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September 25, 2023 25 septembre 2023			
Lindsay Krieger			
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Court File No.

FEDERAL COURT
PROPOSED CLASS PROCEEDING

BETWEEN:

Chief Gregory Burke,
Representative Plaintiff On Behalf Of A Class of
Plaintiffs

Plaintiff (Class)

and

HIS MAJESTY THE KING IN RIGHT OF CANADA and
THE ATTORNEY GENERAL OF CANADA

Defendants

STATEMENT OF CLAIM

TO THE DEFENDANTS:

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or a solicitor acting for you are required to prepare a statement of defence in Form 171B prescribed by the Federal Courts Rules, serve it on the plaintiff's solicitor or, if the plaintiff does not have a solicitor, serve it on the plaintiff, and file it, with proof of service, at a local office of this Court

WITHIN 30 DAYS after the day on which this statement of claim is served on you, if you are served in Canada or the United States; or

WITHIN 60 DAYS after the day on which this statement of claim is served on you, if you are served outside Canada and the United States.

TEN ADDITIONAL DAYS are provided for the filing and service of the statement of defence if you or a solicitor acting for you serves and files a notice of intention to respond in Form 204.1 prescribed by the Federal Courts Rules.

Copies of the Federal Courts Rules, information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO DEFEND THIS PROCEEDING, judgment may be given against you in your absence and without further notice to you.

Date: _____

Issued by:
(*Registry Officer*) _____

Address of local office: Edmonton Registry Office
 Scotia Place
 10060 Jasper Avenue
 Tower 1, Suite 530
 Edmonton, Alberta T5J 3R8

TO: HIS MAJESTY THE KING IN RIGHT OF CANADA
Office of the Deputy Attorney General of Canada
284 Wellington Street
Ottawa, Ontario K1A 0H8

TO: THE ATTORNEY GENERAL OF CANADA
Prairie Regional Office - Edmonton
Department of Justice Canada
10423 101 Street
3rd Floor, Epcor Tower
Edmonton, Alberta T5H 0E7

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CLAIM

RELIEF SOUGHT BY THE PLAINTIFFS

1. The Plaintiffs claim:
 - a. A Declaration that His Majesty the King in Right of Canada (the “**Crown**”), and the Attorney General of Canada (the “**Attorney General**”) (collectively, jointly, and severally, the “**Defendants**”), discriminated against the Plaintiffs, on the grounds of genetic characteristics and religion, by adversely differentiating against the Plaintiffs due to their vaccine status contrary to section 7(b) of the *Canadian Human Rights Act* (the “**Act**”);
 - b. A Declaration pursuant to section 24(1) of the *Canadian Charter of Rights and Freedoms* (the “**Charter**”) and that such discrimination unreasonably and unjustifiably infringed:
 - i. Section 2(a) of the *Charter*;
 - ii. Section 6 of the *Charter*;
 - iii. Section 7 of the *Charter*;
 - iv. Section 8 of the *Charter*; and
 - v. Section 15 of the *Charter*;
 - c. A Declaration that the Defendant’s vaccine policies violate sections 1(a) and (b) of the *Canadian Bill of Rights*, SC 1960, c.44, and are *ultra vires* or otherwise unlawful;
 - d. A Declaration that the Defendant’s vaccine policies violate Articles 7, 12, 18 and 26 of the *International Covenant on Civil and Political Rights*;
 - e. A Declaration that the Defendants’ deprived the Plaintiffs of opportunities, on the grounds of genetic characteristics and religion, due to their vaccine status contrary to sections 10(a)-(b) of the *Act*;
 - f. A Declaration pursuant to section 24(1) of the Constitution Act, 1982 that section B, paragraphs 1, 2, 3, 7, and 8 of Order pursuant to Section 32.01 of the Railway Safety Act (MO 21-07.2) Vaccination Mandate for Employees (the “**Order**”) that requires a railway company to develop and implement a company-wide vaccination policy for all employees to attest as to their COVID- 19 vaccination status with leave without pay, or termination of compensation, as the minimum as set out below, and that these violations are not demonstrably justified under section 1 of the Charter;

- g. Damages pursuant to section 24(1) of the *Constitution Act, 1982* for violation of the Plaintiffs' sections 2(a), 6, 7, 8, and 15 *Charter* rights in the amount of \$500,000.00 per Plaintiff;
- h. Damages for intentional infliction of mental suffering in the amount of \$200,000.00 per Plaintiff;
- i. Damages for tortious interference in economic relations in the amount of \$200,000.00 per Plaintiff;
- j. A Declaration pursuant to section 3(1) of the Genetic Non-Discrimination Act, 2017, that the Defendants violated clause (b) specifically, by requiring the class members to undergo PCR testing that sampled RNA genetic material (covid-19 virus);
- k. A Declaration pursuant to section 2(g) and 5(1)(f) of the *Assisted Human Reproduction Act, 2004*, wherein the Defendants potentially irreparably and permanently damaged the Plaintiffs' genetic makeup by promoting the use of mRNA vaccine technologies from Pfizer and Moderna;
- l. Punitive and exemplary damages in the amount of \$500,000.00 per Plaintiff;
- m. Prejudgment and post judgment interest pursuant to the *Federal Courts Rules*, as amended;
- n. Costs on a full indemnity scale plus any applicable taxes; and
- o. Such further and other relief as this Honourable Court may permit.

DEFINITIONS

2. The following definitions apply for the purposes of this Statement of Claim:

- a. **“Harassment and violence”** means any action, conduct or comment, that can reasonably be expected to cause offence, humiliation or other physical or psychological injury or illness to a person, including any prescribed action, conduct or comment.
- b. **“Hazardous substance”** includes a hazardous product and a chemical, biological or physical agent that, by reason of a property that the agent possesses, is hazardous to the safety or health of a person exposed to it.
- c. **“Partially Vaccinated”** means having received the first dose of a two-dose series of a Health Canada approved vaccine that provides protection against COVID-19.
- d. **“Fully Vaccinated”** means having received the complete series of doses (or a single dose of the Janssen (Johnson & Johnson) COVID-19 vaccine) of a Health Canada approved vaccine that provides protection against COVID-19, and having allowed the time recommended by public health authorities to produce an immune response to COVID-19 elapse (14 days from receipt of a single-dose vaccine or of the second dose of a two-dose series). In time, being Fully Vaccinated may mean having received booster shots, when and as recommended by the applicable public health authorities.
- e. **“Proof of Vaccination”** means compelled production of official documentation issued by the government or the non-governmental entity that is authorized to issue the evidence of COVID-19 vaccination in the jurisdiction in which the vaccine was administered (including a QR code, if issued by the applicable authorities) confirming receipt of the complete series of doses (or a single dose of the Janssen (Johnson & Johnson) COVID-19 vaccine) of a Health Canada approved vaccine that provides protection against COVID-19. In time, this may require providing proof of receipt of booster shots, when and as recommended by the applicable public health authorities.
- f. **“Vaccine Policy”** means any workplace policy, enacted by the Plaintiffs’ employers, requiring Proof of Vaccination and/or employees to be Fully Vaccinated as a result of the Defendants ordering same.
- g. **“Privacy”** means the fundamental right of individuals to create boundaries limiting access to their person, communications, or personal information, including but not limited to, medical and health records.
- h. **“Informed Consent”** means the ability to exercise free power of choice, without the intervention of any element of force, fraud, deceit, duress, over-reaching, or other ulterior form of constraint or coercion, with sufficient knowledge and comprehension of the elements of the subject matter involved as to enable the individual to make an understanding and enlightened decision.

