metis*** case reaffirmed the breadth of the right to declaratory relief to rule that it cannot be statute-barred:

> [134] This Court has held that although claims for personal remedies flowing from the striking down of an unconstitutional statute are barred by the running of a limitation period, courts retain the power to rule on the constitutionality of the underlying statute: *Kingstreet Investments Ltd. v. New Brunswick (Finance)*, 2007 SCC 1, [2007] 1 S.C.R. 3; *Ravndahl v. Saskatchewan*, 2009 SCC 7, [2009] 1 S.C.R. 181. ***The constitutionality of legislation has always***

been a justiciable question: *Thorson v. Attorney General of Canada*, [1975] 1 S.C.R. 138, at p. 151. ***The "right of the citizenry to constitutional behaviour by Parliament" can be vindicated by a declaration that legislation is invalid, or that a public act is ultra vires:*** *Canadian Bar Assn. v. British Columbia*, 2006 BCSC 1342, 59 B.C.L.R. (4th) 38, at paras. 23 and 91, citing *Thorson*, at p. 163 (emphasis added). An "issue [that is] constitutional is always justiciable": *Waddell v. Schreyer* (1981), 126 D.L.R. (3d) 431 (B.C.S.C.), at p. 437, aff'd (1982), 142 D.L.R. (3d) 177 (B.C.C.A.), leave to appeal refused [1982] 2 S.C.R. vii (*sub nom. Foothills Pipe Lines (Yukon) Ltd. v. Waddell*).

...

[140] What is at issue is a constitutional grievance going back almost a century and a half. So long as the issue remains outstanding, the goal of reconciliation and constitutional harmony, recognized in s. 35 of the *Charter* and underlying s. 31 of the *Manitoba Act*, remains unachieved. The ongoing rift in the national fabric that s. 31 was adopted to cure remains unremedied. The unfinished business of reconciliation of the Métis people with Canadian sovereignty is a matter of national and constitutional import. ***The courts are the guardians of the Constitution and, as in Ravndahl and Kingstreet, cannot be barred by mere statutes from issuing a declaration on a fundamental constitutional matter. The principles of legality, constitutionality and the rule of law demand no less:*** see *Reference re Secession of Quebec*, [1998] 2 S.C.R. 217, at para. 72.

...

[143] ***Furthermore, the remedy available under this analysis is of a limited nature. A declaration is a narrow remedy. It is available without a cause of action, and courts make declarations whether or not any consequential relief is available***. As argued by the intervener Assembly of First Nations, it is not awarded against the defendant in the same sense as coercive relief: factum, at para. 29, citing *Cheslatta Carrier Nation v. British Columbia*, 2000 BCCA 539, 193 D.L.R. (4th) 344, at paras. 11-16. In some cases, declaratory relief may be the only way to give effect to the honour of the Crown: factum, Assembly of First Nations' at para. 31. Were the Métis in this action seeking personal remedies, the reasoning set out here would not be available. However, as acknowledged by Canada, the remedy sought here is clearly not a personal one: R.F., at para. 82. The principle of reconciliation demands that such declarations not be barred.

- ***Manitoba Metis Federation Inc. v. Canada (Attorney General), 2013 SCC 14***

7. It has been long-stated, by the Supreme Court of Canada that "The constitutionality of legislation has always been a justiciable issue".

- Thorson v. AG of Canada [1975] 1 SCR 138, @p. 151
- Manitoba Metis Federation Inc. v. Canada (Attorney General), 2013 SCC 14, @paragraph 134

8. It is further submitted that, with respect to the mandatory order sought against crown actions, including the named word, based on constitutional grounds, that such remedies are available, pre as well as post Charter.

9. It has always been trite law, even prior to the ***Charter***, that where constitutional rights are engaged, the Courts may issue ***mandamus*** to the exercise of the highest order of discretion, namely royal ***fiat***.

- ***Air Canada*** v. ***A.G.B.C.*** [1986] 2 S.C.R. 539 (SCC)
- ***Canada (Prime Minister) v. Khadr***, [2010] 1 S.C.R. 44It

wherein the Court ruled @ pp. 545-6:

> ...
> All executive powers, whether they derive from statute, Common Law or prerogative, must be adapted to conform with constitutional imperatives.
> ...
> I need not consider which of these views should prevail in ordinary cases. For whatever discretion there may be in a non-constitutional matter, in a case like the present, the discretion must be exercised in conformity with the dictates of the Constitution, and the Crown's advisers must govern themselves accordingly. Any other course would violate the federal structure of the Constitution .... .

- ***Air Canada*** v. ***A.G.B.C.*** [1986] 2 S.C.R. 539 (SCC)

which ruling has been echoed by the Supreme Court of Canada in the ***Reference re Secession of Quebec***.

- ***Reference re Secession of Quebec***, [1998] 2 S.C.R. 217, paragraphs 32, 44, 70-72.

10. It is further submitted that other relief for misfeasance public office is properly plead and remedies available.

- Roncarelli v. Duplessis, [1959] S.C.R. 121

- Odhavji Estate v. Woodhouse [2003] 3 S.C.R. 263, 2003 SCC 69

11. It is further submitted that relief by way of the tort of conspiracy is also properly plead and available as set out, **inter alia**, by the Supreme Court of Canada.

- Hunt v. Carey Canada Inc [1990] 2 S.C.R. 959

12. It is lastly submitted that all other relief, including in monetary damages, without proof of **mala fides**, has been plead and available.

- ***Ward*** v. ***Canada*** [1993] 2 S.C.R. 689 (SCC) @ pp.724-25

13. It is lastly submitted that the Respondents intend to file a full written argument as permitted by the **Rules**, for the return date of the within application.

PART 6: MATERIAL TO BE RELIED ON

The Respondents (Plaintiffs) intend to rely on the following:

(a) the facts and Claim as set out in the Notice of Liability ruled August 17th, 2021;
(b) a written argument to be filed by the Respondents;
(c) the jurisprudence set out in within response and written argument of the Respondent Plaintiffs to filed;
(d) a Book of Authorities; and
(e) such further material as counsel may advise and this Honourable Court permits.

Date: May 2nd, 2022

Signature of
[ ] plaintiff [x]lawyer for plaintiff(s)

For ROCCO GALATI LAW FIRM
PROFESSIONAL CORPORATION
Rocco Galati, B.A., LL.B., LL.M.
1062 College Street, Lower Level
Toronto, Ontario M6H 1A9
TEL: (416) 530-9684
FAX: (416) 530-8129
Email: rocco@idirect.com

Lawrence Wong
Barrister & Solicitor
210-2695 Granville Street
Vancouver, B.C.
TEL:604-739-0118
FAX:604-739-0117

TO:

Andrea Gatti/Olivia French
British Columbia Region
National Litigation Sector
900-840 Howe Street
Vancouver, B.C. V6Z 2S9
Andrea.Gatti@justice.gc.ca
Olivia.French@justice.gc.ca

Mark Witten
Ministry of Attorney General
Legal Services Branch
1301-865 Hornby Street
Vancouver, B.C. V6Z 2G3
Mark.Witten@gov.bc.ca

To : Timothy Wedge
Carfra Lawton LLO
6th Floor, 395 Eaterfront Crescent
Victoria, BC V8T 5K7
twedge@carlaw.ca

Tim Delaney and Justin Hamilton
Lindsay Kenney LLP 1800, 401
West Georgia Street Vancouver, BC
V6B 5A1 TDelaney@lklaw.ca /
jhamilton@lklaw.ca