- i. **“Danger”** means any hazard, condition or activity that could reasonably be expected to be an imminent or serious threat to the life or health of a person exposed to it before the hazard or condition can be corrected or the activity altered.
- j. **“Disclose”** includes to authorize disclosure.
- k. **“Genetic test”** means a test that analyzes DNA, RNA or chromosomes for purposes such as the prediction of disease or viral transmission risks, or monitoring, diagnosis or prognosis.
- l. **“Gene”** includes a nucleotide sequence, and an artificially created gene or nucleotide sequence.
- m. **“Genome”** means the totality of the deoxyribonucleic acid sequence of a particular cell.
- n. **“Label”** means a group of written, printed or graphic information elements that relate to a hazardous product, which group is designed to be affixed to, printed on or attached to the hazardous product or the container in which the hazardous product is packaged.
- o. **“Substance”** means any chemical element or chemical compound — that is in its natural state or that is obtained by a production process — whether alone or together with:
 - i. any additive that is necessary to preserve the stability of the chemical element or chemical compound,
 - ii. any solvent that is necessary to preserve the stability or composition of the chemical element or chemical compound, or
 - iii. any impurity that is derived from the production process;
- p. **“SARS-CoV2”** is a severe acute respiratory syndrome
- q. **“Coronavirus 2”** is a strain of coronavirus that causes COVID-19 which was first identified in an outbreak in Wuhan, China in December 2019.
- r. **“COVID-19”** is the coronavirus disease from 2019.

OVERVIEW OF THE ACTION

The Representative Plaintiffs

- 3. The Plaintiff is Chief Gregory Burke (hereinafter **“Chief ”**).

Classes of Plaintiffs: Workers and Travelers

4. The Plaintiff class includes Canadians subjected to discriminatory and tortious actions by the Defendant's procurement, promotion and oppressive policies designed to coerce the Plaintiff and class members to be injected with COVID-19 vaccines.
5. The Plaintiffs are not Vaccinated against COVID-19. The Plaintiffs oppose being Vaccinated (collectively referred to as "**Vaccinated**") against COVID-19 for reasons which vary, as described below.
6. The Plaintiffs oppose being required to attest to their medical records regarding the COVID-19 vaccination as a broader public policy objective to increase vaccination rates, coerced through administrative disciplinary measures.
7. The Plaintiffs claim that vaccination absent informed consent and forced disclosure of their private health information about their COVID-19 vaccination status constitutes serious human rights and *Charter* violations.
8. The Plaintiffs claim that the Defendants perpetrated a broad public policy objective to increase vaccination rates of Canadians.
9. The proposed Plaintiff class consists of three subclasses distinguishable in terms of the distinct harms suffered and their relationship to the Defendants.
10. The first subclass, hereby proposed to be termed as the "**Employment Subclass**", consists of members who have experienced job loss or adverse employment effects as a result of the Defendants' actions. This subclass includes those who have been terminated, denied promotions, experienced decreased working hours or suffered any other professional hardship as a direct consequence of the Defendants' regulation of federally regulated employers.
11. The second subclass, to be referred to as the "**Travel Subclass**", is comprised of individuals who were prevented or prohibited from travelling due to their vaccination status. Members of this subclass have been adversely affected by the Defendants' conduct and policies that either implicitly or explicitly restricted the mobility rights of unvaccinated individuals, thus causing significant disruption to both their personal and professional lives.
12. The third subclass, referred to as the "**Dual Impact Subclass**," is unique in that it encapsulates members who fall within both the aforementioned subclasses. These are individuals who have endured harm in the employment context due to the Defendants' vaccine mandate and were simultaneously restricted from travel due to their vaccine status. This subclass represents individuals who have suffered compounded disadvantages and harm due to the Defendants' conduct.

The Defendants

13. The Defendant, His Majesty the King in right of Canada (the “**Crown**”) is represented by the Attorney General of Canada on behalf of the Governor General in Council (“**GIC**”).

Background

14. In 1996, the *Canadian National Report on Immunization*, prepared by the Canadian Department of Health, reported that in Canada compulsory vaccination is unconstitutional and cannot be made mandatory because of the Canadian Constitution.
15. On 2 June 2020, Canada’s Chief Public Health Officer, Dr. Theresa Tam (“**Dr. Tam**”) announced that COVID-19 vaccination would not be mandatory in Canada.
16. On 13 August 2021, the Treasury Board Secretariat of Canada announced that mandatory COVID-19 vaccinations were implemented by Canada to ensure protection of public health in Canada and across the world.
17. On 13 August 2021, the Minister announced that mandatory COVID-19 vaccines in the transportation sector would help protect the safety of families, communities and all Canadians and promote the economic, social, and public health interests of Canada.
18. On 31 August 2020, the Honourable Patty Hadju, Minister of Health, stated that COVID-19 vaccines would not be mandatory in Canada and that people have the right to choose whether to become vaccinated with a COVID-19 vaccine or not.
19. On 12 February 2021, the Right Honourable Prime Minister Justin Trudeau (the “**Prime Minister**”) announced that COVID-19 vaccines would not be mandatory in Canada.
20. On 13 July 2021, the Prime Minister announced that in Canada, people will have a choice about whether to get COVID-19 vaccines and that COVID-19 vaccination mandates would not be implemented in Canada.
21. On 5 August 2021, the Prime Minister announced that he instructed the clerk of the Privy Council to make COVID-19 vaccinations mandatory for all federal employees, employees of federal Crown corporations, and employees of federally regulated industries.
22. On 5 August 2021, Dr. Tam announced that mandatory vaccination in Canada was necessary for the purpose of public health and to protect the greater community of Canada and the world.
23. On 12 August 2021, Dr. Tam announced that the federal government was making the COVID-19 vaccines mandatory in Canada.

24. In the months leading up to the Interim Order, and in particular on 16 September 2021, the Prime Minister made pejorative and discriminatory statements toward Canadians who refused COVID-19 vaccines, calling them racists, misogynists and asking if “Canadians should tolerate these people”, referring to the unvaccinated.
25. On 29 October 2021, the Minister of Transport issued the Interim Order Respecting Certain Requirements for Civil Aviation Due to COVID-19, No.43, pursuant to subsection 6.41(1) of the Aeronautics Act R.S.C. 1985, c. A- 2 (the “**Initial Order**”).
26. This Initial Order required air carriers to establish and implement a comprehensive or targeted policy respecting mandatory COVID-19 vaccination, in relation to ‘relevant persons’, including employees, contractors, and all persons hired. According to the Interim Order, the air carrier must “ensure that while a relevant person is carrying out their duties related to commercial flight operations, no in-person interactions occur between the relevant person and an unvaccinated person who has not been granted an exemption”. It also prohibited unvaccinated persons not been granted an exemption from accessing aerodrome property.
27. The Minister of Transport is represented in this action by the Attorney General of Canada pursuant to s. 23(1) of the Crown Liability and Proceedings Act, R.S.C. 1985, c. 80.
28. On 16 December 2021, the Prime Minister wrote to the Minister of Transport expressly directing him to enforce vaccination requirement across the federally regulated transport sector and requiring travelers on commercial flights, trains or ships within and departing Canada to be vaccinated.
29. On or about 15 January 2022, The Minister of Transport again made an Interim Order restricting the mobility and other rights of Canadians based on their COVID-19 vaccination status. The Minister’s decision was made pursuant to section 6.41 of the *Aeronautics Act*, RSC 1985, c. A-2 (the “**Aeronautics Act**”) and was in the form of *Interim Order Respecting Certain Requirements for Civil Aviation due to COVID- 19, No. 52* (the “**Interim Order**” or collectively with the Initial Order, the “**Interim Orders**”).
30. The 15 January 2022 Interim Order implemented restrictions on Canadians related to a “significant risk, direct or indirect, to aviation safety or the safety of the public” and are *ultra virus* and authority of the *Aeronautics Act*. This Interim Order, with limited exceptions, effectively banned Canadians who chose not to receive an experimental medical treatment from domestic and international travel by airplane. The result was discriminatory and in gross violation of the constitutionally protected rights of Canadians, as guaranteed by the *Charter*.
31. On 15 January 2022, the Defendant Director also issued three Interim Order pursuant to sections 32.01 and 36 of the *Railway Safety Act*.
32. Interim Order MO 21-07.2 came into effect on 15 January 2022 and remained in effect until revoked by the Minister. It was the third such order issued since 29 October 2021 to mandate that the specified list of railway companies implement a company wide vaccination policy.

33. 19 May 2022 Interim Order for Civil Aviation respecting requirements related to vaccine due to COVID-19 was issued. It required all air travelers to show proof of COVID-19 vaccination to board an airplane departing from an airport in Canada that is listed in Scheduled 2 of that Interim Order, including all major airports in Canada.
34. These Interim Orders discriminated against an identifiable class of Canadians who refused the COVID-19 vaccine and did not provide exemptions for Canadians who have natural immunity to COVID-19 or those with conscientious objections.
35. The Interim Orders' requirement for Canadians to be vaccinated to travel commercially did not address a matter of "significant risk, direct or indirect, to aviation safety or the safety of the public" and would not prevent travelers from introducing or spreading COVID-19.
36. Violations of *The Constitution Act, 1867*, 30 & 31 Vict, c 3, reprinted in RSC 1985, Appendix II, No. 5 (*Constitution Act, 1867*), the *Constitution Act, 1982*, and the *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being schedule B to the *Canada Act 1982 (UK)*, 1982 c 11 ("**Charter**"), on the basis that:
 - a. The Interim Orders were created and promulgated in a manner, means and in a form which was incorrect, unreasonable, and impermissible sub-delegation of authority, tainted by preconceived notions and consideration of extraneous and irrelevant factors, lacking in natural justice, and otherwise *ultra vires* the enabling statute, the *Aeronautics Act* and, or in the alternative, the *Constitution Act, 1867*;
 - b. The said Interim Orders breached the rights afforded to the Applicants by sections 2(a), 6, 7, 8 and 15 of the *Charter* and
 - c. The said Interim Orders were inconsistent with and contrary to the *Canadian Bill of Rights*, SC 1960, c 44 ("**Bill of Rights**").

The Vaccines

37. Four vaccines were authorized in Canada to treat symptoms of COVID-19: AstraZeneca, Moderna, Pfizer, and Johnson & Johnson. All COVID-19 vaccines are still undergoing clinical trials. None of these vaccines prevent the infection or transmission of COVID-19, or any of its variants. Nor has a complete list of the ingredients of any of these vaccines been published.
38. These vaccines are experimental. Long-term effects have not been sufficiently studied and pose significant health risks. These vaccines have not undergone the same stringent scientific approval process by Health Canada as have previous vaccines and medications. The vaccines could cause other side effects that remain unknown at this time due to their relatively recent development. No one can be certain about the long-term effects of a vaccine that has not been in existence for the long term and has not been studied over a span of years.

39. At paragraph 5.5 of the contract between the Defendants and Pfizer, the Defendants acknowledges that “the long term effects and efficacy of the vaccines are not currently know.”
40. Under Section C08.002(2) of the *Food and Drugs Act*, the Minister of Health has the authority to create an interim order only if it can be proven that a drug is safe and effective. To do so, the Minister of Health must have a comprehensive report confirming a drug’s safety and efficacy. Section C.08.002(2) was amended to exempt the “COVID-19 drug” approval requirement from being “safe” and “effective”.
41. The COVID-19 vaccines recommended by Canadian public health authorities, are also known to cause severe adverse effects and injuries for some individuals. Health Canada has warned about various serious reactions from the COVID-19 vaccinations, including myocarditis, pericarditis, Bell’s Palsy, thrombosis, immune thrombocytopenia, venous thromboembolism, and even infant syphilis.
42. Vaccinated and unvaccinated Canadians can be infected with and transmit COVID-19. The vaccines do not provide full immunity to COVID-19 or its known variants. They merely claim to provide some “benefits” or “protection” that in certain circumstances at best lessens severity of symptoms or potentially reduces the risk of hospitalization. The “benefits” or “protection” of the vaccines vary depending on numerous factors that are still being observed and studied, including any underlying health conditions, the individual’s age, and when the vaccine was administered in relation to any variant of concern.
43. The recent and continued release of Post Authorization Adverse Events Reports, by the US Food and Drug Administration (“**FDA**”) regarding the Pfizer COVID-19 vaccine, indicate that adverse reactions and side-effects, up to and including death, are not only more severe, but more frequent than anticipated based on initial data released to the public. The FDA’s own documentation reports that during the pre-release Reporting Interval alone, 1,223 deaths were reported with 9,400 cases having an unknown outcome.

The Vaccine Rollout

44. The Pfizer and Moderna COVID-19 vaccines are both mRNA-based vaccines that use a lipid nanoparticle as a delivery system to get the mRNA into the cells. Prior to the rollout of the COVID-19 vaccines, there had been no mRNA technologies approved for disease prevention in humans.
45. The Janssen and AstraZeneca COVID-19 vaccines are both adenovirus vector-based vaccines that do not rely on mRNA or require the use of lipid nanoparticles.
46. The public health messaging from the Defendant made the claim that the ‘vaccines’ would prevent both infection and transmission of COVID-19. The Defendant knew or ought to have known that such public health messaging as patently false.
47. The Defendants made it clear from the start of the pandemic that the restrictions imposed on Canadians, including mask mandates, lockdowns, and business closures/restrictions, were conditional upon the Canadian citizens’ willingness to receive one of the COVID-19 vaccines. Canada barred unvaccinated Canadians from travelling and placed unvaccinated federal workers on leave without pay as early as

15 November 2021. Canada made the window for exemptions to vaccine mandates exceedingly narrow.

48. The Plaintiff and Class claim that vaccination absent informed consent and forced disclosure of their private health information about their COVID-19 vaccination status to the Crown under the threat of administrative and/or disciplinary measures ranging from unpaid leave to travel restrictions to business closures constitutes serious human rights violations.
49. The Defendants knew or ought to have known that vaccinated and unvaccinated Canadians can be infected with and transmit COVID-19. The CEO of Pfizer has publicly acknowledged that vaccines do not provide immunity to COVID-19 or its known variants. They merely claim to provide some “benefits” or “protection” that in certain circumstances at best lessens severity of symptoms or potentially reduces the risk of hospitalization.
50. On 21 January 2022, Dr. Tam announced that the Canadian public-health agency would be changing its terminology for COVID-19 vaccination status. The term “fully vaccinated” would be replaced with the term “up-to-date vaccination status” (“Up-To-Date”) which includes a complete primary series of authorized COVID-19 vaccines and a booster dose of an authorized COVID-19 vaccine (“Booster”).
51. On 16 June 2022, the Honourable Jean-Yves Duclos, Minister of Health, announced that Canada further revised the definition of Up-To-Date to mean an individual who has received a complete primary series of authorized COVID-19 vaccines, plus a Booster within the previous 9 months. Booster doses are to be administered to that individual every 9 months on an indefinite basis.
52. The National Advisory Committee on Immunization of Canada (“NACI”) reported to the Public Health Agency of Canada on COVID-19 vaccination in Canada. On 1 September 2022, the NACI announced that people in Canada will require a booster dose of the COVID-19 vaccine every 90 days to stay up-to-date

Informed Consent

- 49 If there is risk, there must also be choice. This is one of the bedrock truths of bioethics. This provides the foundation for the doctrine of ‘informed consent’ within Canada.
- 50 The doctrine of informed consent is well established within Canada. This concept is acknowledged and enforced within both the medical and legal communities. In Canada, the standard of consent required is to be judged by the “reasonable patient” standard – what a reasonable patient in the particular patient’s position would have expected to hear before consenting.
- 51 The Canadian Medical Protective Association has produced ‘Good Practices’ guidelines to help patients make informed decisions. It is a basic, accepted legal principle that “every human being of adult years and of sound mind has the right to determine what shall be done with his or her own body.”

- 52 The College of Physicians & Surgeons of Alberta has also published advice to the profession in a document titled “Informed Consent for Adults”. This document established that patients must be free from compulsion, duress or coercion when consenting to or refusing treatment.
- 53 These experimental mRNA vaccine mandates also directly violate the internationally accepted *Nuremberg Code*, developed in 1947 to protect patients from medical experimentation stating as its first declaration that “the voluntary consent of the human subject is absolutely essential”.
- 54 The Defendants knew or ought to have known about the significant risk of adverse complications from receiving any of the approved COVID-19 vaccines. The Defendants failed to inform or adequately inform the Canadian health care community and the Canadian public of those risks.
- 55 Neither the patient information pamphlet created by Health Canada nor the prescribing information provided to physicians and pharmacists in Canada warned of the adverse risks associated with taking the COVID-19 vaccines.
- 56 To date, only one of the COVID-19 vaccines has been withdrawn in Canada: AstraZeneca. This is in spite of the fact that many countries have halted the use of Moderna’s COVID-19 vaccine in young people over concerns around cardiovascular side effects. The World Health Organization no longer considers these vaccines safe for children under the age of 12.

Duty of Care

- 57 The Defendants were negligent in the design, development, testing, licensing, distribution, monitoring, marketing and sale of the COVID-19 vaccines.
- 58 The Defendants owed a statutory duty to the employment class of Plaintiffs under the *Aeronautics Act*.
- 59 The Defendants’ conduct also gave rise to a duty to use due care at the operational level of implementing the Interim Orders and rolling out their respective vaccine mandates. The Defendants’ implementation of the Interim Orders was operational in nature. The Interim Orders were the Defendants’ way of implementing Canada’s laws and policies on COVID-19.
- 60 Implementation of the vaccine mandates by the Defendants was unreasonable as it subjected the Plaintiffs to an objectively unreasonable risk of harm. Such unreasonable conduct that both factually and legally caused the harms suffered by the Plaintiffs.
- 61 The Defendants placed the Vaccines into the normal stream of commerce with the knowledge and expectation that they would be used without further clinical evaluation latent defects.
- 62 The Defendants authorized the Vaccines based on reliance from foreign authorities with the knowledge that domestic clinical evaluation had not been undertaken to determine latent defect. Furthermore, when foreign authorities suspended their authorization, in light of the risks known, Health Canada did not.

- 63 The Defendants executed agreements with the described pharmaceutical companies, indemnifying them from civil liability for harms caused by the vaccines. Details of this agreement remain withheld from the plaintiffs.
- 64 Vaccines normally take ten to fifteen years to go from initial trial to public market.
- 65 One such vaccine was the Pfizer BioNTech BNT162b2 mRNA COVID-19 Vaccine. It was authorized by the Defendants for use in Canada in adults and children aged 12 years and older. They were and continue to be marketed and promoted as “safe” and “effective”.
- 66 Another such vaccine was the Moderna COVID-19 Vaccine. It was authorized by the Defendants for use in Canada and approved for infants 6 months and up on 14 July 2022. They were and continue to be marketed and promoted as “safe” and “effective”.
- 67 Prior to the said release, mRNA had never been successfully tested – let alone used – in combating infectious diseases such as COVID-19. It has been tested as a possible intervention against cancers, and to a limited and unsuccessful extent, as a potential intervention against HIV1. It has not previously been tested in any human trials against SARS-CoV-2, the causative agent of COVID-19, or against any other coronaviruses.
- 68 The Vaccine Adverse Events Reporting System (“**VAERS**”) is the world’s most comprehensive and reliable adverse events reporting system. VAERS shows that the mRNA vaccines cause far more serious adverse events than all previous vaccines. VAERS was created in the United States in 1990 by the FDA and Centre for Disease Control and Prevention (“**CDC**”) to receive reports of Adverse Events (“**AE’s**”) that may be associated with any vaccines that go to market. It is widely known as one of the world’s foremost adverse events reporting systems. In relation to Pfizer’s vaccines, it is already showing drastic increases (of hundreds or thousands of percentage points) in adverse events such as cancers, deaths, disability, fertility issues and adverse events in children compared to all other vaccines over a decade long period.
- 69 mRNA technology used in these vaccines, and the mechanisms through which it operates in the human body, details the potential harms and unknowns associated with them. There are causal links between the mRNA technology and conditions such as autoimmune diseases, aggressive deadly cancers, severe inflammatory conditions, prion diseases (contagious untreatable disease resulting in the gradual decline of brain function leading to personality changes and death), myocarditis, blood clotting, impaired fertility, miscarriages and spontaneous abortions.
- 70 VAERS was created because vaccines can cause adverse events, including death, that may not be detected in clinical trials. Serious adverse effects of vaccines often only emerge once released onto the market. VAERS acts as an early warning system for such events. Reports on the system are filed primarily by medical practitioners (approximately 70%) who have, as a result of their medical expertise and in their best judgements, concluded that the relevant adverse effect was related to vaccines.

- 71 VAERS data on COVID-19 vaccines for 2 years and has found alarming results. The COVID- 19 Pfizer vaccine reports show higher rates of adverse events than all other vaccines combined over the past decade, in every metric analyzed.
- 72 Pharmaceutical manufacturers have no duty to produce safe medical products. The only safety checks and balances come from global regulatory authorities. Those regulatory authorities must require safety and efficacy data before they approve new medicines (such as the vaccines in question). This is the only reason that pharmaceutical companies conduct clinical safety and efficacy trials.
- 73 These vaccines are synthetic mRNA "gene vaccines". mRNA stands for "messenger RNA". It is a molecule that acts as a blueprint for making proteins;
- 74 Proteins perform many essential functions in the body. mRNA is made by copying a section of DNA, which is the genetic material containing the instructions for making all bodily proteins. This process is called transcription;
- 75 The mRNA molecule then leaves the cell's nucleus and travels to the ribosome, which is the cellular structure responsible for making proteins;
- 76 At the ribosome, the mRNA serves as a template for making the relevant protein. Another type of RNA called "transfer RNA" brings the building blocks of proteins (amino acids) to the ribosome, and the ribosome links these amino acids together in the sequence specified by the mRNA to create a chain of amino acids, which folds into a functioning protein;
- 77 In this way, the cellular mRNA acts as a go-between, transmitting the instructions stored in DNA to the ribosome to produce proteins;
- 78 mRNA "gene vaccines" make use of the above process providing instructions (in the form of synthetic viral mRNA) for the ribosomes to make a synthesized version of the virus SARS-CoV-2's spike protein;
- 79 Once the SARS-CoV-2 spike protein is produced from the synthetic viral mRNAs in "gene vaccines", the immune system recognizes it as foreign, and mounts an immuno response, enabling it to kill the virus by attacking the spike protein of the virus;
- 80 In this respect "gene vaccines" are quite unlike traditional vaccines. Traditional vaccines contain attenuated (inactivated or weakened) viruses or pieces of viruses, in order to trigger immune responses, whereas novel mRNA "gene vaccines" use the body's protein synthesis production as a mechanism to produce a viral protein in order to trigger an immune response;
- 81 The mRNA in the vaccine is encased in a lipid nanoparticle, which helps it enter cells and be translated into the viral spike protein. After this, the immune system creates antibodies against the spike protein. That is in turn supposed to provide protection against COVID-19 if the person is exposed to the virus in the future;

- 82 mRNA "vaccines" are designed to use the synthetic mRNA to instruct or "hijack" the cells in the human organism to make a version of the virus's spike protein, meant to trigger an immune response that can provide protection against COVID-19;
- 83 The mRNAs in the "gene vaccines" are equipped with robust synthetic caps that protect the viral mRNA from breakdown, thereby leading to endurance of the mRNA inside the cell for an unnatural and unwanted duration. This can lead to cancer, autoimmunity and aging defects;
- 84 Due to the lack of adequate testing of this technology's efficacy and safety in targeting infectious diseases, much remains unknown, and what is known creates serious doubt as to its effectiveness at preventing disease or death, and its safety;
- 85 Even when the mRNA technology was used prior to the COVID-19 pandemic for cancer treatment, there were severe side effects in related clinical trials, prompting more safety related clinical research prior to use. For example, Bell's palsy, a form of acute facial paralysis, was also indicated as a serious side-effect of mRNA technology;
- 86 It has also been widely reported as a serious side effect due to the "gene vaccines" against COVID-19;
- 87 Marketing these vaccines as "safe" and "effective" under the circumstances, was and is a gross misrepresentation hazardous to public health and has directly caused severe disease and death;
- 89 The Defendants have consistently run public campaigns stating that the vaccines, including all of the Pfizer vaccines, "*prevent transmission*" and are "*safe*" and "*effective*".
- 90 The Defendants also encouraged pregnant women to take the vaccine, despite Pfizer and BioNTech's admission that "*it is not yet known whether the use of [Comirnaty] in a parent could be harmful to an unborn baby[.. .]*".
- 91 The Defendants say that the reason to get vaccinated is that the vaccine protects others - meaning it stops transmission. They say:
- "Two key reasons to get vaccinated are to protect ourselves and to protect those around us. Because not everyone can be vaccinated - including very young babies, those who are seriously ill or have certain allergies- they depend on others being vaccinated to ensure they are also safe from vaccine-preventable diseases."*
- 92 The Defendants also assured the public that the vaccines are safe and effective:
- "The vaccine is both safe and highly effective to prevent severe COVID-19 disease and death."*
- 93 These vaccines were approved by Health Canada as drugs designed to protect against the virus, SARS-Co V-2, also known as the coronavirus of COVID-19.

Negligent Misrepresentation

- 101 The violations of the FDA by the Defendants, in addition to being statutory violations, constituted a negligent misrepresentation.
- 102 The Plaintiffs further claim that each of the Defendants negligently misrepresented the safety of the Vaccines.
- 103 The Plaintiffs claim that the Defendants owed a duty of care to accurately inform the class members of all risks associated with being administered the Vaccines.
- 104 The Plaintiffs say that the Defendants, individually and collectively, represented that the Vaccines (“**the Representations**”):
- a. Were safe and fit for their intended use;
 - b. Were of merchantable quality;
 - c. Had been adequately tested to ensure no unreasonable risks or adverse reactions were likely to occur; and
 - d. Such further and other representations as will be particularized before the court in this proceeding.
- 105 The Representations were made by the Defendants when they knew or ought to have known they were inaccurate. Alternatively, the Plaintiffs say that the Representations were made recklessly, when the Defendants had insufficient information, despite representing themselves as having sufficient information.
- 106 The Representations made by the Defendants were unreasonable in the face of risks that were known or ought to have been known. Alternatively, the Representations made by the Defendants were unreasonable given of the lack of direct information known to such a degree that the Representations were negligent.
- 107 In addition to making these Representations, the Defendants urged the class members to obtain the Vaccines at the very first opportunity.
- 108 The Defendants owed a duty to the class members to ensure health and safety, and to make them aware of reasonably foreseeable health or safety hazards to which the class members would likely be exposed.
- 109 Each of the Defendants knew or ought to have known that the class members could rely upon the representations made.
- 110 Contrary to the Representations made, the Vaccines were unsafe.

Product Liability and Negligence

- 111 The Plaintiffs claim that the Defendants owed the class members a duty of care at all material times to:
- a. Ensure that the Vaccines were fit for intended use;

- b. Conduct appropriate testing to determine whether and to what extent use of the Vaccines posed serious health risks, including the magnitude of risk of developing serious injuries such as thrombocytopenia coagulation disorders and/or stroke;
 - c. Properly, adequately and fairly warn the class members of the magnitude of the risk of developing serious injuries; and
 - d. Monitor, investigate, evaluate, report and follow-up on adverse reactions to the use of the Vaccines.
- 112 The Defendants breached their respective standards of care. The Plaintiffs state that their damages, as set out herein, were caused by the negligence of the Defendants.
- 113 Such negligence includes, but is not limited to, the following:
- a. The Defendants failed to ensure that the Vaccines were not dangerous to recipients, and that they were both fit for the intended purpose and of merchantable quality;
 - b. The Defendants failed to adequately test the Vaccines;
 - c. The Defendants negligently authorized the Vaccines;
 - d. The Defendants negligently failed to suspend authorization of the Vaccines;
 - e. The Defendants failed to require an adequate degree of testing, in a manner that would fully disclose the magnitude of the risks - including but not limited to risks of thrombocytopenia, coagulation disorders, adverse cardiac events and stroke - associated with the Vaccines;
 - f. The Defendants failed to provide the Plaintiffs, their physicians and the general public with proper, adequate and/or fair warning of the risks associated with use of the Vaccines; and
 - g. The Defendants failed to adequately monitor, evaluate and act upon reports of adverse reactions in Canada and elsewhere.
- 114 The Plaintiffs claim that the Defendants owed a duty of care to:
- a. Inform class members about the risks and dangers associated with being administered the Vaccines;
 - b. Comply with all elements of the FDA, FDA Orders and the FDA Regulations prior to administering or advertising the Vaccines; and
 - c. Comply with all elements of the FDA, FDA Regulations and FDA Orders while administering the Vaccines.

115 The Defendants breached the standard of care by failing to provide information about the risks and dangers associated with the Vaccines. In particular, the Defendants neglected and failed to warn the class members that the Vaccines pose a risk of thrombocytopenia, coagulation disorders, blood clotting, adverse cardiac events and stroke.

Breach of Implied Warranty

116 The Plaintiffs assert claim against the Defendants for breach of implied warranty and as a result, make a claim for all losses and damages following from such breach.

117 The Defendants impliedly warranted the said Vaccines to be of merchantable quality and safe and fit for their intended and foreseeable users. The Defendants breached their implied warranty because the Vaccines were not, and are not, of merchantable quality or safe for fit for intended use.

Charter Violations

118 The Plaintiffs and class say that their *Charter* right to freedom of conscience protected under section 2(a) was violated by requiring attestation of being Fully Vaccinated as this offends their conscientiously held beliefs in a matter that is more than trivial or insubstantial.

119 The Plaintiffs and class say that their right to life interest as protected under section 7 of the *Charter* is violated by being Vaccinated as it is the direct result of state action imposing an increased risk of death not in accordance with the fundamental principles of justice.

120 The Plaintiffs and class say that their right to liberty under section 7 of the *Charter* is violated by being Fully Vaccinated as this interferes with the protected sphere of personal autonomy involving private choices and the right to refuse medical treatment. The State interferences are not in accordance with the principles of fundamental justice.

121 The Plaintiffs and class say that their right to security of the person interest protected under section 7 of the *Charter* is violated by interference with personal autonomy, and one's ability to control their own physical or psychological integrity. Such state action seriously impaired their physical health and has caused severe psychological harm not in accordance with the principles of fundamental justice. It has also caused the deprivation of economic rights fundamental to human survival that are not in accordance with the principles of fundamental justice.

122 The Plaintiffs and class that say their *Charter* rights were violated and they were punished for the lawful exercise of their fundamental constitutional rights and freedoms.

123 The Plaintiffs and class say it is not demonstrably justified under section 1 of the *Charter*. They were not in the public interest, nor a rational means to pursue the stated objective as there is no evidence to show that terminating the employment of those who do not attest to being vaccinated reduces the spread of COVID-19. Nor did the

Interim Orders cause minimal impairment to the rights of the Plaintiffs. Further, the deleterious and negative impacts of the Interim Orders are disproportionate to the minimal or non-existent benefits they may have.

124 The Defendants are constrained by the *Charter*, the *Constitution Act, 1982* and the *Bill of Rights*. The Defendants cannot:

- a. Deprive any individual of their rights to liberty or security, except in accordance with the principles of fundamental justice; or
- b. Deprive any individual of their rights to freedom or conscience, liberty, privacy, and mobility, except by due process of law.

125 The Vaccine Policies, pursuant to the Interim Orders, violate the Plaintiffs' *Charter* rights:

- a. Section 2(a): freedom of religion and conscience by requiring the Travel and Dual Impact Subclasses to take COVID-19 vaccines to travel by air which violate their religious and personal beliefs without providing a lawful policy for religious exemptions.
- b. Section 6: right to leave the country and travel within the country for business or pleasure by prohibiting the Travel and Dual Impact Subclasses' only means of exiting Canada or traveling long distances interprovincially in a timely and safe fashion, without submitting to an experimental medical procedure;
- c. Section 7: life, liberty and security of the person, by prohibiting air travel unless the Travel and Dual Impact Subclasses receive an experimental medical procedure contrary to their will and without their fully informed consent, which violates *The Nuremberg Code (1947)*, interferes with their bodily autonomy, subjects them to the risks of harmful side effects or death, and impedes their ability to move freely across the country or internationally, all in a coercive manner that is arbitrary, overbroad and grossly disproportionate:
 - i. The conduct of the Defendants is also contrary to section 7 of the *Charter* as they unduly impaired the rights of liberty and security of the person and are contrary to the principles of fundamental justice;
 - ii. The Order invokes the section 7 right to liberty and security of the person because it created a state-imposed prohibition on air travel for those who have elected not to receive the COVID-19 vaccines prior to the completion of clinical trials. The Order caused a loss of liberty and security for the Travel and Dual Impact Subclasses, who relied on air travel;
 - iii. The Plaintiffs, namely the Travel and Dual Impact Subclasses, were deprived of their section 7 rights, liberty and security of the person by state action as a result of the existence and operation of the Order;

- iv. This deprivation is more than trivial. The Defendants restricted unvaccinated Canadians from air travel, creating serious harmful effect that negatively impacts liberty and security of the person;
 - v. Section 7 *Charter* rights can only be infringed in accordance with the principles of fundamental justice. The principles of fundamental justice require that the impugned legislation not be grossly disproportionate, arbitrary or overly broad; and
 - vi. The Decision does not accord with those principles of fundamental justice. In particular, there is no rational connection between the infringements of rights and what the Decision seeks to achieve, demonstrating the Decision is arbitrary and overbroad. Further, the deprivation of rights is grossly disproportionate to the objective of the Decision.
- d. Section 8: right to privacy, by forcing the Travel and Dual Impact Subclasses to disclose private medical information to be able to board an airplane; and
 - e. Section 15: equality rights, by discriminating and labelling the Travel and Dual Impact Subclasses as “unvaccinated” and barring them from boarding aircraft in Canada, while permitting a “vaccinated” class of Canadians to fly from Canadian airports.

126 The Interim Orders were not justified under section 1 of the *Charter*. It was not in the public interest, or a rational means to pursue the stated objective as there was no evidence to show that the prohibition of unvaccinated Canadians from air travel limited or reduced the spread of COVID-19. Further, the deleterious and negative impact of the Interim Orders was disproportionate to the minimal or non-existent benefits it may have.

Contravention of the *Bill of Rights*

127 The *Bill of Rights* has among its objects the affirmation of the dignity and worth of the human person in Canadian society, and the respect for the rule of law. It is paramount to other federal legislation and regulations and is quasi-constitutional in nature. The *Aeronautics Act* and the Order must be constructed and applied as not to abrogate, abridge or infringe, or to authorize the abrogation, abridgment or infringement, of the rights and freedoms recognized and declared in the *Bill of Rights*.

128 The Interim Orders unduly impair the Plaintiffs’ right to life, liberty and security of the person, and the right not to be deprived thereof except by due process of law, as set out in section 1(a) of the *Bill of Rights*.

129 The Interim Orders were not made by due process of law. Among other things;

- a. The Interim Orders were not subject to legislative controls customarily applied to the introduction of the new law. As a result, Canadians did not receive the benefit of multiple readings or parliamentary debate and scrutiny;

- b. The Minister of Transport has made the Interim Orders in an overly broad manner, without due consideration of the rights of the Travel and Dual Impact Subclasses; and
- c. There was no, or insufficient, stakeholder engagement or consultation prior to the Interim Orders.

TORTIOUS INTERFERENCE WITH ECONOMIC RELATIONS

130 In directing Federally regulated corporations to develop and implement a policy to compel vaccination as a condition of employment, Canada knew, or ought to have known, that the Employment and Dual Impact Subclasses would be put on an involuntary unpaid leave of absence or would be terminated from their employment for non-compliance and that the Employment and Dual Impact Subclasses would suffer economic losses.

Tortious Inducement to Breach Contractual Relations

131 The Employment and Dual Impact Subclasses have either refused to share their vaccination status or are otherwise unvaccinated and thus did not conform to the Order and were placed on leave without pay, effectively a suspension, and some were subsequently terminated from employment.

132 The Employment and Dual Impact Subclasses allege that the following actions taken by federally regulated transportation providers were in breach of their contractual employment agreements and induced by the Interim Orders:

- a. Disclosure of private medical information;
- b. Being placed on a leave without pay; and
- c. Termination of their employment.

133 The Employment and Dual Impact Subclasses state that at all material times, their employment contracts were valid and binding upon their Employers. As their Employers unlawfully purported to suspend or terminate the Employment and Dual Impact Subclasses' contractual agreements and have refused to pay the sums owing to them, the Employers are in breach of their contractual employment agreements.

134 The Defendant, Canada was aware of the existence of the contractual employment agreements when it decided to issue the Interim Orders.

135 The Employment and Dual Impact Subclasses allege that the Defendants intended to and caused and/or induced Federally regulated Employers to breach contractual employment agreements by their actions in relation to: the disclosure of private medical information; imposition of a leave without pay; and/or unlawful termination by ordering federally regulated Employers to enforce the Orders absent justification. The breaches of contractual employment agreements are therefore a direct result of the unlawful inducement of the breach as herein before particularized and as a result of unlawful interference by the Defendants in the contractual relationship between the Employment and Dual Impact Subclasses and their Employers.

- 136 The Employment and Dual Impact Subclasses allege that the conduct of the Defendants in inducing such breaches of Contract was unjustified and thus unlawful.
- 137 The Employment and Dual Impact Subclasses allege that as a result of the Defendants' interference with the Employment and Dual Impact Subclasses' contractual relationship with federally regulated Employers, the Defendants have caused them to suffer damages.

INTENTIONAL INFLICTION OF MENTAL SUFFERING

- 138 The Plaintiffs plead that the Defendants intentionally caused mental suffering to them, through threats and intimidation during the pandemic due to their vaccination status and the Plaintiffs general distrust and hesitation over the COVID-19 vaccine specifically.

MISFEASANCE IN PUBLIC OFFICE

- 139 The Plaintiffs plead that the Defendants committed the tort of misfeasance in public office by deliberately conducting themselves unlawfully in the exercise of their public functions. The Defendants knowingly and in bad faith acted unlawfully outside the scope of their authority by implementing and maintaining the Interim Orders.
- 140 The Defendants' actions were knowingly taken without any legitimate or lawful basis and for no legitimate purpose. These actions were known to cause harm to the Plaintiffs.
- 141 At all material times, there was no reasonable basis for the Defendants to violate the rights of the Plaintiffs. The Defendants knew or ought to have known that COVID-19 did not present a serious threat to the Plaintiffs while the Interim Orders would violate the Plaintiffs' rights.
- 142 The Defendants further abused their public office, acted in bad faith and intentionally misled the Plaintiffs about the COVID-19 vaccines by claiming they were safe and effective and would stop the transmission of infection. The Defendants, through the Interim Orders, directed the vaccines to be imported into Canada, only when the Canadian Government was the purchaser. This created a conflict of interest and caused an economic interest in urging the Plaintiffs to obtain the vaccines. This conflict of interest caused the Defendants to act unlawfully in a way that was known to cause harm to the Plaintiffs.
- 143 The Defendants knew of the increased risks of the vaccines and intentionally censored and suppressed this information from the Plaintiffs. This was done to prevent the Plaintiffs from making independent and informed assessments about whether to take the vaccines.
- 144 The Defendants intentionally engaged in this conduct, which they knew was unlawful and likely to cause harm to the Plaintiffs. As a result, the Plaintiffs suffered severe, permanent physical, psychological and emotional harm and other quantifiable damages.

HUMAN RIGHTS VIOLATIONS

- 145 The Plaintiffs further plead discrimination and a breach of the *Canadian Human Rights Act*. The Defendants were legally obliged to respect the autonomy and dignity of the Plaintiffs, as well as the confidentiality of their medical information.
- 146 The Plaintiffs plead discrimination and a breach of the *Canadian Human Rights Act* on the basis of religion or other protected grounds of discrimination as shall be proven at a trial of this action. The Plaintiffs also plead discrimination on the basis of their COVID-19 vaccination status.
- 147 The Defendants violated the Plaintiffs' human rights and punished the Plaintiffs for the lawful exercise of their fundamental human rights and freedoms.
- 148 The class members say that their human rights and freedoms under the *Bill of Rights* have also been violated, namely:
- a. The human right to life, liberty, security of the person protected under section 1(a) is violated by being Vaccinated as it is an action imposing an increased risk of death not in accordance with due process of law.
 - b. The human right to life, liberty, security of the person protected under section 1(a) is violated by being Vaccinated as it is an action imposing an increased risk of physical harm not in accordance with due process of law.
 - c. The human right to security of the person under section 1(a) is violated by being Vaccinated as this interferes with personal autonomy, and one's ability to control one's own physical or psychological integrity. Such action seriously impairs one's physical health and has caused severe psychological harm not in accordance with due process of law.
 - d. The human right to security of the person and enjoyment of property under section 1(a) was violated by deprivation of economic rights fundamental to human survival that is not in accordance with due process of law.
 - e. The human right to liberty under section 1(a) is violated by interference with the protected sphere of personal autonomy involving private choices and the right to refuse medical treatment.
 - f. The human right to freedom of religion under section 1(c) was violated by offending sincerely held religious beliefs of the Plaintiffs.
 - g. The human right to be free from the imposition of cruel and unusual treatment or punishment under section 2(b) was violated by requiring attestation of being Vaccinated with Proof of Vaccination.
- 149 The class members plead discrimination and breaches of the *Canadian Human Rights Act*. The Defendants were legally obliged to respect the autonomy and dignity of the Plaintiffs, as well as the confidentiality of their medical information.

150 The class members plead discrimination and breaches of the *Canadian Human Rights Act* on the basis of religion or other protected grounds of discrimination as shall be proven at the trial of this action. The class members also plead discrimination on the basis of their COVID-19 vaccination status.

CHARTER VIOLATION DAMAGES AND AGGRAVATED, PUNITIVE AND “BAD FAITH” DAMAGES

151 The Plaintiffs have suffered significant mental and physical anguish as a result of vaccination. The Plaintiffs claim punitive damages for the prejudice suffered by them and their families as a result of the implementation of the Interim Orders, which is discriminatory. The Plaintiffs reserve their rights to amend the amounts claimed for punitive damages to account for future economic losses, including but not limited to loss of income due to suspension or dismissal as a result of their refusal to comply with the Practice.

152 In addition to damages for Charter violations, the Defendants are liable for further aggravated and punitive damages stemming from the unduly harsh, insensitive manner in which it carried out the suspensions.

153 The Plaintiffs have suffered measurable damages, including mental distress, anxiety, and, in particular, injury to dignity and self-respect. The Plaintiffs are therefore entitled to significant damages due to the manner in which the Defendants suspended their employment, including a claim for punitive aggravated damages arising from flagrant human rights and *Charter* violations.

154 As a result of these breaches, the Plaintiffs and class have each suffered the following damages:

- a. Severe and permanent psychological, physical and emotional trauma;
- b. Loss of employment opportunities;
- c. Worsening physical health because of inadequate medical support;
- d. Threats and assaults;
- e. Loss of sleep;
- f. Loss of trust in others;
- g. Loss of self-confidence;
- h. Loss of income;
- i. Loss of opportunity for future income;
- j. Post-traumatic stress disorder; and
- k. Other such damages as will be proven at the trial of this action.

155 The Defendants actively, knowingly, and willfully participated in harming the Plaintiffs. The Defendants’ conduct was high handed and improper.

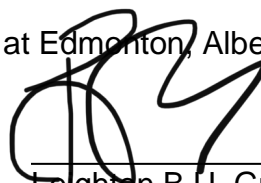
156 The Plaintiffs seek all of their common law and or statutory entitlements.

157 The Plaintiffs plead and rely upon the following:

- a. *Federal Courts Act*, RSC 1985, c F-7;
- b. *Federal Courts Rules*, SOR/98-106;
- c. *Constitution Act, 1867*, 30 & 31 Victoria, c 3 (UK);
- d. *Constitution Act, 1982*, s. 35(1), being Schedule B to the *Canada Act, 1982* (UK) c 11;
- e. *Canadian Charter of Rights and Freedoms, Part I of the Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11, s 91(24);
- f. *Canadian Charter of Rights and Freedoms*, ss. 1, 2, 6, 7, 8, 15 and 24(1);
- g. *Canadian Bill of Rights*, SC 1960 c. 44
- h. *Canadian Human Rights Act*, RSC, 1985, c. H-6;
- i. *Financial Administration Act*, RSC, 1985, c. F-11;
- j. *Canada Labour Code* (R.S.C., 1985, c. L-2);
- k. *Genetic Non-Discrimination Act* (S.C., 2017, c. 3);
- l. *Assisted Human Reproduction Act* (S.C., 2004, c. 2);
- m. *Hazardous Products Act* (R.S.C., 1985, c. H-3);
- n. *Federal Court Rules*, SOR/98-106;
- o. *Aeronautics Act*, RSC, 1985 c A-2;
- p. *Railway Safety Act*
- q. *International Covenant on Civil and Political Rights*;
- r. *The Nuremberg Code*;
- s. *Interim Order Respecting Certain Requirements for Civil Aviation Due to COVID-19*, No. 52; and
- t. Such further and other authorities and legislation as counsel may advise and this Honourable Court may accept.

The Plaintiffs propose that this action be tried at Edmonton, Alberta.

Date: 21 September 2023



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